



MINUTES OF REGULAR MEETING OF THE COMMON COUNCIL OF YOUNGTOWN, AZ

THURSDAY, October 1, 2009, TOWN CLUBHOUSE, 12033 CLUBHOUSE SQUARE

1. **Call to Order** Mayor LeVault called the meeting together at 7:16 p.m.
2. **Roll Call** Council present: Mayor Michael LeVault, Vice Mayor Jacob Duran, Councilmembers Margaret Chittenden, Dorena Mello, Shirley Oglesby, and Judy Johnson. Council excused: Councilmember Susan MacKay.
Staff present: Town Manager Lloyce Robinson, Town Attorney Michelle Swann, Acting Chief of Police Duran Robertson, Public Works Manager Mark Hannah, and Town Clerk/Treasurer Letty Goldberg.
3. **Pledge of Allegiance and Invocation** Pledge led by Councilmember Johnson. Invocation offered by Pastor Charles Ring.
4. **Communications:**
 - A. **Communications from Council**

Mayor LeVault

 - I was elected Co-chair of the Luke West Valley Council. This organization supports for Luke flight mission "F-35 Program" when F-16 retired.
 - Property taxes are based on a rolling three year average of property valuations. Taxing bodies will not let revenues go down.

Councilmember Mello

 - Received my tax bill and rates have gone up, but received adjustment on bill for my personal residence.
 - Letters went out from Parks & Sons about recycling – read it.

Councilmember Chittenden

 - Walking in the Susan G. Komen Foundation 5K race for breast cancer research. If anyone would like to sponsor me, please call.

Councilmember Oglesby

 - Recycling will be on the first and third Wednesday on the hill.

Councilmember Johnson

 - Concerned about youth. We have Youth Council and You Are Special. Councilmember Mello and I attended conference in Tucson on youth programs. Councilmember Mello will videotape our visit with the Sahuarita, Arizona youth commission. Will share videotape with Youngtown families.
 - B. **Communications from Staff**

Town Manager Robinson

 - Parks & Sons did not notify the Town and we have concerns on the recycling. Kicked off code enforcement program targeting backyard blight and wish to be certain recycling won't cause conflict with this new Town program.
 - GAIN Event is Saturday, October 10 from 5 to 8 p.m.
 - Community P.R.I.D.E. Neighborhood events with be October 17 for Zones 3 and 4 from 3 to 7 p.m. and October 24 for Zones 1 and 2 from 3 to 7 p.m.
 - Harvest Festival hosted by the Friends of the Library will be October 31 from 9 a.m. to 1 p.m.
 - Mayor's Town Hall Meeting, October 26 from 6 to 8 p.m. in the Clubhouse.
 - Town Audit begins on Monday, October 5.
 - Voice of Youngtown (VOYT) business group continues to meet on the first and third Wednesday at 7 a.m. at the Clubhouse kitchen area. They are coordinating ads for Youngtown business in the Daily News Sun. Features different business each week.
 - Dr. Isom with El Mirage has offered to partner with Youngtown for youth participation in sports programs in exchange for using fields at Uribe Park for practice fields.

Acting Chief Robertson

- Delivery of new police cars by end of October and on the streets by November 6.
- Awarded grant for \$13,800 to replace interview room recording equipment with digital equipment to be compatible with the courts.
- Received grant to pay over-time and participate in the "Click It or Ticket" project targeting seat belt use.
- Four volunteer reserve officers worked 379 hours last month – equivalent of 38 10-hour shifts.
- Two civilian volunteers donated 202 hours – equivalent to 5 weeks of work.

5. Consent

- A. Approval of Minutes:** Minutes of Special Meeting June 25, 2009; Work Session July 16, 2009; Special Meeting September 10, 2009; and Regular Meeting September 17, 2009.

Motion to approve Minutes of Special Meeting June 25, 2009; Work Session July 16, 2009; Special Meeting September 10, 2009; and Regular Meeting September 17, 2009 – Councilmember Mello

Second – Councilmember Oglesby

Motion passed unanimously on a voice vote.

6. Business

- C. Discussion and/or Action Re: Adoption of Ordinance 09-04 regulating construction within public rights-of-way (ROW) and/or the location and relocation of facilities in the public rights-of-way within the Town of Youngtown (HANNAH).**

Motion to adopt Ordinance 09-04 regulating construction within public rights-of-way (ROW) and/or the location and relocation of facilities in the public rights-of-way within the Town of Youngtown – Councilmember Johnson

Second – Councilmember Mello

Motion passed unanimously on a voice vote.

- A. Discussion and/or Approval Re: Adoption of Resolution 09-17 Declaring as a public record that certain document entitled "The 2009 Amendments to the Tax Code of the Town of Youngtown" (ROBINSON).**

Town Clerk Goldberg

- The Model Cities Tax Code Commission met earlier this year and agreed on amendments to the Model Cities Tax Code correcting some of the code changes made in the last couple of years such as exemptions and technical corrections. The 2009 Amendments are housekeeping measures retroactive to September 1, 2006 and July 1, 2008.

Town Attorney Swann

- With these changes if someone thinks they are owed a refund they should apply for it. The Tax Code Commission decided on these changes in February but it was late July before municipalities received them.

Motion to approve Resolution 09-17 declaring as a public record that certain document entitled "The 2009 Amendments to the Tax Code of the Town of Youngtown" – Councilmember Chittenden

Second – Vice Mayor Duran

Motion passed unanimously on a voice vote.

- B. Discussion and/or Approval Re: Approval of Ordinance 09-06 adopting "The 2009 Amendments to the Tax Code of the Town of Youngtown" by reference (ROBINSON).**

Motion to approve of Ordinance 09-06 adopting "The 2009 Amendments to the Tax Code of the Town of Youngtown" by reference – Vice Mayor Duran

Second – Councilmember Oglesby

Motion passed unanimously on a voice vote.

- D. Discussion and/or Action Re: Approval of the FY 2010 grant application for LTAF-II Funds in the amount of \$9,000 to fund the design and installation of a bus-stop kiosk at 111th and Peoria Avenues (HANNAH).**

Public Works Manager Hannah

- Local Transportation Assistance Funds (LTAF-II) are from Arizona Lottery proceeds. Proceeds are distributed on a 25% matching basis to fund transportation related projects. For a new bus stop kiosk at Peoria and 111th Avenues we are requesting a grant of \$9,000. The Town will contribute \$2,500 matching funds allowed for in the current budget. The Town maintains the bus stops on 111th Avenue.

Motion to approve FY 2010 grant application for LTAF-II Funds in the amount of \$9,000 to fund the design and installation of a bus-stop Kiosk at 111th and Peoria Avenues – Councilmember Oglesby
Second – Vice Mayor Duran
Motion passed unanimously with a voice vote.

E. Discussion and/or Action Re: Adoption of Resolution 09-19 setting forth the Town's Five-Year Consolidated Plan, for the purpose of Community Development (CDBG) Funds for the period of FY 2011-2015 (HANNAH).

Public Works Manager Hannah

- Town sought input from residents at two Public Hearings, an informal Town Hall Meeting, and surveys, on community needs for preparation of the Town's Community Development Block Grant (CDBG) Five-Year Consolidated Plan for FY 2011-2015.
- Areas of concern were shown to be crime prevention, senior services and youth services. 1) Fire Flow is a major public safety issue in Youngtown. 2) Street lights would help reduce crime. 3) Need services for youth including increased access to parks and walking/hiking trails.
- Five-Year Plan's Needs are 1) Fire Flow, 2) Street Lights, 3) Park Improvements, and 4) Road Improvements. All are rated High Priority and are not ranked.

Town Clerk Goldberg

- October 15 Public Hearing on resident and group input on project selection for FY 2011 grant application to be submitted in December 2009.

Mayor LeVault

- Fire Flow is ongoing discussion with Arizona American Water. We requested Youngtown separated from original Fire Flow project that included Sun City and part of Peoria. CDBG one of the ways to finance Fire Flow improvements. Issue to be resolved is ownership.

Town Manager Robinson

- As with APS and street lights it calls for securing the assets. Fire Flow like street lights would be in the Town rights-of-way. Written notification from Director of Maricopa County Community Development indicates project is possible.

Councilmember Mello

- Who pays for water in fire hydrants?

Mayor LeVault

- Street side of water lines is not metered. It is probably factored into water rates.

Motion to approve Resolution 09-19 setting forth the Town's Five-Year Consolidated Plan, for the purpose of Community Development (CDBG) Funds for the period of FY 2011-2015 – Vice Mayor Duran
Second – Councilmember Chittenden

Motion passed unanimously on a roll call vote (Councilmember MacKay excused)

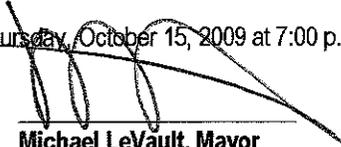
7. Call for Executive Session

None needed.

8. Citizens Comments/Appearances from the floor:

None.

Announcement of next Work Session and Regular Meeting: Thursday, October 15, 2009 at 7:00 p.m.



Michael LeVault, Mayor

Attest:



Letty Goldberg, Town Clerk

Minutes approved at the October 15, 2009 Regular Meeting.

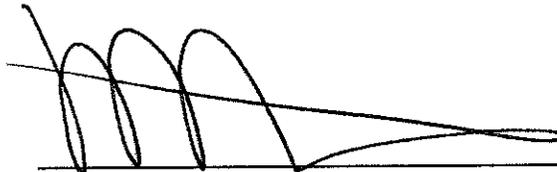
RESOLUTION NO.09-17

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF YOUNGTOWN, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED "THE 2009 AMENDMENTS TO THE TAX CODE OF THE TOWN OF YOUNGTOWN".

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

That certain document entitled "THE 2009 AMENDMENTS TO THE TAX CODE OF THE TOWN OF YOUNGTOWN", three copies of which are on file in the office of the town clerk, is hereby declared to be a public record, and said copies are ordered to remain on file with the town clerk.

PASSED AND ADOPTED BY THE Mayor and Council of the Town of Youngtown, Arizona, this 1st day of October, 2009.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned above a solid horizontal line.

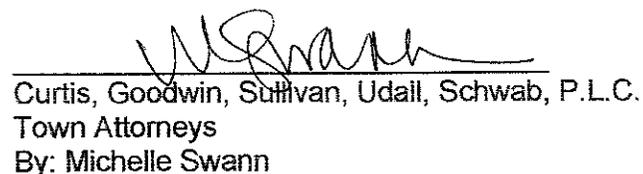
Michael LeVault, Mayor

ATTEST:

A handwritten signature in black ink, appearing to read 'Letty Goldberg', positioned above a solid horizontal line.

Letty Goldberg, Town Clerk/Treasurer

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read 'Michelle Swann', positioned above a solid horizontal line.

Curtis, Goodwin, Sullivan, Udall, Schwab, P.L.C.
Town Attorneys
By: Michelle Swann

**2009 AMENDMENTS TO THE
TAX CODE OF THE TOWN OF YOUNGTOWN**

Section 1. Section 8A-415 of the Tax Code of the Town of Youngtown is amended to read:

Sec. 8A-415. Construction contracting: construction contractors.

- (a) The tax rate shall be at an amount equal to three percent (3%) of the gross income from the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the Town.
- (1) However, gross income from construction contracting shall not include charges related to groundwater measuring devices required by A.R.S. Section 45-604.
 - (2) (Reserved)
 - (3) gross income from construction contracting shall not include gross income from the sale of manufactured buildings taxable under Section 8A-427.
 - (4) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this Section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.
- (b) Deductions and exemptions.
- (1) Gross income derived from acting as a "subcontractor" shall be exempt from the tax imposed by this Section.
 - (2) All construction contracting gross income subject to the tax and not deductible herein shall be allowed a deduction of thirty-five percent (35%).
 - (3) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:
 - (A) Section 8A-465, subsections (g) and (p)
 - (B) Section 8A-660, subsections (g) and (p)shall be exempt or deductible, respectively, from the tax imposed by this Section.
 - (4) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 8A-110, that is deducted from the retail classification pursuant to Section 8A-465(g) that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:
 - (A) to be incorporated into real property.
 - (B) to become so affixed to real property that it becomes part of the real property.
 - (C) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.
 - (5) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.
 - (6) The gross proceeds of sales or gross income that is derived from the installation, assembly,

repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 8A-465, subsection (g) shall be exempt from the tax imposed under this Section.

- (7) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this State for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.
- (8) The gross proceeds of sales or gross income received from a post construction contract to perform post-construction treatment of real property for termite and general pest control, including wood destroying organisms, shall be exempt from tax imposed under this Section.
- (9) Through December 31, 2009, the gross proceeds of sales or gross income received from a contract for constructing any lake facility development in a commercial enhancement reuse district that is designated pursuant to A.R.S. § 9-499.08 if the contractor maintains the following records in a form satisfactory to the Arizona Department of Revenue and to the Town:
 - (A) The certificate of qualification of the lake facility development issued by the Town pursuant to A.R.S. § 9-499.08, subsection D.
 - (B) All state and local transaction privilege tax returns for the period of time during which the contractor received gross proceeds of sales or gross income from a contract to construct a lake facility development in a designated commercial enhancement reuse district, showing the amount exempted from state and local taxation.
 - (C) Any other information considered to be necessary.
- (10) ~~Development or impact fees included in a construction or development contract for payment to the state or local government to offset governmental costs of providing public infrastructure, public safety and other public services to a development.~~

ANY AMOUNT ATTRIBUTABLE TO DEVELOPMENT FEES THAT ARE INCURRED IN RELATION TO THE CONSTRUCTION, DEVELOPMENT OR IMPROVEMENT OF REAL PROPERTY AND PAID BY THE TAXPAYER AS DEFINED IN THE MODEL CITY TAX CODE OR BY A CONTRACTOR PROVIDING SERVICES TO THE TAXPAYER. FOR THE PURPOSES OF THIS PARAGRAPH:

 - (A) THE ATTRIBUTABLE AMOUNT SHALL NOT EXCEED THE VALUE OF THE DEVELOPMENT FEES ACTUALLY IMPOSED.
 - (B) THE ATTRIBUTABLE AMOUNT IS EQUAL TO THE TOTAL AMOUNT OF DEVELOPMENT FEES PAID BY THE TAXPAYER OR BY A CONTRACTOR PROVIDING SERVICES TO THE TAXPAYER AND THE TOTAL DEVELOPMENT FEES CREDITED IN EXCHANGE FOR THE CONSTRUCTION OF, CONTRIBUTION TO OR DEDICATION OF REAL PROPERTY FOR PROVIDING PUBLIC INFRASTRUCTURE, PUBLIC SAFETY OR OTHER PUBLIC SERVICES NECESSARY TO THE DEVELOPMENT. THE REAL PROPERTY MUST BE THE SUBJECT OF THE DEVELOPMENT FEES.
 - (C) "DEVELOPMENT FEES" MEANS FEES IMPOSED TO OFFSET CAPITAL COSTS OF PROVIDING PUBLIC INFRASTRUCTURE, PUBLIC SAFETY OR OTHER PUBLIC SERVICES TO A DEVELOPMENT AND AUTHORIZED PURSUANT TO SECTION 9-463.05, SECTION 11-1102 OR TITLE 48 REGARDLESS OF THE JURISDICTION TO WHICH THE FEES ARE PAID.
- (11) For taxable periods beginning from and after July 1, 2008 AND ending before January 1, 2011, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city, as applicable, for examination.

(c) "Subcontractor" means a construction contractor performing work for either:

- (1) a construction contractor who has provided the subcontractor with a written declaration that he is liable for the tax for the project and has provided the subcontractor his Town Privilege License number.
- (2) an owner-builder who has provided the subcontractor with a written declaration that:

- (A) the owner-builder is improving the property for sale; and
 - (B) the owner-builder is liable for the tax for such construction contracting activity; and
 - (C) the owner-builder has provided the contractor his Town Privilege License number.
- (3) a person selling new manufactured buildings who has provided the subcontractor with a written declaration that he is liable for the tax for the site preparation and set-up; and provided the subcontractor his Town Privilege License number.

Subcontractor also includes a construction contractor performing work for another subcontractor as defined above.

Section 2. Section 8A-416 of the Tax Code of the Town of Youngtown is amended to read:

Sec. 8A-416. Construction contracting: speculative builders.

- (a) The tax shall be equal to three percent (3%) of the gross income from the business activity upon every person engaging or continuing in business as a speculative builder within the Town.
- (1) The gross income of a speculative builder considered taxable shall include the total selling price from the sale of improved real property at the time of closing of escrow or transfer of title.
 - (2) "Improved Real Property" means any real property:
 - (A) upon which a structure has been constructed; or
 - (B) where improvements have been made to land containing no structure (such as paving or landscaping); or
 - (C) which has been reconstructed as provided by Regulation; or
 - (D) where water, power, and streets have been constructed to the property line.
 - (3) "Sale of Improved Real Property" includes any form of transaction, whether characterized as a lease or otherwise, which in substance is a transfer of title of, or equitable ownership in, improved real property and includes any lease of the property for a term of thirty (30) years or more (with all options for renewal being included as a part of the term). In the case of multiple unit projects, "sale" refers to the sale of the entire project or to the sale of any individual parcel or unit.
 - (4) "Partially Improved Residential Real Property", as used in this Section, means any improved real property, as defined in subsection (a)(2) above, being developed for sale to individual homeowners, where the construction of the residence upon such property is not substantially complete at the time of the sale.
- (b) Exclusions.
- (1) In cases involving reconstruction contracting, the speculative builder may exclude from gross income the prior value allowed for reconstruction contracting in determining his taxable gross income, as provided by Regulation.
 - (2) Cost of land. Gross income from the sale of improved real property shall not include the seller's original purchase price of the land which is included in the real property sold, when a charge for such land is included in the total selling price of the real property sold.
 - (3) (Reserved)
 - (4) A speculative builder may exclude gross income from the sale of partially improved residential real property as defined in (a)(4) above to another speculative builder only if all of the following conditions are satisfied:
 - (A) The speculative builder purchasing the partially improved residential real property has a valid Town privilege license for construction contracting as a speculative builder; and
 - (B) At the time of the transaction, the purchaser provides the seller with a properly completed written declaration that the purchaser assumes liability for and will pay all privilege taxes which would otherwise be due the Town at the time of sale of the partially improved residential real property; and
 - (C) The seller also:
 - (i) maintains proper records of such transactions in a manner similar to the

- (2) Deductions.
- (A) All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%).
 - (B) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 8A-110, that is deducted from the retail classification pursuant to Section 8A-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:
 - (i) to be incorporated into real property.
 - (ii) to become so affixed to real property that it becomes part of the real property.
 - (iii) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.
 - (C) For taxable periods beginning from and after July 1, 2008 and ending before January 1, 2011, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city, as applicable, for examination.
- (3) Tax credits.
- The following tax credits are available to owner-builders or speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the tax collector:
- (A) A tax credit equal to the amount of town privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.
 - (B) A tax credit equal to the amount of privilege taxes paid to this Town, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.
 - (C) No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.

Section 3. Section 8A-417 of the Tax Code of the Town of Youngtown is amended to read:

Sec. 8A-417. Construction contracting: owner-builders who are not speculative builders.

- (a) At the expiration of twenty-four (24) months after improvement to the property is substantially complete, the tax liability for an owner-builder who is not a speculative builder shall be at an amount equal to three percent (3%) of:
 - (1) the gross income from the activity of construction contracting upon the real property in question which was realized by those construction contractors to whom the owner-builder provided written declaration that they were not responsible for the taxes as prescribed in Subsection 8A-415(c)(2); and
 - (2) the purchase of tangible personal property for incorporation into any improvement to real property, computed on the sales price.

(b) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

(c) The tax liability of this Section is subject to the following provisions, relating to exemptions, deductions and tax credits:

(1) Exemptions.

(A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:

(i) Section 8A-465, subsections (g) and (p)

(ii) Section 8A-660, subsections (g) and (p)

shall be exempt or deductible, respectively, from the tax imposed by this Section.

(B) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.

(C) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 8A-465, subsection (g) shall be exempt from the tax imposed under this Section.

(D) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.

(E) ~~Development or impact fees included in a construction or development contract for payment to the state or local government to offset governmental costs of providing public infrastructure, public safety and other public services to a development.~~

ANY AMOUNT ATTRIBUTABLE TO DEVELOPMENT FEES THAT ARE INCURRED IN RELATION TO THE CONSTRUCTION, DEVELOPMENT OR IMPROVEMENT OF REAL PROPERTY AND PAID BY THE TAXPAYER AS DEFINED IN THE MODEL CITY TAX CODE OR BY A CONTRACTOR PROVIDING SERVICES TO THE TAXPAYER SHALL BE EXEMPT FROM THE TAX IMPOSED UNDER THIS SECTION. FOR THE PURPOSES OF THIS PARAGRAPH:

(i) THE ATTRIBUTABLE AMOUNT SHALL NOT EXCEED THE VALUE OF THE DEVELOPMENT FEES ACTUALLY IMPOSED.

(ii) THE ATTRIBUTABLE AMOUNT IS EQUAL TO THE TOTAL AMOUNT OF DEVELOPMENT FEES PAID BY THE TAXPAYER OR BY A CONTRACTOR PROVIDING SERVICES TO THE TAXPAYER AND THE TOTAL DEVELOPMENT FEES CREDITED IN EXCHANGE FOR THE CONSTRUCTION OF, CONTRIBUTION TO OR DEDICATION OF REAL PROPERTY FOR PROVIDING PUBLIC INFRASTRUCTURE, PUBLIC SAFETY OR OTHER PUBLIC SERVICES NECESSARY TO THE DEVELOPMENT. THE REAL PROPERTY MUST BE THE SUBJECT OF THE DEVELOPMENT FEES.

(iii) "DEVELOPMENT FEES" MEANS FEES IMPOSED TO OFFSET CAPITAL COSTS OF PROVIDING PUBLIC INFRASTRUCTURE, PUBLIC SAFETY OR OTHER PUBLIC SERVICES TO A DEVELOPMENT AND AUTHORIZED PURSUANT TO SECTION 9-463.05, SECTION 11-1102 OR TITLE 48 REGARDLESS OF THE JURISDICTION TO WHICH THE FEES ARE PAID.

(2) Deductions.

(A) All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%).

(B) The gross proceeds of sales or gross income that is derived from a contract entered into

for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 8A-110, that is deducted from the retail classification pursuant to Section 8A-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:

- (i) to be incorporated into real property.
- (ii) to become so affixed to real property that it becomes part of the real property.
- (iii) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

- (C) For taxable periods beginning from and after July 1, 2008 and ending before January 1, 2011, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city, as applicable, for examination.

(3) Tax credits.

The following tax credits are available to owner-builders and speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the tax collector:

- (A) A tax credit equal to the amount of town privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.
- (B) A tax credit equal to the amount of privilege taxes paid to this Town, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.
- (C) No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.

- (d) The limitation period for the assessment of taxes imposed by this Section is measured based upon when such liability is reportable, that is, in the reporting period that encompasses the twenty-fifth (25th) month after said unit or project was substantially complete. Interest and penalties, as provided in Section 8A-540, will be based on reportable date.

- (e) (Reserved)

Section 4. Section 8A-450 of the Tax Code of the Town of Youngtown is amended to read:

Sec. 8A-450. Rental, leasing, and licensing for use of tangible personal property.

- (a) The tax rate shall be at an amount equal to three percent (3%) of the gross income from the business activity upon every person engaging or continuing in the business of leasing, licensing for use, or renting tangible personal property for a consideration, including that which is semi-permanently or permanently installed within the Town as provided by Regulation.
- (b) Special provisions relating to long-term motor vehicle leases. A lease transaction involving a motor vehicle for a minimum period of twenty-four (24) months shall be considered to have occurred at the

location of the motor vehicle dealership, rather than the location of the place of business of the lessor, even if the lessor's interest in the lease and its proceeds are sold, transferred, or otherwise assigned to a lease financing institution; provided further that the city or town where such motor vehicle dealership is located levies a Privilege Tax or an equivalent excise tax upon the transaction.

(c) Gross income derived from the following transactions shall be exempt from Privilege Taxes imposed by this Section:

(11) RENTAL, LEASING, AND LICENSING FOR USE OF SOLAR ENERGY DEVICES, FOR TAXABLE PERIODS BEGINNING FROM AND AFTER JULY 1, 2008. THE LESSOR SHALL REGISTER WITH THE DEPARTMENT OF REVENUE AS A SOLAR ENERGY RETAILER. BY REGISTERING, THE LESSOR ACKNOWLEDGES THAT IT WILL MAKE ITS BOOKS AND RECORDS RELATING TO LEASES OF SOLAR ENERGY DEVICES AVAILABLE TO THE DEPARTMENT OF REVENUE AND TOWN, AS APPLICABLE, FOR EXAMINATION.

(2) rental, leasing, or licensing for use of tangible personal property that is semi-permanently or permanently installed within another city or town that levies an equivalent excise tax on the transaction.

(3) rental, leasing, or licensing for use of film, tape, or slides to a theater or other person taxed under Section 8A-410, or to a radio station, television station, or subscription television system.

(4) rental, leasing, or licensing for use of the following:

(A) prosthetics.

(B) income-producing capital equipment.

(C) mining and metallurgical supplies.

These exemptions include the rental, leasing, or licensing for use of tangible personal property which, if it had been purchased instead of leased, rented, or licensed by the lessee or licensee, would qualify as income-producing capital equipment or mining and metallurgical supplies.

(5) rental, leasing, or licensing for use of tangible personal property to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property so rented, leased, or licensed is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512 or rental, leasing, or licensing for use of tangible personal property in this State by a nonprofit charitable organization that has qualified under Section 501(c)(3) of the United States Internal Revenue Code and that engages in and uses such property exclusively for training, job placement or rehabilitation programs or testing for mentally or physically handicapped persons.

(6) separately billed charges for delivery, installation, repair, and/or maintenance as provided by Regulation.

(7) charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services to another person engaged in the business of providing or furnishing utility or telecommunication services.

(8) (Reserved)

(9) rental, leasing, or licensing of aircraft that would qualify as aircraft acquired for use outside the State, as prescribed by Regulation, if such rental, leasing, or licensing had been a sale.

(10) rental, leasing and licensing for use of an alternative fuel vehicle if such vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in A.R.S. Section 1-215.

Section 5. Regulation 8A-350.3 of the Tax Code of the Town of Youngtown is amended to read:

Reg. 8A-350.3. Recordkeeping: out-of-Town and out-of-State sales.

(a) Out-of-Town Sales. Any person engaging or continuing in a business who claims out-of-Town sales shall maintain and keep accounting records or books indicating separately the gross income from the sales of tangible personal property from such out-of-Town branches or locations.

(b) Out-of-State sales. Persons engaged in a business claiming out-of-State sales shall maintain accounting records or books indicating for each out-of-State sale the following documentation:

- (1) documentation of location of the buyer at the time of order placement; and
- ~~(2) documentation of residency of the buyer, determined in the manner one determines if a person "resides within the Town"; and~~
- (3) shipping, delivery, or freight documents showing where the buyer took delivery; and
- (4) documentation of intended location of use or storage of the tangible personal property sold to such buyer.

TOWN OF YOUNGTOWN

ORDINANCE NO. 09-06

AN ORDINANCE OF THE TOWN OF YOUNGTOWN, ARIZONA, RELATING TO THE PRIVILEGE LICENSE TAX; ADOPTING "THE 2009 AMENDMENTS TO THE TAX CODE OF THE TOWN OF YOUNGTOWN" BY REFERENCE; ESTABLISHING AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY AND PROVIDING PENALTIES FOR VIOLATIONS.

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

Section 1: That certain document known as "The 2009 Amendments to the Tax Code of the Town of Youngtown," three copies of which are on file in the office of the town clerk of the Town of Youngtown, Arizona, which document was made a public record by Resolution No. 09-16 of the Town of Youngtown, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2: Any person found guilty of violating any provision of these amendments to the tax code shall be guilty of a class one misdemeanor. Each day that a violation continues shall be a separate offense punishable as herein above described.

Section 3: If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the tax code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 4: Changes to the tax code of the Town of Youngtown as set forth in sections 1 through 3 of that certain document known as "The 2009 Amendments to the Tax Code of the Town of Youngtown" shall be effective from and after September 1, 2006 and sections 4 and 5 shall be effective from and after July 1, 2008.

PASSED AND ADOPTED by the Common Council of the Town of Youngtown, Arizona, this 1st day of October, 2009, by the following vote:

AYES: 6

NAYES: 0 ABSENT: —

EXCUSED: 1 ABSTAINED: —

PASSED AND ADOPTED by the Mayor and Council of the Town of Youngtown, Arizona, this 1st day of October, 2009.



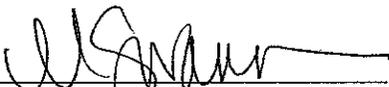
Michael LeVault, Mayor

ATTEST:



Letty Goldberg, Town Clerk/Treasurer

APPROVED AS TO FORM:



Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C.,
Town Attorneys
By: Michelle Swann

I, LETTY GOLDBERG, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 09-06 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF YOUNGTOWN ON THE 1st DAY OF OCTOBER, 2009, WAS POSTED IN THREE PLACES ON THE 2nd DAY OF OCTOBER, 2009.



Letty Goldberg, Town Clerk

RESOLUTION 09-19

RESOLUTION AUTHORIZING THE TOWN OF YOUNGTOWN TO SUBMIT A FIVE YEAR CONSOLIDATED PLAN GOVERNING THE USE OF COMMUNITY DEVELOPMENT (CDBG) FUNDS FROM JULY 1, 2010 TO JUNE 30, 2015

WHEREAS, Maricopa County is required to submit a Five (5) Year Consolidated Plan to the Department of Housing and Urban Development which identifies high priority community development and housing needs, and strategies to address these needs in Maricopa Urban County; and

WHEREAS, the Town of Youngtown is a participating jurisdiction in the Urban County; and

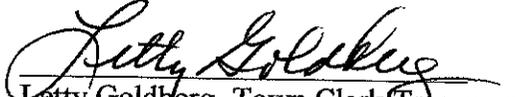
WHEREAS, the Town of Youngtown has solicited as much public input as feasible emphasizing the involvement of low and moderate income people and those living in areas where CDBG funds are most likely to be used, and has held two public hearings on July 16, 2009 and September 17, 2009.

NOW, THEREFORE, LET IT BE RESOLVED by the Town Council of the Town of Youngtown, Arizona, that the Town does approve the Five (5) Year Consolidated Plan (attached hereto), governing the use of CDBG dollars and authorizes submission to HUD as part of the Maricopa County Five (5) Year Consolidated Plan for the time period of July 1, 2010 to June 30, 2015.

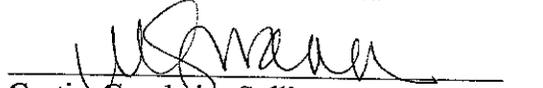
PASSED AND ADOPTED by the Mayor and Council of the Town of Youngtown, Arizona this 1st day of October, 2009.


Michael LeVault, Mayor

ATTEST:


Letty Goldberg, Town Clerk/Treasurer

APPROVED AS TO FORM:


Curtis Goodwin Sullivan,
Udall & Schwab, P.L.C., Town Attorneys
By Michelle Swann

ORDINANCE NO. 09-04

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF YOUNGTOWN, ARIZONA, DECLARING THAT DOCUMENT ENTITLED "2009 TOWN OF YOUNGTOWN CONSTRUCTION IN TOWN RIGHTS-OF-WAY AMENDMENTS TO CHAPTER 12.04" TO BE A PUBLIC RECORD; ADOPTING BY REFERENCE THAT PUBLIC RECORD KNOWN AS THE "2009 TOWN OF YOUNGTOWN CONSTRUCTION IN TOWN RIGHTS-OF-WAY AMENDMENTS TO CHAPTER 12.04"; AMENDING THE TOWN OF YOUNGTOWN MUNICIPAL CODE TITLE 12 STREETS, SIDEWALKS AND PUBLIC PLACES, CHAPTER 12.04 STREET EXCAVATION PERMITS, BY RENAMING THE CHAPTER TO READ CONSTRUCTION WITHIN PUBLIC RIGHTS-OF-WAY; LOCATION AND RELOCATION OF FACILITIES IN PUBLIC RIGHTS-OF-WAY AND RENAMING SECTION 12.04.010 PERMITS REQUIRED TO "PERMITS REQUIRED; CONTENTS OF APPLICATION; FEES; RENAMING SECTION 12.04.020 REQUIREMENTS TO "TRAFFIC CONTROL"; RENAMING SECTION 12.04.030 BOND TO "LOCATION AND RELOCATION OF FACILITIES IN PUBLIC RIGHTS-OF-WAY", AND RENAMING SECTION 12.04.040 PERMIT FEE SCHEDULE TO "BOND", AND BY AMENDING SECTIONS 12.04.010 PERMITS REQUIRED; CONTENTS OF APPLICATION; FEES; 12.04.020 TRAFFIC CONTROL; 12.04.030 LOCATION AND RELOCATION OF FACILITIES IN PUBLIC RIGHTS-OF-WAY"; 12.04.040 BOND, AND 12.04.050 RESIDENTIAL ROLL-CURB FILL, ALL RELATED TO REGULATING CONSTRUCTION IN PUBLIC RIGHTS-OF-WAY, REQUIREMENTS FOR A TRAFFIC CONTROL PLAN, AND THE LOCATION AND RELOCATION AND REPAIR OF FACILITIES IN THE TOWN RIGHTS-OF-WAY; PROVIDING BY REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PENALTIES.

WHEREAS, the Town Council finds regulation of construction within the Town's rights-of-way and location and relocation of facilities within the Town's public rights-of-way is necessary for the protection of the traveling public and for preservation of public property,

NOW THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Youngtown, Arizona, as follows:

Section I. In General.

That certain document known as "2009 Town of Youngtown Construction in Town Rights-of-Way Amendments to Chapter 12.04", three copies of which shall remain on file in the office of the Town Clerk, is hereby declared to be a public record.

The Town Code of the Town of Youngtown, Arizona shall be amended by adopting by reference that public record entitled "2009 Town of Youngtown Construction in Town Rights-of-Way Amendments to Chapter 12.04", which document is hereby adopted and incorporated by reference.

Section II. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section III. Providing for Severability.

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

Section IV. Providing for Penalties.

Any person found guilty of violating any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500) or by imprisonment for a period not to exceed six (6) months, or both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as herein described.

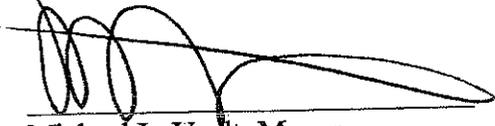
PASSED AND ADOPTED by the Common Council of the Town of Youngtown, Arizona, this 1st day of October, 2009, by the following vote:

AYES: 6

NAYES: 0 ABSENT: —

EXCUSED: 1 ABSTAINED: —

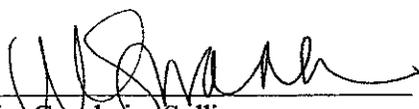
APPROVED this 1st day of October, 2009.


Michael LeVault, Mayor

ATTEST:


Letty Goldberg, Town Clerk/Treasurer

APPROVED AS TO FORM:


Curtis, Goodwin, Sullivan,
Udall & Schwab, P.L.C.
Town Attorneys
By Michelle Swann

I, LETTY GOLDBERG, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 09-04 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF YOUNGTOWN ON THE 1ST DAY OF OCTOBER, 2009, WAS POSTED IN THREE PLACES ON THE 2ND DAY OF OCTOBER, 2009.


Letty Goldberg, Town Clerk
FA1753\Ordinances\Construction in ROW - Short form.doc

2009 Town of Youngtown Construction in Town Rights-of-Way

Amendments to Chapter 12.04

The following amendments to Chapter 12.04 of the Town of Youngtown Municipal Code were adopted by reference by Ordinance No. 09-04, by the Youngtown Town Council. Additions are shown in ALL CAPS; Deletions are shown in ~~striketrough~~.

Chapter 12.04

~~STREET EXCAVATION PERMITS~~CONSTRUCTION WITHIN PUBLIC RIGHTS-OF-WAY; LOCATION AND RELOCATION OF FACILITIES IN PUBLIC RIGHTS-OF-WAY

Sections:

- 12.04.010 ~~Permits required;~~ CONTENTS OF APPLICATION; FEES
- 12.04.020 ~~Requirements-~~TRAFFIC CONTROL
- 12.04.030 ~~Bond-~~LOCATION AND RELOCATION OF FACILITIES IN PUBLIC RIGHTS-OF-WAY
- 12.04.040 ~~Permit fee schedule.~~BOND.
- 12.04.050 Residential roll-curb fill.

12.04.010 Permits required; CONTENTS OF APPLICATION; FEES

A. It is unlawful for any person to CONSTRUCT, RECONSTRUCT, REPAIR, ALTER, OR grade ,pave, fill or level any street, alley or public thoroughfare or to construct, alter or repair any pavement, sidewalk, crosswalk, curb, driveway, gutter, sewer, water main or any other structure or excavate or in any manner disturb or obstruct the same without first obtaining a permit in writing from the town. WITHIN THE PUBLIC RIGHTS-OF-WAY WITHOUT OBTAINING A PERMIT FROM THE PUBLIC WORKS DEPARTMENT AS PROVIDED IN THIS CHAPTER PRIOR TO COMMENCING WORK AND COMPLYING WITH THE ZONING AND SUBDIVISION CODES OF THE TOWN.

B. AN APPLICANT FOR A PERMIT SHALL FILE AN APPLICATION WITH THE TOWN SHOWING:

1. NAME, ADDRESS AND LICENSE NUMBER OF THE PARTY DOING THE WORK.
2. LOCATION OF THE WORK AREA.
3. PLANS ATTACHED TO THE APPLICATION SHOWING DETAILS OF THE PROPOSED CONSTRUCTION. SUCH PLANS SHALL BE PREPARED AND SEALED BY AN ENGINEER REGISTERED AND LICENSED IN THE STATE, UNLESS THE PERMITTEE DEMONSTRATES TO THE SATISFACTION OF THE TOWN THAT THE WORK DOES NOT WARRANT IMPOSING THIS REQUIREMENT.

4. A TRAFFIC CONTROL PLAN IN ACCORDANCE WITH SECTION 12.04.020
5. ESTIMATED COST OF ALTERATION.
6. SUCH OTHER INFORMATION AS THE TOWN FINDS REASONABLY NECESSARY TO DETERMINE COMPLIANCE WITH TOWN CODES.

C. FEEES. PERMIT FEES, PLAN CHECKING FEES AND INSPECTION FEES AS ESTABLISHED BY THE COUNCIL BY RESOLUTION SHALL BE PAID PRIOR TO ISSUANCE OF A PERMIT.

D. REPAIRS; EMERGENCY REPAIRS. A PERMIT SHALL BE OBTAINED FROM THE PUBLIC WORKS DEPARTMENT PRIOR TO A PERSON REMOVING, RELOCATING, OR RECONSTRUCTING, IF NECESSARY, ANY PORTION OF A PERSON'S FACILITIES WITHIN PUBLIC RIGHTS-OF-WAY. NOTWITHSTANDING THE FOREGOING, THE TOWN UNDERSTANDS AND ACKNOWLEDGES THERE MAY INSTANCES WHEN A PERSON IS REQUIRED TO MAKE REPAIRS, IN COMPLIANCE WITH FEDERAL OR STATE LAWS, THAT ARE OF AN EMERGENCY NATURE. THE PERMITTEE SHALL NOTIFY THE TOWN PRIOR TO SUCH REPAIRS, IF PRACTICABLE, AND SHALL OBTAIN THE NECESSARY PERMITS WITHIN A REASONABLE TIME AFTER NOTIFICATION.

12.04.020 Requirements: TRAFFIC CONTROL.

~~Each person to whom a right of way permit is issued shall:~~

- ~~A. Give notice at least twenty four (24) hours before the commencement of work;~~
- ~~B. Conduct the work to the satisfaction and subject to the approval of the town;~~
- ~~C. Leave the street in good and safe condition;~~
- ~~D. Keep, install and maintain signal lights or other proper warnings at all times;~~
- ~~E. Comply with all additional provisions and conditions prescribed by the permit.~~

A. TRAFFIC CONTROL PLANS. A PERMITTEE SHALL SUBMIT A TRAFFIC CONTROL PLAN APPLICATION TO THE TOWN AT LEAST TWO BUSINESS DAYS PRIOR TO THE PROPOSED START DATE OF CONSTRUCTION ACTIVITIES. THE TRAFFIC CONTROL PLAN APPLICATION MUST INCLUDE A TRAFFIC CONTROL PLAN DESIGNED AND SIGNED BY A CERTIFIED MEMBER OF THE AMERICAN TRAFFIC SAFETY SERVICES ASSOCIATION (ATSSA).

B. TRAFFIC CONTROL MANUAL. THE TOWN HEREBY DECLARES THE PHOENIX BARRICADE MANUAL (1998 EDITION) AS A PUBLIC RECORD, THREE COPIES OF WHICH ARE TO BE RETAINED BY THE TOWN CLERK'S OFFICE, AND HEREBY ADOPTS THE PHOENIX BARRICADE MANUAL (1998 EDITION) AS THE TOWN'S OFFICIAL TRAFFIC CONTROL MANUAL FOR CONSTRUCTION WORK ZONES WITH THE FOLLOWING REVISIONS:

1. ARROWBOARDS ARE REQUIRED FOR ALL LANE CLOSURES ON ARTERIAL STREETS.
2. LANE CLOSURES ON ARTERIAL STREETS ARE NOT PERMITTED BETWEEN 5:20 A.M. AND 8:30 A.M. OR BETWEEN 3:30 P.M. AND 7:00 P.M. UNLESS PREVIOUSLY APPROVED BY THE TRAFFIC ENGINEER OR PUBLIC WORKS DIRECTOR.
3. A PERMITTEE SHALL HIRE A UNIFORMED OFF-DUTY POLICE OFFICER TO BE PRESENT WHEN CONSTRUCTION ACTIVITIES TAKE PLACE WITHIN 300 FEET OF A SIGNALIZED INTERSECTION OR IF REQUIRED BY THE ENGINEER. PERMITTEES SHALL ARRANGE FOR A POLICE OFFICER AT LEAST FIVE (5) CALENDAR DAYS IN ADVANCE OF PLANNED CONSTRUCTION ACTIVITIES.

12.04.030 ~~Bond~~ LOCATION AND RELOCATION OF FACILITIES IN PUBLIC RIGHTS-OF-WAY

A. GENERAL; PERMIT REQUIRED. IF THE WORK TO BE PERFORMED IN A PUBLIC RIGHT-OF-WAY INVOLVES INSTALLATION, CONSTRUCTION, ERECTION, REPLACEMENT OR RELOCATION OF ANY FACILITIES, A PERMIT MUST BE OBTAINED FROM THE PUBLIC WORKS DEPARTMENT.

1. SUCH PERMIT SHALL BE ISSUED ON SUCH CONDITIONS AS ARE REASONABLE AND NECESSARY TO ENSURE COMPLIANCE WITH THE TERMS AND CONDITIONS OF TOWN CODES.
2. THE APPLICATION FOR THE PERMIT SHALL INCLUDE ALL INFORMATION REQUIRED IN SECTION 12.04.010.
3. EACH PERMITTEE IS RESPONSIBLE FOR:
 - a. ENSURING THAT ITS FACILITIES ARE INSTALLED, CONSTRUCTED AND MAINTAINED IN STRICT COMPLIANCE WITH TOWN CODES;
 - b. OBTAINING ALL REQUIRED LICENSES, FRANCHISES AND OTHER PERMITS BEFORE ANY WORK COMMENCES; AND
 - c. ENSURING THAT THE TERMS AND CONDITIONS OF ALL PERMITS, LICENSES AND FRANCHISES ARE STRICTLY FOLLOWED.
4. WHERE A FACILITY IS USED BY MORE THAN ONE PERMITTEE, EACH PERMITTEE IS FULLY RESPONSIBLE FOR ENSURING THAT ALL REQUIREMENTS ARE SATISFIED.

5. FACILITIES SHALL BE INSTALLED, CONSTRUCTED, AND MAINTAINED SO THAT NO ADDITIONAL COSTS ARE IMPOSED UPON THE TOWN AND SO THAT THE FACILITY DOES NOT INTERFERE WITH OTHER USES OR USERS OF THE PUBLIC RIGHTS-OF-WAY OR TOWN UTILITY EASEMENT. THIS SUBSECTION SHALL NOT SERVE TO LIMIT THE REQUIREMENT OF ANY OTHER PROVISION OF THIS CODE OR ANY LICENSE, PERMIT, OR FRANCHISE ISSUED BY THE TOWN.

B. JOINT USE OF TRENCHES. IN ORDER TO MINIMIZE DEGRADATION OF STREETS, TRAFFIC IMPACTS AND OTHER INTERFERENCE WITH THE USE OF RIGHTS-OF-WAY, WORK SHALL BE COORDINATED SO THAT TO THE GREATEST EXTENT POSSIBLE, CONSISTENT WITH ECONOMIC FEASIBILITY, JOINT TRENCHING SHALL BE USED. THE PUBLIC WORKS DEPARTMENT SHALL ADOPT RULES TO FACILITATE JOINT TRENCHING IN THE PUBLIC RIGHTS-OF-WAY.

C. TRAFFIC SAFETY. FACILITIES TO BE CONSTRUCTED, INSTALLED, OPERATED, AND MAINTAINED BY THE PERMITTEE SHALL BE LOCATED OR RELOCATED IN SUCH A MANNER AND BY SUCH MEANS AS TO INTERFERE AS LITTLE AS POSSIBLE WITH TRAFFIC OR OTHER AUTHORIZED USES OVER, UNDER, OR THROUGH THE PUBLIC RIGHTS-OF-WAY. THOSE PHASES OF CONSTRUCTION RELATING TO TRAFFIC CONTROL, BACKFILLING, COMPACTION, AND PAVING, AS WELL AS THE LOCATION OR RELOCATION OF SAID FACILITIES SHALL BE SUBJECT TO REGULATION BY THE TOWN.

D. RECORDS. THE PERMITTEE SHALL KEEP ACCURATE RECORDS OF THE LOCATION OF ALL OF ITS FACILITIES LOCATED IN THE PUBLIC RIGHTS-OF-WAY AND SHALL FURNISH THEM TO THE TOWN UPON REQUEST OR AT SUCH PERIODIC INTERVALS AS THE TOWN MAY REQUIRE. IN ORDER FOR THE TOWN TO REGULATE USERS IN THE PUBLIC RIGHTS-OF-WAY, UPON COMPLETION OF NEW OR RELOCATION CONSTRUCTION OF UNDERGROUND FACILITIES IN THE PUBLIC RIGHTS-OF-WAY, THE PERMITTEE SHALL PROVIDE THE TOWN WITH THE LOCATION OF THE UNDERGROUND AND ABOVE-GROUND FACILITIES IN A FORMAT COMPATIBLE WITH THE CURRENT TOWN MAPPING FORMAT.

E. RESTORATION. WHENEVER A PERMITTEE CAUSES ANY OPENING OR ALTERATION TO BE MADE FOR ANY PURPOSE IN ANY PUBLIC RIGHT-OF-WAY, THE WORK SHALL BE COMPLETED WITHIN A REASONABLE TIME, AND UPON COMPLETION OF SUCH WORK, PERMITTEE SHALL, WITHOUT EXPENSE TO THE TOWN, RESTORE THE PROPERTY DISTURBED IN A MANNER CONSISTENT WITH TOWN STANDARDS, OR AS REQUIRED BY ITS PERMIT, LICENSE, OR FRANCHISE WHICH MAY INCORPORATE SPECIAL STANDARDS WHEN REQUIRED FOR TOWN PURPOSES. LANDSCAPING, WHETHER IN THE PUBLIC RIGHTS-OF-WAY OR ON PRIVATE PROPERTY, WHICH IS DAMAGED BY PERMITTEE SHALL BE RESTORED TO ITS CONDITION AS IT EXISTED PRIOR TO THE WORK. PERMITTEE SHALL EXERCISE SPECIAL CARE WHEN WORKING NEAR ESTABLISHED TREES OR SHRUBS. IF ESTABLISHED TREES OR SHRUBS DIE WITHIN SIX MONTHS OF COMPLETION OF WORK BY PERMITTEE, IT IS PRESUMED THAT PERMITTEE CAUSED SUCH DAMAGE IF THE WORK PERFORMED WAS IN THE LOCATION OF THE ROOTS OF SUCH TREE OR SHRUB.

F. TOWN'S FACILITIES. THE INSTALLATION, USE AND MAINTENANCE OF PERMITTEE'S FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY AUTHORIZED HEREIN SHALL BE IN SUCH A MANNER AS NOT TO INTERFERE WITH PLACEMENT, CONSTRUCTION, USE, AND MAINTENANCE OF PUBLIC RIGHTS-OR-WAY, STREET LIGHTING, WATER PIPES, DRAINS, SEWERS, TRAFFIC SIGNAL SYSTEMS, OR OTHER UTILITY SYSTEMS THAT HAVE BEEN, OR MAY BE, INSTALLED, MAINTAINED, USED OR AUTHORIZED BY THE TOWN. AT THE TOWN'S REQUEST, PERMITTEE SHALL RELOCATE ITS FACILITIES AT PERMITTEE'S EXPENSE (UNLESS STATE LAW EXPRESSLY REQUIRES OTHERWISE). UPON THE TOWN'S REQUEST, BY A TIME SPECIFIED BY THE TOWN, IF PERMITTEE FAILS TO MOVE ITS FACILITIES, THE TOWN MAY DO SO AND BILL PERMITTEE THE COSTS OF RELOCATION, WHICH COSTS PERMITTEE SHALL PAY WITHIN THIRTY (30) DAYS AFTER PERMITTEE RECEIVES THE INVOICE. PERMITTEE SHALL REIMBURSE THE TOWN ANY ADDITIONAL COST, INCLUDING BUT NOT LIMITED TO DESIGN AND CONSTRUCTION COSTS, INCURRED BY THE TOWN DUE TO THE DELAY IN LOCATION OR RELOCATION OF PERMITTEE'S FACILITIES.

G. INTERFERENCE. PERMITTEE SHALL NOT INSTALL, MAINTAIN, OR USE ANY OF ITS FACILITIES IN SUCH A MANNER AS TO DAMAGE OR INTERFERE WITH FACILITIES LOCATED WITHIN PUBLIC RIGHTS-OF-WAY THAT ARE OWNED BY ANOTHER ENTITY.

H. LOCATION AND MAINTENANCE OF ABOVE-GROUND FACILITIES. THE TOWN SHALL APPROVE THE LOCATION OF ABOVEGROUND FACILITIES, SUCH AS BOXES, CABINETS AND SIMILAR EQUIPMENT OR APPURTENANCES. THE PERMIT SHALL SET FORTH THE LOCATION OF SUCH ABOVEGROUND FACILITIES. IF THE PUBLIC WORKS DIRECTOR DETERMINES THAT A PROPOSED LOCATION WOULD IMPAIR TRAFFIC VISIBILITY OR VISIBILITY OF EXISTING SIGNAGE OR WOULD SUBSTANTIALLY HARM EXISTING LANDSCAPING, OR THAT SIMILAR CONDITIONS EXIST WHICH WOULD JUSTIFY A DENIAL OF A PERMIT IN THAT LOCATION, THE PERMIT SHALL BE DENIED. ABOVEGROUND FACILITIES SHALL BE MAINTAINED IN GOOD CONDITION. IF THE TOWN FINDS ANY OF PERMITTEE'S ABOVE-GROUND FACILITIES ARE NOT MAINTAINED IN GOOD CONDITION, PERMITTEE SHALL CORRECT SUCH CONDITION WITHIN THREE (3) BUSINESS DAYS OF RECEIVING NOTICE FROM THE TOWN.

I. UNDERGROUNDING OF NEW FACILITIES. NO NEW POLES OR WIRES SHALL BE ERECTED IN THE TOWN ABOVE THE SURFACE OF THE GROUND UNLESS A PERMIT IS FIRST SECURED FROM THE PUBLIC WORKS DEPARTMENT, EXCEPT THAT THE FOLLOWING CONSTRUCTION MAY BE INSTALLED WITHOUT SUCH A PERMIT:

1. TEMPORARY SERVICE FACILITIES, INCLUDING BUT NOT LIMITED TO FACILITIES TO FURNISH EMERGENCY SERVICE DURING AN OUTAGE, FACILITIES TO PROVIDE SERVICE TO CONSTRUCTION SITES, OR OTHER SERVICE OF A TEMPORARY NATURE FOR A LIMITED PERIOD OF TIME, SUCH AS TO A FAIR, CARNIVAL, OUTDOOR EXHIBIT OR OTHER TEMPORARY FUNCTION;

2. PAD-MOUNTED TRANSFORMERS OR PULL BOXES, SERVICE TERMINALS, PEDESTAL-TYPE TELEPHONE TERMINALS, TELEPHONE SPLICE CLOSURES, OR SIMILAR ON-THE-GROUND FACILITIES NORMALLY USED WITH AND AS PART OF AN UNDERGROUND ELECTRIC DISTRIBUTION, TELEPHONE, DATA, TELEGRAPH OR TELEVISION SYSTEM, OR ON-THE-GROUND FACILITIES ATTACHED TO EXISTING OVERHEAD FACILITIES WHICH ARE USED FOR THE PURPOSE OF CONNECTING AN UNDERGROUND SYSTEM WITH THE EXISTING FACILITIES;
3. TRANSMISSION LINES AND DISTRIBUTION FEEDER LINES, TOGETHER WITH RELATED SWITCH YARDS, SUBSTATIONS AND RELATED EQUIPMENT.
4. SERVICE DROPS FROM EXISTING OVERHEAD LINES TO NEW SINGLE-FAMILY RESIDENTIAL CUSTOMERS, EXCEPT WHEN UNDERGROUND SERVICE IS REQUIRED BY THE TOWN'S SUBDIVISION ORDINANCE.

J. PLANS. ALL FACILITIES SHALL BE INSTALLED PER PLANS PREPARED BY A REGISTERED PROFESSIONAL ENGINEER AND APPROVED BY THE TOWN PRIOR TO ANY WORK COMMENCING.

1. USE OF EXISTING POLES OR CONDUIT. A PERMITTEE MAY INSTALL FACILITIES ON EXISTING UTILITY POLES OR IN EXISTING CONDUIT WHERE PERMISSION IS GRANTED BY OWNER OF THE UTILITY POLE OR CONDUIT AND SUCH PERMISSION IS VERIFIED BY THE TOWN, EXCEPT WHERE THOSE SAME POLES ARE SCHEDULED TO BE REPLACED WITH BURIED FACILITIES. THE TOWN MAY REQUIRE PERMITTEE TO PROVE THAT IT HAS SUCH PERMISSION FROM THE OWNER TO USE THE OWNER'S FACILITIES.
2. NO NEW POLES, OR LONGER POLES, WILL BE PERMITTED IN THE PUBLIC RIGHTS-OF-WAY FOR ANY NEW FACILITIES.
3. IF PERMITTEE INSTALLS FACILITIES ON EXISTING POLES AS PROVIDED HEREIN, PERMITTEE SHALL BURY ITS FACILITIES IF SUCH POLES ARE REMOVED AND NOT REPLACED IN KIND FOR ANY REASON.
4. IF PERMITTEE USES EXISTING CONDUIT OWNED BY SOMEONE OTHER THAN PERMITTEE, PERMITTEE SHALL BE SUBJECT TO THE PROVISIONS OF THIS SECTION IN THE USE OF SUCH CONDUIT IN THE PUBLIC RIGHTS-OF WAY.
5. AS USED HEREIN, A POLE INSTALLED TO REPLACE A DAMAGED POLE OR TO REMEDY A SAFETY HAZARD AND WHICH IS SUBSTANTIALLY THE SAME SIZE AS THE POLE

BEING REPLACED SHALL NOT BE CONSIDERED TO BE A NEW POLE.

K. CONFLICT WITH TOWN PROJECTS.

1. IDENTIFICATION OF CONFLICT. IF, DURING THE DESIGN PROCESS OF PUBLIC IMPROVEMENTS, THE TOWN DISCOVERS A POTENTIAL CONFLICT WITH PROPOSED CONSTRUCTION, PERMITTEE SHALL EITHER:
 - a. LOCATE AND, IF NECESSARY, EXPOSE ITS FACILITIES IN CONFLICT; OR
 - b. USE THE ONE-CALL NOTIFICATION CENTER (“BLUE STAKE”) TO LOCATE OR EXPOSE ITS FACILITIES. PERMITTEE SHALL REIMBURSE THE TOWN FOR THE COST RESULTING FROM THE USE OF SUCH LOCATION SERVICE. THE TOWN SHALL MAKE REASONABLE EFFORTS TO DESIGN AND CONSTRUCT PROJECTS PURSUANT TO THIS SECTION SO AS TO AVOID RELOCATION EXPENSE TO PERMITTEE. PERMITTEE SHALL FURNISH THE LOCATION INFORMATION IN A TIMELY MANNER, BUT NOT MORE THAN TEN (10) CALENDAR DAYS FROM THE DATE OF THE TOWN’S REQUEST.
2. PRIORITY RIGHT. THE TOWN RESERVES THE PRIOR AND SUPERIOR RIGHT TO LAY, CONSTRUCT, ERECT, INSTALL, USE, OPERATE, REPAIR, REPLACE, REMOVE, RELOCATE, REGRADE, WIDEN, REALIGN, OR MAINTAIN PUBLIC RIGHTS-OF-WAY, AERIAL, SURFACE, OR SUBSURFACE IMPROVEMENTS, INCLUDING, BUT NOT LIMITED TO, TRAFFIC CONTROL CONDUITS, STORM SEWERS, SUBWAYS, TUNNELS, BRIDGES, VIADUCTS, OR OTHER PUBLIC CONSTRUCTION WITHIN PUBLIC RIGHTS-OF-WAY.
3. PROCEDURES. IF, DURING THE COURSE OF A PROJECT, THE TOWN DETERMINES PERMITTEE’S FACILITIES ARE IN CONFLICT, THE FOLLOWING SHALL APPLY:
 - a. *PRIOR TO THE TOWN NOTICE TO PROCEED TO CONTRACTOR:* PERMITTEE SHALL, WITHIN A REASONABLE TIME NOT TO EXCEED ONE (1) MONTH, SHALL REMOVE OR RELOCATE THE CONFLICTING FACILITY. THE TIME SHALL BEGIN RUNNING UPON RECEIPT BY PERMITTEE OF WRITTEN NOTICE OF THE CONFLICT FROM THE TOWN. IF THE TOWN AND PERMITTEE AGREE, THE TIME TO REMOVE MAY BE EXTENDED, BASED ON REQUIREMENTS OF THE TOWN’S PROJECT.

- b. *SUBSEQUENT TO TOWN NOTICE TO PROCEED TO CONTRACTOR:* THE TOWN AND PERMITTEE SHALL IMMEDIATELY BEGIN THE COORDINATION NECESSARY TO REMOVE OR RELOCATE THE FACILITY. ACTUAL CONSTRUCTION OF SUCH REMOVAL OR RELOCATION IS TO BEGIN NO LATER THAN SEVENTY-TWO (72) HOURS, IF PRACTICABLE, AFTER WRITTEN NOTIFICATION FROM THE TOWN TO PROCEED.

L. DAMAGE TO TOWN RIGHTS-OF-WAY AND FACILITIES.

1. IF, IN THE INSTALLATION, USE, OR MAINTENANCE OF ITS FACILITIES, PERMITTEE DAMAGES OR DISTURBS THE SURFACE OR SUBSURFACE OF A PUBLIC RIGHT-OF-WAY OR ADJOINING PUBLIC PROPERTY, OR THE PUBLIC IMPROVEMENT LOCATED THEREON, THEREIN, OR THEREUNDER, PERMITTEE SHALL PROMPTLY, AT ITS OWN EXPENSE, AND IN A MANNER ACCEPTABLE TO THE TOWN, RESTORE THE SURFACE OR SUBSURFACE OF THE PUBLIC RIGHT-OF-WAY OR PUBLIC PROPERTY, OR REPAIR OR REPLACE THE PUBLIC IMPROVEMENT THEREON, THEREIN, OR THEREUNDER, IN AS GOOD A CONDITION AS BEFORE SUCH DAMAGE OR DISTURBANCE. IF SUCH RESTORATION, REPAIR OR REPLACEMENT OF THE SURFACE, SUBSURFACE, OR ANY STRUCTURE LOCATED THEREON, THEREIN, OR THEREUNDER IS NOT COMPLETED WITHIN A REASONABLE TIME, OR SUCH REPAIR OR REPLACEMENT DOES NOT MEET TOWN STANDARDS, THE TOWN SHALL HAVE THE RIGHT TO PERFORM THE NECESSARY RESTORATION, REPAIR, OR REPLACEMENT, EITHER THROUGH ITS OWN FORCES, OR THROUGH A HIRED CONTRACTOR, AND THE PERMITTEE SHALL REIMBURSE THE TOWN FOR ITS EXPENSE IN SO DOING WITHIN THIRTY DAYS AFTER RECEIPT OF THE INVOICE THEREFORE.
2. PERMITTEE SHALL REIMBURSE THE TOWN FOR ALL REASONABLE COSTS ARISING FROM REDUCTION IN SERVICE LIFE OF ANY PUBLIC ROAD OR PAVEMENT DAMAGE, IF REQUIRED BY ANY OTHER TOWN ORDINANCES, RESULTING FROM PAVEMENT CUTS OF PERMITTEE. PERMITTEE SHALL PAY SUCH COSTS WITHIN THIRTY (30) DAYS FROM THE DATE OF ISSUANCE OF AN INVOICE BY THE TOWN.

M. RELOCATION OF FACILITIES.

1. GENERAL. THE TOWN SHALL BEAR NO COST TO RELOCATE ITS EXISTING FACILITIES, IRRESPECTIVE OF THE FUNCTION SERVED, WHERE THE TOWN FACILITIES OR OTHER FACILITIES OCCUPYING THE PUBLIC RIGHTS-OF-WAY UNDER AUTHORITY OF A TOWN PERMIT, LICENSE, OR FRANCHISE

MUST BE RELOCATED AND THE CONFLICT BETWEEN PERMITTEE'S POTENTIAL FACILITIES AND EXISTING FACILITIES CAN ONLY BE RESOLVED EXPEDITIOUSLY AS DETERMINED BY THE TOWN BY MOVING THE EXISTING TOWN OR OTHER APPROVED FACILITIES.

2. DELAY. IF PERMITTEE FAILS TO KEEP OR PROVIDE ACCURATE RECORDS TO TOWN OR IF PERMITTEE'S RELOCATION EFFORT DELAYS CONSTRUCTION OF A PUBLIC PROJECT SO AS TO CAUSE THE TOWN TO BE LIABLE FOR DELAY DAMAGES, PERMITTEE SHALL REIMBURSE THE TOWN FOR THOSE DAMAGES ATTRIBUTABLE TO THE DELAY CREATED BY PERMITTEE.
3. TOWN COSTS. EXCEPT AS OTHERWISE PROVIDED IN A LICENSE, FRANCHISE, OR PERMIT, OR BY OTHER PROVISION OF LAW, THE ENTIRE COST OF RELOCATION SHALL BE BORNE BY THE TOWN IF PERMITTEE IS REQUIRED BY THE TOWN TO RELOCATE FACILITIES WHICH ARE LOCATED IN PRIVATE EASEMENTS OBTAINED BY PERMITTEE PRIOR TO DEDICATING THE PUBLIC RIGHTS-OF-WAY FROM WHICH FACILITIES MUST BE RELOCATED. THESE PRIOR RIGHTS OF PERMITTEE WOULD ALSO BE UNAFFECTED BY ANY SUBSEQUENT RELOCATION. "PRIOR RIGHTS" AS USED IN THIS SUBSECTION MEANS PRIVATE EASEMENTS OR OTHER LEGALLY SUFFICIENT RIGHTS OBTAINED BY PERMITTEE PRIOR TO DEDICATION OF THE PUBLIC RIGHTS-OF-WAY FROM WHICH THE FACILITIES ARE REQUESTED BY THE TOWN TO BE RELOCATED.

N. RIGHTS RESERVED TO TOWN. WITHOUT LIMITING THE RIGHTS THAT THE TOWN MAY OTHERWISE HAVE, THE TOWN HEREBY EXPRESSLY RESERVES THE FOLLOWING RIGHTS, POWERS AND AUTHORITIES:

1. TO EXERCISE ITS GOVERNMENTAL POWERS NOW OR HEREAFTER TO THE FULL EXTENT THAT SUCH POWERS MAY BE VESTED IN OR GRANTED TO THE TOWN.
2. TO DETERMINE ANY QUESTION OF FACT RELATING TO THE MEANING, TERMS, OBLIGATIONS, OR OTHER ASPECTS OF THIS SECTION AND THE INSTRUMENTS ISSUED UNDER THIS SECTION.
3. TO GRANT MULTIPLE, NON-EXCLUSIVE LICENSES, FRANCHISES, OR PERMITS WITHIN THE TOWN TO OTHER PERSONS.

O. TOWN POLICE POWER; CONTINUING JURISDICTION.

1. POLICE POWER. PERMITTEE SHALL AT ALL TIMES BE SUBJECT TO THE LAWFUL EXERCISE OF THE TOWN'S POLICE POWER, INCLUDING ALL ORDINANCES, RULES AND REGULATIONS WHICH THE TOWN HAS ADOPTED OR MAY ADOPT, AND ALL LAWS, RULES, REGULATIONS, ORDER, AND POLICIES OF THE STATE AND THE UNITED STATES GOVERNMENT. IN THE EVENT OF A CONFLICT BETWEEN THE PROVISIONS OF THIS SECTION AND OTHER PROVISIONS OF THE TOWN CODE, THE STRICTER REQUIREMENT SHALL APPLY.

2. CONTINUING JURISDICTION. THE TOWN SHALL HAVE CONTINUING JURISDICTION AND SUPERVISION OVER ALL FACILITIES LOCATED WITHIN OR ON PUBLIC RIGHTS-OF-WAY. THE DAILY ADMINISTRATIVE, SUPERVISORY, AND ENFORCEMENT RESPONSIBILITIES OF THE PROVISIONS OF THIS ARTICLE AND ANY LICENSE OR FRANCHISE SHALL BE DELEGATED AND ENTRUSTED TO THE TOWN MANAGER OR DIRECTOR OF PUBLIC WORKS TO INTERPRET, ADMINISTER, AND ENFORCE THE PROVISIONS OF THIS ARTICLE, AND TO PROMULGATE STANDARDS REGARDING THE CONSTRUCTION, RECONSTRUCTION, RELOCATION, MAINTENANCE, DISMANTLING, ABANDONMENT, OR USE OF FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY.

P. VIOLATION. IT SHALL BE UNLAWFUL FOR ANY PERSON TO CONSTRUCT, LOCATE, RELOCATE FACILITIES IN OR TO OTHERWISE WORK IN, UNDER, ON OR ABOVE THE PUBLIC RIGHTS-OF-WAY EXCEPT IN COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE AND ANY OTHER APPLICABLE TOWN CODE, LICENSE, FRANCHISE OR REQUIREMENT.

12.04.03040 Bond.

~~A. Each applicant for a right-of-way permit shall deposit with the clerk a certified check or cash in the amount of twenty-five dollars (\$25.00), which shall serve as bond for that part of the job located in the public right of way, when the estimated cost is less than five hundred dollars (\$500.00).~~

~~B. A performance bond is required on all work estimated to cost over five hundred dollars (\$500.00) for any one job to be in the amount of the total job cost. (Prior code § 77-3)~~

A. EACH PERMITTEE SHALL OBTAIN AND MAINTAIN SUCH INSURANCE, BONDING, AND SECURITY FUND REQUIREMENTS AS SPECIFIED BY THE TOWN, OR IF NO SPECIFIC REQUIREMENTS ARE SPECIFIED, AS ARE REQUIRED BY THE TOWN FOR SIMILAR FACILITIES.

B. NO WORK SHALL COMMENCE UNLESS THESE REQUIREMENTS HAVE BEEN SATISFIED. IF AN INSURANCE, BONDING, OR SECURITY FUND REQUIREMENT IS NOT SATISFIED, THE TOWN MAY REQUIRE PERMITTEE TO

REMOVE OR STOP WORK ON FACILITIES OR REQUIRE PERMITTEE TO CEASE USING THE FACILITY.

12.04.04050 — Permit fee schedule.

- A. ~~A right-of-way construction permit fees shall be based on two percent of the engineer's estimated cost of the job. No permit fee shall be less than fifteen dollars (\$15.00).~~
- B. ~~The plan review fee shall be sixty five (65) percent of the right-of-way construction permit fee as set forth in subsection A of this section.~~
- C. ~~All civil construction projects must be in conformity with the 1998 Maricopa Association of Governments ("MAG") Uniform Standard Specifications and Details for Public Works Construction.~~
- D. ~~The 1998 Maricopa Association of Government Uniform Standard Specifications and Details for Public Works Construction copies are available at the offices of the Building Inspector and the Pubic Works Director. (Ord.98-21: prior code § 7-7-4)~~

12.04.050 Residential roll-curb fill.

The town council may, after notice to any ~~afflicted~~ AFFECTED property owner and after providing an opportunity for the property owner to be heard, order the removal of any ~~such~~ RESIDENTIAL roll-curb fill that is in the town's right-of-way. This removal shall be at the expense of the town, but the town shall have no obligation to do anything other than to return the roll-curb to its original condition before the roll-curb fill was added.

~~Once the ordinance codified in this section takes effect, it IS shall be a violation of this code and a class one misdemeanor, to fill the depression of any residential driveway.~~