

CHAPTER 8 SAFETY, HEALTH, SANITATION AND NUISANCE

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- 8-1-11 Obstruction of Watercourses (Repealed 418 6/13/96)
- 8-1-12 Weeds
- 8-1-13 Corner Vision ^{369 456}
- 8-1-14 Landscaping ³⁶⁹ (Repealed by Ordinance #448, 1/22/98)
- 8-1-15 Public Utility Walls ³⁹⁶

Section 8-1-1 Accumulation of Litter and Junk ^{517 2016-08}

- A. Accumulation of Litter: It is unlawful for any person to throw, deposit, or allow to accumulate, any glass, rubbish, waste, construction debris or other refuse upon the streets, alleys, highways, public parks or other property of the Town, or upon any private property.
- B. It is unlawful to store or keep any articles or materials which may be classed as junk adjacent to or in close proximity to any school, church, public park, public grounds, business building, or residence without first providing proper and tight buildings or containers for the storage of the junk or adequate screening such that the junk is not visible from adjoining public or private property. "Junk" means worn-out and discarded material which may be turned to some use; articles commonly gathered up and sold to be converted to another product, either of the same or a different kind.
- C. It is unlawful to store any materials in plain view in a front yard for more than thirty calendar days unless there is an active building permit for the property and the materials are necessary for construction.
- D. The property owner is responsible for the maintenance and clean up of:
 - 1. Private property, as specified in subsection A above, and

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2. The right of way area between the property line and the curb or to the edge of the pavement where no curb exists.

Section 8-1-2 Blasting Restricted

It is unlawful for any person to blast rock or stone with any explosive substance or compound without the written consent of the Town Engineer.

Section 8-1-3 Throwing or Shooting of Arrows, Stones, and Other Missiles

It is unlawful for any person to throw or shoot any object, arrow, stone, or other projectile, by hand or by any other means in a manner dangerous to life, limb, or property.

Section 8-1-4 Unguarded Pits⁵¹⁷

It is unlawful for any person to allow any open, unguarded, or abandoned pit, well, excavation or unused basement or hole that may constitute a threat to public health, safety and welfare; or any well, cellar, pit, or other excavation of more than two (2) feet in depth on any lot.

Section 8-1-5 Warnings Required

It is unlawful to dig any hole, drain or ditch in any right-of-way without providing warning lights and barricades which comply with the terms of the Manual on Uniform Traffic Control Devices.

Section 8-1-6 Unsafe Building or Structure

It is unlawful for any person to erect, repair, or alter any building or structure in violation of the provisions of the Town Code relating to materials and manner of construction of buildings and structures. It is unlawful for any person to maintain or allow any building or structure so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human use.

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Section 8-1-7 Disposal and/or Storage of Construction and Repair Materials and Debris ²⁰¹⁶⁻⁰⁸

- A. It is unlawful to fail to dispose of debris from construction, reconstruction or repair of a structure.
- B. It is unlawful to store construction materials in plain view in a front yard or anywhere visible off-site unless there is an active construction permit on the property.
- C. All construction debris and equipment must be contained on-site at all times. Property owners must maintain the job site free of litter and unsightly materials at all times and are responsible for any litter or unsightly materials left by their contractors. Construction materials are prohibited in the Town right-of-way or within ten feet of adjacent properties.

Section 8-1-8 Damage to Property

- A. It is unlawful for any person, or persons, to damage in any manner or attempt to damage or tamper with any pipe lines, water hydrants, street lamps or lights, or the fixtures and appliances belonging upon any of the poles or other objects for use in connection with the lighting of the streets of the Town or any water pipes, hydrants, or any appliances pertaining to the water or sewer works, or any other property belonging to the Town.
- B. It is unlawful for any person to deface, walk, ride, or drive upon or over any sidewalk or street crossing composed of or containing cement, during the construction thereof, or before the same is thrown open to public use.
- C. It is unlawful for any person to damage any road, street or bridge by heavy vehicles, or by malicious destruction, or to perform an act that will result in damage to the road, street or bridge.

Section 8-1-9 Obstruction of Streets and Sidewalks

- A. Obstruction of Traffic. It is unlawful to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in a manner to prevent or obstruct the free passage of pedestrian or vehicular traffic, or hinder free ingress or egress to or from any public place or place of business. It is unlawful for any person to erect or maintain upon the street or sidewalk a stand, movable booth, or wheel vehicle for the purpose of trade or barter, except under license or contract with the Town.

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- B. Obstruction of View. It is unlawful for any person to maintain or allow any tree, hedge, billboard, or other obstruction which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- C. Dangerous Construction. It is unlawful for any person to maintain or allow any signs, billboards, awnings or other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

Section 8-1-10 Water-Flow Upon Streets Prohibited ⁵¹⁷

It is unlawful to willfully or negligently permit or cause the escape or flow of water or other liquid upon a right-of-way in such quantity, so as to impede vehicular or pedestrian traffic, to create a hazardous condition for such traffic, or, to cause damage to public or private streets within the Town. To “Negligently permit” Includes the failure or neglect to properly operate or maintain any water facility or device, including, but not limited to, swimming pools, spas, ponds, fountains, sprinklers, hoses, pipes, ditches, standpipes, berms, irrigation structures or equipment, valves or gates.

Section 8-1-11 Obstruction of Watercourses (Repealed 418 6/13/96)

Section 8-1-12 Weeds

- A. Every person owning, occupying, or controlling any premises fronting on any street, alley, or public place in the Town shall cut or cause to be cut all grass and weeds growing on such frontage as often as the same may require cutting, to the end that said grasses or weeds shall not attain a height of over six inches, and every person who shall permit grass or weeds to grow to a height exceeding six inches between the property line of such property and the street shall be guilty of a violation of this Code.
- B. Every person owning, occupying, or controlling any lot or lots within the Town shall cause all weeds and other noxious growths to be cut thereon as often as the same may require cutting to prevent the same from attaining a height of over six inches, and every person owning, occupying or controlling any lot or lots within the Town who shall permit on such lot or lots weeds or other noxious growth to grow to a height exceeding six inches, or who shall permit any rubbish, dirt, debris, or other matter to accumulate upon such lot or lots, shall be guilty of a violation of this Code.

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Section 8-1-13 Corner Vision^{369 456}

As an aid to safe movement of vehicles at and near street intersections and in order to promote more adequate protection for the safety of children, pedestrians, and operators of vehicles, there shall be limitations on the height of fences, walls, gateways, ornamental structures, hedges, shrubbery and other fixtures, construction and planting on all corner lots.

- A. Such barriers to clear, unobstructed vision at corners of intersecting streets shall be limited to a height of not over two (2) feet above the street elevation of the nearest edge of pavement, for a distance of fifty (50) feet along both the front and side lot lines, measured as indicated below.
- B. Within the triangle formed by connecting the ends of the respective fifty (50) foot distances as illustrated in figure 8-1-13, all the structures, fixtures, construction, hedges, shrubbery and other plantings shall be limited to a height of two (2) feet above the elevation of the nearest edge of pavement at the said intersecting streets.
- C. Paragraphs A and B of this Section notwithstanding, trees may be located within the fifty (50) foot clear distance if their trunks are no more than eight (8) inches in diameter at a height of twelve (12) inches from the ground, and the foliage is cleared to a height of eight (8) feet above the ground.⁴⁵⁶
- D. In interpreting this ordinance, the diagrams shown in Figure 8-1-13 shall be utilized to determine the fifty (50) foot segments and the triangle within which structures are limited in height. In any situation not specifically covered in these diagrams, this Section shall be interpreted in a manner to provide maximum sight distance at the intersection.
- E. This Section is applicable to that area within the property, but the property owner is also responsible for that area between the property line and the curb, and to the pavement where no curb exists.⁴⁵⁶
- F. A sight distance triangle shall be eligible for modification by the Town Engineer if one or both of the intersecting streets are controlled by stop signs or traffic signals and no decrease in sight distance would occur as a result of the modification.⁴⁵⁶

Section 8-1-14 Landscaping³⁶⁹ Repealed by Ordinance #448, 1/22/98

Section 8-1-15 Public Utility Walls³⁹⁶

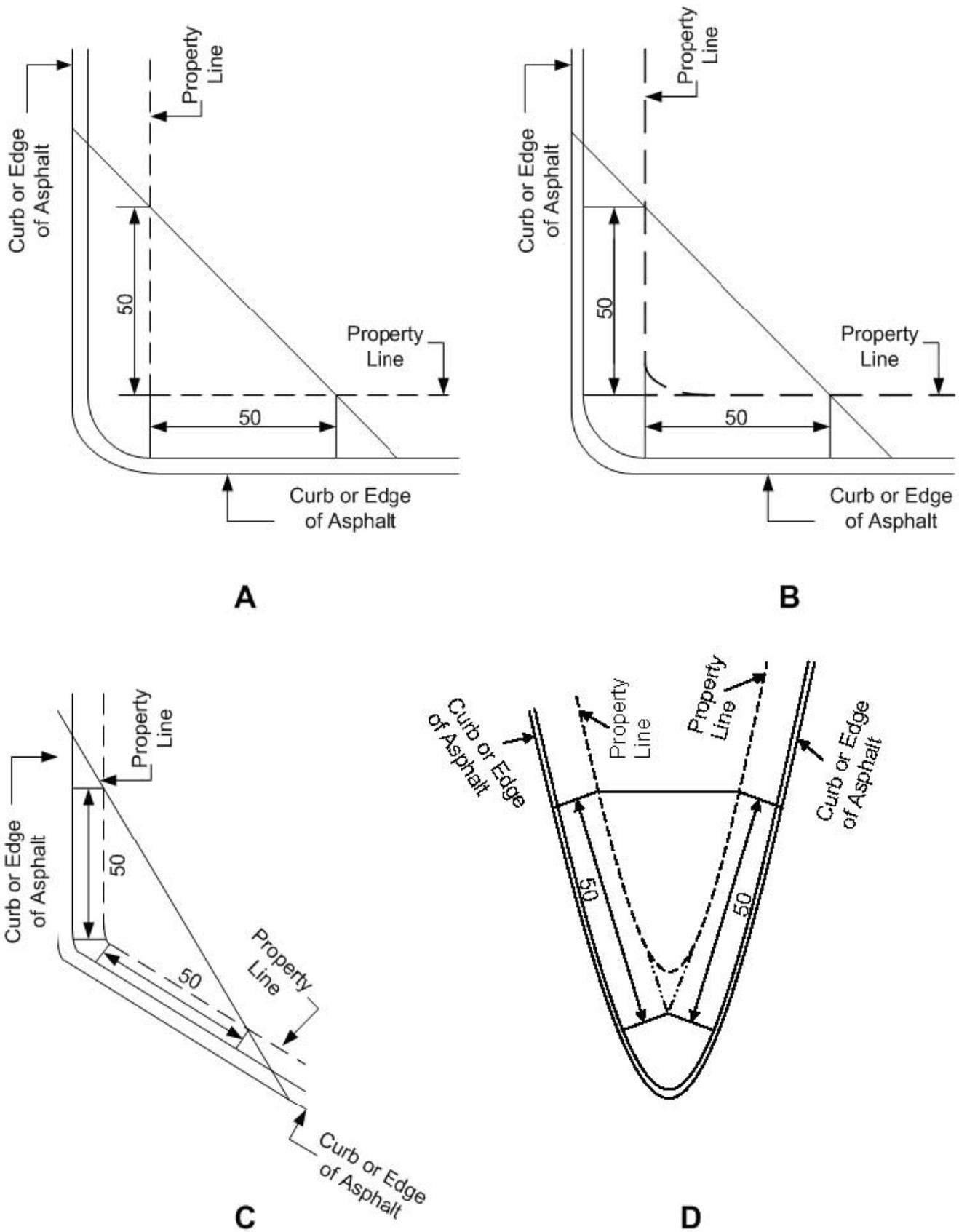
- A. Contrary to any terms in the Paradise Valley Zoning Ordinance, it is permissible for electric utility companies to surround electrical substations with walls eight feet high, measured from finished grade.

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- B. all walls built under the terms of Section 8-1-15 must comply with the terms of Section 8-1-13.

- C. These facilities, although necessary for the health, safety and welfare of the citizens, are a hazard to the citizens and especially the children of the community, and are considered by most to be unsightly.

Figure 8-1-13



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Article 8-2 HEALTH

- 8-2-1 Health Officer
- 8-2-2 Flies, Mice, and Rats
- 8-2-3 Power to Enter
- 8-2-4 Disinfection and Fumigation of Contaminated Buildings
- 8-2-5 Superseded - See Article 10-2 of the Town Code
- 8-2-6 Pollinating Trees ³⁶⁸
- Section 8-2-1 Health Officer

The Town Manager is Health Officer of the Town.

Section 8-2-2 Flies, Mice, and Rats

It is unlawful to willfully cause or negligently permit any cesspool, vault pit or similar structure to contain animal manure, garbage, trash, litter, rags or any other substance in which flies, mosquitoes, mice, and rats may breed or multiply, unless the structure is protected in a manner which prevents the attraction, breeding and multiplying of flies, mosquitoes, mice and rats.

Section 8-2-3 Power to Enter

The Health Officer or his representative shall, after reasonable notice to the owner or occupant, have the power to enter upon all public and private property or premises to examine any nuisance, source of filth, or cause or source of sickness or disease found therein, and may require the owner or occupant at the owner's or occupant's own expense to remove the same. For the purpose of this Section the power to enter upon private property shall be restricted to daylight hours.

Section 8-2-4 Disinfection and Fumigation of Contaminated Buildings

Any person owning, leasing or controlling any house, hotel, inn or rooming house in the Town who shall lease, rent or allow to be occupied any room or rooms in a house, hotel, inn or rooming house to or by any person infected with the disease of consumption or tuberculosis shall, within two days after the vacating of the leased area by an infected person, disinfect and fumigate the area under the supervision of the Health Officer, or obtain, within two days, a certificate from a practicing physician to the effect that the area has been properly disinfected and fumigated. Any person obtaining such a certificate shall exhibit it to the Health Officer upon demand.

Section 8-2-5 Superseded - See Article 10-2 of the Town Code

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Section 8-2-6 Pollinating Trees³⁶⁸

No person shall plant any male mulberry tree (*Morus Alba*) or olive tree (*Olea Europea*) in the Town, unless it is one of the pollenless varieties of such trees.

ARTICLE 8-3 SANITATION ^{503 2016-12}

Section 8-3-1 DEFINITIONS:

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

1. *Animal waste* means any unsanitary waste from the raising, containing, maintaining or grooming of animals from stables, kennels, pet pens, chicken coops, or places of residence.
2. *Brushable material* means tree limb and shrubbery clippings three (3) feet in length or longer and up to three and one-half (3 1/2) inches in diameter
3. *Commercial establishment* means any public or private place, building or enterprise utilized for the conduct of business or public assembly.
4. *Contractor* means a person, persons or corporate entity engaged in the business of collecting, removing, hauling, or transporting commercial solid waste, recyclables or special materials in the Town for disposal or any other purpose.
5. *Commercial solid waste* means all garbage and trash generated by commercial establishments, except special materials and hazardous wastes, including resorts, hotels, restaurants, schools, and churches.
6. *Garbage* means all putrescible wastes, except sewage and body wastes, including all organic wastes that have been prepared for or intended to be used as food or have resulted from the preparation and consumption of food, including all such substances from all public and private establishments and residences.
7. *Hazardous waste* means any chemical, compound, mixture, substance, or article that is designated by the United States Environmental Protection Agency, the Arizona Department of Environmental Quality or appropriate agency of the state to be "hazardous," as that term is defined by or pursuant to federal or state law. Hazardous waste includes but is not limited to medical wastes, pathogenic materials, toxic materials, insecticides, motor oils, paints, radioactive material, explosives, flammable and corrosive materials.
8. *License* means a license issued under the terms of this Article to a provider of solid waste and recyclable removal services.
9. *Licensee* means a person or entity to which a License is issued under this article.

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10. *Liquid Waste* means septic tank or cesspool pumpings.
11. *Pathogenic liquid or solid waste* means any liquid or solid waste causing or capable of causing disease.
12. *Putrescible waste* means waste which is capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors or gases and capable of providing food for or attracting birds, insects, snakes, rodents or animals capable of transferring a disease bacterium or virus from one organism to another.
13. *Recyclable material* means any post-consumer material, including but not limited to, metals, plastics, glass or paper products that may be collected, separated, cleaned, treated or reconstituted and returned to the economic stream in the form of materials or products.
14. *Refuse* means all putrescible and nonputrescible solid wastes, except human bodily wastes, including garbage, trash, rubbish, ashes, street cleanings and dead animals; abandoned, wrecked or junked vehicles or parts thereof; brushable material, and containable rubbish, construction waste.
15. *Solid waste* means refuse, debris, and all other discarded materials.
16. *Town* means the Town of Paradise Valley, acting through the Town Manager or other authorized official.
17. *Trash* means all non-putrescible solid wastes consisting of both combustible and non-combustible solid waste material.
18. *Uncontained Bulk Rubbish* means wooden and cardboard boxes, crates, appliances, large household items, and other items which by size and shape are not readily containable.

Section 8-3-2 LICENSES REQUIRED; CONDITIONS

- A. Collection of commercial and residential solid waste and recyclables within the Town shall only be done by a contractor licensed by the Town to perform such work. Applications for a new license or a renewal license shall include such information as may be requested by the Town including:
 - (1) The identity of the applicant. The contractor's application shall include the name, business and residence addresses of all owners, partners, general managers and principal officer, as well as business references and such other information as deemed necessary and evidence that the applicant is in good legal standing, where relevant.
 - (2) The Town must have satisfactory evidence that the contractor possesses the necessary financial, legal, administrative, and technical ability to collect, transport and dispose of commercial and residential solid waste and recyclables in a manner satisfactory to the Town and in conformity with the state or county department of health laws, rules and regulations.

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- B. The contractor desiring a license to collect commercial and residential solid waste and recyclables shall submit an application in a form approved by the Town to the Town with an annual five hundred (\$500.00) dollar license fee.
- C. Any license granted by the Town shall be nontransferable and may be suspended or canceled by the Town upon failure or refusal of a licensee to comply with the provisions of this chapter and after notice and hearing respecting the same. The license shall run for the fiscal year commencing July 1 and ending June 30. Application for renewal shall be made at least thirty (30) days prior to expiration of current license. Fees may be prorated monthly on licenses issued during the fiscal year.
- D. Any License granted is subject to the general provisions of this Article in effect at the time the License is granted. If there is a conflict between the terms of the License and other codes and ordinances of the Town, the License shall control.
- E. The Town may modify license requirements from time to time to reflect changing conditions or technology.
- F. The Town reserves the right to limit the number of licenses granted, to establish boundaries for license service areas, and/or to centrally contract for any and all solid waste collection and recycling services provided within the Town.
- G. The area that may be served through License shall be the entire area within the corporate limits of the Town of Paradise Valley. The Town may grant a License for the entire Town or for such portion or portions of the Town as may be specified by the License.

Section 8-3-3 INSURANCE AND SURETY BOND

- A. Upon the execution of a License, a Licensee shall file with the Town, and maintain in effect throughout the term of the License, insurance policies issued by an insurer licensed to conduct business in the State of Arizona, insuring with respect to the operation and maintenance of the system, comprehensive general and automobile liability coverage, including but not limited to:
 - (1) blanket contractual liability,
 - (2) completed operations liability,
 - (3) broad form property damage endorsement, including but not limited to, coverage for explosion, collapse and underground incidents, and
 - (4) automobile non-ownership liability.
- B. The Town expressly reserves the right to modify any insurance and liability requirements when it deems such action necessary to protect the public interest and welfare.

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- C. This insurance shall include coverage which meets or exceeds the following minimum amounts, or exposure to loss:
 - (1) For bodily injury, including death, in the amount of \$2,000,000 combined single limit;
 - (2) For property damage in the minimum amount of \$1,000,000;
 - (3) Comprehensive automobile liability for bodily injury of \$2,000,000 combined single limit; and
 - (4) Worker's compensation coverage as required by the laws, rules and regulations of the State of Arizona.

- D. Any insurance policy obtained by Licensee in compliance with this Section shall include the Town as an additional insured, shall be primary, and must be approved by the Town Risk Manager/Town Attorney. Such insurance policy shall be filed and maintained with the Town during the term of the License. Licensee shall immediately advise the Town of any litigation that would affect this insurance or reduce the amount of coverage. Any insurance or self-insured coverage carried by the Town shall be excess coverage and not contributory insurance to that provided by a Licensee.

- E. Neither the provisions of this Section nor any damages recovered by the Town thereunder shall be construed to limit the liability of Licensee to the Town for damages.

- F. All insurance policies shall contain the following endorsement: "This insurance policy may not be canceled by the insurance carrier, nor may the insurance carrier fail to renew this policy until thirty (30) days after receipt by the Town of Paradise Valley of the insurance carrier's written notice of its intention."

- G. Licensee shall be solely responsible for all premiums due and payable with respect to the insurance coverage required.

Section 8-3-4 INDEMNIFICATION BY LICENSEE

Each Licensee shall, at its sole expense, fully indemnify, defend, and hold harmless the Town, and in their respective capacities, the officers, agents, and employees of the Town, for, from, and against any and all claims, suits, actions, liability and judgments for damages for actual or alleged injury to persons or property, including loss of property due to an occurrence, whether or not such property is physically damaged or destroyed, wherein such injury or loss arises in whole or in part through the acts or omissions of the Licensee or of the Town, of their officers, agents, employees or contractors in connection with services pursuant to their license.

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Section 8-3-5 PERMITS REQUIRED FOR REFUSE SERVICE; EXCEPTIONS

No person shall engage in, operate as, or represent itself to the public as one who collects, transports, disposes of, or recycles residential, commercial or industrial refuse generated within the city, except as otherwise expressly provided in this article, without having first obtained a valid license pursuant to the provisions of Article 8-3 of this Code.

Section 8-3-6 VEHICLE REQUIREMENTS:

- A. All vehicles used for refuse collection within the Town must be inspected and provide certification that they meet the following minimum requirements:
- (1) Vehicles must be in good condition and repair. The bodies shall be of readily cleanable construction, watertight and metal-lined to the full width and height of the body, with all seams welded.
 - (2) Vehicles shall be maintained and operated in a clean and neat manner so as to prevent refuse from spilling, leaking and blowing. All vehicles shall have enclosed bodies. Where spillage does occur, it shall be picked up immediately by the collector and returned to the vehicle or container.
 - (3) The outside of each vehicle must be clearly identified by the name and telephone number of the contractor operating the vehicle.
 - (4) Any open-top roll off container must have a cover that prevents refuse or contents from spilling or flowing onto the roadway.
 - (5) Starting on July 1, 2017, all vehicles with diesel engines shall be no older than seven (7) years.
 - (6) Vehicle fleet is required to have “operation-at-idle” and “smart back up” technology.
- B. Unless there is a specific need for other types of collection equipment, all residential solid waste and recyclable collection vehicles shall be of the automated side loading design, intended to service 60 to 100 gallon wheeled containers. All licensees shall provide containers that are free of noticeable defects and in good working order, including a lid that prevents rainwater from entering the container and a fully functioning hinge.

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Section 8-3-7 RESIDENTIAL COLLECTION; SERVICES ²⁰¹⁶⁻¹²

- A. The contractor shall collect solid waste and recyclable materials from residences in accordance with the provisions of this Article.

- B. Contractors shall make application to appropriate state and/or Maricopa County agency for a waiver of twice weekly solid waste collection for areas in which recyclables are collected weekly, such that solid waste and recyclables will each be collected once weekly, however, contractors may continue to offer twice a week collection of solid waste and weekly collection of recyclables.

Section 8-3-8 RESIDENTIAL SOLID WASTE AND RECYCLABLE CONTAINERS; SPECIFICATIONS; CARE; PLACEMENT

- A. All solid waste and recyclable containers must conform to the following requirements.
 - 1. Contractors shall provide each owner, agent, or occupant of every dwelling where refuse accumulates a suitable and approved container for receiving and storing solid waste.
 - 2. Solid waste shall be stored in durable, nonabsorbent, noncombustible, watertight, and easily cleanable containers of rust resistant metal, rubber, plastic or other similar material, with close fitting covers and having adequate handles and wheels to facilitate handling.
 - 3. The size and shape of residential containers shall be determined by the contractor but shall have a capacity of not less than thirty (30) nor more than one-hundred (100) gallons.
 - 4. Containers for the storage of solid waste shall be maintained in such a manner as to prevent the creation of a nuisance or a menace to public health. Containers that are broken or otherwise fail to meet the requirements of the rules shall be promptly replaced, by the contractor, with an approved container.
 - 5. It is the responsibility of the owner, agent, or occupant of every dwelling or commercial structure where refuse accumulates to maintain the solid waste container in a clean and sanitary condition, free from odors.
 - 6. Containers may be used only for the purpose of collecting and storing solid waste and recyclable materials.
 - 7. Residential solid waste and recycling generators with containers shall place containers at the curb line in front of their residences on the scheduled collection days. Containers shall not be placed for collection before 6:00 p.m. on the day preceding the date of collection, and after

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the containers are emptied, they shall be removed from the curb line on the day of collection. Containers shall be stored, between collection days, in such a manner that they are not readily visible from the street.

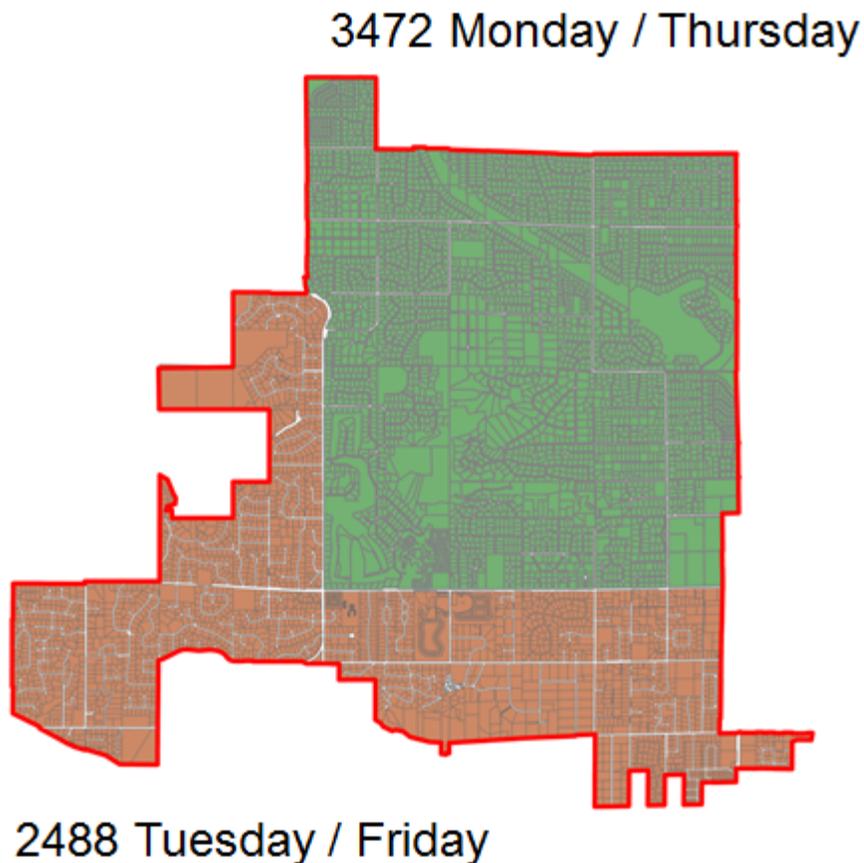
8. To ensure optimal use of containers and auxiliary collection equipment and/or prevent the injury or harm to those collecting refuse or recyclables, the contractor may set weight limitations and/or require waste generators regularly exceeding the weight limitations to purchase additional containers as may be reasonable.
- B. Failure of the owner or occupant to comply with the requirements of this section will subject the owner or occupant of the property to penalties for violation of the Town Code.
- B. The abatement procedure for a resident, owner or occupant who fails to comply with the requirements of this section is defined in section 8-5-2 of the Town Code.

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Section 8-3-9 FREQUENCY OF COLLECTION; HOURS ²⁰¹⁶⁻¹²

- A. The frequency of solid waste collection shall be in accordance with the regulations of the state or county agency with jurisdiction.

- B. Residential collection, including recyclables, for those residences south of Lincoln Drive and those residences west of Tatum Boulevard is allowed only on Tuesdays and Fridays from 6:00 A.M. to 6:00 P.M. Residential collection, including recyclables, for those residences north of Lincoln Drive and those residences east of Tatum Boulevard is allowed only on Mondays and Thursdays from 6:00 A.M. to 6:00 P.M. Commercial waste removal service is also allowed on weekends and holidays. The Town reserves the right to further regulate days of collection to achieve more efficient service routing within the Town.



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Section 8-3-10 OWNER OR OCCUPANT REQUIREMENTS

- A. All owners, or residents if the property is not owner occupied, of real property within the Town limits shall obtain solid waste collection services in accordance with the requirements of this Article from a provider licensed by the Town pursuant to this Article.
- B. Nothing in this section requiring use of a licensed solid waste collection provider shall preclude the following:
 - 1. Collection of usable clothing, furniture and other household items by recognized charities.
 - 2. Removal of tree trimmings and other landscaping materials by property owners, occupant or property owner's or occupant's agents.
 - 3. Removal of recyclable materials such as aluminum cans, newsprint and other paper, glass, metal and plastic by the property owner, occupant, or agents for deposit at a recycling center or donation through suitable recycling containers in public areas.
 - 4. Removal of unserviceable furniture and appliances, and construction debris by property owners or occupants in vehicles owned or leased by them or family members.
 - 5. Removal of construction and demolition debris by building, renovation or landscaping contractors using their own vehicles or by haulers specializing in this service.
 - 6. One-time collection no more than once each calendar quarter for major housecleaning and when vacating a residence.

Section 8-3-11 ANIMAL WASTE

- A. Wastes from animals or other pets shall be disposed of in the following manner:
 - 1. Wastes from small animals or pets shall be placed in a plastic bag, securely tied and then placed in a solid waste container.
 - 2. Wastes from larger animals, such as horses and other livestock kept as pets or and is placed in an approved plastic bag, securely tied and then placed in a solid waste container.
 - 3. All animal wastes shall be removed from pens, stables, yards, cages and other enclosures and disposed of in the manner prescribed above or composting as often as necessary to prevent occurrence of a health hazard or public nuisance as defined by 8-4-1 of the Town Code.
 - 4. All animal owners and custodians shall immediately clean up and properly dispose of wastes left by their animals on any public street, sidewalk, right-of-way, or private property.

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Section 8-3-12 PROHIBITED DISPOSAL

The following types of refuse shall not be placed in containers, in the right-of-way, or curbside:

1. Hazardous wastes;
 2. Septic tank or cesspool pumpings and similar liquid waste.
 3. Dirt, rock, construction or demolition material.
 4. Appliances, furniture, bulky automotive parts, tires, paint, or concrete blocks.
- A. Dead dogs, cats, and other animals weighing less than seventy-five (75) pounds upon any public right-of-way will be removed and disposed of upon notification of the Town's Department of Public Works or of a private removal and disposal organization in the business of providing this service. Dead animals shall not be placed in solid waste containers.
- B. Any person who is in the business of trimming trees, shrubs, grass, or brush for compensation shall be solely responsible for removal and disposal of all brush, tree trimmings, grass, leaves or similar landscaping or plant material generated in connection with such activity.
- C. Any refuse which is placed for collection but which does not comply with the provisions of this chapter will not be collected and will subject the owner or occupant of the property, or the owner or occupant of abutting property, in the case of non-complying refuse in the right-of-way, to penalties for violation of the Town Code.
- D. The abatement procedure for a resident, owner or occupant who fails to remove items placed for collection that do not conform to the requirements of this chapter is defined in section 8-5-2 of the Town Code.
- E. No person shall place or cause to be placed any garbage, debris, trash, refuse, papers or other materials upon any public or private property within the Town except as specifically permitted in this chapter or at sites designated by the Town Council.

Section 8-3-13 BURNING GARBAGE

No person shall burn or attempt to burn garbage within the town limits.

Section 8-3-14 BUILDING CONTRACTORS TO LEAVE AREAS CLEAN

All owners, contractors and builders of structures shall, upon the completion of any such structure, remove and dispose at their sole cost and expense all refuse of every nature, description or kind which has resulted from the building of such structure, including all lumber scraps, shingles, plaster, brick, stone, concrete and other building material, and shall leave the lot and all nearby premises utilized in such construction

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in a clean and well kept condition within five (5) working days. Failure to comply with this section will subject the responsible party to penalties for violation of the Town Code.

Section 8-3-15 ACCUMULATING COMBUSTIBLE RUBBISH;

- A. No person shall place upon or permit to remain upon any roof or in any court, yard, vacant lot, alleyway or open space any accumulation of wastepaper, waste hay, grass, straw, weeds, litter or combustible or inflammable waste or rubbish of any kind. All weeds, grass, vines and other growth which endanger property or may be subject to fire shall be cut down and removed by the owner or occupant of the property.
- B. Hay may be stored in the town where the hay is properly baled and properly stacked; provided, that storage of hay does not violate the provisions of this code or any other ordinances of the town.
- C. Failure to comply with this section will subject the responsible party to penalties for violation of the Town Code.

Section 8-3-16 SPILLAGE AND CLEANUP

No person shall deposit or cause to be deposited upon any street, alley or premises in the town any garbage, trash, or refuse of any kind. It shall be the duty of all refuse collection personnel to immediately clean up any refuse spilled during the collection process. Failure to comply with this section will subject the responsible party to penalties for violation of the Town Code.

Section 8-3-17 PENALTY FOR VIOLATION

Any person found guilty of violating any of the provisions of this Article 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). Each day that a violation continues shall be a separate offense punishable as described. In the alternative to the criminal penalty, the health officer or his designee may proceed pursuant to this Article by citation for civil sanctions(s) or declare such violations to be a public nuisance. The procedure for civil actions shall be as outlined in §8-6-5 of this code and the procedure for nuisance abatement shall be as outlined in Article 8-5 of this code.

Article 8-4 NUISANCE

- 8-4-1 Public Nuisance Purpose and Scope ^{457 517}
- 8-4-2 Abatement of Public Nuisances

Section 8-4-1 Public Nuisance Purpose and Scope ⁵¹⁷

Purpose and scope: The purpose of this Chapter is to promote the health and safety of the Town of Paradise Valley and its residents, and to protect neighborhoods against physical, and visual deterioration. To that end, the Town intends by this Chapter to prohibit nuisances that:

- (1) Contribute to or cause injury or endangerment to the Health, safety or welfare of others;
- (2) are contrary to community standards;
- (3) are offensive to the senses;
- (4) unlawfully interfere with, obstruct or tend to obstruct or render dangerous the free passage or use, in the customary manner, of any watercourse, sidewalk, public street or roadway,
- (5) obstruct the free use of property so as to interfere with the comfortable enjoyment of life and property by the public.

Section 8-4-2 Abatement of Public Nuisances

It shall be unlawful for any person to refuse or neglect to remove, abate, or destroy any public nuisance.

Article 8-5 **PROCEDURE**8-5-1 Repealed ⁴²⁰8-5-2 Abatement of Nuisances and Code Violations ^{420 468}Section 8-5-2 **Abatement of Nuisances and Code Violations**

- A. If the Town Manager or his designee determines that a nuisance, as defined in this Code, or any violation of this Chapter exists on any property, he shall provide reasonable written notice of the nuisance or violation to the owner and to the occupant or lessee of the property. The notice shall be either personally served or mailed to the owner, and to the occupant or lessee, at his last known address by certified mail, or the address to which the tax bill for the property was last mailed. If the owner does not reside on the property, a duplicate copy of the notice shall be sent to him at his last known address. The notice shall contain a legal description of the property, specify the nature of the nuisance or violation, and state the estimated cost to be assessed in the event that the nuisance or violation is removed or abated. The notice shall advise the persons to whom it is sent that in the event that the violation is not corrected within thirty (30) days from the date upon which the notice is given, the Town will cause the violation or nuisance to be corrected, removed or abated with all costs assessed against the owner, lessee or occupant, individually or jointly, for the removal or abatement of the violation or nuisance, in addition to any civil or criminal fines which may be imposed pursuant to this Chapter. The Town may record the notice in the county recorder's office. If subsequent satisfaction or compliance with the notice is obtained, the Town shall record a release of the notice.
- B. The notice shall also advise that the notice of nuisance/violation and any assessment of costs may be appealed in writing to the Town Council within ten (10) days after notice is given, unless the removal or abatement is ordered by a Court. Such appeal shall be written and filed with the Town Clerk and shall set forth the basis upon which the Town Council is requested to reverse the determination of the Manager or his designee. The Town Council may reverse, modify, affirm or remand the matter to the Town Manager or his designee. If the Manager is affirmed or modified, the owner, occupant or lessee affected by the notice shall have an additional ten (10) days from the date of the Town Council action in which to remove or abate the violation or nuisance. ⁴⁶⁸
- C. If any person with an interest in the property, including an owner, lienholder, lessee or occupant, after notice as required in Subsection A hereof, does not remove and abate the violation or nuisance, the Town Manager may remove, abate, enjoin or cause removal and abatement, and cause a statement of costs of such removal or abatement by the Town to be issued individually, jointly or severally against the owner, occupant or lessee. Costs of abatement, injunction or removal by the Town shall include actual cost of such removal or abatement, including five percent (5%) for additional inspection and other incidental connected costs. Such sum, and associated legal costs for abatement or injunctions, shall be assessed against the lot or

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tract of land if it remains unpaid thirty (30) days after the date of the statement of costs.

- D. The assessment shall be recorded in the county recorder's office, including the date and amount of the assessment, the legal description of the property and the name of the Town. The assessment, from the date of its recording in the office of the county recorder, shall be a lien on the lot or tract of land and the several amounts assessed against such lot or tract of land until paid. Such assessments recorded after July 15, 1996, are prior and superior to all other liens, obligations, mortgages or other encumbrances, except liens for general taxes. A sale of the property to satisfy an assessment obtained under the provisions of this section shall be made upon judgment of foreclosure and order of sale. The Town may bring an action to enforce the assessment in Superior Court in Maricopa County at any time after recording of the assessment, but failure to enforce the assessment by such action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording thereof. A prior assessment for the purposes provided herein shall not be a bar to a subsequent assessment or assessments for such purposes, and any number of liens or assessments on the same lot or tract of land may be enforced in the same action. Assessments that are imposed under this section shall run against the property until paid and are due and payable in equal annual installments as provided in A.R.S. § 9-499. An assessment that is past due accrues interest at the rate prescribed by A.R.S. § 44-1201.
- E. For the purpose of this section, notice is deemed "given" when it is personally served or certified mail is signed for. If certified mail is returned as refused or undelivered, notice is deemed "given" as of the last date of publication as provided in A.R.S. § 39-204. "Property" includes buildings, grounds, lots and tracts of land.

Article 8-6 **COMMUNITY ENHANCEMENT** ⁴¹⁷

- 8-6-1 Definitions ⁵¹⁷
- 8-6-2 Enumerated Violations ^{517 2016-08}
- 8-6-3 Violations Not Inclusive
- 8-6-4 Option to Proceed Criminally or Civilly
- 8-6-5 Commencement of Civil Action, Citation, Contents
- 8-6-6 Presumption that Owner is Responsible
- 8-6-7 Civil Sanction, Appearance or Payment by Mail
- 8-6-8 Default Judgment
- 8-6-9 Civil Sanctions Imposed
- 8-6-10 Rules of Procedure
- 8-6-11 Collection of Civil Sanctions, Lien
- 8-6-12 Abatement
- 8-6-13 Notice of Violation, Recording
- 8-6-14 Inspections and Authority
- 8-6-15 Each Day Separate Violations

Section 8-6-1 **Definitions** ⁵¹⁷

The following definitions shall apply to this Article:

- A. “Bodies of water” means a constructed or excavated area designed to hold water on a continuous basis other than a swimming pool or spa.
- B. “Debris” means, including but not limited to, junk, lumber, furniture, household fixtures, trash, rubbish, garbage, refuse of any kind or nature.
- C. “Deteriorated Condition” means unsightly conditions including, but not limited to, the accumulation of debris; fences or walls characterized by holes, breaks, rot, crumbling, cracking, peeling or rusting; landscaping that is dead, damaged, characterized by uncontrolled growth or lack of maintenance, and any other similar conditions of disrepair.
- D. “Deteriorate or Deterioration” means a diminution in quality in the condition or appearance of a building or structure or parts thereof, the fact or process of decay or degeneration, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, vermin infestation, unsafe or unsanitary conditions, or any other evidence of physical decay or neglect or excessive use or lack of maintenance.
- E. “Inoperable Vehicle” means a vehicle which exhibits one or more of the following conditions: physically incapable of operation, wrecked or partially dismantled, on jacks, blocks or similar equipment, abandoned, unable to be safely operated, deflated tires, or from which the chassis, engine, wheels or tires have been removed, or without valid registration.

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- F. “Owner or Owner of Record”, as used within this Article, shall be presumed to be the person(s) or entity indicated on the records of the Maricopa County Assessor as the owner of the property in question on the date of any alleged violation.
- G. “Occupant” means a person who is occupying a building or structure and is using it as a place of abode, a place of residence or a place to live on either a temporary or permanent basis.
- H. “Unscreened” means any unroofed portion of the property 1) visible from a street, right of way or public property; and 2) not screened by a substantially opaque fence, dense shield of vegetation, walls, shade structure or building at least five (5) feet high.
- I. “Vegetation” or “Landscaping “ means plant growth, whether living or dead, characterized by grass, weeds, bushes, cactus or trees.

Section 8-6-2 Enumerated Violations ^{517 2016-08}

It is unlawful, a civil and criminal violation of this Code, and a public nuisance for any occupant, lessee or owner:

- A. To leave or permit to remain any inoperable vehicle when such vehicle or part thereof is located in an unscreened area.
- B. To leave or allow in an unscreened area
 - 1. grass which exceeds six (6) inches in height;
 - 2. weeds which exceed six (6) inches in height;
 - 3. dry vegetation, tumbleweeds, branches or clippings; or
 - 4. dead trees, bushes or shrubs.
- C. To leave or permit to remain on the property any accumulation of rubbish, trash, filth, debris or other deteriorated conditions.
- D. To leave or permit to remain on the property for more than thirty calendar days any stockpiles of dirt, decomposed granite, sand or other material unless an active building permit is obtained and the stockpile is necessary for the construction project related to such building permit.
- E. To leave or permit to remain on the property for more than thirty calendar days any dumpster or other trash receptacle in plain view from off-site unless an active building

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permit is obtained and the trash receptacle is necessary for the construction project related to such building permit.

- F. To cause or allow a condition which may harbor insect or rodent infestation, or which may likely become a fire hazard, or which may result in a condition which may threaten the safety or health of neighboring properties or the public.
- G. To cause or permit any object, debris, building, tree, bush or landscaping to interfere with, obstruct, tend to obstruct, or render dangerous the free passage, use or vision in the customary manner of any sidewalk, street, or right of way or in violation of the Town Code.
- H. To cause or permit any vegetation or landscaping, that is visible from public property, that is substantially dead or damaged, characterized by uncontrolled growth or lack of maintenance, or any other deteriorated condition.
- I. to cause or permit Any pool, spa, fountain, or other body of water to be improperly maintained so as to create a safety hazard, harbor insect infestation, be polluted, or become stagnant.
- J. To allow or permit any wall or fence that is missing blocks, boards, or other material, to deteriorate due to lack of maintenance so as to constitute a hazard to persons or property.
 - (1) Allow or permit any dangerous, deteriorated, abandoned, partially destroyed, or unfinished building, addition, appendage or other structure, or any building in violation of the Uniform Building Code as adopted by the Town, or any vacated or abandoned building or structure to be unsecured at any time resulting in a condition which may threaten the safety or health of neighboring properties or the public.
 - (2) The means, methods, or materials used for securing a vacated or abandoned building or structure, such as wood, metal, or any other item, must be compatible with the color of the building.
- K. To allow or permit cattle, horses, sheep, goats, dogs, cats, birds, fowl, or any other animal or bird, and the pens, stalls, yards, shelters, cages, areas, places and premises where they are held or kept, to be maintained in such a manner as to cause flies, insects, vermin, rodent harborage, or to allow odors, ponded water or other liquid, the accumulation of manure, garbage, refuse or other noxious materials to become a public health nuisance.
- L. To allow or permit colonies of feral bees, hornets, or wasps, or colonies of honeybees maintained for the production of honey to become a public nuisance.
- M. Notwithstanding any other provisions of this Chapter, a person who commits a nuisance or willfully omits to perform any legal duty relating to the removal of a

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nuisance not enumerated in this chapter, but otherwise provided for within the scope and authority to regulate nuisances as granted to the Town by State Law, shall be in violation of this chapter, provided the violation poses a present hazard to public health, safety and welfare.

Section 8-6-3 Violations Not Exclusive

Violations of this Article are in addition to any other violation enumerated within the Town ordinances and Code and in no way limits the penalties, actions or abatement procedures which may be taken by the Town for any violation of this Article which is also a violation of any other ordinance of the Town, or statute of the State of Arizona.

Section 8-6-4 Option to Proceed Criminally or Civilly

The health officer or his designee (hereinafter referred to as "health officer") may proceed pursuant to this Article by citation for civil sanctions or by criminal complaint pursuant to the general penalties provision of § 1-9-2 of this Code.

Section 8-6-5 Commencement of Civil Action, Citation, Contents

- A. The health officer is assigned the responsibility of enforcing this Article and is granted the authority expressly granted and impliedly needed and necessary for enforcement.
- B. The health officer is authorized to commence an action under this Article by issuing a citation to the occupant of the property where the violation has occurred, or to the owner of record, or to both.
- C. The citation will be substantially in the same form as the Arizona traffic citation form currently in use and shall direct the defendant to appear in Municipal Court or pay the civil sanction imposed pursuant to § 8-6-9(A) within twenty (20) days after issuance of the citation. The form shall contain a schedule of civil sanctions and penalties which are imposed by the Court.
- D. The citation may be signed by the occupant, lessee or owner with his promise to appear or pay the civil sanction imposed as provided in § 8-6-9(A) within twenty (20) days of the issuance of the citation. If the occupant, lessee or owner is unavailable at the time the violation is noted, service may be accomplished and will be deemed proper and complete if the citation is either personally served or mailed to the owner, occupant or lessee at his last known address by certified mail, or the address to which the tax bill for the property was last mailed, or in any manner provided by the Rules of Civil Procedure.

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Section 8-6-6 Presumption that Owner is Responsible

The owner of record, as recorded in the Maricopa County Recorder's Office records, of the property upon which a violation of this Article exists shall be presumed to be a person having lawful control over any building, structure or parcel of land. If more than one person shall be recorded as the owner of the property, the persons shall be jointly and severally presumed to be persons having lawful control over the building, structure or parcel of land. This presumption shall not prevent enforcement of the provisions of this Article against any other person, lessee or occupant specified in this Article.

Section 8-6-7 Civil Sanction, Appearance or Payment by Mail

The defendant shall within twenty (20) days of the issuance of the civil citation appear in person or through his attorney in the Municipal Court and shall either admit or deny the allegations contained in the citation. If the defendant admits the allegations, the Court shall immediately enter judgment against the defendant in the amount of the civil sanction for the violation charged as set by this Article. If the defendant denies the allegations contained in the citation, the Court shall set a hearing date for trial of the matter.

Section 8-6-8 Default Judgment

If the defendant fails to appear as directed on the citation, the Court shall enter a default judgment for the amount of the civil sanction indicated for the violation charged, together with any allowable penalty for the defendant's failure to appear as established by the Court. If the defendant fails to appear at a prehearing conference as set by the Court, the Court shall nonetheless set the matter for trial. If a defendant fails to appear at a trial, the Court may enter judgment against the nonappearing defendant for the amount of the civil sanction plus allowable penalty for failure to appear. No judgment may be entered against a fictitiously identified defendant.

Section 8-6-9 Civil Sanctions Imposed

A. *Civil sanction schedule:*

The civil sanction for violating Section 8-6-2 shall be an amount not to exceed two hundred fifty dollars (\$250.00).

B. *Civil penalties imposed for failure to appear:*

In addition to the amount of the civil sanction imposed under subsection A above, there is imposed a civil penalty in the same amount as the civil sanction should the defendant fail to appear and answer for a violation of Section 8-6-2 within the time period stated on the citation or fails to appear at the time and place set for any hearing of a matter arising under this Article.

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Section 8-6-10 Rules of Procedure

The Arizona Rules of Court for Civil Traffic Violation Cases shall be followed by the Municipal Court for civil citations issued pursuant to this Article except as modified or where inconsistent with the provisions of this Article or as modified or established for use by the Municipal Court or the Arizona Supreme Court.

Section 8-6-11 Collection of Civil Sanctions, Lien

Any judgment for a civil sanction or penalty imposed pursuant to this Article shall constitute a lien against the real property of the defendant which may be perfected by recording a copy of the judgment under seal of the Town with the Maricopa County Recorder. Any judgment for civil sanctions or penalties taken pursuant to this Article may be collected as any other civil judgment.

Section 8-6-12 Abatement

- A. Any nuisance defined in this Article may be abated as provided in Article 8-5 of this Code or in any other manner authorized by law.
- B. In addition to any other sanction or penalty authorized by law or ordinance for civil or criminal prosecution of violations herein, or for abatement as a public nuisance, the Court may issue an order permitting the Town to abate the condition giving rise to the violation. The reasonable costs of any such abatement shall be the responsibility of the person found responsible or guilty of the violation.
- C. After notice to the owner, lessee, occupant or any responsible party, the judge or Court hearing officer shall conduct a hearing before issuing an abatement order. The hearing shall be informal and open to the public. Evidence may be taken from any interested party and considered in determining whether a condition in violation of this Article exists and what, if any, abatement action should be permitted. Any person who fails to appear after notice of the hearing may be deemed to have waived any right to introduce evidence. The Court's determination shall be based on the preponderance of evidence. Upon finding that abatement is appropriate, the Court may order removal, board-up, clean-up or any other action the Court deems reasonably necessary to correct the violation. The reasonable costs of any abatement permitted by Court order shall be the responsibility of the owner and may be collected as other costs of abatement provided for by ordinance or law.
- D. If a defendant fails to correct any violation charged within thirty (30) days of the issuance of the first citation, the Town Attorney may also proceed without further notice to commence an injunctive action for abatement of the violation. Any action taken under this Article shall be in addition to any other remedies provided for in this Code.

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Section 8-6-13 Notice of Violation, Recording

A. When the health officer determines a violation of this Article exists, the health officer may notify the occupant, owner or responsible party through the issuance of a notice of violation. A notice of violation issued shall include:

1. Identification of the property in violation
2. Statement of violations in sufficient detail to allow an owner or responsible party to identify and correct the problem
3. Reinspection date
4. Address and phone number of a Town representative to contact
5. Town's authority to abate if the owner, lessee or occupant does not correct the violation and to assess a lien against the property for the costs of abatement
6. Appeal procedures
7. Civil and criminal sanctions for violations and Court orders of abatement.

Nothing in this section shall require the issuance of a notice of violation prior to the commencement of civil or criminal violation proceedings.

B. The Town may record a notice of violation with the Maricopa County Recorder. A recorded notice of violation shall run with the land. Failure to record a notice of violation shall not affect the validity of the notice as to persons who receive the notice. When the property is brought into compliance, a satisfaction of notice of violation shall be filed at the request of the owner or responsible party at the requester's expense.

C. The transfer of any and all property interests in any manner, including but not limited to the sale, trade, lease, gift or assignment of any real property against which a notice of violation has been issued shall not relieve the party(s) served unless the legal entity assuming an ownership interest in such property, in writing, assumes responsibility for compliance with the notice of violation and a copy of such writing is presented to the Town. Any legal entity, real or statutory, who transfers the ownership interest in real property against which a notice of violation has been served without obtaining a written acceptance of liability from the new owner for the items listed in the notice of violation shall be guilty of a misdemeanor.

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Section 8-6-14 Inspections and Authority

- A. The Town is authorized to make inspections of property to determine compliance with this Article. An inspector may expand the scope of any inspection to include other Town Code violations noted during inspection.
- B. Unscreened exterior areas, buildings, structures and lands may be inspected at any time with or without the involvement of the owner, occupant or responsible party in accordance with legal requirements.

Section 8-6-15 Each Day Separate Violation

Each day that a violation of this Article is permitted to continue or occur by the defendant shall constitute a separate offense which is subject to separate civil or criminal citation pursuant to the provisions of this Article.

ARTICLE 8-7 DRAINAGEWAYS ⁴¹⁸

- Section 8-7-1 Drainageways and Watercourses, Duties, Presumption ⁶⁰¹
- Section 8-7-2 Designation of Drainage Facilities by Town Engineer
- Section 8-7-3 Maintenance and Repair by Owner, Occupant
- Section 8-7-4 Violations, Civil and Criminal Enforcement ⁵²⁰
- Section 8-7-5 Abatement

Section 8-7-1 Drainageways and Watercourses, Duties, Presumption

- A. It is unlawful and a public nuisance to allow or cause any alteration, diversion, retardation, obstruction or impeding of the flow of waters in any watercourse or drainageway whenever such action creates a hazard to life or property, damages or endangers by flooding, erosion or any other means any public or private property or improvements, or reduces the capacity of a watercourse or drainageway.
- B. It is unlawful and a public nuisance to allow or cause any excavation, filling, grading, dumping or building in any drainageway or watercourse except in compliance with Town building codes and applicable law.
- C. It is unlawful and a public nuisance to allow or cause an existing excavation or embankment or fill to become a hazard to life and limb, to endanger property or to adversely affect the safety, use or stability of a watercourse or drainageway.
- D. It is unlawful and a public nuisance to cause or allow rubbish, trash, vegetation, weeds, grass, landscaping or other growth to occur or accumulate in a drainageway or watercourse whenever such growth or accumulation damages or endangers by flooding or other means, reduces the capacity of watercourse or drainageway, or otherwise threatens the safety or health of neighboring properties or the public.
- E. For the purpose of this Article, watercourse and drainageway include and are not limited to the following: natural or artificial river, creek, stream, wash, arroyo, recorded drainage easement, channel, ditch, canyon, ravine, sheet flow or other potential flood hazard or flood plain area or other body of water having banks and bed through which waters flow on a recurrent basis.
- F. For the purpose of provisions of this Article, an owner of record or occupant of property upon which any violation or condition exists, as set forth in Subsections A through D of this section or the remainder of this Article, is presumptively responsible for such violation, penalties and abatement. The existence of such violation or condition shall constitute a prima facie case against such owner or occupant.

Section 8-7-2 Designation of Drainage Facilities by Town Engineer

The Town Engineer is authorized to approve and designate drainageways and watercourses on public and private property which shall be designed to carry surface and storm waters to the nearest practical watercourse, drainageway or facility, street or right-of-way approved by the Town Engineer as a safe place to deposit such waters, and for

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other compliance with this Article. It is unlawful and a public nuisance to fail to comply with such designation or the conditions of same as determined by the Town Engineer on public or private property.

Section 8-7-3 Maintenance and Repair by Owner, Occupant

The owner or occupant of private property upon which a designated drainageway or watercourse exists shall be responsible for the maintenance and clearance of such drainageway or watercourse and to ensure compliance with Subsections A through D of Section 8-7-1 above, Town ordinances and law. Failure to so maintain, clear or repair such drainageway or watercourse is unlawful and a public nuisance.

Section 8-7-4 Violations, Civil and Criminal Enforcement⁵²⁰

- A. Violations of this Article are in addition to any other violation enumerated within the Town Codes and ordinances and state law and in no way limits the penalties, actions or abatement procedures which may be taken by the Town for any violation of this Article.
- B. Violations of this Article may be prosecuted by citation for civil sanctions, with a maximum sanction not to exceed five hundred dollars (\$500.00), or by criminal complaint pursuant to the general penalties of § 1-9-2 of this Code.
- C. Each day that a violation of this Article is permitted to continue or occur by the defendant shall constitute a separate offense which is subject to separate civil or criminal citation pursuant to the provisions of this Article.
- D. A civil citation issued hereunder will be substantially in the same form as the Arizona traffic citation form currently in use, processed in accordance with the Arizona Rules of Court for Civil Traffic Violation Cases.

Section 8-7-5 Abatement

Any nuisance defined in this article may be abated as provided in Article 8-5 of this code or in any other manner authorized by law. The Town may also seek a court order of abatement pursuant to Section 8-6-12 of this code.

**Article 8-8 SPECIAL EVENTS ON PRIVATE PROPERTY AND
PUBLIC RIGHTS-OF-WAY ⁵⁴²**

Section 8-8-1	Intent and Purpose
Section 8-8-2	Definitions
Section 8-8-3	Permit Required
Section 8-8-4	Exemptions to Permit Requirement
Section 8-8-5	Application for Permit and Fees
Section 8-8-6	Prohibitions, Restrictions, and Limitations
Section 8-8-7	Requirements and Provisions for Approval of Permit
Section 8-8-8	Special Event Permits for Processions and Parades
Section 8-8-9	Pre-Approval of Temporary Structure Locations
Section 8-8-10	Procedure for Review of Application and Appeal of Decision
Section 8-8-11	Suspension of Permit
Section 8-8-12	Penalty

Section 8-8-1 Intent and Purpose

The intent of this chapter is to identify Special Events and to specify prohibitions, requirements, provisions, limitations, restrictions and conditions for their approval. The permitting and regulation of Special Events are intended to ensure the general health, safety, and welfare of the community, to ensure that the temporary operation of the Special Event will be a compatible activity for the neighborhood in which it is located and to minimize negative impacts on the immediate neighborhood.

Section 8-8-2 Definitions

“Block Party” means any group or neighborhood association consisting of Town residents, which, under competent adult supervision, gather upon any public street or right-of-way for a social purpose.

“Charitable Nonprofit Organization” means any person(s), partnership, association, corporation or other group whose activities are conducted for civic or humanitarian motives, or for the benefit of others, and not for the commercial gain of any private individual or group and may include, but shall not be limited, to political parties or committees, patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, cultural, charitable, scientific, historical, religious, athletic or medical organizations. Proof of federal exemption under 26 U.S.C. Section 501 (c), Section 501 (d) or Section 501 (e) may be required.

“Commercial ” means any individual, entity or organization that operates for profit and does not have valid 26 U.S.C. Section 501(c), Section 501 (d), or Section 501 (e) tax-exempt status.

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“Minor Event” means an event that takes place on private property; has a minimal impact on neighboring properties; and lasts for less than twenty-four (24) consecutive hours, including but not limited to weddings, family reunions, memorials, or other ceremonies.

“Parade “ or “Procession” means any organized procession, march, ceremony, or public walk, consisting of a group of individuals, animals or vehicles, or any combination thereof, moving in an orderly way on a public street or right-of-way, and shall include distance running, bicycle races and similar activities. This Article shall not apply to funeral processions or to governmental agencies acting within the scope of their functions.

“Special Event” includes a wide variety of events or short-term activities, other than minor events, that may impact neighboring properties, and that involve: the use of temporary structures for more than 24 hours; the temporary use of residential property for commercial or charitable purposes; the use of pyrotechnics or other temporary displays visible or audible off the property; the temporary use of public rights-of-way; or the use of temporary directional signage in the public rights-of-way. Special Event includes, but is not limited to, parades or processions, block parties, film production events, charitable fundraising events, designer and/or showcase home events, home and garden tours, and fireworks displays.

“Temporary Structure” means anything constructed or erected, the use of which requires a fixed location on the ground that is intended to be erected for a limited time, including but not limited to, tents, grandstands, bleachers, scaffolding and platforms, but excluding temporary sunshade structures or canopies of 200 square feet or less which have no side walls, and any tents or membrane structures that are depicted on the approved site plan for a property subject to a Special Use Permit, or otherwise provided for pursuant to the terms of a Special Use Permit.

Section 8-8-3 Permit Required

- A. An application for a Special Event permit on private property or Town-owned property shall be submitted to the Community Development Department. An application for a Special Event involving the use of a public street, or that may require extra security or special traffic control measures, shall also be reviewed by the Chief of Police or his designee.
- B. It shall be unlawful to conduct a Special Event without a properly issued Special Event permit, unless the event is exempted as provided in Section 4 of this Article, provided, however, that any Special Event that occurs on or involves the use of public rights-of-way, in whole or in part, shall obtain a permit. Minor deviations or variances from Town Code requirements, such as temporary exceptions to the noise and sign regulations, shall be denoted in the Special Event permit.

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- C. Special Events occurring without a valid permit shall be subject to immediate cessation pursuant to notice from the Town manager or his designee. It shall be unlawful to continue event activities after notice of a violation has been issued.

Section 8-8-4 Exemptions to Permit Requirements

The following categories are exempt from the requirement to obtain a Special Event permit, provided they do not involve the use of temporary structures; the use of Town rights-of-way, including valet activities that involve the use of Town owned rights-of-way or valet parking occurring in prohibited areas; aerial activities that involve the use of aircraft or tethered balloons; the use of temporary traffic directional signage in the public rights-of-way; or the use of off-duty police officers for directing traffic in the public rights-of-way.

- A. Garage, Yard or Estate Sales. Any commercial enterprise being run on residentially-zoned property under the pretense of a garage, yard or estate sale shall be prohibited and subject to immediate cessation. It shall be unlawful to continue such activities after an order to cease and desist has been issued by the Town Manager or his designee. The garage, yard or estate sale must sell items that are related to the residential use of that property and goods or items shall not be brought to the residential property from a commercial enterprise or business for the specific purpose of a sale or auction. Although exempt from the Special Event permit process, all garage, yard or estate sales are subject to the following requirements and limitations:
1. The garage, yard or estate sale shall be carried on wholly within the property lines on which the dwelling is located and limited to the hours between 7:00 a.m. and 5:00 p.m.
 2. The garage, yard or estate sale shall operate for not more than three consecutive days and shall be held no more than three times within a calendar year at the same location.
 3. All signage shall be in conformance with the sign regulations as designated in Article XXV of the Paradise Valley Zoning Code.
- B. Minor Events. Although minor events, as defined in this Chapter are exempt from the Special Event permit requirements, they may require other types of permits, such as: Special Event liquor licenses, pursuant to A.R.S. § 4-203.02; Uniform Fire Code permits pursuant to Town Code §13-1-10, or any other section of the Code which requires a permit.
- C. Certain Charitable Events. Charitable Nonprofit Organizations, schools, or political fund-raising events in which all of the net proceeds benefit the Charitable Nonprofit Organization, school, or political organization.

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- D. Special Use Permit Properties. Special Events on properties governed by Special Use Permits are exempt from the Special Event permit process, provided that such exempted events are limited to the type of activities that are customary and incidental to the primary uses of the property and do not require the use of temporary structures which are not allowed by the Special Use Permit.
- E. Funeral processions. A funeral procession composed of a procession of vehicles identified by such methods as may be determined and designated by the Paradise Valley Chief of Police.

Section 8-8-5 Application for Permit and Fees

- A. A completed application for each Special Event permit, and three copies of all submittals shall be submitted to the Community Development Department at least 15 days before the scheduled Special Event. The 15-day time limitation may be waived upon the applicant's agreement to waive the appeal provisions of Section 10 of this chapter, except for permits that involve a Special Event Liquor License or events that take place on Town-owned property.
- B. Each applicant for a Special Event permit shall provide the information necessary to make recommendations and/or provisions for approval. At a minimum, the following information shall be provided:
 - 1. The name, address and telephone number of the person or organization seeking to conduct the event.
 - 2. The name, address, and telephone number of the organization's representative who will be responsible for managing the event.
 - 3. A description of the type of Special Event to be held, the date(s) it is to be held and the proposed duration of the activities.
 - 4. A site plan depicting existing facilities and the boundaries of the Special Event, the location of any proposed temporary buildings and/or structures, including any tents, stages or vendor's booths, or auxiliary power sources that may be used during the event, and a parking plan, that shall contain provisions for providing adequate parking for the attendees of the Special Event, and, if applicable, for any other parking needs for the property upon which the Special Event is to occur.
 - 5. The expected number of participants, including but not limited to staff and attendees of the event
 - 6. Proposed security measures for the event.

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7. A plan for how sanitary and water facilities, and waste removal will be provided during the event.
 8. If required by the Town, a permit issued by the Fire Marshal certifying compliance with the Uniform Fire Code.
- C. The following information may also be required if deemed necessary by the Town.
1. The parade or procession route to be traveled, the starting point and the termination point, a statement as to whether the event will occupy all or only a portion of the width of the streets proposed to be traversed, and any trash or water points along the route.
 2. A sign plan depicting the proposed location(s) for the placement of temporary directional or traffic control signage, the number and size of the proposed signs, and a schedule for the placement and removal of the signs.
 3. Details on how the event may impact neighboring properties, including but not limited to: noise from the event and how the noise will be monitored and controlled; the amount of traffic likely to be generated and how it will be accommodated; parking for event attendees; location of temporary structures; and the emission of odor, dust, gas, vibration, smoke, heat, pollutants, or glare beyond any boundary of the property on which the Special Event is to be conducted.
- D. The Town Council, may, by resolution, set appropriate fees due at the time of filing the application, said fees to defray the cost of issuing and administering permits under this Chapter. Fees may be waived for non-profit organizations, neighborhood groups or associations, governmental agencies and schools.

Section 8-8-6 Prohibitions, Restrictions, and Limitations⁶³¹

- A. No carnival, festival, fair, amplified outdoor concert, mechanical amusement ride, circus, outdoor auction, pumpkin sale, Christmas tree sale, haunted house, or similar kind of temporary outdoor exhibition or performance conducted by a commercial entity shall be allowed.
- B. The use of private homes for Special Events that involve commercial uses or sales, the advertising of any product or goods, or events held for profit, including such events as auctions, art sales, jewelry or furniture sales, furniture showrooms, or the rental of residential property for a commercial event or purpose is prohibited, except for film production events or as otherwise specifically allowed herein.

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- C. Temporary structures.
1. No temporary structure shall be situated in such a manner that it blocks the access of emergency vehicles, creates a traffic hazard, or reduces the amount of available parking at the site of the Special Event to less than required under Article VIII of the Paradise Valley Zoning Ordinance. Special Events to be held on property subject to a Special Use Permit shall be subject to the approved provisions of the parking plan as required under Section 5-B-4 of this Article.
 2. All temporary structures shall meet accessory structure setbacks and primary structure height limitations as provided for in Article X, Tables 1001A and 1001B of the Zoning Code. Special Events to be held upon property subject to a Special Use Permit shall meet the setback and height limitations pursuant to the terms of the Special Use Permit, or if no such standards are provided, a 40-foot setback on all sides and a 30-foot height limitation shall apply. For the purpose of determining required distances, support ropes and guy wires shall be considered as part of the temporary structure.
 3. Temporary structures shall generally be removed from the site by the next business day after the expiration of the permit, or as otherwise provided for in the Special Event permit.
 4. A permit from the Fire Department is required for any structure or tent having an area in excess of 200 square feet, or a canopy in excess of 400 square feet.
 5. The Town Manager, or his designee, may waive any setback requirement set forth in this Chapter for a Minor Event upon written request of an applicant when the applicant demonstrates reasonable cause and there are no material adverse impacts from the requested waiver.
- D. Special Events conducted within the Town shall at all times be in compliance with applicable Town ordinances (unless modified by the approved terms of the Special Event permit) and all applicable County and/or State requirements.
- E. Electrical wiring shall be installed in compliance with the provisions of the National Electrical Code as adopted by Article 5-3 of the Town Code. Any supplementary lighting used during the Special Event shall be in conformance with the lighting provisions of this Code.
- F. The operating hours of the Special Event shall be limited to the hours between 8:00 a.m. and 10:00 p.m., or as more specifically provided for by a Special Use Permit or a Special Event permit. To avoid unreasonable interference with the

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use and enjoyment of other properties in the immediate vicinity of the Special Event, these time limitations may be modified by the Town.

- G. The conduct of the event shall not substantially interrupt the safe and orderly movement of other traffic or unduly interfere with fire and police protection or ambulance service to contiguous neighborhoods.
- H. The event shall not be held for the sole purpose of advertising any product or goods, and is not designed to be held purely for private profit.
- I. No person shall unreasonably hamper, obstruct or impede, or interfere with any Special Event in which a validly issued Special Event permit has been obtained.

Section 8-8-7 Additional Requirements and Provisions for Approval of Permit ⁶²³

- A. Requirements or provisions may be imposed on any Special Event permit whenever the public health and safety so require. If deemed necessary, based upon the type of Special Event and its impact on the immediate neighborhood, such provisions may include, but are not limited to, the following:
 - 1. The payment of a refundable security deposit for Special Events to be held on Town owned right-of-way may be required.
 - 2. That the Special Event shall take place only within a prescribed area with set boundaries.
 - 3. That the applicant may be required to provide traffic control measures for the Special Event.
 - 4. That clean up after the Special Event and waste removal shall be complete by 5:00 p.m. on the next business day after the expiration of the permit, or such other time as specified in the permit.
 - 5. That the location of temporary buildings/and or structures, including stages or vendor's booths may be limited to certain areas of the property.
 - 6. That the applicant shall ensure there is adequate parking availability.
 - 7. That specific noise restrictions may be imposed.
 - 8. That the applicant may be required to procure such public liability and/or property damage insurance, in an amount satisfactory to the Town, as shall protect the applicant and the Town from all claims for bodily injury, including accidental death, as well as for property damage arising from the event.

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9. That the applicant may be required to execute a hold harmless and indemnification agreement holding the Town of Paradise Valley and its officers, agents, and employees harmless against any and all losses and liabilities for personal injury, death, or property damage arising out of, or as a consequence to the Special Event, and any and all expenses related to claims or lawsuits resulting from the event, including court costs and attorney fees.

 10. That the applicant may be required to obtain a statement from the Chief of Police, or his designee, showing either that no police presence at the Special Event is required or that the applicant has arranged for the number of off-duty police officers whose presence is deemed necessary to ensure the peace and safety of those attending the Special Event and to minimize event impacts on the neighborhood. In determining the number of off-duty police officers, or whether any are necessary, consideration shall be given to the estimated number and the age of attendees, if alcohol will be served and/or sold, the nature of the Special Event, the site selected, the potential for conflict with other events, and the experience with similar events. All off-duty police officers required pursuant to this section shall be employed by and at the expense of the applicant and shall be retained by contacting the Paradise Valley Police Department.
- B. For Special Events in which beer, wine or spirituous liquor, as defined by A.R.S. § 4-101, will be served and/or sold, the applicant shall obtain a Special Event Liquor License from Arizona Department of Liquor Licenses and Control when required by A.R.S. § 4-203.02. Prior to the issuance of such a permit, the Arizona Department of Liquor License and Control requires Town Council approval of the Special Event Liquor License. Town approval of the Special Event Liquor License shall be processed through the Town Clerk's Office.
- C. An extension of the time for a Special Event permit may be granted for good cause, provided the applicant submits, in writing, a request for such an extension.
- D. A permittee shall comply with all permit restrictions and conditions and with applicable laws and ordinances. The event chairperson, or other person managing the event, shall ensure that the permit is posted at the site of the event, or carried upon his person during the event, and shall be responsible for compliance with all permit requirements.

Section 8-8-8 Parades, Processions, Foot Races and Runs, and Bicycle Races and Rides

- All parades shall be held on routes designated by the Chief of Police.
- B. All directional signs must be removed within one hour of the end of the event.

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- C. Only non-permanent, non-toxic and limited pavement markings may be used.
- D. All trash at water points and along the route must be removed within one hour of the end of the event.
- E. Public address systems and electronic amplification of all types are prohibited.
- F. A parade or procession issued a permit under this chapter shall move from its point of origin to its point of termination expeditiously and without unreasonable delays in route.
- G. The concentration of persons, animals, and vehicles at assembly points shall not unduly interfere with proper fire and police protection of, or ambulance service to area contiguous to such an area.
- H. No person shall unreasonably hamper, obstruct or impede, or interfere with any parade or event, or with any person vehicle or animal participating in or used in a parade or event. No driver of a vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

Section 8-8-9 Pre-Approval of Temporary Structure Locations

- A. To be eligible for pre-approval of temporary structure locations, the following information must have been previously submitted to the Community Development Department for prior approval and the applicant shall agree to comply with all pre-approved terms of the permit.
- B. The Community Development Department shall maintain records of all pre-approved temporary structure locations. These records shall include a site plan depicting existing facilities and the boundaries of the Special Event, the location of any proposed temporary buildings and/or structures, including any tents, stages or vendor's booths, or auxiliary power sources that may be used during the event, a parking plan that includes provisions for adequate parking for the attendees of the Special Event, and, if applicable, for any other parking needs for the property upon which the Special Event is to occur.

Section 8-8-10 Procedure for Review of Application and Appeal of Decision

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- A. Within 15 days after receipt of a complete application pursuant to Section 3 of this Article, the Community Development Director shall inform the applicant in writing of the decision that either: approves the request; conditionally approves the request with limitations and stipulations; or denies the request with the reason for denial stated. The Director's decision shall be final unless within ten (10) days of the receipt of the decision a written appeal is filed.
- B. Any party aggrieved by a decision of the Community Development Director may, within ten days of receipt of notice of the decision, appeal to the Town Manager.
- C. The request for an appeal shall set forth the specific objections to the decision of the Director, which form the basis of the appeal.
- D. The Town Manager shall set a time and place for the hearing as soon as practicable.
- E. The hearing proceeding shall be conducted in an informal process:
 - 1. The Town Manager shall not be bound by the technical rules of evidence in the conduct of such hearings.
 - 2. All parties to the hearing shall have the right to present evidence in support of or in opposition to the decision of the Director.
- F. The decision of the Town Manager shall be based upon the evidence presented and it shall either:
 - 1. Affirm the decision of the Director of Community Development, or
 - 2. Reverse the decision of the Director of Community Development, in whole or in part.

Section 8-8-11 Revocation of Permit

- A. The Town may revoke any Special Event permit if the applicant has done, or the event has resulted in any of the following:
 - 1. Violation of any provision or requirement of approval imposed upon the permit, or if any false or incomplete information was included in the application upon which the decision to approve the permit was based.
 - 2. Violation of any other applicable provision(s) of the law.

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3. Disruption of the public peace, safety or general welfare, or unreasonably interfered with the use and enjoyment of other properties in the immediate vicinity of the activity.
- B. The Town Manager or his designee shall give the applicant notice of the permit revocation and immediately upon the giving of such notice, all activities under the permit shall cease. It shall be unlawful to continue event activities after a notice of revocation has been issued.

Section 8-8-12 Penalty

No person shall hold, sponsor, organize, manage, participate in, aid, or commence a Special Event as defined in this article without first obtaining a Special Event permit issued by the Town. The failure to comply with this requirement will constitute a violation of the Town Code punishable pursuant to Article 1-9 of the Town Code. Each day that the violation occurs shall be a separate offense.

Article 8-9 ILLICIT DISCHARGE AND CONNECTION ORDINANCE ⁵⁴⁹

Section 8-9-1.	Purpose/Intent
Section 8-9-2.	Definitions ⁶⁰¹
Section 8-9-3.	Applicability
Section 8-9-4.	Responsibility For Administration
Section 8-9-5.	Compatibility With Other Regulations
Section 8-9-6.	Severability
Section 8-9-7.	Ultimate Responsibility
Section 8-9-8.	Discharge Prohibitions
Section 8-9-9.	Watercourse Protection
Section 8-9-10.	Industrial Or Construction Activity Discharges ⁶⁰¹
Section 8-9-11.	Compliance Monitoring
Section 8-9-12.	Requirement To Prevent, Control, And Reduce Storm Water Pollutants By The Use Of Best Management Practices.
Section 8-9-13.	Notification Of Spills
Section 8-9-14.	Violations, Enforcement, And Penalties
Section 8-9-15.	Appeal Of Notice Of Violation
Section 8-9-16.	Enforcement Measures After Appeal
Section 8-9-17.	Cost Of Abatement Of The Violation
Section 8-9-18.	Violations Deemed A Public Nuisance
Section 8-9-19.	Remedies Not Exclusive

Section 8-9-1. PURPOSE/INTENT

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Paradise Valley through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- A. To regulate the contribution of pollutants to the MS4 by illicit storm water discharges by any user.
- B. To prohibit illicit connections and discharges to the MS4.
- C. To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

Section 8-9-2. DEFINITIONS ⁶⁰¹

For the purposes of this ordinance, the following shall mean:

“ADEQ” means Arizona Department of Environmental Quality.

“Authorized Enforcement Agency,” means employees or designees of the Town.

“Best Management Practices (BMPs)” means schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

“Clean Water Act,” means the federal Water Pollution Control Act (33 U.S.C. § set seq.) and any subsequent amendments thereto.

“Construction Activity” means activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating and demolition.

“Facility” or “Activity” means any NPDES point source" or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

“Hazardous Material” means any material, including any substance, waste or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

“Illegal Discharge” means any direct or indirect non-storm water discharge to the storm drain system except as exempted in Section 8 of this ordinance.

“Illicit Connection” is defined as either of the following:

Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,

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Any drain or conveyance connected from a commercial or industrial land use to the storm system that has not been documented in plans, maps, or equivalent records and approved by an authorized agency.

“Industrial Activity” means activities subject to NPDES Industrial Storm Water Permits as defined in 40 CFR, Section 122.26(b)(14).

“Municipal Separate Storm Sewer System (MS4)” means the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the Town of Paradise Valley and designed or used for collection or conveying storm water, and that is not used for collection or conveying sewage.

“National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit” means a permit issued by EPA, through the Arizona Department of Environmental Quality, that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

“Non-Storm Water Discharge” means any discharge to the storm drain system that is not composed entirely of storm water.

“Person” means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner’s agent.

“Pollutant” means anything which cause or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid, swimming pool water, and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from construction a building or structure; and noxious or offensive matter of any kind.

“Premises” means any building, lot parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

“Storm Drainage System” means publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

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“Storm Water” means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

“Storm Water Management Plan” means a document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm Water, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

“Wastewater” means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

“Watercourse” includes and is not limited to the following: natural or artificial rivers, creeks, streams, washes, arroyos, recorded drainage easements, channels, ditches, canyons, ravines, sheet flows or other potential flood hazards or flood plain areas or other bodies of water having banks and/or beds through which waters flow on a recurrent basis.

Section 8-9-3. APPLICABILITY

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by ADEQ or the Town as applicable.

Section 8-9-4. RESPONSIBILITY FOR ADMINISTRATION

The Town of Paradise Valley shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the Town of Paradise Valley may be delegated in writing by the Town Manager to persons or entities acting in the beneficial interest of or in the employ of the Town.

Section 8-9-5. COMPATIBILITY WITH OTHER REGULATIONS

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

Section 8-9-6. SEVERABILITY

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

Section 8-9-7. ULTIMATE RESPONSIBILITY

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards, therefore this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

Section 8-9-8. DISCHARGE PROHIBITIONS

A. Prohibition of Illegal Discharges

No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water.
2. Discharges or flows from firefighting, and other discharges specified in writing the Town of Paradise Valley as being necessary to protect public health and safety.
3. Discharges associated with dye testing, however this activity requires a verbal notification to the Town prior to the time of the test.
4. These prohibitions shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA), provided that the

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discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulation, and provided that written approval has been granted for any discharge to the storm drain system.

B. Prohibition of Illicit Connections

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
3. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
4. Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Town.
5. Any drain or conveyance that has not been documented in plans, maps, or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Town requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Town.

Section 8-9-9. WATERCOURSE PROTECTION

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

**Section 8-9-10. INDUSTRIAL OR CONSTRUCTION ACTIVITY
DISCHARGES** ⁶⁰¹

- A. Submission of ADEQ Notice of Intent Certificate to Town of Paradise Valley
1. Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Town prior to the allowing of discharges to the MS4.
 2. The operator of a facility, including construction sites, required to have an NPDES permit to discharge storm water associated with industrial or construction activity shall submit a copy of the certificate provided by ADEQ (“ADEQ Notice of Intent Certificate”) to construction site operators, granting coverage under the Construction General Permit, to the Town at the same time the operator submits the original ADEQ Notice of Intent Certificate to the EPA as applicable.
 3. The copy of the ADEQ Notice of Intent Certificate may be delivered to the Town either in person or by mailing it to:
Town of Paradise Valley
Attention: Storm Water Discharge Certificate Department
6401 E. Lincoln Drive
Paradise Valley, AZ 85253
 4. A person commits an offense if the person operates an industrial facility or construction site that is discharging storm water associated with the industrial or construction activity without having submitted a copy of the ADEQ Notice of Intent Certificate to do so to the Town.

Section 8-9-11. COMPLIANCE MONITORING

- A. Right of Entry: Inspection and Sampling

The Town shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

1. If a discharger has security measures in force, which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Town.
2. Facility operators shall allow the Town ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any addition duties as defined by state and federal law.

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3. The Town shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Town to conduct monitoring and/or sampling of the facility's storm water discharge.
4. The Town has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operation condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Town and shall not be replaced. The costs of such access shall be borne by the operator.
6. Unreasonable delays in allowing the Town access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with an NPDES permit to discharge storm water associated with and industrial or construction activity commits an offense if the person denies the Town reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

B. Search Warrants

If the Town has been refused access to any part of the premises from which storm water pollution is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, the Town may seek issuance of a search warrant from any court of competent jurisdiction.

Section 8-9-12. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The Town will adopt requirements identifying Best Management Practices for an activity, operation, or facility, which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the United States. The owner or operator of such activity, operation, or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or

premise that is, or may be, the source of an illicit discharge, may be required to implement, at said persons expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with the industrial or construction activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a storm water management plan (SWMP) as necessary for compliance with the requirements of the NPDES permit.

Section 8-9-13. NOTIFICATION OF SPILLS

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Town in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Town within two business days of the phone notice. If the discharge of prohibited materials emanates from a commercial, industrial, or construction establishment or activity, the owner or operator shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least two years.

Failure to provide notification of a release as provided above is a violation of this ordinance.

Section 8-9-14. VIOLATIONS, ENFORCEMENT, AND PENALTIES

A. Violations

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the Town is authorized to enter upon the subject property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Town is authorized to seek the costs of the abatement as outlined in Section 17.

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B. Warning Notice

When the Town finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the Town may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieve the alleged violator of liability for any violation occurring before or after receipt of the Warning Notice. Nothing in this subsection shall limit the authority of the Town to take any action, including emergency action or any other enforcement action, without first issuing a Warning Notice.

C. Notice of Violation

Whenever the Town finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the Town may order compliance by written notice of violation to the responsible person.

The Notice of Violation shall contain:

1. The name and address of the alleged violator;
2. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.
6. A statement that the determination of violation may be appealed to the Town by filing a written notice of appeal within five (5) days of service of the notice of violation; and
7. A statement that, should the violation fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

D. Such notice may require without limitation:

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1. The performance of monitoring, analyses and reporting;
2. The elimination of illicit connections or discharges;
3. That violation discharges, practices, or operations shall cease and desist;
4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property.
5. Payment of a fine to cover administrative and remediation costs; and
6. The implementation of source control or treatment BMPs.

E. Compensatory Action

In lieu of the enforcement proceedings, penalties, and remedies authorized by this ordinance, the Town may impose upon a violator alternative compensatory actions such as storm drain stenciling, attendance at compliance workshops, wash cleanup, etc.

F. SUSPENSION OF MS4 ACCESS

1. Emergency Cease and Desist Orders

When the Town finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the persons violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Town may issue an order to the violator directing it immediately to cease and desist all such violation and directing the violator to:

- a. Immediately comply with all ordinance requirements; and
- b. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Town may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The Town

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may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Town that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Town within five (5) days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against or a prerequisite for, taking any other action against the violator.

2. Suspension Due to Illicit Discharges in Emergency Situations

The Town may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, or to the health or welfare of person, or to the MS4 or waters of the United States. If the violation fails to comply with a suspension order issued in an emergency, the Town may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

3. Suspension Due to the Detection of Illicit Discharge

- a. Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Town will notify a violation of the proposed termination of its MS4 access. The violation may petition the Town for a reconsideration and hearing.
- b. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Town.

G. Civil Penalties

In the event the alleged violation fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violation described therein within five (5) days, or such greater period as the Town shall deem appropriate, after the Town has taken one or more of the actions described above, the Town may impose a penalty not to exceed seven hundred and fifty dollars (\$750.00) (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

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H. Criminal Prosecution

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty not to exceed two thousand five hundred dollars (\$2,500) per violation per day, and/or imprisonment for a period of time not to exceed six (6) months. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

Section 8-9-15. APPEAL OF NOTICE OF VIOLATION

Any person receiving a Notice of Violation may appeal the determination of the Town. The notice of appeal must be received within five (5) days from the date of the Notice of Violation. Hearing on the appeal before the Town Manager or his designee shall take place within five (5) days from the date of receipt of the notice of appeal. The decision of the Town Manager or their designee shall be final.

Section 8-9-16. ENFORCEMENT MEASURES AFTER APPEAL

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within five (5) days of the decision of the Town Manager or his designee upholding the decision of the Town, then representatives of the Town shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the governmental agency or designate contractor to enter upon the premises for the purposes set forth above.

Section 8-9-17. COST OF ABATEMENT OF THE VIOLATION

- A. Notwithstanding any other provision of this Chapter, when a nuisance, source of pollution or cause of sickness exists on private property, the Town shall order the owner or occupant to remove it within twenty-four (24) hours at the expense of the owner or occupant. The order may be delivered to the owner or occupant in the same manner as provided for service of process under the Arizona Rules of Civil Procedure. If the order is not complied with, the Town in addition to any other remedies allowed under this Chapter shall cause the nuisance, source of pollution or cause of sickness to be removed, and expenses of removal shall be paid by the owner, occupant or other person who caused the nuisance, source of filth or cause of sickness.
- B. Any nuisance as defined in this Chapter may be abated as provided in Chapter 8, Safety, Health, Sanitation and Nuisance, Article 8-5 of this Code.

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Section 8-9-18. VIOLATIONS DEEMED A PUBLIC NUISANCE

In addition to the enforcement process and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is deemed to be a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Section 8-9-19. REMEDIES NOT EXCLUSIVE

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Town to seek cumulative remedies.

The Town may recover all attorney's fees, court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Article 8-10 NUISANCE NOISE ^{573 2016-10}

Section 8-10-1	General Prohibitions
Section 8-10-2	Declaration of Certain Acts Constituting Disturbing, Excessive, or Offensive Noises ⁶¹⁸
Section 8-10-3	Exemptions
Section 8-10-4	Penalty

Section 8-10-1 GENERAL PROHIBITIONS

- A. It shall be unlawful for any person to disturb the peace by any of the following: making, continuing, maintaining or causing to be made or continued, within the limits of the Town, any disturbing, excessive, unreasonable or unusually loud or offensive noise which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.

- B. The characteristics and conditions which should be considered in determining whether a violation of the provisions of this section exists should include, but not be limited to, the following:
 - (1) The level of the noise;
 - (2) Whether the nature of the noise is usual or unusual;
 - (3) Whether the origin of the noise is natural or unnatural;
 - (4) The level of the ambient noise;
 - (5) The proximity of the noise to sleeping facilities;
 - (6) The nature and zoning of the area from which the noise emanates and the area where it is received;
 - (7) The time of day or night the noise occurs;
 - (8) The duration of the noise; and
 - (9) Whether the noise is recurrent, intermittent, or constant.

Section 8-10-2 DECLARATION OF CERTAIN ACTS CONSTITUTING DISTURBING, EXCESSIVE, OR OFFENSIVE NOISES

The following activities, among others, are declared to cause disturbing, excessive or offensive noises in violation of this section and are unlawful, namely:

- A. Excessive Animal Noise
 - 1. Restrictions on animal noise.

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The keeping or maintaining by any person of any animal or animals which by any frequent or long-continued noise causes annoyance or discomfort to a reasonable person of normal sensitiveness in the vicinity is prohibited.

2. Prima Facie Violations

The noise from any such animal or animals that disturbs two or more residents residing in separate residences adjacent to any part of the property on which the subject animal or animals are kept or maintained, or three or more residents residing in separate residences in close proximity to the property on which the subject animal or animals are kept or maintained shall be prima facie evidence of a violation of this section.

B. Yard/Landscape Maintenance Equipment

1. Definition

- a. "Summer" shall mean those months from May through September, inclusive.
- b. "Yard/Landscape Maintenance Device" as used in this section, shall mean any portable, hand-held or propelled, ridden, carried, or pushed device, which is capable of and intended for landscape and yard maintenance purposes. This includes, but is not limited to, leaf blowers, chain saws, lawn mowers, edgers, or weed or string cutters.

2. Violations.

Except for those properties where a special use permit provides for a more specific set of noise restrictions, it shall be unlawful for any person to operate, or cause to be operated, a Yard/Landscape Maintenance Device, except between 7 AM and 5 PM on Monday through Friday and between 9 AM and 5 PM on Saturdays and Sundays and on the legal holidays defined in Section 10-7-2 (10) of this Code. Summer hours of operation may start one (1) hour earlier.

C. Burglar alarms

1. Prohibitions.

Audible burglar alarms for structures or motor vehicles are prohibited unless the operation of such burglar alarms can be terminated within 10 minutes of being activated, and remain silent unless another security breach occurs.

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2. Emergency disconnections.

Notwithstanding the requirements of this provision, any member of the Police Department of the Town of Paradise Valley shall have the right to take such steps as may be reasonable and necessary to disconnect any such alarm installed in any building, dwelling, or motor vehicle at any time during the period of its activation.

3. Emergency Contact Information.

On or after thirty (30) days from the effective date of this article, any building or dwelling upon which an audible, unmonitored burglar alarm has been installed shall prominently display the telephone number at which communication may be made with the owner of such building or dwelling.

D. Construction and Related Activities

1. Definitions.

- a. “Decibel” shall mean a logarithmic unit of measurement which indicates the ratio between two quantities commonly referred to as electric or sound energy levels, or pressure levels. One decibel on the A-weighted scale is abbreviated “dB (A).”
- b. “Emergency” means a sudden or unforeseen situation that requires immediate work to prevent or mitigate injury or damage to persons or property. An Emergency exists only for the time necessary to remedy the immediate risk of harm.
- c. “Heavy Equipment” means mechanical equipment that typically generates significant and offensive noise, such as, but not limited to, a loader or backhoe.
- d. “Summer” shall mean those months from May through September, inclusive.

2. Except for those properties where a special use permit provides for a more specific set of noise restrictions it shall be unlawful for any person to operate or permit to be operated any Heavy Equipment in any construction, demolition, land clearing, excavation or similar outside construction activity, except between 7 AM and 5 PM on Monday through Friday. Operation of Heavy Equipment is unlawful at all times on Saturdays, Sundays and legal holidays (as defined in Section 10-7-2(10) of this Code). Summer hours of operation may start one (1) hour earlier.

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The Town Manager, or his designee, may grant exceptions upon written request.

3. It shall be unlawful for any person to deliver or cause to be delivered construction equipment or materials to a construction site except between 7 AM and 5 PM Monday through Saturday. Delivery of construction equipment or materials to a construction site is unlawful on Sundays and legal holidays (as defined in Section 10-7-2 (10) of this Code), except that sprayed termite prevention material may be applied at any time. Summer delivery hours may start one (1) hour earlier. The Town Manager, or his designee, may grant exceptions upon written request.
4. It shall be unlawful for any person to operate or permit to be operated any other device or equipment (that is, equipment that is not already subject to the Heavy Equipment restriction in Section D.1 above) in any building, construction, demolition, land clearing, excavation or similar outside construction activity, alteration, or repair work on any buildings, structures or projects, except between 7 AM and 5 PM Monday through Friday, and between 9 AM and 5 PM on Saturdays, Sundays and legal holidays, (as defined in Section 10-7-2 (10) of this Code). The noise level created on Sundays shall not exceed 75 Decibels measured at the nearest property line. Summer hours may start one (1) hour earlier. The Town Manager, or his designee, may grant exceptions upon written request.

Section 8-10-3 Exemptions

The following uses and activities shall be exempt from the regulations of this Article:

1. Noises resulting from any authorized emergency or public safety vehicle.
2. Noises resulting from the operation of any Heavy Equipment, equipment other than Heavy Equipment, or a Yard/Landscape Maintenance Device during an Emergency.
3. Noise resulting from activities of a temporary duration for which a license or permit has been granted by the Town.
4. Vehicle back up warning alarms.

Section 8-10-4 Penalty

Any person who violates any provision of this article may be prosecuted for such a violation in accordance with the provisions of article 1-9 of the Paradise Valley Town Code.

Article 8-11 AIR QUALITY AND FUGITIVE DUST ⁵⁹⁸

Section 8-11-1	Purpose/Intent
Section 8-11-2	Definitions
Section 8-11-3	Responsibility for Administration
Section 8-11-4	Parking Restriction on Vacant Lots
Section 8-11-5	Operation of Vehicles on Public and Private Property
Section 8-11-6	Unpaved Parking Lots
Section 8-11-7	Leaf Blower Restrictions
Section 8-11-8	Compliance Monitoring
Section 8-11-9	Violations, Enforcement, and Penalties
Section 8-11-10	Violations Deemed a Public Nuisance
Section 8-11-11	Remedies Not Exclusive
Section 8-11-12	Compatibility with Other Regulations
Section 8-11-13	Severability

Section 8-11-1. PURPOSE/INTENT

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the Town of Paradise Valley by improving air quality through the regulation of Fugitive Dust and PM-10 particles to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of Fugitive Dust and PM-10 into the air. The objectives of this ordinance are:

- A. To regulate the contribution of Fugitive Dust and PM-10 from any Town resident, developer or visitor.
- B. To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

Section 8-11-2. DEFINITIONS

For the purposes of this ordinance, the following shall mean:

“County Dust Control Permit” – means a permit issued by Maricopa County evidencing that a dust generating operation has a satisfactory dust control plan in place approved by the Maricopa County Air Quality Department.

“Designated Or Opened Trail System” – means roads or routes that are part of a system of trails and that are designated or opened by a government land management agency by order, sign, and/or map approved by such agency.

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“Fugitive Dust” - means the particulate matter not collected by a capture system, that is entrained in the ambient air and is caused from human and/or natural activities, such as, but not limited to, movement of soil, vehicles, equipment, blasting, and wind. For the purpose of this ordinance, fugitive dust does not include particulate matter emitted directly from the exhaust of motor vehicles and other internal combustion engines, from portable brazing, soldering, or welding equipment, or from piledrivers.

“Leaf Blower” - means any air blowing machine which uses a concentrated stream of air to blow leaves, grass cuttings, trash, or other debris.

“Off-Road Vehicle” – means any self-propelled conveyance specifically designed for off-road use, including, but not limited to, off-road or all-terrain equipment, trucks, cars, motorcycles, motorbikes, or motorbuggies.

“PM-10” - means the standard adopted by the Environmental Protection Agency that focuses on smaller particulates in the air that are likely responsible for adverse health effects because of their ability to reach the lower regions of the respiratory tract. The PM-10 standard includes particles with a diameter of 10 micrometers or less (0.0004 inches or one-seventh the width of a human hair).

“Person” - means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner’s agent.

“Premises” - means any building, lot parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

“Road or Highway” – means the entire width between the boundary lines of every way publicly maintained by the federal government, a city, a town or a county if any part of the way is generally open to the use of the public for purposes of vehicular travel. For purposes of this ordinance, the term “road or highway” includes designated or opened trail systems and service roads regardless of surface composition.

“Town” - means the Town of Paradise Valley, Arizona.

“Unpaved Parking Lot” - Any area larger than 3,000 square feet that is not paved and that is used for parking, maneuvering, or storing motor vehicles.

“Vacant Lot” – means any of the following: (1) an unsubdivided or undeveloped tract of land; (2) a subdivided residential, industrial, institutional, governmental, or commercial lot that contains no approved or permitted buildings, structures, or uses of a temporary or permanent nature; or (3) a partially developed residential, industrial, institutional, governmental, or commercial lot. For the purposes of this ordinance, a vacant lot is not a road or highway.

“Vehicle” – means a self propelled device and its appurtenances, excluding devices moved by human power or used exclusively on stationary rails or tracks.

Section 8-11-3. RESPONSIBILITY FOR ADMINISTRATION

The Town shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the Town may be delegated in writing by the Town Manager to persons or entities acting in the beneficial interest of or in the employ of the Town.

Section 8-11-4. PARKING RESTRICTION ON VACANT LOTS

It shall be unlawful to park or use a vehicle on a vacant lot within the Town. If a vacant lot is in excess of five acres, the owner of the vacant lot shall either erect a split rail-type fence or ditch and berm the perimeter of the lot to prevent vehicular access, including, but not limited to, preventing access to off-road vehicles. Owners of vacant lots less than 5 acres may be required to erect a split rail-type fence or take other actions to prohibit vehicular access to the vacant lot if more than one complaint is received about unauthorized vehicular access on the property. This section does not apply to sites that have been issued a County Dust Control Permit.

Section 8-11-5. OPERATION OF VEHICLES ON PUBLIC AND PRIVATE PROPERTY

- A. A person shall not operate any vehicle on unpaved public property within the Town without lawful authority. Lawful authority shall consist of rules, regulations, or orders of a federal agency, this state, a county or municipality, which shall be made available to the public by any one of the following:
1. A sign to designate the property is/as open. Such sign shall be in compliance with the standard travel management sign protocol used by Southwest Land Management Agencies and shall at a minimum be conspicuously placed at all points of vehicular access and contain the following information: "Travel Must Remain On Designated Routes." Copies of the standard travel management sign protocol are available for review at the Maricopa County Air Quality Department, 1001 North Central Avenue, Phoenix, AZ, 85004.
 2. Orders of a government land management agency.
 3. Most current maps approved by such government land management agency.
 4. Virtual posting from a government land management agency.
- B. A person shall not operate any vehicle on unpaved private property within the Town without the consent of the lawful owner. Consent of the lawful owner consists of either or both of the following:

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1. A sign to designate the property is/as open. Such sign shall be in compliance with the standard travel management sign protocol used by Southwest Land Management Agencies and shall at a minimum be conspicuously placed at all points of vehicular access and contain the following information: "Travel Must Remain On Designated Routes." Copies of the standard travel management sign protocol are available for review at the Maricopa County Air Quality Department, 1001 North Central Avenue, Phoenix, AZ, 85004.
2. Prior written permission which contains the following:
 - (a) The name, address, and telephone number of the person granting permission for the use of the property;
 - (b) A description of the interest the person granting permission has in the property (i.e., property owner, lessee, or agent);
 - (c) If the person granting permission is not the owner of the property, the written permission shall also contain the name, address, and telephone number of the property owner;
 - (d) Specify the period of time for which permission for the use of the property is being granted; and
 - (e) The signature of the person granting permission for the use of the property.
- C. Whenever any person is stopped by an Enforcement Officer for a violation of Section 8-11-5 of this Ordinance, he/she shall, upon the request of the Enforcement Officer identify or present the lawful authority or consent of the lawful owner required in this section.
- D. The property owner, person entitled to immediate possession of the property, or invitee who has lawful authority may operate such vehicles on the property if such use does not violate any other applicable laws.
- E. For the purposes of this section, unpaved public or unpaved private property does not include roads or highways.

Section 8-11-6. UNPAVED PARKING LOTS

- A. All owners/operators of an existing unpaved commercial parking lot shall stabilize the surface area(s) of the lot on which vehicles enter and park by implementing one of the following measures after first obtaining approval of the Town Engineer or designee: (1) pave; (2) apply chemical/organic stabilizers in sufficient concentration and frequency to maintain a stabilized surface; or (3) apply and maintain surface gravel uniformly to stabilize the surface.
- B. All owners/operators shall maintain parking, maneuvering, ingress and egress areas at developments other than residential buildings with four or fewer units with one or more of the following dustproof paving methods:
 - 1. asphaltic concrete
 - 2. cement concrete
 - 3. penetration treatment of bituminous material and seal coat of bituminous binder and a mineral aggregate
 - 4. a stabilization method approved by the Town
- C. All owners/operators shall maintain parking, maneuvering, ingress and egress areas that are three thousand square feet or more in size at residential buildings with four or fewer units with a paving or stabilization method authorized by the Town Code or permit.

Section 8-11-7. LEAF BLOWER RESTRICTIONS

It shall be unlawful to blow landscape debris into public roadways at any time by any person.

Section 8-11-8. COMPLIANCE MONITORING

- A. Right of Entry: Inspection

The Town shall be permitted to enter and inspect property subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

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1. If a property owner has security measures in force, which require proper identification and clearance before entry into its premises, the property owner shall make the necessary arrangements to allow access to representatives of the Town.
 2. Any temporary or permanent obstruction to safe and easy access to the property to be inspected shall be promptly removed by the property owner at the written or oral request of the Town and shall not be replaced. The costs of such access shall be borne by the property owner.
- B. Search Warrants

If the Town has been refused access to any part of the premises found to be in violation of this ordinance, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, the Town may seek issuance of a search warrant from any court of competent jurisdiction.

C. Exemption

This Ordinance shall not apply during a period of emergency or if the operation is directed by a peace officer or other public authority.

Section 8-11-9. VIOLATIONS, ENFORCEMENT, AND PENALTIES

- A. A person who violates this Ordinance is guilty of a class 3 misdemeanor.
- B. In addition to or in lieu of a fine pursuant to this section, a judge may order the person to perform at least eight but not more than twenty-four hours of community restitution or to complete an approved safety course related to the off-highway operation of motor vehicles, or both.
- B. For violations of this Ordinance, the Enforcement Officer shall use a uniform traffic ticket and complaint prescribed by the rules of procedure in civil traffic cases adopted by the Supreme Court. The Enforcement Officer may issue a citation to persons in violation of this Ordinance.

Section 8-11-10. VIOLATIONS DEEMED A PUBLIC NUISANCE

In addition to the enforcement process and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be

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summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Section 8-11-11. REMEDIES NOT EXCLUSIVE

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Town to seek cumulative remedies.

The Town may recover all attorney's fees, court costs and other expenses associated with enforcement of this ordinance, including monitoring expenses.

Section 8-11-12. COMPATIBILITY WITH OTHER REGULATIONS

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

Section 8-11-13. SEVERABILITY

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

FOOTNOTES

157 - Ordinance #276 -12/17/87 (Total Revision)
177 - Ordinance #301 - 7/27/89
368 - Ordinance #368 - 2/24/94
369 - Ordinance #369 - 2/24/94
370 - Ordinance #370 - 3/24/94
396 - Ordinance #396 - 2/9/95
417 - Ordinance #417 - 6/13/96
418 - Ordinance #418 - 6/13/96
420 - Ordinance #420 - 6/13/96
448 - Ordinance #448 - 1/22/98
456 - Ordinance #456 - 1/22/98
457 - Ordinance #457 - 2/12/98
468 - Ordinance #468 - 8/27/98
503 – Ordinance #503 – 05/11/2000
517 – Ordinance #517 – 9/13/2001
520 – Ordinance #520 – 01/24/2002
542 – Ordinance # 542 – 07/8/2004
549 – Ordinance # 549 – 01/13/2005
573 – Ordinance # 573 – 02/09/2006
598 – Ordinance # 598 – 12/20/2007
601 – Ordinance #601 – 02/28/2008
618 - Ordinance #618 – 11/19/2009
623 - Ordinance #623 – 05/27/2010
631 – Ordinance #631 – 09/08/2011
Ordinance 2016-08 – 11/17/2016
Ordinance 2016-10 - 11/03/2016
Ordinance 2016-12 – 10/27/2016