TITLE XV: LAND USAGE

Chapter

150. PLANNING AND DEVELOPMENT

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CHAPTER 150: PLANNING AND DEVELOPMENT

Section

150.01 Fees for development of land

150.02 Dedication and exaction appeals

Appendix: Forms

§ 150.01 FEES FOR DEVELOPMENT OF LAND.

(A) The Town Council shall have the authority after public hearing to determine a schedule of building development fees as it deems necessary and appropriate.

(B) Such fees shall be set by a formal Town Council resolution and shall impose fees on the division of land, the development of single-family residences, multi-family units, commercial and industrial facilities, as well as all improvements and additions thereto, including the infrastructure thereto, including but not limited to water, sewer, electrical and cable television lines and systems, as well as roads, streets, parking lots, curbs, gutters, any accessory buildings or any other improvements thereto.

(C) The fees shall be used to offset the cost and burden to the town of providing necessary services to such new or additional facilities. Such development fees are due and payable prior to the issuance of any building permit.

(`87 Code, Art. 18-2) (Ord. 94-09, passed 3-21-94)

Statutory reference:

Development fees authorized, procedures, see A.R.S. § 9-463.05

§ 150.02 DEDICATION AND EXACTION APPEALS.

(A) *Notice to property owners regarding appeals of dedications or exactions.* The Town Manager and Town Attorney shall approve forms which the town shall use to notify persons of the procedures for appealing a dedication or exaction by the town. The town shall distribute the notification forms to property owners who have been granted an approval for the use, improvement, or development of real property subject to the requirement of a dedication or exaction by the town. The initial notification form shall be as set forth in division (C) of this section. The Town Manager and the Town Attorney may hereafter amend the notification form from time to time without Town Council approval.

(B) *Appointment of hearing officers to hear appeals of dedication or exaction requirements.* The Town Manager and Town

Attorney shall appoint an independent hearing officer or officers to decide appeals of dedication or exaction requirements.

(C) *Notice of appeal from dedication and exaction determinations.*

NOTICE OF APPEAL FROM DEDICATION AND EXACTION DETERMINATIONS

STATE OF ARIZONA

TOWN OF CAVE CREEK

NOTICE OF APPEAL

Appeal Pursuant of A.R.S. §§ 9-500.12 and 9-500.13 Relating to Appeals of Dedications and Exactions

APPLICANT: _____ CASE # _____

ADDRESS: _____ PARCEL #: _____

LOCATION: _____ ZONING: _____

QUARTER SECTION:

Please take notice that _____ appeals the determination by the Cave Creek Zoning Administrator to require the following:

Signature _____ Date _____

(Ord. 97-16, passed 6-16-97)

Statutory reference:

Appeals from dedications and exactions, see A.R.S. § 9-500.12

CHAPTER 151: BUILDING REGULATIONS

Section

Adoption of Codes

151.01 Building Code

151.02 Residential Code

151.03 Mechanical Code

151.04 Plumbing Code

151.05 Electrical Code

151.06 Fire Code

151.07 Sprinkler Code

151.08 Fuel Gas Code

151.09 Existing Building Code

151.10 Energy Conservation Code

151.11 [Reserved]

151.12 [Reserved]

151.13 [Reserved]

151.14 Fee schedule

151.15 Public Works Code

Regulations

151.20 Conformance with Zoning Ordinance

151.21 Fireplaces, wood stoves, and other solid-fuel burning devices

151.22 Utility installation in new subdivisions

151.23 Improvements to become public property or in public rights-of-way

Administration and Permits

151.35 Building Official

151.36 Permits

Development Fees

151.40 Development fees

151.41 Purpose; intent

151.42 Definitions

151.43 General provisions; applicability

151.44 Procedures for imposition, calculation and collection

151.45 Establishment of development fee accounts; appropriation of development fee funds; refunds

151.46 Appeals

151.47 Exemptions; waivers

151.99 Penalty

Statutory reference:

Applicability of local codes, see A.R.S. § 34-461

Enactment of codes by reference, see A.R.S. §§ 9-801 et seq.

Cross-reference:

Streets, sidewalks, and waterways; curbs and excavations, see Chapter 93

ADOPTION OF CODES

§ 151.01 BUILDING CODE.

Adoption. Effective January 1, 2012, there is herewith adopted, by reference, *TheInternational Building Code, 2009 Edition*, as published by the International Code Council, adopted as a public record by Resolution No. R2011-13 of the Mayor and Council of the Town of Cave Creek by reference thereto, as fully and completely as if the terms thereof were fully set forth herein, in total, except as modified or changed as follows:

(A) Chapter 1, "Scope and Administration", is hereby amended as follows:

(1) *101.1 Title*. These regulations shall be known as the Building Code of the Town of Cave Creek, hereinafter referred to as

"this code". When there is a conflict between these provisions and those of another technical code, these provisions shall apply. Where there is an administrative provision contained in another technical code and not in this code, then the administrative provision of the technical code shall apply.

(2) *101.4.4 Property maintenance.* Shall be deleted in its entirety.

(3) *101.5.2 Work exempted from permit.* Items 2 and 9 shall be amended to read as follows:

2.a. Open fences not capable of retaining earth, such as pipe rail, chain link, barbed wire, split rail or of similar construction up to five feet, six inches tall as measured from grade, except for any pool barrier or portion thereof.

2.b. Solid fences of any material that do not retain earth up to four feet tall as measured from bottom of footing, except for any pool barrier or portion thereof.

9. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 18 inches (457 mm) deep, do not exceed 5,000 gallons (18,925 L) and are installed entirely above ground.

(4) *105.3.2 Time limitation of application.* Shall be deleted in its entirety and replaced with the following:

An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one extension of time for an additional period not exceeding 180 days. The extension shall be requested in writing and justifiable cause demonstrated.

(5) *105.5 Expiration.* Shall be deleted in its entirety and replaced with the following:

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one extension of time, for a period not more than 180 days. The extension shall be requested in writing and justifiable cause demonstrated.

(6) *109.4 Work commencing before permit issuance.* Shall be deleted in its entirety and replaced with the following:

Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee that shall be in addition to the required permit fees. This fee shall be equal to the amount of the permit and plan review fee required by the approved fees. The payment of such fee shall not exempt an applicant from compliance with all other provisions of either this code or other requirements, nor from the penalty prescribed by law.

(7) *109.6 Refunds.* Shall be deleted in its entirety and replaced with the following:

1. The building official shall be permitted to authorize refunding of a fee paid hereunder which was erroneously paid or collected.

2. The building official shall be permitted to authorize refunding of not more than 80% of the permit fee paid when no work has been done under a permit issued in accordance with this code.

3. The building official shall be permitted to authorize refunding of not more than 80% of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any examination time has been expended.

(B) Chapter 3, "Use and Occupancy Classification", is hereby amended as follows:

(1) *308.2 Group I-1.* Shall be deleted in its entirety and replaced with the following:

This occupancy shall include buildings, structures, or parts thereof, housing more than 10 persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides supervisory care services. The occupants are capable of responding to an emergency without physical assistance from staff. The group shall include, but not be limited to, the following:

Alcohol and drug abuse centers

Assisted living centers

Congregate care facilities

Convalescent facilities

Group homes

Halfway houses

Residential board and care facilities

Social rehabilitation facilities

A facility such as the above with 10 or fewer persons shall be classified as a Group R-4 Condition 1, or shall comply with *The International Residential Code* in accordance with 101.2 where the building is in compliance with Section 424 of this code.

(2) *308.3 Group I-2*. Shall be deleted in its entirety and replaced with the following:

This occupancy shall include buildings and structures used for medical, surgical, psychiatric, nursing, custodial, personal, or directed care on a 24-hour basis of more than 5 persons who are not capable of self-preservation by responding to an emergency situation without physical assistance from staff. This group shall include, but not be limited to, the following:

Child care facilities

Detoxification facilities

Hospitals

Mental hospitals

Nursing homes (both intermediate care and skilled nursing facilities)

This occupancy shall also include assisted living facilities providing personal or directed care on a 24-hour basis of more than 10 persons who are not capable of responding to an emergency situation without physical assistance from staff. Assisted living facilities providing personal or directed care on a 24-hour basis of 10 or fewer persons who are not capable of responding to an emergency situation without physical assistance from staff shall be classified as R-4 Condition 2.

(3) *310.1 Group R-4*. Shall be deleted in its entirety and replaced with the following:

Residential occupancies shall include buildings arranged for occupancy as residential care/assisted living homes including not more than 10 occupants, excluding staff.

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3, except as otherwise provided for in this code and Section 424, or shall comply with *The International Residential Code*, provided the building is protected by an automatic sprinkler system in accordance with Section 424.

(4) *310.1.1 Condition 1*. Shall be deleted in its entirety and replaced with the following:

This occupancy condition shall include facilities licensed to provide supervisory care services, in which occupants are capable of self-preservation by responding to an emergency situation without physical assistance from staff. Condition 1 facilities housing more than 10 persons shall be classified as Group I-1.

(5) *310.1.2 Condition 2*. Shall be deleted in its entirety and replaced with the following:

This occupancy condition shall include facilities licensed to provide personal or directed care services, in which occupants are incapable of self-preservation by responding to an emergency situation without physical assistance from staff. Condition 2 facilities housing more than 10 persons shall be classified as Group I-2.

(6) *310.2 Definitions*. Shall be amended as follows:

(a) Delete the definition for PERSONAL CARE SERVICE in its entirety and replace with the following:

Assistance with activities of daily living that can be performed by persons without professional skills or professional training, and includes the coordination or provision of intermittent nursing services and the administration of medications and treatments.

(b) Delete the definition of RESIDENTIAL CARE/ASSISTED LIVING FACILITY in its entirety and replace with the following:

A building or part thereof housing a maximum of 10 persons, excluding staff, on a 24-hour basis, who because of age, mental

disability or other reasons, live in a supervised residential environment which provides supervisory, personal, or directed care services. This classification shall include, but not be limited to, the following: residential board and care facilities, group homes, congregate care facilities, assisted living homes.

(c) Add the following definitions:

SUPERVISORY CARE SERVICE. General supervision, including daily awareness of resident functioning and continuing needs.

DIRECTED CARE SERVICE. Care of residents, including personal care services, who are incapable of recognizing danger, summoning assistance, expressing need, or making basic care decisions.

(C) Chapter 4, "Special Detailed Requirements Based on Use and Occupancy", is hereby amended by adding a new Section 424, "Assisted Living", to read as follows

SECTION 424 ASSISTED LIVING.

424.1 Applicability. The provisions of this section shall apply to a building or part thereof housing not more than 10 persons, excluding staff, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment, which provides licensed care services. Except as specifically required by this division, R-4 occupancies shall meet all the applicable provisions of Group R-3.

424.2 General. Buildings or portions of buildings classified as R-4 may be constructed of any materials allowed by this code, shall not exceed two stories in height, nor be located above the second story in any building, and shall not exceed two thousand square feet above the first story, except as provided in Section 506.

424.3 Special Provisions. R-4 occupancies having more than 2,000 square feet above the first story shall be of not less than one-hour fire-resistive construction throughout.

424.3.1 Mixed Uses. R-4 occupancies shall be separated from other occupancies as provided in Table 508.4.

424.4 Access and Means of Egress Facilities.

424.4.1 Accessibility. R-4 occupancies shall be provided with at least one accessible route as provided in Section 1104.1.

424.4.2 Exits.

424.4.2.1 Number of Exits. Every story, basement, or portion thereof, shall have not less than two exits.

Exception: Basements and stories above the first floor containing no sleeping rooms used by residents may have only one means of egress as provided in Chapter 10.

424.4.2.2 Distance to Exits. The maximum travel distance shall comply with Section 1016, except that the maximum travel distance from the center point of any sleeping room to an exit shall not exceed 75 feet.

424.4.2.3 Emergency Exit Illumination. In event of a power failure, exit illumination shall be automatically provided from an emergency system powered by storage batteries or an onsite generator set installed in accordance with *The International Electric Code*.

424.4.2.4 Emergency Escape and Rescue. R-4 Occupancies shall comply with the requirements of Section 1029, except that Exception #1 to 1029 does not apply to R-4 occupancies.

424.4.2.5 Delayed Egress Locks. In R-4 Condition 2 occupancies, delayed egress locks shall be permitted in accordance with 1008.1.4.4, items 1, 2, 4, 5, and 6 or 1008.1.9.8.

424.5 Smoke Alarms and Sprinkler Systems.

424.5.1 Smoke Alarms. All habitable rooms and hallways in R-4 occupancies shall be provided with smoke alarms installed in accordance with Section 907.2.11.

424.5.2 Sprinkler Systems. R-4 occupancies shall be provided with a sprinkler system installed in accordance with 903.2.8. Sprinkler systems installed under this section shall be installed throughout, including attached garages, and in Condition 2 facilities, shall include concealed spaces of or containing combustible materials. Such systems may not contain unsupervised valves between the domestic water riser control valve and the sprinklers. In Condition 2 occupancies, such systems shall contain water flow switches

electrically supervised by an approved supervising station, and shall sound an audible signal at a constantly attended location.

(D) Chapter 10, "Means of Egress", is amended as follows:

1008.1.2 Door swing. Amend item 4 to read as follows:

4. Doors within or serving a single dwelling unit in Groups R-2 and R-3, as applicable in 101.2, and R-4.

(E) Chapter 12, "Interior Environment", is amended as follows:

1210.2 Walls. Amend to read as follows:

1210.2 Walls. Walls within 2 feet (610 mm) of service sinks, urinals and water closets shall have a smooth, hard, nonabsorbent surface, to a height of 4 feet (1219 mm) above the floor and, except for structural elements, the materials used in such walls shall be of a type that is not adversely affected by moisture.

(F) Chapter 16. "Structural Design", is amended as follows:

Revise item 27 in Table 1607.1 in the following manner:

Table 1607.1

Occupancy or Use	**Uniform** (psf)	**Concentrated** (lbs)
27. Residential One- and two-family dwelling **Uninhabitable attics with limited storage** l, j, k Habitable attics and sleeping areas	~~20~~40 ~~30~~40	

(G) Chapter 31, "Special Construction", is amended as follows:

3109. Swimming pool enclosures and safety devices. Delete in its entirety and replace with the following:

General. Every swimming pool shall be completely enclosed by a permanent fence, wall or barrier to restrict access to the swimming pool from public property, from adjacent private property, and directly from all dwelling units or guest rooms located on the same premises as the swimming pool.

These swimming pool enclosure and barrier detail requirements apply to all new swimming pools installed on or after the effective date of this ordinance, and to all additions, alterations, repairs or replacements made to existing swimming pool enclosures. All swimming pools installed before the effective date of this ordinance shall be completely enclosed by January 1, 1995.

Exceptions. Swimming pools built on single-family residential property on or before the effective date of this ordinance need not be retroactively fitted with a barrier between the dwelling and the pool, provided all occupants of the dwelling are at least six years of age or older. All other portions of the swimming pool enclosure shall be installed and maintained as required herein.

This exception does not eliminate an owner's responsibility for providing a temporary barrier or otherwise physically restricting visiting children's direct access from the dwelling to the swimming pool. This exception shall expire and the required permanent barrier shall be retroactively installed between the dwelling and the swimming pool whenever one or more children under six years of age become residents of the property.

Above ground swimming pools which have nonclimbable sides not less than 48 inches (1219 mm) high above the adjacent ground level may be located on single-family residential property without a fence or barrier between the pool and the dwelling, provided any steps or ladder are either removable without the use of tools, or are designed to be secured in an inaccessible position with a lock or latch located not less than 54 inches (1372 mm) above the adjacent ground level.

The property owner and any other person in charge of a swimming pool shall ensure that the required swimming pool enclosure, including all gates, doors, locks, latches and other portions of the barrier, are maintained safe and in good working order. No person

shall alter or remove any portion of a swimming pool enclosure except to repair, reconstruct or replace the enclosure in compliance with this section.

Barrier details. Swimming pool barriers shall be installed as a permanent fence, a wall, a building wall, or a combination thereof, which surround the swimming pool. The pool side of the barrier shall not be less than 20 inches (508 mm) from the water's edge. The top of the barrier, including all gates and doors, shall not be less than 60 inches (1524 mm) above the floor or underlying ground, measured on the exterior side of the enclosure.

Exception: Barrier fences or walls not less than 54 inches (1372 mm) in height which existed on or before the effective date of this ordinance may be used for that portion of the required swimming pool enclosure which separates a swimming pool from dwellings located on the same premises as the pool, provided such barrier is kept in repair and is otherwise maintained in compliance with all other provisions of this section.

There shall be no openings, holes or gaps in a swimming pool barrier large enough for a sphere 4 inches (102 mm) in diameter to pass through. Barrier fences or walls may not have handholds, footholds or horizontal members accessible from the exterior side of the enclosure. Horizontal members of fences shall be spaced not less than 45 inches (1143 mm) apart measured vertically, or shall be placed on the pool side of a fence which has no opening greater than 1.75 inches (44 mm) measured horizontally. Wire mesh or chain link fences may have a maximum mesh size of 1.75 inches (44 mm) measured horizontally.

Gates. All gates in a swimming pool barrier shall be equipped to accommodate a locking device. All pedestrian access gates shall be self-closing and self-latching. All pedestrian access gates installed after the effective date of this ordinance shall open outward away from the pool. Gates other than pedestrian access gates need not be self-closing or self-latching when they are kept secured by a padlock or similar locking device. Gate latches shall be located not less than 54 inches (1372 mm) above the underlying ground or shall otherwise be made inaccessible from the outside to small children.

Doors. All doors leading from a dwelling or guest room directly into a swimming pool enclosure shall be self-closing and self-latching, and shall be equipped with a locking device. When a simple latch is used, the release mechanism for the latch, or a secondary locking device, shall be located not less than 54 inches (1372 mm) above the floor. A locking latch that uses a key, electronic opener, or integral combination lock may be located at any height on the door. Sliding doors shall not form part of a required barrier unless their self-closing and self-latching mechanism is specifically approved by the building official for this purpose.

Windows. Emergency escape or rescue windows from sleeping rooms which face within a swimming pool enclosure shall be equipped with a latching device located not less than 54 inches (1372 mm) above the floor. All other dwelling unit or guest room windows facing within a swimming pool enclosure shall be equipped with a screwed-in-place wire mesh screen, a keyed lock that prevents opening the window more than four inches, or a latching device located not less than 54 inches (1372 mm) above the floor.

Safety covers. A key-operated, motorized safety cover which complies with ASTM ES 13-89 may be used to meet the requirements of this section for a barrier between a single-family dwelling and a swimming pool accessory to that dwelling, provided all other portions of the swimming pool enclosure are installed and maintained as required herein. The keyed pool cover switch shall be located not less than 54 inches (1372 mm) above the floor or adjacent ground level and where the entire pool can be visually inspected during cover operation.

Alarms. All doors with direct access to the pool may be equipped with an alarm which produces an audible warning when the door and its screen, if present, are opened. The alarm shall sound continuously for a minimum of 30 seconds immediately after the door is opened, and be capable of being heard throughout the house during normal household activities. The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual means, such as touch pad or switch, to temporarily deactivate the alarm or a single opening. Such deactivation shall last for not more than 15 seconds. The deactivation switch(es) shall be located at least 54 inches (1372 mm) above the threshold of the door. This alarm may be used in lieu of the door requirements listed above.

(Ord. O2011-13, passed 11-21-11; Am. Ord. O2014-04, passed 5-5-14)

Cross-reference:

Nuisances; adoption of Uniform Code for the Abatement of Dangerous Buildings, see § 91.01

§ 151.02 RESIDENTIAL CODE.

Effective January 1, 2012, there is herewith adopted, by reference, *The International Residential Code, 2009 Edition*, as published by the International Code Council, adopted as a public record by Resolution No. R2011-13 of the Mayor and Council of the Town of Cave Creek by reference thereto, as fully and completely as if the terms thereof were fully set forth herein, in total, except as

modified or changed as follows:

(A) Chapter 1, "Scope and Administration", is hereby amended as follows:

(1) *R101.1 Title.* Shall be amended to read as follows:

These provisions shall be known as the Residential Code for One- and Two-family Dwellings of the Town of Cave Creek, hereinafter referred to as "this code". When there is a conflict between these provisions and those of another technical code, these provisions shall apply. Where there is an administrative provision contained in another technical code and not in this code, then the administrative provision of the technical code shall apply.

(2) *R105.3.2 Time limitation of application.* Shall be deleted in its entirety and revised to read as follows:

An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one extension of time for an additional period not exceeding 180 day. The extension shall be requested in writing and justifiable cause demonstrated.

(3) *R105.5 Expiration.* Shall be deleted in its entirety and revised to read as follows:

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one extension of time, for a period of not more than 180 days. The extension shall be requested in writing and justifiable cause demonstrated.

(4) *R108.3 Building permit valuation.* Shall be amended to read as follows:

Building permit valuations shall include total value of the work for which a permit is being issued, such as electrical, gas, mechanical, plumbing equipment, and other permanent systems, including materials and labor. Building valuation shall be determined by the most recent publication of the International Code Council Building Valuation Data.

(5) *R108.4 Related fees.* Shall be amended to read as follows:

The payment of the fee for the construction, alteration, removal or demolition for work done in connection with or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

(6) *R108.5 Refunds.* Shall be deleted in its entirety and revised to read as follows:

1. The building official shall be permitted to authorize refunding of a fee paid hereunder which was erroneously paid or collected.

2. The building official shall be permitted to authorize refunding of not more than 80% of the permit fee paid when no work has been done under a permit issued in accordance with this code.

3. The building official shall be permitted to authorize refunding of not more than 80% of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any examination time has been expended.

(7) *R108.6 Work commencing before permit issuance.* Shall be deleted in its entirety and revised to read as follows:

Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee that shall be in addition to the required permit fees. This fee shall be equal to the amount of the permit and plan review fee required by the approved fees. The payment of such fee shall not exempt an applicant from compliance with all other provisions of either this code or other requirements, nor from the penalty prescribed by law.

(B) Chapter 3, "Building Planning", is hereby amended in the following manner:

Revise Table 301.5 in the following manner:

Table 301.5

Use	***Live Load***

Attics with limited storage [b, g]	~~20~~40
Habitable attics and attics served with fixed stairs	~~30~~40
Sleeping rooms	~~30~~40

(C) Chapter 15, "Exhaust Systems", is hereby amended in the following manner:

M1503.1 General. Shall be amended to read as follows:

Range hoods shall discharge to the outdoors through a single wall duct. The duct serving the hood shall have a smooth interior surface, shall be airtight, and shall be equipped with a backdraft damper. Changes in size or direction shall be accomplished with a pre-manufactured transition fitting. Ducts serving range hoods shall not terminate in an attic or crawl space or areas inside the building.

(D) Chapter 24, "Fuel Gas", is hereby amended in the following manner:

(1) *G2415.10 (404.10) Minimum burial depth.* Shall be amended to read as follows:

Underground piping systems shall be installed a minimum depth of 12 inches (305 mm) below grade for metal piping and 18 inches (457 mm) for plastic piping.

(2) *G2415.10.1 (404.10.1) Individual outside appliances.* Delete in its entirety.

(E) Chapter 28, "Water Heaters", is hereby amended in the following manner:

P2803.6.1 Requirements for discharge piping. Shall be amended to read as follows:

The discharge piping serving a pressure relief valve, temperature relief valve or combination thereof shall:

2. Discharge through an air gap located in the same room as the water heater, except where the discharge is to the outdoors, not subject to freezing, and the piping terminates not less than 6 inches (152 mm) and not more than 12 inches (305 mm) above grade.

13. Be constructed of those materials listed in Section 605.4 or materials tested, rated and approved for such use in accordance with ASME A112.4.1.

14. Direct the discharge in a downward direction.

(`87 Code, § 7-5) (Am. Ord. 88-16, passed 8-1-88; Am. Ord. 95-01, passed 1-3-95; Am. Ord. 95-13, passed 9-5-95; Am. Ord. 2000-05, passed 5-15-00; Am. Ord. O-2004-15, passed 5-17-04; Am. Ord. O-2004-24, passed 8-2-04; Am. Ord. O2011-13, passed 11-21-11)

§ 151.03 MECHANICAL CODE.

Effective January 1, 2012, there is herewith adopted, by reference, *TheInternational Mechanical Code, 2009 Edition*, as published by the International Code Council, adopted as a public record by Resolution No. R2011-13 of the Mayor and Council of the Town of Cave Creek by reference thereto, as fully and completely as if the terms thereof were fully set forth herein, in total, except as modified or changed as follows:

Chapter 1, "Scope and Administration", is hereby amended as follows:

(A) *101.1 Title.* Shall be amended to read as follows:

These regulations shall be known as the Mechanical Code of the Town of Cave Creek, hereinafter referred to as "this code". When there is a conflict between these provisions and those of another technical code, these provisions shall apply. Where there is an administrative provision contained in another technical code and not in this code, then the administrative provision of the technical code shall apply.

(B) *106.5.2 Fee schedule.* Shall be deleted in its entirety and revised to read as follows:

Reference the current fee schedule.

(C) *106.5.3 Fee refunds.* Shall be amended to read as follows:

2. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.

3. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

(D) *108.4 Violation penalties.* Shall be deleted in its entirety and revised to read as follows:

Reference Section 151.99, Penalty, of the town code.

(E) *108.5 Stop work orders.* Shall be amended to read as follows:

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine and/or penalties as established by the Town of Cave Creek.

(Ord. O2011-13, passed 11-21-11)

§ 151.04 PLUMBING CODE.

Effective January 1, 2012, there is herewith adopted, by reference, *The International Plumbing Code, 2009 Edition*, as published by the International Code Council, adopted as a public record by Resolution No. R2011-13 of the Mayor and Council of the Town of Cave Creek by reference thereto, as fully and completely as if the terms thereof were fully set forth herein, in total, except as modified or changed as follows:

(A) Chapter 1, "Scope and Administration", is hereby amended as follows:

(1) *101.1 Title.* Shall be amended to read as follows:

These regulations shall be known as the Plumbing Code of the Town of Cave Creek, hereinafter referred to as "this code". When there is a conflict between these provisions and those of another technical code, these provisions shall apply. Where there is an administrative provision contained in another technical code and not in this code, then the administrative provision of the technical code shall apply.

(2) *101.5 Appendices.* Provisions in the appendices shall not apply unless specifically adopted.

(3) *106.6.2 Fee schedule.* Shall be deleted in its entirety and replaced with the following:

Reference the current fee schedule.

(4) *106.6.3 Fee refunds.* Shall be amended to read as follows:

2. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.

3. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

(5) *108.4 Violation penalties.* Shall be deleted in its entirety and revised to read as follows:

Reference Section 151.99, Penalty, of the town code.

(6) *108.5 Stop work orders.* Shall be amended to read as follows:

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine and/or penalties as established by the Town of Cave Creek.

(B) Chapter 3, "General Regulations", is hereby amended as follows:

305.6.1 Sewer depth. Shall be amended to read as follows:

Building sewers that connect to private sewage disposal systems shall be minimum of 12 inches (305 mm) below finished grade at the point of septic tank connection. Building sewers shall be a minimum of 12 inches (305 mm) below grade.

(C) Chapter 5, "Water Heaters", is hereby amended as follows:

504.6 Requirements for discharge piping. Shall be amended to read as follows:

The discharge piping serving a pressure relief valve, temperature relief valve or combination thereof shall:

2. Discharge through an air gap located in the same room as the water heater, except where the discharge is to the outdoors, not subject to freezing, and the piping terminates not less than 6 inches (152 mm) and not more than 12 inches (305 mm) above grade.

14. Direct the discharge in a downward direction.

(D) Chapter 9, "Vents", shall be amended to read as follows:

904.1 Roof extension. Shall be amended to read as follows:

All open vent pipes that extend through a roof shall be terminated at least 8 inches (203 mm) above the roof, except that where a roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least 7 feet (2134 mm) above the roof.

(Ord. O2011-13, passed 11-21-11)

Statutory reference:

State Plumbing Code to be adopted, see A.R.S. § 9-802

Variance from the State Plumbing Code, see A.R.S. §§ 9-805 and 41-619

§ 151.05 ELECTRICAL CODE.

Effective January 1, 2012, there is herewith adopted, by reference, *The National Electrical Code, 2008 Edition*, as published by the National Fire Protection Association, adopted as a public record by Resolution No. R2011-13 of the Mayor and Council of the Town of Cave Creek by reference thereto, as fully and completely as if the terms thereof were fully set forth herein, in total, except as modified or changed as follows:

Chapter 1, "Scope and Administration", is hereby amended as follows:

101.1 Title. Shall be amended to read as follows:

These regulations shall be known as the Electrical Code of the Town of Cave Creek, hereinafter referred to as "this code". When there is a conflict between these provisions and those of another technical code, these provisions shall apply. Where there is an administrative provision contained in another technical code and not in this code, then the administrative provision of the technical code shall apply.

(Ord. O2011-13, passed 11-21-11)

§ 151.06 FIRE CODE.

Effective January 1, 2012, there is herewith adopted, by reference, *The International Fire Code, 2009 Edition*, as published by the International Code Council, adopted as a public record by Resolution No. R2011-13 of the Mayor and Council of the Town of Cave Creek by reference thereto, as fully and completely as if the terms thereof were fully set forth herein, in total, except as modified or changed as follows:

(A) Chapter 1, "Scope and Administration", is hereby amended as follows:

(1) *101.1 Title*. Shall be amended to read as follows:

These regulations shall be known as the Fire Code of the Town of Cave Creek, hereinafter referred to as "this code". When

there is a conflict between these provisions and those of another technical code, these provisions shall apply. Where there is an administrative provision contained in another technical code and not in this code, then the administrative provision of the technical code shall apply.

(2) *109.3 Violation penalties.* Shall be amended to read as follows:

Persons who shall violate a provision of this code, or shall fail to comply with any of the requirements thereof, or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or a permit or certificate used under provisions of this code, shall be guilty of Section 151.99, Penalty, of the town code.

(3) *111.4 Failure to comply.* Shall be amended to read as follows:

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable of Section 151.99 Penalty, of the town code.

(B) Chapter 34, "Flammable and Combustible Liquids", is hereby amended as follows:

(1) *3404.2.9.6.1 Location where above-ground tanks are prohibited.* Shall be amended to read as follows:

Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits established by law as the limits of districts in which such storage is prohibited.

(2) *3406.2.4.4 Location where above-ground tanks are prohibited.* Shall be amended to read as follows:

Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits established by law as the limits of districts in which such storage is prohibited.

(`87 Code, § 7-5) (Am. Ord. 88-16, passed 8-1-88; Am. Ord. 95-01, passed 1-3-95; Am. Ord. 95-13, passed 9-5-95; Am. Ord. 2000-05, passed 5-15-00; Am. Ord. O-2004-15, passed 5-17-04; Am. Ord. O-2004-24, passed 8-2-04; Am. Ord. O2011-13, passed 11-21-11)

§ 151.07 SPRINKLER CODE.

(A) Chapter 1, "Scope and Administration", is hereby amended as follows:

101.1 Title. Shall be amended to read as follows:

These regulations shall be known as the Sprinkler Code of the Town of Cave Creek, hereinafter referred to as "this code". When there is a conflict between these provisions and those of another technical code, these provisions shall apply. Where there is an administrative provision contained in another technical code and not in this code, then the administrative provision of the technical code shall apply.

(B) Delete the following sections in their entirety: Section 108, Section 202, Section 503, Section 506, Section 508, and Section 603.

(C) Section 903, subsections 903.2, 903.2.1, 903.2.2, 903.2.3, 903.2.4, 903.2.5, 903.2.6, 903.2.7, 903.2.8, 903.2.8.1, 903.2.9, 903.2.9.1, 903.10, 903.3, 903.3.6, 903.3.7 and 903.4 are amended as follows; and subsections 903.1.2, 903.1.3, 903.1.4, 903.1.5, 903.2.7.1, 903.2.7.1.1, 903.2.7.1.2, 903.2.7.2, 903.2.7.2.1, 903.2.7.2.2, 903.2.7.2.3, 903.2.7.3, 903.2.7.4 903.3.7.1, 903.3.7.2, 903.3.7.3 are added:

903.1.2 Plan certification for fire alarms and occupant notification. All fire alarm and occupant notification system plans submitted to the fire department for review and approval shall bear a review certification of a minimum level II NICET (National Institute for the Certification of Engineering Technologies) in accordance with Fire Department Interpretation and Applications Manual.

903.1.3 Plan certification for fire sprinklers. All fire sprinkler plans submitted to the fire department for review and approval shall bear a review certification of a minimum level III NICET technician (National Institute for the Certification of Engineering Technologies) in accordance with Fire Department Interpretation and Applications Manual.

903.1.4 Plan certification for all other fire protection systems. Plan certification for all other fire protection systems will be accompanied by a certification of competence when required.

903.1.5 Site plans. Plans and specifications shall be submitted to the fire department for review and approval prior to construction. One set of fire department approved plans shall be on the job site for each inspection.

903.2 Where required. An automatic sprinkler system shall be installed throughout all levels of all new Group A, B, E, F, H, I, M, R, S and U occupancies of more than zero (0) square feet in accordance with Section 903, and the Fire Department Interpretation and Applications Manual, and as set in this section.

1. In every story or basement of all buildings. Fire-resistive substitutions in accordance with the provisions of Section 508 are allowed for this subsection for Group R occupancies and for other occupancies, provided that the automatic sprinkler is not otherwise required throughout the building by any other provision or section of the unamended building code.

2. At the top of rubbish and linen chutes and in their terminal rooms. Chutes extending through three or more floors shall have additional sprinkler heads installed within such chutes at alternate floors. Sprinkler heads shall be accessible for servicing.

3. In rooms where nitrate film is stored or handled. See also Section 306.

4. In protected combustible fiber storage vaults.

Exception: The following accessory structures shall be exempt from fire sprinkler requirements:

1. Gazebos and ramadas for residential and public use.

2. Independent rest room buildings that are associated with golf courses, parks and similar uses.

3. Guardhouses for residential and commercial developments.

4. Detached carports for residential developments.

5. Barns and agricultural buildings for private, residential, non-commercial use, not exceeding 1,500 square feet (139.35 m^2).

6. Detached storage sheds for private, residential, non-commercial use, not exceeding 2,000 square feet (185.81 m^2).

7. Detached 1, 2 and 3 car garages (without habitable spaces) in existing R3 developed parcels which contain existing non-sprinklered subdivision requirements (i.e., 700 foot (213.36 mm) hydrant spacing).

8. For fuel-dispensing canopies not exceeding 1,500 square feet (139.35 m^2).

9. Open shade horse stalls of non-combustible construction for private, residential, non-commercial use, not exceeding 5,000 square feet (464.52 m^2), and no storage of combustible products, vehicles or agricultural equipment.

10. Detached one-story accessory building used as tool and storage shed of non-hazardous materials, and not exceeding 120 square feet (11.15 m^2).

11. Additions to R-3 Occupancies.

12. Any accessory buildings to an existing residential property built prior to the implementation of this ordinance.

903.2.1 Group A. An automatic sprinkler system shall be installed throughout all Group A occupancies in accordance with NFPA 13 sprinkler systems and Fire Department Interpretation and Applications Manual.

903.2.2 Group E. An automatic sprinkler system shall be installed throughout all Group E occupancies in accordance with NFPA 13 sprinkler systems and Fire Department Interpretation and Applications Manual.

903.2.3 Group F. An automatic sprinkler system shall be installed throughout all Group F occupancies in accordance with NFPA 13 sprinkler systems and Fire Department Interpretation and Applications Manual.

903.2.4 Group H. An automatic sprinkler system shall be installed throughout all Group H occupancies in accordance with NFPA 13 sprinkler systems and Fire Department Interpretation and Applications Manual.

903.2.5 Group I. An automatic sprinkler system shall be installed throughout all Group I occupancies in accordance with NFPA 13 sprinkler systems and Fire Department Interpretation and Applications Manual.

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

903.2.6 Group M. An automatic sprinkler system shall be installed throughout all Group M occupancies in accordance with NFPA

13 sprinkler systems and Fire Department Interpretation and Applications Manual.

903.2.7 Group R. An automatic sprinkler system shall be installed throughout all Group R occupancies in accordance with this section.

903.2.7.1 Group R-1. An automatic sprinkler system shall be installed throughout all Group R-1 occupancies in accordance with NFPA 13 or 13-R sprinkler systems and Fire Department Interpretation and Applications Manual.

903.2.7.1.1 Group R-1 with attic protection. In Group R-1 occupancies, an automatic sprinkler system in accordance with NFPA 13 or 13-R, as modified by Fire Department Interpretation and Applications Manual, shall be installed throughout every apartment house three or more stories in height or containing more than 15 dwelling units, and every hotel three or more stories in height or containing 20 or more guest rooms. Residential or quick-response sprinkler heads shall be used in the dwelling unit and guest room portions of the building. Sprinkler heads shall be used to protect the attic with a minimum 4 head or 500 square foot (46.5 m^2) calculated area. Occupant notification shall be in accordance wit the Code and Fire Department Interpretation and Applications Manual. There shall be no sprinkler deletions in bathrooms, closets containing any electrical or mechanical equipment, foyers, garages, accessible areas under interior stairs or landings, or exterior balconies, covered patios or landings or attics.

903.2.7.1.2 Group R-1 when attic protection is not required. In Group R-1 occupancies, an automatic sprinkler system in accordance with NFPA 13 or 13-R, as modified by Fire Department Interpretation and Applications Manual, shall be installed throughout every apartment house 2 or less stories in height and containing 15 or less dwelling units, and every hotel 2 or less stories in height and containing 19 or less guest rooms. Residential or quick-response sprinkler heads shall be used in the dwelling units, guest rooms, convening corridors, and all occupied areas. There shall be no sprinkler deletions in bathrooms, closets containing any electrical or mechanical equipment, foyers, garages, accessible areas under interior stairs or landings, or exterior balconies, covered patios or landings.

903.2.7.2 Group R -2. An automatic sprinkler system shall be installed throughout all Group R-2 occupancies, in accordance with NFPA 13 or 13-R sprinkler systems as modified by Fire Department Interpretation and Applications Manual. There shall be no sprinkler deletions in bathrooms, closets containing mechanical or electrical equipment, foyers, garages, or accessible areas under interior stairs or landings.

903.2.7.2.1 Group R-2 with attic protection. When attic protection is required. In Group R-2 occupancies, an automatic sprinkler system in accordance with NFPA Standard 13-R, as modified by Fire Department Interpretation and Applications Manual, shall be installed throughout every apartment house three or more stories in height or containing more than 15 dwelling units, and every hotel three or more stories in height or containing 20 or more guest rooms. Residential, or quick response sprinkler heads shall be used in the dwelling unit and guest room portions of the building. Sprinkler heads shall be used to protect the attic with a minimum 4 head or 500 square foot (46.5 m^2) calculated area. Occupant notification shall be in accordance wit the Code and Fire Department Interpretation and Applications Manual. There shall be no sprinkler deletions in bathrooms, closets, containing any electrical or mechanical equipment, foyers, garages, accessible areas under interior stairs or landings, or exterior balconies, covered patios or landings or attics.

903.2.7.2.2 Group R-2 when attic protection is not required. In Group R-2 occupancies an automatic sprinkler system in accordance with NFPA Standard 13R, as modified by Fire Department Interpretation and Applications Manual, shall be installed throughout every apartment house 2 or less stories in height and containing 15 or less dwelling units and every hotel 2 or less stories in height and containing 19 or less guest rooms. Residential, or quick-response sprinkler heads shall be used in the dwelling units, guest rooms, convening corridors, and all occupied areas. There shall be no sprinkler deletions in bathrooms, closets containing any electrical or mechanical equipment, foyers, garages, accessible areas under interior stairs or landings, or exterior balconies, covered patios or landings.

903.2.7.2.3 Domestic water supplies. R-2 occupancies may have up to six (6) units supplied by domestic water.

903.2.7.3 All Group R-3 and U occupancies. An automatic sprinkler system shall be installed throughout all Group R-3 and U occupancies in accordance with NFPA 13 or 13-D sprinkler systems and Fire Department Interpretation and Applications Manual. There shall be no sprinkler deletions in bathrooms, closets containing mechanical or electrical equipment, foyers, garages, or accessible areas under interior stairs or landings.

903.2.7.4 Group R-4. An automatic sprinkler system shall be installed throughout all Group R-4 occupancies, in accordance with NFPA 13-D sprinkler systems as modified by Fire Department Interpretation and Applications Manual. There shall be no sprinkler deletions in bathrooms, closets containing mechanical or electrical equipment, foyers, garages, or accessible areas under interior stairs or landings.

903.2.8 Group S-1 occupancies. An automatic sprinkler system shall be installed throughout all Group S-1 occupancies in accordance with NFPA 13 sprinkler systems and Fire Department Interpretation and Applications Manual.

903.2.8.1 Repair garages. An automatic sprinkler system shall be installed throughout all repair garages in accordance with NFPA 13 sprinkler systems as modified by Fire Department Interpretation and Applications Manual.

903.2.9 Group S-2 occupancies. An automatic sprinkler system shall be installed throughout all Group S-2 occupancies in accordance with NFPA 13 sprinkler systems as modified by Fire Department Interpretation and Applications Manual.

903.2.9.1 Commercial parking garages. An automatic sprinkler system shall be installed throughout all commercial parking garages in accordance with NFPA 13 sprinkler systems as modified by Fire Department Interpretation and Applications Manual.

903.2.10 Group B occupancies. An automatic sprinkler system shall be installed throughout all Group B occupancies in accordance with NFPA 13 sprinkler systems as modified by Fire Department Interpretation and Applications Manual.

903.3 Installation requirements. Automatic sprinkler systems shall be installed in accordance with NFPA 13, 13-R, 13-D as modified by Fire Department Interpretation and Applications Manual.

903.3.6 Hose Threads. Fire hose threads used in connection with automatic sprinkler system shall be National Standard Treads.

903.3.7 Fire Department Connections. Fire department connections shall be located within 4 feet (1219.2 mm) to 8 feet (2438.4 mm) of the curb line of an access road or public street, or as otherwise specified, or as approved by the chief. The fire department connection line shall be a wet line with the check valve at the hose connection above grade. The access to the fire department connection shall be at curb grade. See Fire Department Interpretation and Applications Manual.

903.3.7.1 Wall-mounted. Systems may have wall-mounted fire department connections only on light and ordinary hazard Group 1 systems, when there are no structural openings or combustible hangings within 15 feet (4572 mm) horizontally or vertically from inlet connection. See Fire Department Interpretation and Applications Manual.

903.3.7.2 Additions, alterations and repairs. When additions, alterations or repairs within a twelve-month period exceed fifty percent (50%) of the square footage of an existing building or structure, such building or structure, except a single-family home, shall be made to conform to the requirements for new buildings or structures.

903.3.7.3 Partial systems prohibited. In all new additions to existing buildings and structures, except single-family homes, an automatic sprinkler system shall be installed in accordance with this section. There shall be no partially sprinklered compartments. Sprinklered and unsprinklered parts of a structure shall be separated in accordance with all applicable codes and standards.

903.4 Sprinkler system monitoring and alarms. All valves controlling the water supply for automatic sprinkler systems and water-flow switches on all sprinkler systems shall be electrically supervised.

Exceptions:

1. Automatic sprinkler systems protecting one- and two-family dwellings.

2. Limited area systems serving fewer than 100 sprinklers.

3. Automatic sprinkler systems installed in accordance with NFPA 13-R, where a common supply main is used to supply both domestic and automatic sprinkler systems and a separate shutoff valve for the automatic sprinkler system is not provided.

4. Jockey pump control valves that are sealed or locked in the open position.

5. Control valves to commercial kitchen hoods, paint spray booths or dip tanks that are sealed or locked in the open position.

6. Valves controlling the fuel supply to fire pump engines that are sealed or locked in the open position.

7. Trim valves to pressure switches in dry, pre-action and deluge sprinkler systems that are sealed or locked in the open position."

(D) Section 905, subsections 905.2, 905.3.4, 905.3.4.1 are amended as follows:

905.2 Installation standards. Standpipe systems shall be installed in accordance with this section and NFPA 14 as modified by Fire Department Interpretation and Applications Manual.

905.3.4 Stages. Stages greater than 1,000 square feet in area (93 m^2) shall be equipped with a Class III wet standpipe system, with 2.5-inch (64 mm) hose connections on each side of the stage.

Exception: Where the building or area is equipped throughout with an automatic sprinkler system, the hose connections are allowed to be supplied from the automatic sprinkler system and shall have a flow rate of not less than that required by NFPA 14 for Class III standpipes.

905.3.4.1 Hose and cabinet. The 2.5 inch (64 mm) hose connections shall be equipped with sufficient lengths of 1.5 inch (38 mm) hose to provide fire protection for the stage area. Hose connections shall be equipped with an approved adjustable fog nozzle, and mounted in a cabinet or on a rack.

(E) Section 907, subsections 907.2 and 907.7 are amended as follows, and subsections 907.3.1.9, 907.3.1.10, 907.3.1.11 and 907.3.1.12 are added:

907.2 Where required-new buildings and structures. An approved manual, automatic, or manual and automatic fire alarm system shall be provided in new buildings and structures in accordance with Sections 907.2.1 through 907.2.23 and Fire Department Interpretation and Applications Manual. Where automatic sprinkler protection installed in accordance with Section 903.3.1.1 or 903.3.1.2 and Fire Department Interpretation and Applications Manual is provided and connected to the building fire alarm system, automatic heat detection required by this section shall not be required.

An approved automatic fire detection system shall be installed in accordance with the provisions of this code and NFPA 72. Devices, combinations of devices, appliances and equipment shall comply with Section 907.1.2. The automatic fire detectors shall be smoke detectors, except that an approved alternative type of detector shall be installed in spaces such as boiler rooms where, during normal operation, products of combustion are present in sufficient quantity to actuate a smoke detector.

907.3.1.9 Owner landlord and occupant responsibilities. Devices provided and maintained. In a dwelling unit occupied under the terms of a rental agreement or under a month-to-month tenancy:

1. At the time of each occupancy, the landlord shall provide smoke detection devices in working condition and, after written notification by the tenant, shall be responsible for replacement; and

2. The tenant shall keep the devices in working condition by keeping charged batteries in battery-operated devices, by testing the devices periodically, and by refraining from permanently disabling the devices.

907.3.1.10 Written notification. If a landlord or owner did not know and had not been notified in writing of the need to repair or replace a smoke detection device, the landlord's or owner's failure to repair or replace the device may not be considered as evidence of negligence in a subsequent civil action arising from death, property loss, or personal injury.

907.3.1.11 Definitions. In this section, "dwelling unit," "landlord," "rental agreement," and "tenant" have the meanings given in Arizona Revised Statutes.

907.3.1.12 Records and maintenance. The landlord or owner of any rental property shall annually inspect all smoke detection devices as required under NFPA 72, and a record of all inspections and maintenance activities shall be kept by the landlord or owner and available for inspection upon request by the chief. See Fire Department Interpretation and Applications Manual.

907.7 Activation. Where an alarm notification system is required by another section of this code, it shall be activated by:

1. Required automatic fire alarm system.

2. Sprinkler water-flow devices.

Multilevel structures. All multilevel structures are required to have a flow switch and tampered control valve per floor. See Fire Department Interpretation and Applications Manual.

Exception: Group R, Division 1, occupancies with a domestic water supply serving 6 units or less and Group R-3. See Fire Department Interpretation and Applications Manual.

3. Required manual fire alarm boxes.

(F) Section 2201, subsection 2201.4 is amended and subsection 2201.7 is added as follows:

2201.4 Indoor service stations. Motor vehicle fuel-dispensing stations located inside buildings are prohibited within the entire town.

2201.7 Fire protection. Fire sprinkler protection shall be designed in accordance with the building code as required for Ordinary Hazard Group 2.

Exception: Automatic sprinklers may be deleted from detached canopies at motor vehicle fuel-dispensing sites when:

1. The canopy does not exceed 1500 square feet (139.5 m^2), and

2. The canopy is covering a structure such as a pay booth when the interior is not accessible to the public, and

3. The structure, under the canopy, does not exceed 100 square feet 9.29 m^2).

(G) Section 2204, subsection 2204.3.1 is amended as follows:

2204.3.1 General. Unattended self-serve stations are prohibited within the entire town.

Exception: Unattended self-serve stations may be allowed by special permit by the chief for private commercial use only. Written request and documentation shall be submitted, showing compliance with 2204.3.1 through 2204.3.7 and all other applicable codes and ordinances.

(H) Section 3301, subsection 3301.2.3 is amended and subsection 3301.2.5 is added as follows:

3301.2.3 Permit restrictions. The storage of explosives and blasting agents is prohibited within the entire town, except for temporary storage for use in connection with approved blasting operations; provided, however, this prohibition shall not apply to wholesale and retail stocks of small arms ammunition, explosive bolts, explosive rivets or cartridges for explosive-actuated power tools in quantities involving less than 500 pounds (226.8 kg) of explosive material.

3301.2.5 Threatening to damage by use of fire or explosives. Any person who willfully makes any threat, or conspires to threaten or conveys false information knowing the same to be false, concerning an attempt or alleged attempt being made or to be made, to kill, injure or intimidate any individual, or unlawfully damage or destroy any building, vehicles or other real or personal property by means of any explosive, blasting agent, or fire, shall be guilty of a misdemeanor.

(I) Section 3404, subsections 3404.2.9.5.1 and 3404.2.13.1.4 are amended to read:

3404.2.9.5.1 Locations where aboveground tanks are prohibited. Storage of Class I and II liquids in aboveground tanks outside of buildings is prohibited within the entire town.

Exception: Installations of 2,000 gallons (7,570.8L) or less aggregate quantity may be approved by special permit by the chief.

3404.2.13.1.4 Tanks abandoned in place. The abandonment of tanks in place shall be prohibited within the entire town.

(J) Section 3406, subsection 3406.2.5.2 is amended

3406.2.5.2 Tanks for gravity discharge. Tanks with a connection in the bottom or the end for gravity dispensing of flammable or combustible liquids shall not be permitted within the entire town.

(K) Section 3801, subsection 3801.2 exception is added as follows:

3801.2 Permits. Permits shall be required as set forth in Sections 105.6 and 105.7.

Exception: A permit is not required to install or maintain portable containers of less than 10 gallons (37.9 L) aggregate water capacity.

Distributors shall not fill an LP gas container for which a permit is required, unless a permit for installation has been issued for that location by the chief.

(L) Section 3804, table 3804.3, footnote e/5 is added:

Table 3804.3, Footnote e/5.

5. Containers of less than 125 gallons (473.2 L) may be located next to a block fence, when the tank is not within 5 feet (1524 mm) of a structure on adjoining property.

(M) Section 3812 is added:

3812 Consumer exchange of pre-filled containers. The storage of portable containers at exchange sites shall be limited to a maximum of 381.6 pounds (173.1 kg) or less, whether filled, partly filled or empty, at consumer exchange sites or distribution points. See Fire Department Interpretation and Applications Manual for installations.

(`87 Code, § 7-5) (Am. Ord. 88-16, passed 8-1-88; Am. Ord. 95-01, passed 1-3-95; Am. Ord. 95-13, passed 9-5-95; Am. Ord. 2000-05, passed 5-15-00; Am. Ord. O-2004-15, passed 5-17-04; Am. Ord. O-2004-24, passed 8-2-04; Am. Ord. O2011-13, passed 11-21-11)

§ 151.08 FUEL GAS CODE.

Effective January 1, 2012, there is herewith adopted, by reference, *The International Fuel Gas Code, 2009 Edition*, as published by the International Code Council, adopted as a public record by Resolution No. R2011-13 of the Mayor and Council of the Town of Cave Creek by reference thereto, as fully and completely as if the terms thereof were fully set forth herein, in total, except as modified or changed as follows:

(A) Chapter 1, "Scope and Administration", is hereby amended as follows:

101.1 Title. Shall be amended to read as follows:

These regulations shall be known as the Fuel Gas Code of the Town of Cave Creek, hereinafter referred to as "this code". When there is a conflict between these provisions and those of another technical code, these provisions shall apply. Where there is an administrative provision contained in another technical code and not in this code, then the administrative provision of the technical code shall apply.

(B) Chapter 4, "Gas Piping Installations", is hereby amended as follows:

(1) *404.9 Protection against corrosion.* Delete this section in its entirety.

(2) *404.9.1 Prohibited use.* Delete this section in its entirety.

(3) *404.10 Minimum burial depth.* Shall be amended to read as follows:

Underground piping systems shall be installed a minimum depth of 12 inches (305 mm) below grade for metal piping and 18 inches (457 mm) for plastic piping.

(Ord. O2011-13, passed 11-21-11)

§ 151.09 EXISTING BUILDING CODE.

Effective January 1, 2012, there is herewith adopted, by reference, *TheInternational Existing Building Code, 2009 Edition*, as published by the International Code Council, adopted as a public record by Resolution No. R2011-13 of the Mayor and Council of the Town of Cave Creek by reference thereto, as fully and completely as if the terms thereof were fully set forth herein, in total, except as modified or changed as follows:

(A) Chapter 1, "Scope and Administration", is hereby amended as follows:

101.1 Title. These regulations shall be known as the Existing Building Code of the Town of Cave Creek, hereinafter referred to as "this code". When there is a conflict between these provisions and those of another technical code, these provisions shall apply. Where there is an administrative provision contained in another technical code and not in this code, then the administrative provision of the technical code shall apply.

(B) Chapter 13, "Performance Compliance Methods", is amended as follows:

[B] 1301.2 Applicability. Shall be amended to read as follows:

Structures existing prior to January 1,2012, shall be made to conform to the requirements of this chapter or the provisions of Chapters 4 through 12.

(Ord. O2011-13, passed 11-21-11)

§ 151.10 ENERGY CONSERVATION CODE.

Effective January 1, 2012, there is herewith adopted, by reference, *The International Energy Conservation Code, 2009 Edition*, as published by the International Code Council, adopted as a public record by Resolution No. R2011-14 of the Mayor and Council of the Town of Cave Creek by reference thereto, as fully and completely as if the terms thereof were fully set forth herein, in total, except as modified or changed as follows:

Chapter 1, "Administration", is hereby amended as follows:

(A) *101.1 Title.* Shall be amended to read as follows:

This code shall be known as the Energy Conservation Code of the Town of Cave Creek, and shall be cited as such. It is referred to herein as "this code". When there is a conflict between these provisions and those of another technical code, these provisions shall apply. Where there is an administrative provision contained in another technical code and not in this code, then the administrative provision of the technical code shall apply.

(B) *108.4 Failure to comply.* Shall be amended to read as follows:

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable of Section 151.99, Penalty, of the town code.

(Ord. O2011-14, passed 11-21-11)

§ 151.11 [RESERVED]

§ 151.12 [RESERVED]

§ 151.13 [RESERVED]

§ 151.14 FEE SCHEDULE.

(A) *Permit valuations.* Permit valuations shall be based on the latest version of the International Code Council Building Valuation Data (BVD), or by the use of the actual contract value as determined by the Building Official. Additional valuations shall be listed in division (D).

(B) *Permit fee for a temporary certificate of occupancy.* The permit fee for a temporary certificate of occupancy is 3% of the building permit fee for the first 30 days, 6% of the building permit fee for the second 30 days, and 9% of the building permit fee for the third 30 days.

(C) *Fees based on valuations.* Fees based on valuations shall be computed thru the use of Table 1-A.

TABLE 1-A BUILDING PERMIT FEES (PROPOSED TABLE)

Total Valuation	***Fee***
$1 to $500	$33
$501 to $2,000	$33 for the first $500 plus $5 for each additional $100 or fraction thereof, to and including $2,000.
$2,001 to $25,000	$97 for the first $2,000 plus $14 for each additional $1,000 or fraction thereof, to and including $25,000.
$25,001 to $50,000	$545 for the first $25,000 plus $14 for each additional $1,000 or fraction thereof, to and including $50,000.
$50,001 to $100,000	$897 for the first $50,000 plus $9 for each additional

	$1,000 or fraction thereof, to and including $100,000.
$100,001 to $500,000	$1,384 for the first $100,000 plus $8 for each additional $1,000 or fraction thereof, to and including $500,000.
$500,001 to $1,000,000	$4,503 for the first $500,000 plus $7 for each additional $1,000 or fraction thereof, to and including $1,000,000.
$1,000,001 and up	$7,809 for the first $1,000,000 plus $5 for each $1,000 or fraction thereof.

(D) *Additional valuations.*

(1) Residential garages $55.50 per square foot

(2) Covered decks/patios/carports $21.60 per square foot

(3) Uncovered decks $16.60 per square foot

(4) Mare motel $5.00 per square foot

(5) Barns; wood/metal $23.00/9.00 per square foot

(6) Sun room/Arizona room $100.00 per square foot

(E) *Other permit fees.*

(1) Fences/walls

a. Arena/corral/split rail/metal rail $20.00

plus each linear foot $0.05

b. Wood/chain link/wrought iron $20.00

plus each linear foot $0.10

c. Masonry/concrete $20.00

plus each linear foot $0.15

d. Retaining wall $20.00

plus each linear foot $0.25

(2) Signs

a. Up to a $500 value $50.00

b. $501 to $1,000 of value $100.00

c. Each $100 above $1,000 of value $10.00

(3) Demolition

a. Accessory structure $25.00 flat fee

b. Single-family dwelling $100.00 flat fee

c. Commercial $200.00 flat fee

(4) Temporary trailers (sales/construction) $500.00 flat fee

(5) Pools/spas/above ground $50.00 flat fee

(6) Fountains/ponds $50.00 flat fee

(7) Pools with standards on file $500.00 flat fee

(8) Pools with no standards on file $600.00 flat fee

(9) PV solar

a. Each module $4.25 each

b. Other components $16.25 each

(10) Water heater (change out like for like) $50.00 flat fee

(F) *Plan reviews.*

(1) Plan review shall be 65% of the permit fee unless permit fee is a flat fee. In such cases the plan review fee shall be $0.

(2) The minimum plan review fee shall be $50 unless stated otherwise in division(B)(6)(a).

(3) Additional plan reviews caused by changes, lost plans or plan review comment sheets shall be $100 per hour (one-hour minimum).

(4) Standard plan annual renewal fee shall be $100.

(G) *Inspections and re-inspections.*

(1) Inspections outside normal building hours shall be $150 per hour with a minimum of two hours.

(2) Re-inspections after the first and one subsequent inspection shall be $100 each. Requires a 24-hour waiting period after each failed subsequent inspection.

(3) Inspections or services for which no fee is specifically indicated are $150 per hour.

(H) *Additional fees.*

(1) Request for certificate of occupancy for change of use group without construction shall be $50.

(2) The use of outside consultants for plan checking shall be the actual costs of the consultant plus the towns permit and plan review fees.

(3) Fees for permits after work requiring permits has already begun shall be two times the permit and plan review fees.

(Ord. O2011-13, passed 11-21-11)

§ 151.15 PUBLIC WORKS CODE.

That certain code entitled the *Uniform Standard Specifications for Public Works Construction,* 1979 Edition, and that certain code entitled the *Uniform Standard Details for Public Works Construction,* 1979 Edition, both sponsored and distributed by the Maricopa Association of Governments, are hereby adopted as the "Public Works Code of the Town of Cave Creek" and made a part of this chapter the same as though said codes were specifically set forth in full herein; and at least three copies of said codes shall be filed in the office of the Clerk and kept available for public use and inspection.

(`87 Code, § 7-10-3) (Am. Ord. O2011-13, passed 11-21-11)

REGULATIONS

§ 151.20 CONFORMANCE WITH ZONING ORDINANCE.

Whenever a building permit is issued and a building inspection performed, such building must conform to the provisions of the Zoning Ordinance of Cave Creek in addition to the provisions of this chapter.

(`87 Code, § 7-1-2) Penalty, see § 10.99

Cross-reference:

Zoning, see Chapter 154

§ 151.21 FIREPLACES, WOOD STOVES, AND OTHER SOLID-FUEL BURNING DEVICES.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FIREPLACE. A built in place masonry hearth and fire chamber or a factory-built appliance designed to burn solid-fuel or to accommodate a gas or electric log insert or similar device, which is intended for occasional recreational or aesthetic use and not for cooking, heating, or industrial processes.

SOLID FUEL. Includes, but is not limited to, wood, coal, or other nongaseous or non-liquid fuels, including those fuels defined by the Maricopa County Air Pollution Control Officer as "inappropriate fuel" to burn in residential wood burning devices.

WOOD STOVE. A solid-fuel burning heating appliance, including a pellet stove, which is either freestanding or designed to be inserted into a fireplace.

(B) *Restrictions.* On or after the effective date, no person, firm, or corporation shall construct or install a fireplace or a wood stove, and the Building Official shall not approve or issue a permit to construct or install a fireplace or a wood stove, unless the fireplace or wood stove is one of the following:

(1) A fireplace which has a permanently installed gas or electric log insert.

(2) A fireplace, wood stove, or other solid-fuel burning appliance which has been certified by the United States Environmental Protection Agency as conforming to 40 CFR Part 60, Subpart AAA, as in effect on July 1, 1990.

(3) A fireplace, wood stove, or other solid-fuel burning appliance which has been tested and listed by a nationally recognized testing agency to meet performance standards equivalent to those adopted by 40 CFR Part 60, Subpart AAA, as in effect on July 1, 1990.

(4) A fireplace, wood stove, or other solid-fuel burning appliance which has been determined by the Maricopa County Air Pollution Control Officer to meet standards equivalent to those adopted by 40 CFR Part 60, Subpart AAA, as in effect on July 1, 1990.

(5) A fireplace which has a permanently installed wood stove insert which complies with (2), (3) or (4) above.

(C) *Unregulated and nonprohibited installations.* The following installations are not regulated or prohibited by this section:

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

(2) Cook stoves, barbecue grills, and similar appliances designed primarily for cooking.

(3) Fire pits, barbecue grills, and other outdoor fireplaces.

(D) *Alterations prohibited.* The following alterations are prohibited:

(1) On or after the effective date, no person, firm, or corporation shall alter or remove a gas or electric log insert or a wood stove insert from a fireplace for purposes of converting the fireplace to directly burn wood or other solid-fuel.

(2) On or after the effective date, no person, firm, or corporation shall construct or install a fireplace, wood stove, or other solid-fuel burning appliance in any manner that would void its certification or operational compliance with the provisions of this section.

(E) *Penalties.* Among other penalties which may apply, any person, firm, or corporation that violates any provision of this section shall be guilty of a Class 1 misdemeanor in accordance with the provisions of § 10.99.

(F) *Effective date.* The regulations and prohibitions set forth in this section shall be effective on December 31, 1998.

(G) *Other requirements.* In addition to the provisions and restrictions of this section, construction, installation, or alteration of all fireplaces, wood stoves, and other gas, electric, or solid-fuel burning appliances and equipment shall be done in compliance with provisions of the town code and shall be subject to the permits and inspections required by the town.

(`87 Code, § 7-1-3) (Am. Ord. 92-08, passed 8-31-92; Am. Ord. 98-17, passed 10-19-98) Penalty, see § 10.99

§ 151.22 UTILITY INSTALLATION IN NEW SUBDIVISIONS.

(A) All electric lines in new subdivisions, except those graded in 3,000 KVA capacity and above, and except switching cabinets and pad-mounted transformers, and all telephone lines and television cable in new subdivisions shall be installed underground for those subdivisions which do not have utility service to the building site, unless, upon recommendation of the Planning Commission, the Town Council determines that, due to surface soil conditions, it is impractical to do so.

(B) The property owner shall be responsible for the requirements of this section and shall make the necessary arrangements with each of the public utility companies involved in the installation of underground facilities. Letters from each of the public utility companies indicating that the arrangements have been made shall be submitted to the Town Clerk at the time the application for a building permit is submitted to the town.

(`87 Code, Art. 7-9) Penalty, see § 10.99

§ 151.23 IMPROVEMENTS TO BECOME PUBLIC PROPERTY OR IN PUBLIC RIGHTS-OF-WAY.

(A) *Work intended to become public property.* All improvements which are intended to become public property of the town shall be constructed in accordance with the standards and specifications set forth in the Public Works Code adopted in § 151.15 and shall be constructed according to the plans approved by the Town Engineer.

(`87 Code, § 7-10-1)

(B) *Work not intended to become public property.* All improvements within public rights-of-way not intended to become public property must be constructed or maintained under the terms of a franchise agreement or other authorization. The location of such facilities, their installation, and the restoration of the area after installation shall be done in accordance with the standards and specifications set forth in the Public Works Code adopted in § 151.15.

(`87 Code, § 7-10-2) Penalty, see § 10.99

ADMINISTRATION AND PERMITS

§ 151.35 BUILDING OFFICIAL.

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

(`87 Code, Art. 7-7)

§ 151.36 PERMITS.

(A) *Building permit access requirement.* Upon receipt of an application for a building permit, the Town Engineer shall determine whether the building site is accessible to vehicles which would provide services such as fire protection, police protection, garbage collection, and other services. Available access shall mean such access that will not cause damage or unusual wear and tear to vehicles providing such services. If such access is not available, the Building Inspector shall not issue a building permit.

(`87 Code, § 7-8-1)

(B) *Access permit.* Private property shall not be accessed from a public right-of-way, except upon obtaining a permit from the town. In granting a permit, the town shall give due consideration to pedestrian and vehicle safety, the resulting interference with the movement of vehicular traffic, and the interference with public improvements. In no event shall any access be of greater width than necessary for reasonable access to the private property to be served thereby or as provided for in the Town Zoning Ordinance.

(`87 Code, § 7-8-2)

(C) *Applicable provisions.* In applying for either a building permit or a public right-of-way access permit, the provisions of Chapter 93 of this code shall be applicable.

(`87 Code, § 7-8-3)

Cross-reference:

Streets, sidewalks, and waterways, see Chapter 93

DEVELOPMENT FEES

§ 151.40 DEVELOPMENT FEES.

Land Use	***General Government***	***Parks***	***Total***
Residential (per housing unit)			
Single unit	$322	$192	$514
2+ units	$158	$94	$252
Nonresidential (per 1,000 square ft. of floor area)			
Commercial	$201	$99	$300
Office/industrial	$335	$165	$500
Industrial/flex	$232	$115	$347

(Ord. O2006-18, passed 6-6-06; Am. Ord. O2014-08, passed 6-16-14)

§ 151.41 PURPOSE; INTENT.

The purposes and intent of these development fee procedures are:

(A) To establish uniform procedures for the imposition, calculation, collection, expenditure and administration of development fees imposed on new development;

(B) To implement the goals, objectives and policies of the Cave Creek General Plan relating to assuring that new development contributes its fair share towards the costs of public facilities reasonably necessitated by such new development;

(C) To ensure that new development is reasonably benefitted by the provision of the public facilities provided with the proceeds of development fees;

(D) To ensure that all applicable legal standards and criteria are properly incorporated in these procedures; and

(E) To ensure that all applicable procedures and requirements of A.R.S. § 9-463.05 have been met.

(Ord. O-2004-01, passed 1-20-04)

§ 151.42 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. Any person who files an application with the town for a building permit.

APPROPRIATION or ***TO APPROPRIATE.*** An action by the town to identify specific public facilities for which development fee funds may be utilized. ***APPROPRIATION*** shall include, but shall not necessarily be limited to: inclusion of a public facility in the adopted town budget or capital improvements program; execution of a contract or other legal encumbrance for construction of a public facility using development fee funds in whole or in part; and/or actual expenditure of development fee funds through payments made from a development fee account.

COMMERCIAL OR INDUSTRIAL USE. Any use or establishment not defined as a dwelling unit.

CONNECTION. The physical tie-in of a developer's water, effluent or sewer service to the town's water, effluent or sewer main.

DIRECTOR. The Director of Planning or his or her designee.

DEVELOPER. The individual, firm, corporation, partnership, association, syndication, trust or other legal entity that is responsible for creating a demand for town facilities and services.

DEVELOPMENT FEE. A fee adopted pursuant to A.R.S. § 9-463.05 which is imposed on new development on a pro rata basis in connection with and as a condition of the issuance of a building permit and which is calculated to defray all or a portion of the costs of the public facilities required to accommodate new development at town-designated level of service (LOS) standards and which reasonably benefits the new development.

DEVELOPMENT FEE ADOPTION AND IMPOSITION. This subchapter establishes procedures and requirements for all development fees which may be adopted by the town; provided, however, that in order to impose a development fee for a particular public facility, the town shall prepare a written report, notice, schedule and hold a public hearing, and otherwise comply with all applicable requirements of A.R.S. § 9-463.05 and this subchapter.

DEVELOPMENT FEE DISTRICT MAPS. The map(s) defining the geographical extent of the development fee districts, if any, for each adopted development fee, as may be necessary.

DISTRICT or ***DEVELOPMENT FEE DISTRICT.*** A defined geographic area or subarea of the town and/or its planning area within which particular public facilities are provided and in which development fees will be collected, appropriated, and expended for public facilities serving new development within such area or subarea.

DWELLING UNIT. A room or group of rooms within a building containing cooking accommodations and designed to be used for living purposes. Each apartment unit, mobile home or mobile home space, travel trailer or travel trailer space shall be considered a ***DWELLING UNIT***. ***DWELLING UNIT*** shall not include those units designed primarily for transient occupant purposes, nor shall they include rooms in hospitals or nursing homes.

(1) ***SINGLE-FAMILY DETACHED DWELLING UNIT.*** A dwelling unit designed and used only by one family and which unit is physically separated from any other dwelling unit.

(2) ***SINGLE-FAMILY ATTACHED DWELLING UNIT.*** A single-family dwelling unit attached to another such dwelling, such as a townhouse or a condominium.

(3) ***MOBILE HOMES DWELLING UNIT.*** A dwelling unit typically designed and used only by one family which may be pre-manufactured and delivered to a building site for connection to utilities. This dwelling unit may include travel trailer units as well.

(4) ***MULTI-FAMILY DWELLING UNIT.*** A dwelling unit typically attached to another dwelling unit, such as an apartment or duplex dwelling unit, for rental purposes.

(5) ***ALL OTHER DWELLING UNITS***. A dwelling unit not described above in this definition.

GOVERNING BODY. The Mayor and Common Council of the Town of Cave Creek, Arizona.

MULTIPLE USES. A new development consisting of both residential and nonresidential uses, or one or more different types of non-residential use, on the same site or part of the same new development.

MUNICIPAL PLANNING AREA. An area outside of the present Cave Creek town limits, but in which the town may provide public facilities and services.

NEW DEVELOPMENT. Any new construction, reconstruction, redevelopment, rehabilitation, structural alteration, structural enlargement, structural extension, or new use which requires a building permit, or a connection fee permit for hook-up to the town wastewater system; any change in use of an existing non-residential building, structure or lot requiring any form of town building permit or approval, and which increases the demand for one or more public facilities or services as herein defined; or, any change in use of an existing residential or non-residential building or structure or change in the use of land, which requires an increase in water meter size or installation of a larger water meter, except as otherwise provided in § 151.43(E).

OPEN SPACE AND TRAILS AND RECREATION FACILITIES DEVELOPMENT FEE. A fee imposed only on new residential development to fund the proportionate share of the costs of: community parks; open space, including, but not necessarily limited to, open space lands, agricultural land preservation, purchase of land, development rights and/or construction easements, desert mountain preserves and trails; and recreation facilities and improvements (but, expressly excluding neighborhood parks).

PUBLIC BUILDINGS AND EQUIPMENT. Public improvements, facilities or services necessitated by new development, including, but not limited to, water resources, transportation, police facilities, public works, fire and emergency medical services, community facilities, municipal facilities, water facilities, sewer facilities, flood control and drainage, solid waste disposal, open space, parks, utilities and educational facilities include amounts appropriated in connection with the planning, design, engineering and construction of public facilities; planning, legal, appraisal and other costs related to the acquisition of land, financing and development costs; the costs of compliance with purchasing procedures and applicable administrative and legal requirements; and all other costs necessarily incident to provision of the public facility.

TRANSPORTATION DEVELOPMENT FEE. A fee imposed on all new residential and nonresidential development to fund the proportionate share of the costs of transportation improvements and new roads designed to solve congestion-related problems that are anticipated from increased traffic demands resulting from new development, and including improvements to minor arterials and/or collectors needed for access and traffic mobility, but excluding project-specific traffic and transportation improvements such as turn lanes, individual traffic signals for the benefit of a specific development project and the like.

WATER DEVELOPMENT FEE. A fee imposed on all new residential and nonresidential development to fund the proportionate share of costs of water treatment, storage and distribution system and necessary capital improvements and capital equipment and appurtenances thereto.

WASTEWATER DEVELOPMENT FEE. A fee imposed on all new residential and nonresidential development to fund the proportionate share of the costs of: the wastewater collection and wastewater treatment system and necessary improvements, capital equipment and appurtenances thereto.

(Ord. O-2004-01, passed 1-20-04)

§ 151.43 GENERAL PROVISIONS; APPLICABILITY.

(A) *Term.* This subchapter and the procedures established herein shall remain in effect unless and until repealed, amended or modified by the Mayor and Common Council in accordance with applicable state law and the town code, ordinances and resolutions.

(B) *Annual review.*

(1) At least once every year not later than the first Council meeting in July of each year, beginning July 19, 2004, the Town Manager or his or her designee shall coordinate the preparation and submission of an annual report to the Mayor and Common Council on the subject of development fees.

(2) The annual report may include any or all of the following:

(a) Recommendations for amendments, if appropriate, to these procedures or to specific ordinances adopting development fees for particular public facilities;

(b) Proposed changes to the Cave Creek General Plan or plan elements and/or an applicable capital improvements program, including the identification of additional public facility projects anticipated to be funded wholly or partially with development fees;

(c) Proposed changes to the boundaries of development fee districts, if applicable;

(d) Proposed changes to development fee schedules as set forth in the ordinances imposing and setting development fees for particular public facilities;

(e) Proposed changes to level of service standards for particular public facilities;

(f) Proposed changes to any development fee calculation methodology;

(g) Proposed changes to the population, housing, land use, persons per household or non- residential development projections included in the development fee report and upon which the development fee amounts have been determined; and

(h) Other data, analysis or recommendations as the Town Manager or appropriate designee may deem appropriate, or as may be requested by the Mayor and Common Council.

(3) The annual report may additionally include any or all of the following on an annual basis:

(a) Number of building permits issued by type of residential or nonresidential development;

(b) Square footage (gross floor area) of non-residential development, by type;

(c) Total amount of development fees collected, by public facility and by land use type;

(d) The amount of expenditures made from the development fee account or sub accounts and the purpose for which the expenditure was made, i.e., the description, type and location of the public facility project;

(e) When the public facility project was initiated and when it was (or will be) completed;

(f) Whether additional development fee funds will be appropriated for the same project in the future;

(g) Whether supplemental non-development fee funds have been used for the project and, if so, how much;

(h) The service area of the public facility project;

(i) The total estimated cost of the project and the portion funded with development fees;

(j) Whether the public facility project is in the town's current annual budget or capital improvements program;

(k) The estimated useful life of the project;

(1) The extent to which the public facility project is needed to serve new/projected growth;

(m) The extent to which the public facility project is needed to maintain the existing level of service (LOS) standard; and

(n) Such other facts as may be deemed relevant by the Common Council.

(4) Submission of development fee annual report and Common Council action. The Town Manager or appropriate designee shall submit the development fee annual report to the Mayor and Common Council, which shall receive the annual report and which may take such actions as it deems appropriate, including, but not limited to, requesting additional data or analyses and holding public workshops and/or public hearings.

(C) *Affected area*.

(1) *Development fee district.* Development fees shall be imposed on new development in Cave Creek which, for purposes hereof, may be divided into development fee districts by the town.

(2) *Municipal planning areas*. Development fees imposed by the town may, if necessary and appropriate, be collected by other municipalities or by the county on new development within the town's municipal planning area, but outside of the Cave Creek town limits, only pursuant to an intergovernmental agreement which provides that the development fees collected be transferred to the appropriate town fund for expenditure in accordance with the terms of this subchapter.

(3) *Identification*. The affected area, including development fee districts, if applicable, shall be described and/or mapped in the particular public facility development fee ordinance.

(4) *Change in boundaries of development fee districts*. The town may amend the boundaries of the development fee districts at such times as may be deemed necessary to carry out the purposes and intent of this subchapter and applicable legal requirements

for use of development fees. In the event of annexation of unincorporated county land by the town, the Mayor and Common Council shall consider whether such annexed area should be included in a particular development fee district.

(D) *Type of development affected*. This subchapter shall apply to all new development as herein defined and as defined in the development fee ordinances for particular public facilities.

(E) *Type of development not affected*. This subchapter shall not apply to:

(1) *Previously-issued building permits*. No development fee, unless previously imposed, shall be imposed on new development for which a building permit has been issued prior to the effective date of this subchapter.

(2) *Previous payment of development fees*. Subject to the requirements of § 151.44, no development fees shall be due at a later stage of the development permit or approval process if development fees have been paid for such category of public facilities at an earlier stage in the development permit or approval process.

(3) *No net increase in dwelling units*. No development fee shall be imposed on any new residential development which does not add a new dwelling unit.

(4) *No net increase in non-residential square footage*. No development fee shall be imposed on any new non-residential development which does not add square footage, unless the new non-residential development increases the demand for public facilities for which development fees are being imposed.

(5) Development projects which are the subject of a development agreement containing provisions in conflict with this subchapter, but only to the extent of the conflict or inconsistency.

(6) *Development by other governmental entities*. Pursuant to A.R.S. § 9-500.18, no development fee shall be imposed on new development by the State of Arizona, school districts organized pursuant to Arizona state laws, or the federal government, or agencies thereof; provided, however, that the town may seek to negotiate the construction of public facilities or the provision of services, or to negotiate the payment of development fees, pursuant to a development agreement or intergovernmental agreement with such public governmental entities.

(F) *Effect of payment of development fees on other applicable town land use, zoning, platting, subdivision or development regulations.*

(1) The payment of development fees shall not entitle the applicant to a building permit unless all other applicable land use, zoning, planning, platting, subdivision or other related requirements, standards and conditions have been met. Such other requirements, standards and conditions are independent of the requirement for payment of a development fee.

(2) Neither this subchapter nor the specific development fee ordinances for particular public facilities shall affect, in any manner, the permissible use of property, density/intensity of development, design and improvement standards or other applicable standards or requirements of the town land development regulations, which shall be operative and remain in full force and effect without limitation.

(G) *Amendments*. This subchapter, and any ordinance adopting development fees for any particular public facility pursuant to this subchapter, may be amended from time to time by the Mayor and Common Council; provided, however, that no such amendment shall be adopted without a written report detailing the reasons and need for the development fee revision nor without proper notice and public hearing as set forth herein and in A.R.S. § 9-463.05C.

(H) *Effect of imposition of development fees in a community facilities district*. In calculating and imposing a development fee applicable to land in a community facilities district established under A.R.S. Title 48, Chapter 4, Article 6, the town shall take into account all public infrastructure provided by the district and capital costs paid by the district for necessary public services and facilities and shall not assess a portion of the development fee otherwise calculated to be due that would duplicate the infrastructure provided by the district or the costs imposed by the district on new development.

(Ord. O-2004-01, passed 1-20-04)

§ 151.44 PROCEDURES FOR IMPOSITION, CALCULATION AND COLLECTION.

(A) *In general*. An applicant shall be notified by the town of the applicable development fee requirements at the time of application for a building permit via the issuance of a development fee calculation form to the applicant. Development fees shall be calculated by the town at the time of application for a building permit and shall be paid by the applicant prior to the issuance of a building permit.

(B) *Calculation*.

(1) Upon receipt of an application for a building permit, the town shall determine (a) whether it is a residential or non-residential use, (b) the specific category (type) of residential or non-residential development, if applicable, (c) if residential, the number of new dwelling units, (d) if nonresidential, the number of new or additional square feet of gross floor area (rounded up to the nearest square foot) and the proposed use, and (e) the development fee district in which the new development is located (if applicable).

(2) Upon receipt of an application for a building permit, the town shall determine whether it is for a change in use. In such cases, the development fee due shall be based only on the incremental increase in the fee for the additional public facilities needed for the change in use.

(3) After making these determinations, the town shall calculate the demand for the public facility added by the new development for each public facility category for which a development fee is being imposed and calculate the applicable development fee by multiplying the demand added by the new development by the amount of the applicable development fee per unit of development, incorporating any applicable offset if set forth in the particular development fee calculation methodology.

(4) If the type of land use proposed for new development is not expressly listed in the particular development fee ordinance and schedule, the town shall:

(a) Identify the most similar land use type listed and calculate the development fee based on the development fee for that land use; or

(b) Identify the broader land use category within which the specified land use would apply and calculate the development fee based on the development fee for that land use category; or

(c) At the option of the applicant, or the Director of Planning, determine the basis used to calculate the fee pursuant to an independent impact analysis for development fee calculation. This option shall be available only for transportation development fees and shall be requested by the applicant on a form provided by the town for such purpose. If this option is chosen, the following shall apply:

1. The applicant shall be responsible, at its sole expense, for preparing the independent impact analysis, which shall be reviewed for approval by the Director of Planning, and, if appropriate, the Town Engineer or other town staff or officials, prior to payment of the fee.

2. The independent impact analysis shall measure the impact that the proposed development will have on the particular public facility at issue, and shall be based on the same methodologies used in the development fee calculation methodology report, and shall be supported by professionally acceptable data and assumptions.

3. After review of the independent impact analysis submitted by the applicant, the Director of Planning shall accept or reject the analysis and provide written notice to the applicant of its decision on a form provided for such purpose within 30 days. If the independent impact analysis is rejected, the written notice shall provide an explanation of the insufficiencies of the analysis.

4. The final decision of the Director of Planning may be appealed pursuant to § 151.46 herein.

(5) An applicant may request a non-binding estimate of development fees due for a particular new development at any time by filing a request on a form provided for such purpose by the Planning Department; provided, however, that such estimate may be subject to change when a formal application for a building permit for new development is made. Such nonbinding estimate is solely for the benefit of the prospective applicant and shall in no way bind the town nor preclude it from making amendments or revisions to any provisions of this subchapter, the specific development fee implementing ordinances or the development fee schedules.

(6) The calculation of development fees due from a multiple-use new development shall be based upon the aggregated demand for each public facility generated by each land use type in the new development.

(7) The calculation of development fees due from a phased new development shall be based upon the demand generated by each specific land use within the phase of development for which a separate building permit is requested.

(8) Development fees shall be calculated based on the development fee amount in effect at the time of application for a building permit.

(C) *Offsets*.

(1) Offsets against the amount of a development fee due from a new development shall be provided for, among other things, contributions made or to be made in the future in cash, or by dedication of land or by actual construction of all or part of a public

facility by the affected property owner for public facilities meeting or exceeding the demand generated by the new development and the contribution is determined by the town to be a reasonable substitute for the cost of public facilities which are included in the particular development fee calculation methodology.

(2) The amount of the excess contribution shall be determined by the town upon receipt of an application form requesting an offset; provided, however, that:

(a) The town will make no reimbursement for excess contributions unless and until the particular public facility fund has sufficient revenue to make the reimbursement without jeopardizing the continuity of the town's capital improvements program, and

(b) The excess contribution may not be transferred or credited to any other type of development fees calculated to be due from that development for other type of public facilities. The determination of the eligibility for and the amount of the credit shall be made by the town on a form provided for such purposes. If the applicant contends that any aspect of the town's decision constitutes an abuse of discretion, the applicant shall be entitled to appeal pursuant to § 151.46.

(3) No offset shall be allowed unless the town has approved the contribution or expenditure before it is made.

(4) Offsets for dedication of land or provision of public facilities shall be applicable only as to development fees imposed for the same types of public facilities, which are proposed to be dedicated or provided. Even if the value of the dedication of land or provision of a public facility exceeds the development fee due for the type of public facility, the excess value may not be transferred to development fees calculated to be due from the applicant for other types of public facilities for which development fees may be imposed. Offsets may, however, be transferred to the same applicant or to other applicants for new development, which are proposed within the final approved platted area of the same development and for the same type of public facility.

(D) *Collection*.

(1) The town shall collect all applicable development fees at the time of issuance of a building permit and shall issue a receipt to the applicant for such payment unless:

(a) The applicant is determined to be entitled to a full offset; or

(b) The applicant has been determined to be not subject to the payment of a development fee; or

(c) The applicant has filed an appeal and a bond or other surety in the amount of the development fee, as calculated by the town and approved by the Town Attorney and Town Engineer, has been posted with the town.

(2) The town shall collect a development fee at the time of issuance of a building permit even if development fees were paid by the applicant at an earlier time in the development permit or approval process if the amount of the development fees have increased since such prior approval. Except as provided for in § 151.43(F), the applicant shall only be liable for the difference between the development fees paid earlier and those in effect at the time of issuance of the subsequent building permit.

(Ord. O-2004-01, passed 1-20-04)

§ 151.45 ESTABLISHMENT OF DEVELOPMENT FEE ACCOUNTS; APPROPRIATION OF DEVELOPMENT FEE FUNDS; REFUNDS.

(A) *Development fee accounts*. A development fee account shall be established by the town for each category of public facilities for which development fees are imposed. Such account shall clearly identify the category, account, or fund for which the development fee has been imposed. Sub accounts may be established for individual development fee districts. All development fees collected by the town shall be deposited into the appropriate development fee account or sub account, which shall be interest bearing. All interest earned on monies deposited to such account shall be credited to and shall be considered funds of the account. The funds of each such account shall be capable of being accounted for separately from all other town funds, over time. The town shall establish and implement necessary accounting controls to ensure that the development fee funds are properly deposited, accounted for and appropriated in accordance with this subchapter, A.R.S. § 9-463.05 and any other applicable legal requirements.

(B) *Appropriation of development fee funds*.

(1) *In general*. Development fee funds may be appropriated for public facilities, for public facility expenditures as defined in § 151.42, hereof and for the payment of principal, interest and other financing costs on contracts, bonds, notes or other obligations issued by or on behalf of the town or other applicable local governmental entities to finance such public facilities and public facility expenditures. All appropriations from development fee accounts shall be detailed on a form provided for such purposes and filed within

the Finance Department.

(2) *Restrictions on appropriations*. Development fees shall be appropriated only:

(a) For the particular public facility for which they were imposed, calculated and collected;

(b) Within the development fee district where collected unless the development fee funds will be appropriated for a public facility necessitated by or serving the new development as provided herein; and

(c) Within ten years of the beginning of the fiscal year immediately succeeding the date of collection, unless such time period is extended as provided herein. Development fees shall not be appropriated for funding maintenance or repair of public facilities nor for operational or personnel expenses associated with the provision of the public facility.

(3) *Appropriation of development fee funds outside of district where collected*. Development fee funds may be appropriated for a public facility located outside of the district where collected only if the demand for the public facility is generated in whole or in part by the new development or if the public facility will actually serve the new development.

(4) *Appropriation of development fee funds beyond ten years of collection*. Notwithstanding division (B)(2) of this section, development fee funds may be appropriated beyond ten years from the beginning of the fiscal year immediately succeeding the date of collection if the appropriation is for a public facility which requires more than ten years to plan, design and construct, and the demand for the public facility is generated in whole or in part by the new development, or if the public facility will actually serve the new development. Such appropriations shall be documented by the town.

(C) *Procedure for appropriation of development fee funds.*

(1) The town shall each year identify public facility projects anticipated to be funded in whole or in part with development fees. The public facility recommendations shall be based upon the development fee annual review set forth in division (B)(3) of this section and such other information as may be relevant, and may be part of the town' s annual budget and capital improvements programming process.

(2) The recommendations shall be consistent with the provisions of this subchapter, the particular public facility development fee ordinances, A.R.S. § 9-463.05, or other applicable legal requirements and any guidelines adopted by the Mayor and Common Council.

(3) The Mayor and Common Council may include development fee-funded public facilities in the town's annual budget and capital improvements program. If included, the description of the public facility shall specify the nature of the facility, the location of the public facility, the capacity to be added by the public facility the service area of the public facility, the need/demand for the public facility and the anticipated timing of completion of the public facility.

(4) The Mayor and Common Council may authorize development fee-funded public facilities at such other times as may be deemed necessary and appropriate by a majority vote of the Common Council.

(5) The Mayor and Common Council shall verify that adequate development fee funds are or will be available from the appropriate development fee account for the particular public facility.

(D) *Refunds*.

(1) *Eligibility for refund.*

(a) *Expiration or revocation of building permit*. An applicant who has paid a development fee for a new development for which the necessary building permit has expired or for which the building permit has been revoked prior to construction shall be eligible to apply for a refund of development fees paid on a form provided by the town for such purposes.

(b) *Failure of town to appropriate development fee funds within time limit*. The current property owner may apply for a refund of development fees paid by an applicant if the town has failed to appropriate the development fees collected from the applicant within the time limit established in divisions (B)(2) and (4) of this section. The refund application shall be made on a form provided by the town for such purposes.

(c) *Abandonment of development after initiation of construction*. An applicant who has paid a development fee for a new development for which a building permit has been issued and pursuant to which construction has been initiated, but which construction is abandoned prior to completion and issuance of a certificate of occupancy, shall not be eligible for a refund unless the uncompleted building is completely demolished.

(d) A 5% administrative fee, but not to exceed $200, shall be deducted from the amount of any refund granted and shall be retained by the town in the appropriate development fee account to defray the administrative expenses associated with the processing

of a refund application.

(2) Except as provided in divisions (D)(1)(a) and (c) and (D)(6) of this section, refunds shall be made only to the current owner of property on which the new development was proposed or occurred.

(3) *Processing of applications for a refund*. Applications for a refund shall be made on a form provided by the town for such purposes and shall include all information required in divisions (D)(5) or (6) of this section, as appropriate. Upon receipt of a complete application for a refund, the town shall review the application and documentary evidence submitted by the applicant as well as such other information and evidence as may be deemed relevant, and make a determination as to whether a refund is due. Refunds by direct payment shall be made following an affirmative determination by the town.

(4) Applications for refunds due to abandonment of a new development prior to completion shall be made on forms provided by the town and shall be made within 60 days following expiration or revocation of the building permit. The applicant shall submit (a) evidence that the applicant is the property owner or the duly designated agent of the property owner, (b) the amount of the development fees paid by public facilities category and receipts evidencing such payments, and (c) documentation evidencing the expiration or revocation of the building permit or proof of demolition of the structure pursuant to a valid town-issued demolition permit. Failure to apply for a refund within 60 days following expiration or revocation of the building permit or demolition of the structure shall constitute a waiver of entitlement to a refund. No interest shall be paid by the town in calculating the amount of the refunds.

(5) Applications for refunds due to the failure of the town to appropriate development fees collected from the applicant within the time limits established in division (B)(2) of this section shall be made on forms provided by the town and shall be made within one year following the expiration of such time limit. The applicant shall submit (a) evidence that the applicant is the property owner or the duly designated agent of the property owner, (b) the amount of the development fees paid by public facility category and receipts evidencing such payments, and (c) description and documentation of the town' s failure to appropriate development fee funds for relevant public facilities.

(6) The town may, at its option, make refunds of development fees by direct payment, by offsetting such refunds against other development fees due for the same category of public facilities for new development on the same property, or by other means subject to agreement with the property owner.

(Ord. O-2004-01, passed 1-20-04)

§ 151.46 APPEALS.

(A) An appeal from any decision of a town official pursuant to this subchapter shall be made to the Mayor and Common Council by filing a written appeal pursuant to the appropriate town form with the Town Clerk within 30 days following the decision which is being appealed; provided, however, that if the notice of appeal is accompanied by a cash bond or letter of credit in a form satisfactory to the Town Attorney and the Town Engineer in an amount equal to the development fee calculated to be due, a building permit may be issued to the new development. The filing of an appeal shall not stay the imposition or the collection of the development fee as calculated by the town unless a cash bond or other sufficient surety has been provided.

(B) The burden of proof shall be on the appellant to demonstrate that the decision of the town is erroneous.

(C) All appeals shall detail the specific grounds therefor and all other relevant information and shall be filed on a form provided by the town for such purposes.

(Ord. O-2004-01, passed 1-20-04)

§ 151.47 EXEMPTIONS; WAIVERS.

(A) *Filing of application*. Petitions for exemptions to the application of the provisions of this subchapter or waivers from specific development fees shall be filed with the Mayor and Common Council on forms provided by the town.

(B) *Effect of grant of exemption/waiver*. If the Mayor and Common Council grants an exemption or waiver in whole or in part of development fees otherwise due, the amount of the development fees exempted or waived shall be provided by the town from non-development fee funds, as may be provided in the particular development fee ordinances establishing development fees for particular public facilities, and such funds shall be deposited to the appropriate development fee account within a reasonable period of time consistent with the applicable town capital improvements program.

(C) *Development agreements*. Nothing herein shall be deemed to limit the town's authority or ability to enter into development agreements pursuant to A.R.S. 9-500.05 with applicants for new development who may provide for dedication of land, payments in lieu of development fees, or actual infrastructure improvements. Such development agreements may allow offsets against development fees for contributions made or to be made in the future in cash, or by taxes or assessments or dedication of land or by actual construction of all or part of a public facility by the affected property owner.

(Ord. O-2004-01, passed 1-20-04)

§ 151.99 PENALTY

Any person found guilty of violating this chapter, except as otherwise provided, shall be guilty of a misdemeanor, and upon conviction thereof, may be punished by a fine not to exceed $2,500 or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment.

(Ord. 2000-03, passed 5-15-00)

BUILDING REGULATIONS APPENDIX: FEES

Schedule

1. Fees

SCHEDULE 1. FEES.

(A) Demolition issue fee $100

Sales trailer issue fee $250

Inspections outside of normal business hours $35 per hour

Reinspection fee assessed under the provisions of Section 305(g) $35 each

Inspections for which no fee is specifically indicated (minimum charge - one hour) $35 per hour

Additional plan review required by changes, additions, or revisions to approved plans (minimum charge - one hour) $35 per hour

The permit fee for fences shall be:

Wood/chain link/wrought iron $20 plus $.10 per lin. ft.

Masonry/concrete $20 plus $.15 per lin. ft.

Arena/corral/split rail/metal rail $20 plus $.05 per lin. ft.

Retaining walls $20 plus $.25 per lin. ft.

The permit fees for signs shall be based on valuation:

$1 to $500 $25

$501 to $1,000 $50

For each $100 or fraction thereof over $1,000,

add an additional $5

The permit fee for swimming pools and spas shall be based

on total valuation:

$1 to $3,000 $60

$3,001 to $6,000 $120

For each $1,000 or fraction thereof over $6,000,

add an additional $20

(B) The determination of the value or valuation under the provision of this code shall be made by the building official. The value to be used in computing the building permit and building plan review fees shall be the total value of all construction work for which the permit is issued, as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems and any other permanent equipment, provided that the minimum valuation for the type of construction for which the permit is issued shall be the cost for such construction as listed in that issue of the publication entitled Building Standards (or equivalent publication of the International Conference of Building Officials) published immediately preceding the date of issuance of the permit, without adjustments for regional variations.

(`87 Code, Art. 7-6; Am. Ord. 2000-03, passed 5-15-00)

CHAPTER 152: FLOOD DAMAGE PREVENTION

Section

152.01 Enforcement authority designated

152.02 Floodplain Management Regulations and plan

§ 152.01 ENFORCEMENT AUTHORITY DESIGNATED.

The town designates the Maricopa County Flood Control District as the enforcement authority for all floodplain management activities within the corporate limits of the town. The district is hereby authorized to exercise the powers and perform the duties set forth in A.R.S. §§ 48-3601 et seq., within the town.

(`87 Code, Art. 12-1)

§ 152.02 FLOODPLAIN MANAGEMENT REGULATIONS AND PLAN.

(A) The Town Manager is designated as the Floodplain Manager for the town and will serve as the community point of contact on National Flood Insurance Program issues for county, state and federal officials.

(B) Those public records entitled "Flood Insurance Study for Maricopa County, Arizona, and Incorporated Areas Dated July 19, 2001" and "Flood Insurance Rate Maps Dated July 19, 2001" and all subsequent amendments and/or revisions, three copies of which shall be kept on file in the office of the Town Clerk, are hereby adopted by reference, as the basis for establishing the special flood hazard areas for floodplain management in the town. The special flood hazard areas documented in the flood insurance study and flood insurance rate maps are the minimum area of applicability of the floodplain management regulations and may be supplemented by studies for other areas as allowed in the regulations.

(C) Public record in the floodplain management regulations for Maricopa County (2000 Revision), three copies of which shall be

kept on file in the office of the Town Clerk, is hereby adopted as the legal basis for implementing floodplain management in this community.

(Ord. O-2005-14, passed 8-15-05)

CHAPTER 153: SUBDIVISION OF LAND

Section

Part I: General Provisions

153.01 Land splits

Part II: Subdivisions

153.10 Adoption of subdivision code

Statutory reference:

Municipal subdivision regulations, see A.R.S. §§ 9-463 et seq.

PART I: GENERAL PROVISIONS

§ 153.01 LAND SPLITS.

(A) *Split and division of land; approval.* It is unlawful for any person to sell a parcel of land located within the town which has been split or divided from another parcel of land consisting of two and one-half acres or less until first having applied for and been granted the approval of the split or division by the Town Council. The Town Council shall determine before granting such approval that:

(1) The split or division will not interfere with the orderly growth and harmonious development of the town as defined in the subdivision code and the Comprehensive Plan, including but not limited to provision for the public dedication of rights-of-way for streets and alleys.

(2) There is provision for connection to the necessary utilities.

(3) The new and residually created parcel or parcels meet the minimum frontage and area requirements of the zoning code.

(B) *Application for approval.* Any application hereunder shall be filed with the town for consideration by the Town Council after staff review. The application shall depict the original parcel, the proposed division thereof, the nearest dedicated streets in all directions, the abutting alley, if any, and the distance from the nearest sewage trunk line. Approval or disapproval of the split or division of the property shall be conveyed to the owner, in writing, within ten days after the meeting of the Town Council. In the case of disapproval, the owner shall be notified of the reason for such and what requirements shall be necessary to meet the approval of the Town Council.

(C) *Issuance of building permit.* The Building Inspector shall not issue any building permit for any split or divided parcel as described herein until the owner of said parcel has shown that divisions (A) and (B) have been previously complied with and approval of the split or division has been granted by the Town Council. In the event said sections have not been complied with prior to the split or division, the new owner shall comply with them (as if he or she were the one who divided or split the original parcel which has resulted in the creation of his or her parcel) before issuance of any building permit by the Building Inspector.

(`87 Code, Art. 14-2) (Ord. 88-3, passed 5-2-88; Am. Ord. 88-10, passed 6-6-88) Penalty, see § 10.99

Statutory reference:

Land splits, local authority over, see A.R.S. § 9-463.01(L)

PART II: SUBDIVISIONS

§ 153.10 ADOPTION OF SUBDIVISION CODE.

That certain code entitled the "Subdivision Code," enacted by Ord. 99-10, August 9, 1999, is hereby adopted as the subdivision code of the town and made a part of this chapter the same as though said code was specifically set forth in full herein; and at least three copies of said code shall be filed in the office of the Clerk and kept available for public use and inspection.

(`87 Code, Art. 14-1) (Ord. 99-10, passed 8-2-99; Am. Ord. O-2003-04, passed 8-4-03; Am. Ord. O-2003-08, passed 10-6-03)

CHAPTER 154: ZONING

Section

154.01 Adoption of zoning ordinance

Statutory reference:

Municipal zoning, see A.R.S. §§ 9-452 et seq.

Cross-reference:

Zoning Administrator, see § 31.26

Planning Commission, see §§ 33.01 et seq.

Board of Adjustment, see §§ 33.20 et seq.

Dedication and exaction appeals, see § 150.02

§ 154.01 ADOPTION OF ZONING ORDINANCE.

That certain document entitled the "Zoning Ordinance," dated January 6, 2003, is declared to be the official zoning ordinance of the town and made a part of this chapter the same as though said ordinance was specifically set forth in full herein; and at least three copies of said ordinance shall be filed in the office of the Town Clerk and kept available for public use and inspection.

(Ord. O-2003-07, passed 10-6-03; Am. Ord. O-2004-12, passed 6-7-04; Am. Ord. O2013-09, passed 11-4-13)

CHAPTER 155: MEDICAL MARIJUANA DISPENSARIES AND CULTIVATION FACILITIES

Section

155.01 Legislative findings and purpose

155.02 Definitions

155.03 Location

155.99 Penalty

§ 155.01 LEGISLATIVE FINDINGS AND PURPOSE.

(A) In many communities in which medical marijuana "dispensaries" have been established, law enforcement agencies have

documented the serious and adverse impacts associated with such dispensaries. These communities and the media have reported increased crime, including burglaries, robberies, violence, illegal sales of marijuana to and use of marijuana by minors and others without medical need in the areas immediately surrounding such medical marijuana dispensaries. Other negative secondary effects include the smoking of marijuana in public areas and adverse impacts on neighboring businesses (including odor complaints). The town could reasonably anticipate experiencing similar adverse impacts and effects from any marijuana dispensaries and cultivation and other marijuana operations established in the town.

(B) Additionally, a number of sources, including the United States Department of Justice's California Medical Marijuana website [which contains various documents and reports related to issues surrounding marijuana use] and the "White Paper on Marijuana Dispensaries" published by the California Police Chiefs Association's Task Force on Marijuana Dispensaries (April 22, 2009), have concluded that the establishment of marijuana dispensaries can lead to an increase in crime. Among the crimes cited as typical examples are burglaries, robberies, sales of illegal drugs in areas immediately surrounding such dispensaries, as well as other public nuisances such as loitering, smoking marijuana in public places, sales to minors and driving while under the influence of marijuana. The Town Council finds that these data and conclusions, experiences in other cities, towns and counties justify the implementation of the regulatory zoning and safety measures included in this chapter.

(C) The provisions of this chapter are intended to acknowledge and protect the rights of qualifying patients and their designated caregivers under the provisions of Title 36, A.R.S. §§ 36-2801 et seq., while also protecting the health, safety, and welfare of the public; through implementation of the Zoning Code; and curtailing to the extent reasonably possible, the possession, use, distribution, or cultivation of marijuana for unlawful purposes by:

(1) Requiring that medical marijuana businesses, operations and facilities be operated in a manner that minimizes potential health and safety risks and mitigates the negative impacts that a medical marijuana dispensary or cultivation operation might have on surrounding properties and persons;

(2) Regulating the conduct of persons owning, operating and using medical marijuana dispensaries and cultivation facilities in order to protect the public health, safety and welfare; and

(3) Regulating the location and operation of medical marijuana dispensaries, cultivation facilities and medical marijuana operations.

(D) By adoption of this chapter, the Town Council does not intend to authorize or make legal any act that is not permitted under federal or state law.

(Ord. O2011-05, passed 4-18-11) Penalty, see § 155.99

§ 155.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CULTIVATION. The process by which a person grows a marijuana plant(s) as allowed by Arizona Revised Statutes, Title 36, A.R.S. §§ 36-2801 et seq. and the Department rules and regulations.

MEDICAL MARIJUANA CULTIVATION FACILITY. The building, structure or premises used to cultivate a marijuana plant(s).

DEPARTMENT. The Arizona Department of Health Services or its successor agency.

DEPARTMENT RULES AND REGULATIONS. The adopted regulations of the Department relating to the provisions of Arizona Revised Statutes, Title 36, A.R.S. §§ 36-2801 et seq. currently in existence and as adopted in the future.

DESIGNATED CAREGIVER. A person, other than qualifying patient and the patient's physician, who, pursuant to Arizona Revised Statutes, Title 36, A.R.S. §§ 36-2801 et seq. and the Department rules and regulations, assists no more than five registered qualifying patients with the medical use of marijuana.

MEDICAL MARIJUANA. Marijuana or cannabis, including all parts of any plant of the genus cannabis whether growing or not, the seeds of such plant, and any infusion into consumable/edible goods, approved under state law for treatment of persons suffering from debilitating medical conditions as designated in Arizona Revised Statutes, Title 36, A.R.S. §§ 36-2801 et seq., the Department rules and regulations, and other laws and regulations of the State of Arizona.

MEDICAL MARIJUANA CULTIVATION LOCATION FOR A CAREGIVER shall only be permitted in a locked accessory

building that does not exceed 250 square feet of cultivation space and meets the 60' setback requirement from all property lines and is where a designated caregiver, as designated by Arizona Revised Statutes, Title 36, A.R.S. §§ 36-2801 and the Department rules and regulations, cultivates medical marijuana.

MEDICAL MARIJUANA DISPENSARY or ***DISPENSARY.*** A building, structure or premises used to acquire, possess, cultivate, manufacture, deliver, transfer, transport, sell, distribute, transmit, give, dispense or otherwise provide medical marijuana in any manner to patients or designated caregivers pursuant to the authority contained in Arizona Revised Statutes, Title 36, A.R.S. §§ 36-2801 et seq., Department rules and regulations, or other implementing state statutes and administrative regulations.

PERSON. A natural person or business entity such as, without limitation, a corporation, association, firm, joint venture, estate, trust, business trust, syndicate, fiduciary, partnership or any group or combination thereof.

PREMISES. The entire parcel of property upon which a medical marijuana dispensary, medical marijuana cultivation facility or any other medical marijuana operation is located.

QUALIFYING PATIENT. A person who has a debilitating medical condition as defined in Arizona Revised Statutes, Title 36, A.R.S. §§ 36-2801 et seq. and is a registered qualifying patient as defined by state law and the Department rules and regulations.

SCHOOL. Any building, portion of building, or group of buildings which is designed, constructed, or used for education or instruction in any branch of knowledge, including tutoring centers, day care centers, and the following types of schools:

(1) ***CHARTER SCHOOL.*** A school operating under sponsorship of a public school district governing board, the State Board of Education or the State Board for Charter Schools and has been created pursuant to A.R.S. § 15-181.

(2) ***PRIVATE SCHOOL.*** Any building, portion of building, or group of buildings used for elementary, secondary or higher education that does not secure the major part of its funding from a governmental agency.

(3) ***PUBLIC SCHOOL.*** Any building, portion of building, or group of buildings used for elementary, secondary or higher education that secures the major part of its funding from a governmental agency.

(Ord. O2011-05, passed 4-18-11)

§ 155.03 LOCATION.

(A) A medical marijuana dispensary or medical marijuana cultivation facility may be located in the general commercial and commercial core zoning districts with an approved site plan. The locations are limited to the following:

(1) A medical marijuana dispensary or medical marijuana cultivation facility shall not be operated or maintained on a parcel within 500 feet, measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property line of a parcel containing an existing private or public school.

(2) A medical marijuana dispensary or medical marijuana cultivation facility shall not be operated or maintained on a parcel within 100 feet, measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point of the property line of a parcel containing an existing:

(a) Child care facility;

(b) Church, synagogue, temple or similar religious worship building; or

(c) Public park, library, museum or publicly owned community building.

(3) A medical marijuana dispensary or medical marijuana cultivation facility shall not be operated or maintained on a parcel within 100 feet from a residential structure measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point of the property line of a parcel containing such use.

(B) Medical marijuana cultivation location for a designated caregiver in a residential district is not permitted, unless sufficient evidence exists that the location is greater than 25 miles from a medical marijuana dispensary within the State of Arizona.

(C) *Operating requirements.*

(1) Any medical marijuana dispensary or medical marijuana cultivation facility shall comply with the following requirements, as well as those contained within A.R.S. Title 36, Ch. 28 and any Department rules and regulations.

(a) The business shall be located in a permanent building with a foundation and roof that meets all Cave Creek building and fire codes, and not located in a mobile home, trailer, cargo, container, motor vehicle, or similar personal property.

(b) The building must have received a certificate of occupancy for the use intended.

(c) No drive-through facilities will be permitted.

(d) No emission of dust, fumes, vapors, or odors may be released into the environment, and all waste, including any infused edible/consumable goods shall be disposed of in a manner that complies with all federal, state and local regulations.

(e) A local business license must be obtained.

(f) Zoning administrative application shall be processed certifying that all regulations are in compliance with this Code and zoning requirements.

(2) Any medical marijuana cultivation location for a designated caregiver in a residential area shall comply with the following requirements, as well as those contained within A.R.S. Title 36, Ch. 28 and any Department rules and regulations.

(a) All cultivation must be in a locked accessory building that meets the 60 feet setback requirement from all property lines and with a foundation and roof that meets all Cave Creek building and fire codes, and not located in a mobile home, trailer, cargo, container, motor vehicle, or similar personal property.

(b) Cultivation space must not exceed 250 square feet.

(c) The building must have received a certificate of occupancy for the use intended.

(d) The designated caregiver must obtain an annual business license from the Town of Cave Creek.

(e) All designated caregivers must obtain a Home Occupation Permit.

(Ord. O2011-05, passed 4-18-11) Penalty, see § 155.99

§ 155.99 PENALTY.

Any person found guilty of violating any provisions of this chapter shall be guilty of a Class 1 misdemeanor, and upon conviction thereof, may be punished by a fine not to exceed $2,500, by imprisonment for a period not to exceed six months, by a term of probation not to exceed three years, or by any combination of such fine, imprisonment, and probation. Each day a violation continues shall constitute a separate offense punishable as hereinabove provided.

(Ord. O2011-05, passed 4-18-11)