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

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

### ARTICLE 1-2 CONSTRUCTION OF ORDINANCES

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

### ARTICLE 1-3 DEFINITIONS

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

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

#### Section 1-3-2 Acts by Agents

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

### **Section 1-3-3 City**

Whenever the word "city" is used, it shall be construed to mean the City of St. Johns, Arizona.

### **Section 1-3-4 Code**

The words "the code" or "this code" shall mean The Code of the City of St. Johns, Arizona," unless the context indicates otherwise.

### **Section 1-3-5 Council**

Whenever the word "council" is used, it shall be construed to mean the common council of the City of St. Johns, Arizona.

### **Section 1-3-6 Day**

A "day" Is the period of time between any midnight and the midnight following.

### **Section 1-3-7 Daytime, Nighttime**

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

### **Section 1-3-8 Department, Board, Commission, Office, Officer or Employee**

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

### **Section 1-3-9 Gender; Singular and Plural**

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

**Section 1-3-10 In the City**

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

**Section 1-3-11 Intoxicating Liquor**

The words "intoxicating liquor" shall include any spirits, wine, beer, ale or other liquid containing any volume of alcohol.

**Section 1-3-12 Joint Authority**

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

**Section 1-3-13 Month**

The word "month" shall mean a calendar month.

**Section 1-3-14 Oath**

"Oath" includes affirmation or declaration.

**Section 1-3-15 Or, And**

"Or" may be read "and," and "and" may be read "or," if the sense requires it

**Section 1-3-16 Person**

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

**Section 1-3-17 Personal Property**

"Personal property" includes every species of property, except real property as defined in this article.

**Section 1-3-18 Preceding, Following**

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

#### **Section 1-3-19 Property**

The word "property" shall include real and personal property.

#### **Section 1-3-20 Public Property**

The words "public property" mean all real property, including but not limited to, parks, bail fields, fair grounds, other recreational facilities, streets, alleys, sidewalks, parking lots, other public ways, buildings and structures, the title to which is in the city, or over, under, through or upon which the city has an easement, and any grounds owned by or under the control of any public school district within the city.

#### **Section 1-3-21 Real Property**

"Real property" shall include lands, tenements and hereditaments.

#### **Section 1-3-22 Shall, May**

"Shall" is mandatory and "may" is permissive.

#### **Section 1-3-23 Shall Have Been**

The words "shall have been" include past and future cases.

#### **Section 1-3-24 Signature or Subscription by Mark**

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

#### **Section 1-3-25 State**

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

#### **Section 1-3-26 Tenant or Occupant**

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

#### **Section 1-3-27 Tenses**

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

#### **Section 1-3-28 Time-Computation**

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

#### **Section 1-3-29 Time-Reasonable**

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

#### **Section 1-3-30 Week**

A "week" consists of seven consecutive days.

#### **Section 1-3-31 Writing**

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

#### **Section 1-3-32 Year**

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

**ARTICLE 1-4 CONFLICTING PROVISIONS**

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

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

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

**Section 1-4-2 References to this Code**

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

**Section 1-4-3 Conflicting Provisions-Different Chapters**

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

**Section 1-4-4 Conflicting Provisions-Same Chapter**

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

**ARTICLE 1-5 SECTION HEADINGS**

Headings of the several sections of this code are intended as a convenience to indicate the contents of the section and do not constitute part of the law, except to the extent necessary for construction or interpretation of the section.

**ARTICLE 1-6 EFFECT OF REPEAL**

When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision, unless it shall be expressly so provided. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect or any suit, prosecution or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed.

#### **ARTICLE 1-7 SEVERABILITY OF PARTS OF CODE**

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

#### **ARTICLE 1-8 PENALTY**

Any person found guilty of violating any provision of this code, except as otherwise provided in this code, shall be guilty of a class 1 misdemeanor, and upon conviction thereof shall be punished by a fine, imprisonment, community work service, or any combination thereof, or by such other additional punishment of such nature and in such amount as provided by the Arizona Revised Statutes, as may be amended from time to time. Each day that a violation continues shall be a separate offense punishable as above described.

#### **ARTICLE 1-9 REPEAL OF EXISTING ORDINANCES**

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

##### **1-9-2 Ordinances Exempt from Repeal**

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

All ordinances of the city except those specially exempted in this article, now in force and effect are hereby repealed effective at twelve o'clock noon on the fifteenth day of February 1991, but all rights, duties and obligations created by said ordinances shall continue and exist in all respects as if this code had not been adopted and enacted.

##### **Section 1-9-2 Ordinances Exempt from Repeal**

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

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

#### **ARTICLE 1-10 EFFECTIVE DATE OF CODE**

Each and every section of this code as herein contained and hereby enacted shall take effect and be in force on and after twelve o'clock noon on the fifteenth day of February 1991, except that where a later effective date is provided it shall prevail. All subsequently enacted ordinances shall take effect as of the effective date of the Ordinance.

## CHAPTER 2 MAYOR AND COUNCIL

### ARTICLE 2-1 MAYOR AND COUNCIL

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

#### Section 2-1-1 Elected Officers<sup>1</sup>

The elected officers of the city shall be seven council members, one of whom shall be designated as mayor in accordance with Section 2-2-1. The mayor and council members shall constitute the council and shall continue in office until assumption of duties of office by their duly qualified successors. The regular term of office shall be four years.

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

#### Section 2-1-3 Duties of Office<sup>2</sup>

Council members shall assume the duties of their office at the regularly scheduled council meeting next following the general election at which, or effective as of the date on which, the council members were elected.

#### Section 2-1-4 Vacancies In Council<sup>3</sup>

The council shall fill by appointment for the unexpired term any vacancy that may occur for whatever reason.

#### Section 2-1-5 Compensation

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<sup>1</sup> A.R.S. § 9-231 and §9301

<sup>2</sup> A.R.S. § 9-232

<sup>3</sup> A.R.S. § 9-231

A. The compensation of elective officers of the city shall be fixed from time to time by resolution of the council. Attendance at the regular city council meetings, executive sessions and other sessions shall be prerequisite to the receipt of compensation from the city.

B. Each council member will be fully compensated unless his non-attendance at meetings, executive sessions and other sessions shall be found by the other council members to be unreasonable. The withholding of compensation shall be commensurate to the unreasonable absences.

#### Section 2-1-6 Oath of Office<sup>4</sup>

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

#### Section 2-1-7 Bond<sup>5</sup>

Prior to taking office, every council member shall execute and file an official bond, enforceable against the principal and his sureties, conditioned on the due and faithful performance of his official duties, payable to the state and to and for the use and benefit of the city or any person who may be injured or aggrieved by the wrongful act or default of such officer in his official capacity. Bonds shall be in such sum as shall be provided by resolution and the premium for such bonds shall be paid by the city. Nothing in this section shall preclude the city from obtaining a blanket bond as allowed or required by state law.

#### Section 2-1-8 Financial Disclosure Statement<sup>6</sup>

Each member of the council shall file a financial disclosure statement at such times, in such form and with such information as provided by resolution of the council and pursuant to state law.

### ARTICLE 2-2 MAYOR

- 2-2-1 Selection of Mayor
- 2-2-2 Vice Mayor
- 2-2-3 Acting Mayor

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<sup>4</sup> A.R.S. § 9-302

<sup>5</sup> A.R.S. § 9-302

<sup>6</sup> A.R.S. § 9-545

- 2-2-4 Powers and Duties of the Mayor
- 2-2-5 Failures to Sign Documents

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

The council members shall, at the first regular meeting after a regular city general election of council members, choose a mayor from among their number.

### Section 2-2-2 Vice Mayor<sup>7</sup>

At the same meeting at which the mayor is selected, the council shall designate one of its members as vice mayor, who shall serve at the pleasure of the council. The vice mayor shall perform the duties of the mayor during his absence or disability.

### Section 2-2-3 Acting Mayor

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

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

The powers and duties of the mayor shall include the following:

- A. He shall be the chief executive officer of the city.
- B. He shall be the chairman of the council and preside over its meetings. He may make and second motions and shall have a voice and vote in all its proceedings.
- C. He shall enforce the provisions of this code.
- D. He shall execute and authenticate by his signature such instruments as the council or any statutes, ordinances or this code shall require.
- E. He shall make such recommendations and suggestions to the council as he may consider proper.

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<sup>7</sup> A.R.S. § 9-236

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

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

G. He shall perform such other duties required by state statute and this code as well as those duties required as chief executive officer of the city.

#### Section 2-2-5 Failure to Sign Documents

If the mayor refuses or fails to sign any ordinance, resolution, contract, warrant, demand or other document or instrument requiring his signature for five days consecutively, a majority of the members of the council may, at any regular or special meeting, authorize the vice mayor or, in his absence, an acting mayor to sign such ordinance, resolution, contract, warrant, demand or other document or instrument which when so signed shall have the same force and effect as if signed by the mayor candidates receive a majority than there are offices to be filled, those equal in number to the offices to be filled receiving the highest number of votes shall be declared elected.

**Art. 2-3 Acting Mayor**

2-3-1	Primary Election
2-3-2	Non-Political Ballot
2-3-3	General Election Nomination
2-3-4	Election to Office
2-3-5	Candidate Financial Disclosure

**Section 2-3-1 Primary Election<sup>8</sup>**

Any candidate who shall receive at the primary election a majority of all the votes cast shall be declared to be elected to the office for which he is a candidate effective as of the date of the general election, and no further election shall be held as to said candidate; provided that if more

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

**Section 2-3-3 General Election Nomination<sup>10</sup>**

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

**Section 2-3-4 Election to Office<sup>11</sup>**


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<sup>8</sup> A.R.S. § 9-821.01

<sup>10</sup> A.R.S. § 9-821.01

<sup>11</sup> A.R.S. § 38-545

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

### **Section 2-3-5 Candidate Financial Disclosure<sup>12</sup>**

Each candidate for the office of council member shall file a financial disclosure statement when such candidate files a nomination paper. The statement shall contain such information as required by resolution of the council and pursuant to state law.

## **ARTICLE 2-4 COUNCIL PROCEDURE**

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

### **Section 2-4-1 Regular Meetings<sup>13</sup>**

The council shall hold regular meetings on the second Thursday of each month at five thirty p.m., or such other date as designated by resolution of the council, provided that when the day fixed for any regular meeting of the council falls upon a day designated by law as a legal holiday, such meeting shall be held at the same hour on a day set by the council. All regular meetings of the council shall be held in the City Hall of St. Johns, Arizona, or other designated place.

### **Section 2-4-2 Special Meetings**

The mayor upon his own motion or the clerk upon the written request of two members may convene the council at any time by notifying the members of the date, hour and purpose of such special meeting, and by giving such additional notice as required by state law

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<sup>12</sup> A.R.S. § 9-233

<sup>13</sup> Title 38, Chapter 3, Article 3.1

**Section 2-4-3 Meetings to Be Public<sup>14</sup>**

All proceedings of the council shall be open to the public, except that upon approval by a majority vote of the council, the council may meet in a closed executive session pursuant to the provisions of state law.

**Section 2-4-4 Quorum**

A majority of the council members shall constitute a quorum for transacting business, but a lesser number may adjourn from time to time and compel the attendance of absent members.

**Section 2-4-5 Agenda<sup>15</sup>**

Prior to each council meeting, or on or before a time fixed by the council for preparation and distribution of an agenda, whichever is earlier, the manager shall collect all written reports, communications, ordinances, resolutions, contracts and other documents to be submitted to the council, prepare an agenda according to the order of business and furnish each council member, the mayor and the attorney with a copy. The Mayor or two council members shall have the authority to place items on the agenda.

**Section 2-4-6 Order of Business<sup>16</sup>**

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

- A. Call to Order. The mayor shall take the chair at the hour appointed for the meeting and shall call the council to order. In the absence of the mayor, the vice mayor shall call the council to order. In the absence of both the mayor and vice mayor, the clerk shall call the council to order, and an acting mayor shall be selected to chair the meeting. Upon the arrival of the mayor or the vice mayor, the vice mayor or the acting mayor shall immediately relinquish the chair upon the conclusion of the business immediately before the council. The mayor shall preserve order and decorum, decide all questions of order and conduct the proceedings of the meetings in accordance with the parliamentary rules

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<sup>14</sup> A.R.S. §9-821.01

<sup>15</sup> Modified by Ordinance 147, May 10, 2012.

<sup>16</sup> A.R.S. § 38-545

contained in Robert's Rules of Order.

- B. Roll Call. Before proceeding with the business of the council, the clerk or his deputy shall take the roll of the members, and the names of those members present shall be entered into the minutes. If a quorum is not present, the members present may adjourn pursuant to Section 2-4-4 of this code.
- C. Minutes. The clerk or his deputy shall read or present the minutes of the preceding council meeting, which shall be approved if correct. Any errors noted shall be corrected.
- D. Reports by Officers. City officials and committees shall present any reports required by the council.
- E. Unfinished Business. The council shall consider any business that has been previously considered and which is still unfinished.
- F. New Business. The council shall consider any business not heretofore considered, including the introduction of ordinances and resolutions.
- Q. Claims. The clerk shall present any claims against the city, which will then be approved or disapproved by the council.
- H. Miscellaneous Business. Prior to adjournment, the council shall, as it deems necessary, consider such business as is not specifically provided for herein.
- I. Petitions. Petitions, remonstrance's, communications, and comment or suggestions from citizens present, shall be heard by the council. All such remarks shall be addressed to the council as a whole, and not to any member thereof. Such remarks shall be limited to a time set by the council. No person other than the individual speaking shall enter into the discussion without the permission of the presiding officer. No question shall be asked a council member except through the presiding officer.
- J. Adjournment The council may, by a majority vote of those present, adjourn from time to time to a specific date and hour. A motion to adjourn shall always be in order.

**Section 2-4-7 Committees and Commissions**

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

**Section 2-4-8 Voting**

- A. The mayor shall vote as a member of the council.
- B. Upon the request of any member, the ayes and nays upon any question shall be taken and entered in the minutes.

**Section 2-4-8 Suspension of Rules**

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

**ARTICLE 2-5 ORDINANCES, RESOLUTIONS AND CONTRACTS<sup>17</sup>**

- 2-5-1 Prior Approval
- 2-5-2 Introduction
- 2-5-3 Requirements for an Ordinance
- 2-5-4 Effective Date of Ordinances
- 2-5-5 Signatures Required
- 2-5-6 Publishing Required
- 2-5-7 Posting Required

**Section 2-5-1 Prior Approval**


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<sup>17</sup> A.R.S. § 9-234

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

### **Section 2-5-2 Introduction**

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

### **Section 2-5-3 Requirements for an Ordinance**

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

### **Section 2-5-4 Effective Date of Ordinances<sup>18</sup>**

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

### **Section 2-5-5 Signatures Required**

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

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<sup>18</sup> A.R.S. § 19-142 B, (as to emergency clause.)

**Section 2-5-6 Publishing Required<sup>19</sup>**

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

**Section 2-5-7 Posting Required<sup>20</sup>**

Every ordinance imposing any penalty, fine, forfeiture or other punishment shall, after passage, be posted as required by state statutes.

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<sup>19</sup> Title 9, Chapter 7, Article 2, A.R.S.

<sup>20</sup> A.R.S. § 9-813

## ADMINISTRATION

## ARTICLE 3-1 OFFICERS IN GENERAL

## 3-1-1 Officers

## 3-1-2 Additional Officers

## 3-1-3 Bond

## 3-1-4 Vacancies; Holding More Than One Office

## 3-1-5 Additional Powers and Duties

**Section 3-1-1 Officers<sup>1</sup>**

The regular appointed officers of the city shall be manager, clerk, chief of police, magistrate, attorney and engineer, who shall be appointed by the council and who shall serve at the pleasure of the council, with the exception of the magistrate who shall serve a term of two years.

**Section 3-1-2 Additional Officers<sup>2</sup>**

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

**Section 3-1-3 Bond<sup>2</sup>**

The council may require each officer of the city to give bond for the due discharge of his duties in such sums and with such security as it may direct.

**Section 3-1-4 Vacancies; Holding More Than One Office<sup>2</sup>**

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

**Section 3-1-5 Additional Powers and Duties**

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

**ARTICLE 3-2 OFFICERS**

3-2-1	Manager
3-2-2	Clerk
3-2-3	Chief of Police
3-2-4	Engineer
3-2-5	Attorney
3-2-6	Magistrate
3-2-7	Zoning Administrator
3-2-8	Building Official

**Section 3-2-1 Manager<sup>3</sup>**

- A. The manager shall be appointed by the city council on the basis of his administrative and executive ability and qualifications and shall hold office at the pleasure of the city council.
- B. The manager shall receive such compensation as the city council shall fix from time to time.
- C. The manager shall furnish a corporate surety bond, to be approved by the city council in such sum as may be determined by the council, conditioned upon the faithful performance of the duties imposed upon the manager as herein prescribed. Any premium for such bond shall be a proper charge against the city.
- D. The council may remove the manager at any time by majority vote. If requested by the manager, the council shall grant a public hearing within thirty days following

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<sup>1</sup> A.R.S. § 9-237 and 9-303

<sup>2</sup> A.R.S. § 9-239

<sup>3</sup> A.R.S. § 9-303

notice of removal. During the interim, the council may suspend the manager from duty but shall continue his salary for one month following the date of removal.

E. **The manager shall have the following powers and duties:**

1. The manager shall be the administrative head of the city government under the direction and control of the city council, except as otherwise provided herein. He shall be responsible to the council for the proper administration of all affairs of the city. In addition to his general powers as administrative head and not as a limitation thereof, he shall have the following **additional powers and duties**:
  - a. He shall see that the city **budget** is prepared annually and submit it to the council together with a message describing the important features contained therein. He shall also be responsible for its administration after adoption.
  - b. He shall prepare and submit to the council at the end of each fiscal year a complete **report on the finances** and administrative activities of the city during the preceding year.
  - c. He shall keep the city council advised of the financial condition and **future needs of the city** and make such recommendations as he may deem desirable. and approve as determined by resolution. The city may pay the costs of such bond but is not required to do so.
  - d. He shall recommend to the council the **compensation** for each appointive office and position in the city service. He shall also authorize the payment of overtime pay for such employees as may work in excess of a normal work period. All rates of pay and periods of work shall be in conformance with wages and salaries enacted by the council.
  - e. He shall **appoint** and when necessary for the good of the city, **suspend and remove all officers and employees** of the city not appointed by the council. He may authorize the head of a department or office to appoint, suspend or remove subordinates in such office or department. All actions in

appointing, suspending or removing officers and employees of the city are subject to review of the council.

f. He shall recommend to the council from time to time the adoption of such **measures which he may deem necessary** or expedient for the health, safety or welfare of the community or for the improvement and safeguard of administrative services and functions.

g. He shall **consolidate or combine offices, positions, departments** or units under his jurisdiction with the approval of the council. The manager may be the head of one or more departments.

h. He shall attend all meetings of the council unless excused therefrom and take part in the discussion of **all matters coming before the council**. He shall be entitled to receive notice of all regular and special meetings of the council.

i. He shall **supervise and safeguard the purchase and use of all materials**, supplies and equipment for which funds are provided in the budget in accordance with procedures set forth by order or resolution of the council. He may issue such rules governing purchase procedures within the administrative organization as the council shall approve.

j. He shall see that **all laws and ordinances are duly enforced**.

k. He shall **investigate the affairs of the city** and any department or division thereof, investigate **all complaints** in relation to matters concerning the administration of the city government and in regard to service maintained by the public utilities in the city, and see that ail franchises, permits and privileges granted by the city are faithfully observed.

l. He shall perform such other duties as may be required by the council.

F. Orders and Directions. The council shall deal with the administrative services of the city only through the manager, except for the purpose of inquiry, and neither the council nor any members thereof shall give orders to any subordinates of the manager. It shall be the responsibility of the council and its members to aid and assist in an advisory

capacity any department head, individually or collectively, on any phase of policy or public relations, such association not to conflict with the administrative duties of the manager.

G. Policy Making. The manager shall not exercise any legislative function whatsoever, nor shall he engage in policy making or institute programs which require official action by the council. The policy making power of the manager shall be to implement the policies adopted by the city council only. It is not intended by this section to grant any authority to or impose any duty upon the manager which is vested in or imposed by general law or city ordinances on any other city commission, board, officer or employee except as herein specifically set forth.

H. Public Relations. In the discharge of his duties as manager, the person holding such position shall endeavor at all times to exercise the highest degree of tact, patience and courtesy in his contacts with the public and with all city boards, departments and employees and shall use his best efforts to establish and maintain a harmonious relationship between all personnel employed in the government of the city to the end that the highest possible standards of public service shall be continuously maintained.

#### **Section 3-2-2 Finance Director<sup>4</sup>**

A. General Duties. The finance director shall keep a separate record and account of each different fund provided by the council, apportion the monies received among the different funds as prescribed by the council, and keep a complete, set of books showing every money transaction of the city, the state of each fund, from what source the money in each fund was derived and for what purpose expended. He or she shall make monthly reports to the council of all receipts and disbursements and the balance in each fund.

Planning. The finance director shall provide leadership and direction in the development of short and long range plans; gathers, interprets and prepares data for studies, reports and recommendations; coordinates department activities with other departments and agencies as needed.

Financial Records. The finance director shall make appropriate journal entries/adjustments to the accounting ledgers and closes financial records at the end of the fiscal

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<sup>4</sup> A.R.S. § 9-237 and 9-238. Amended by City Ordinance No. 116, April 12, 2007.

year according to generally accepted accounting procedures and principles including public budgeting and fund accounting. He or she shall reconcile all bank statements, prepare monthly reports relating to each account status.

Grants and Reports. The finance director shall keep various grant records, prepare monthly and annual state and federal reports, prepare monthly and annual state and federal reports and assist external auditors in their review and preparation of each annual audit.

Annual Budget. The finance director shall prepare an annual budget and present the same to the council and respond to requests for financial information from internal and external sources and prepare for City Council meetings as directed.

### Section 3-2-3 City Clerk.

A. General Duties. The-City Clerk shall be responsible for administration and supervisory work in coordinating a number of services and functions of City administration. The Clerk shall work under the general supervision of the City Manager and exercise supervision over clerical support personnel and other staff as assigned. The essential duties and responsibilities of the Clerk shall be as stated in the City of **St. Johns Classification and Compensation Plan**. He or she shall countersign such warrants as required by the mayor and council and shall disburse monies of the city upon demands duly approved by the council.<sup>5</sup>

B. Records. The clerk shall receive and safely keep all monies that shall come to the city and pay out the same when authorized by the council, or manager and shall keep a true and correct record of all business transacted by the council and any other records that either pertain to the business of the city or that the council directs. The clerk shall number, plainly label and file separately in a suitable cabinet all resolutions, ordinances, notices, deeds,

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<sup>5</sup> Amended by Ordinance No. \_\_\_\_ on \_\_\_\_, \_\_\_\_, 2019 amending Revisions made by Ordinance No. 12, Nov. 10<sup>th</sup>, 1994.

surveys, leases, paid and unpaid vouchers, inventories, letters, orders and other documents of whatever nature.

C. Public inspection of Records. The clerk shall keep convenient for public inspection all public records and public documents under his control, as provided by state statute.

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

E. Ordinances. Resolutions. Budgets and Notices. The clerk director shall process, record, file, publish and, if required by state statute, post all ordinances, resolutions, budgets and notices that may be passed by the council.

G. Election Official. The clerk shall be the city election official and perform those duties required by state statute.

H. Licenses. The clerk shall issue or cause to be issued ail licenses that may be prescribed by state statute or this code.

I. Administrative Duties. The clerk shall perform those administrative responsibilities and duties that are conferred upon him or her by the council or manager in addition to those specified in this code.

#### **Section 3-2-4 Chief of Police<sup>6</sup>**

The chief of police shall perform such duties as may be required of him by law and as the council or manager may deem necessary.

#### **Section 3-2-4 Engineer<sup>7</sup>**

The engineer shall perform such duties as may be required of him by law and such other duties as the council or manager may deem necessary.

#### **Section 3-2-5 Attorney**

The attorney shall act as the legal counselor and advisor of the council and other officials and, as such, shall give his opinion in writing when requested. He shall draft all deeds, contracts,

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<sup>6</sup> A.R.S. § 9-238

<sup>7</sup> A.R.S. § 9-238

conveyances, ordinances, resolutions and other legal instruments when required by the council. He shall return, within ten days, all ordinances and resolutions submitted to him for consideration by the council, with his approval or disapproval as to form noted thereon, together with his reasons therefor. He shall prosecute and defend all suits, actions or causes where the city is a party, and shall report to the council, when required, the condition of any suit or action to which the city is a party. He shall be the public prosecutor of the city and shall prosecute public offenses in the magistrate court.

#### **Section 3-2-6 Magistrate<sup>8</sup>**

The magistrate shall be the presiding officer of the magistrate's court and shall be selected by the council for a two-year term and shall perform those functions necessary to the maintenance of the magistrate's court as provided by state statute.

#### **Section 3-2-7 Zoning Administrator<sup>9</sup>**

- A. The City Manager may designate or employ one or more officers and/or employees of the City of St. Johns to act as Zoning Administrator(s) of the City of St. Johns to implement the provisions of the City of St. Johns Zoning Code as seems to him appropriate and practicable consistent current funding and available personnel.
- B. The Zoning Administrator has authority to administer and enforce the City Zoning Code on behalf of the City including but not limited to:
  - 1. Enforcing the Zoning Ordinance by ensuring that all activities, construction, and development within the City of St. Johns are in conformance with City zoning regulations.
  - 2. Accomplish all administrative tasks required by the Zoning Ordinance including negotiating with, advising, and processing applications for all persons requesting re-zonings, use permits, plan review, variances, appeals, or other actions of the Planning and Zoning Commission, Development Review Board, Board of Adjustment, or City Council.

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<sup>8</sup> A.R.S. § 11-402

<sup>9</sup> Added by Ordinance No. 02142018 dated 2/14/2018.

3. Subject to the policies of the Planning and Zoning Commission and City Council, interpret the Zoning Ordinance to members of the public, City departments, and other branches of government.
4. Serve as planning staff to the City Council and Planning and Zoning Commission and, as necessary, attend meetings of these and other organizations and agencies.
5. Perform all other tasks, as assigned by the City, necessary to carry out the duties and responsibilities of the Zoning Administrator as provided in the City of St. Johns Zoning and Abatement codes.

#### **Section 3-2-8 Building Official<sup>10</sup>**

- A. The City Manager may designate or employ one or more officers and/or employees of the City of St. Johns to act as the Building Official(s) of the City of St. Johns to implement the provisions of the City of St. Johns Building Code and/or Uniform Code For The Abatement Of Dangerous Buildings.

### **ARTICLE 3-3 PERSONNEL SYSTEM**

- 3-3-1 Creation and Scope
- 3-3-2 Conditions of Employment
- 3-3-3 Rules and Regulations
- 3-3-4 Political Contributions
- 3-3-5 Residency Requirements
- 3-3-7 Rules and Regulations
- 3-3-1 Political Contributions

#### **Section 3-3-1 Creation and Scope**

There is hereby adopted a merit system for the employees of the city, the provisions of which shall apply to all employees of the city except elected officials, officers of the city appointed by

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<sup>10</sup> Added by Ordinance No. 02142018 dated 2/14/2018.

the council, persons engaged under contract to supply expert, professional or technical services, temporary employees, volunteer fire fighters and volunteer personnel who receive no regular compensation from the city.

### **Section 3-3-2 Conditions of Employment**

Compliance with the requirements of this section is a requirement for full-time employment with the City of St. Johns. The appointment, promotion and tenure of every employee shall be conditioned on merit, fitness and the satisfactory performance of the duties and responsibilities assigned as well as with compliance with the provisions of this section. No employee or applicant for employment shall be discriminated against on the basis of race, color, religion, sex or political affiliation.

### **Section 3-3-3 Age.**

An applicant for full-time employment must be at least eighteen (18) years of age, and must be able to perform the essential functions and duties of the position applied for, with or without reasonable accommodation.

### **Section 3-3-4 Drug Testing.**

The City of St. Johns will comply with DOT drug testing guidelines and applicants successfully passing a pre-employment drug test.

### **Section 3-3-5 Residency Requirements.**

Except as set forth in subsection A and B and C below, all full-time City employees, not otherwise exempt by law,<sup>11</sup> shall be required to be a resident of the City within six (6) months

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<sup>11</sup> Section 3-3-5 Amended 3-12-19 to conform to SB 1231, Amending A.R.S. Title 9, Chapter 4, Article 8 by adding Section 9-500.46, Amending A.R.S. Title 48, Chapter 5, Article 1 by adding Section 48-824 relating to exclusion of Firefighters from residency requirements and exclusion of Police Officers from residency requirements in City's with a population over 5,000.

from the end of their probationary period. The city manager may grant an exception to this section when, in his sole opinion, such exception is in the interests of the city of St. Johns.<sup>12</sup>

A. **Time of Compliance.** Any full-time city employees not otherwise exempt by law, who have not established residency within the city's residency limits within six (6) months from the end of their probationary period shall be deemed to have resigned effective as of the date of non-compliance with this section.

1. **Moving Outside City Residency Limits After Adoption** of Residency

Ordinance. Any full-time employee moving outside of the city residency limits after the date of adoption of this ordinance shall be deemed to have resigned effective the day said employee started residency outside of the city residency limits.

2. **Grandfather Provision.** Any employee residing outside the city residency limits prior to the adoption of this ordinance with the permission of the City as of the date of adoption of this ordinance is deemed to be in compliance with this ordinance. Any employee who was residing outside the city residency limits as of the date of adoption of this ordinance and thereafter changes his or her residence shall be subject to the provisions of this ordinance. Any employee lawfully residing outside the city limits as of the date of adoption of this ordinance who thereafter moves his or her residence and who fails to effective as of the date of the change of residence to a location which is not within the city residency limits.

B. **Appointed Officials.** This residency policy shall apply to appointed officials of the City.

C. **Appointed Officers Under Contract.** This residency policy shall not apply to appointed officers who contract for services with the City and are not otherwise employees of the City.

D. **Definitions.**

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<sup>12</sup> **Retroactive Amendment to Section 3-3-5.** Passed by super majority of the City Council with an effective date of 1-13-2021 and made expressly retroactive to the date of original enactment of the residency requirement and made immediately effective as an emergency provision.

1. "**Residency limits**" as used in this section 3-3-2 is defined as within the interior boundaries of the St. Johns City Limits.

E. This Section 3-3-5 does not affect:

1. Any statute that requires residency within the residency limits of any local governmental unit if the requirements apply to an employee who holds elective office.
2. Any provision of law that requires residency requirements in this state.
3. Professional Firefighters as defined by A.R.S. 48-824C.

No officer, official or employee of the city shall use any influence or pressure upon any employee to obtain any assessment or contribution of money or time, either direct or indirect, for any political campaign or personal gain.

establish residency within the city residency limits shall be deemed to have resigned  
[Section 3-3-6 Rules and Regulations](#)

The council may adopt by resolution rules, regulations and policies to give effect to this article, which may be modified or changed from time to time, but such rules and regulations shall follow the generally accepted principles of good personnel administration.

#### **Section 3-3-7 Political Contributions**

No officer, official or employee of the city shall use any influence or pressure upon any employee to obtain any assessment or contribution of money or time, either direct or indirect, for any political campaign or personal gain.

## **ARTICLE 4-1 POLICE DEPARTMENT**

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

### **Section 4-1-1 Composition.**

The police department for the city shall consist of a chief of police and as many police officers as may from time to time be deemed necessary by the council for the safety and good order of the city.

### **Section 4-1-2 Appointment of Officers.**

The chief of police shall be appointed by the council and shall serve at the pleasure of the council. The chief of police, with the concurrence of the council, may appoint as many police officers as may from time to time be deemed necessary for the safety and good order of the city, provided such positions have been approved in the budget.

### **Section 4-1-3 Compensation of Officers.**

The chief of police and the police officers of the city shall be compensated as determined by the council and shall not receive any other compensation for services rendered while acting in their official capacity.

### **Section 4-1-4 Departmental Rules and Regulations.**

The police department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted by the council.

### **Section 4-1-5 Duties of Police Department.**

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

- A. Enforce this code and the statutes of the State of Arizona within jurisdictional limits as conferred by law and to arrest and charge the violators thereof.
- B. Render such account of the police department, its duties and receipts as may be required by the council or manager and keep records of the office open to inspection by the council at any time, except those records as may be exempted by State or Federal law.
- C. Enforce the traffic regulations and laws of the state within the limits of the city.
- D. Direct traffic and ensure the orderly flow thereof and investigate and make reports of accidents.
- E. Perform such additional duties as may be required by the council or city manager.
- F. Any peace officer or duly authorized agent of the city may stop and detain a person as is reasonably necessary to investigate an actual or suspected violation of any provision of this code, and to serve a copy of a complaint for any alleged civil or criminal violation of this code.

#### **Section 4-1-6 Answering Calls Outside the City.**

The members of the police department of the city are duly authorized to answer calls for aid and assistance beyond the corporate limits of the city whenever the chief of police or his substitute in charge of the police department at the time, in his discretion shall deem it necessary to protect lives and property.<sup>1</sup>

#### **ARTICLE 4-2 FIRE DEPARTMENT<sup>2</sup>**

- 4-2-1 Composition
- 4-2-2 Departmental Rules and Regulations
- 4-2-3 Compensation
- 4-2-4 Appointment, Powers and Duties of Chief
- 4-2-5 Appointment and Duties of Fire Fighters
- 4-2-6 Entry Upon Adjacent Property
- 4-2-7 Providing Fire Protection Outside the City
- 4-2-8 Acknowledgment of Right of Way
- 4-2-9 Fire Alarms
- 4-2-10 Orders of Fire Chief
- 4-2-11 Outdoor Fire Regulations

#### **Section 4-2-1 Composition**

The volunteer fire department for the city shall consist of a chief and as many fire fighters as may be deemed necessary from time to time by the council. The fire department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted by the council.

#### **Section 4-2-2 Departmental Rules and Regulations**

The fire department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted by the council.

#### **Section 4-2-3 Compensation**

The Fire chief and volunteer fire fighters may be compensated as determined by the council.

#### **Section 4-2-4 Appointment, Powers and Duties of Chief**

The chief of the fire department shall be appointed by the council and shall serve at the pleasure of the council. It shall be the duty of the chief to:

- A. Be accountable to the manager and the council for the personnel, morale and general efficiency of the fire department
- B. Direct the operations of the fire department subject to the rules and regulations thereof.
- C. Be present at all fires, if possible, and plan and direct the extinguishment thereof. During the progress of a fire, the authority of the fire chief shall be absolute in all matters directly concerning the extinguishment of the fire and disposition of property endangered by it.
- D. Conduct suitable drills or instruction in the operation and handling of equipment, first aid and rescue work, salvage, a study of buildings in the city, water supplies, and ail

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<sup>1</sup> A.R.S. § 9-240 B (12)

<sup>2</sup> A.R.S. § 9-240 B (7)

other matters generally considered essential to good fireman ship and safety of life and property from fire.

E. Assist the proper authorities in suppressing arson by investigating or causing to be investigated the cause, origin and circumstances of all fires.

F. Inspect buildings and premises and serve written notice upon the owner or occupant to abate, within a specified time, any and ail fire hazards that may be found. For the purpose of conducting such inspection, the chief is hereby empowered to enter any and ail buildings and premises within the city at any reasonable hour. Any person served with such written notice shall comply and notify the chief of his compliance within a reasonable time.

G. Keep complete records of all fires, inspections, apparatus and equipment, personnel and other information about the work of the department open to council inspection and furnish to the council such information upon request.

H. Make a complete annual report to the council at such time as may be specified by the council. Such report shall include the information specified in Section 4-2-4 (Q), together with comparative data for previous years and recommendations for improving the effectiveness of the department.

I. Enforce or cause to be enforced all ordinances, laws and regulations of the city and state, insofar as they pertain to fire and safety.

J. Demote, dismiss or expel any officer or member of the department for neglect or refusal to perform departmental duties, subject to the right of any members so demoted, dismissed or expelled to appeal to the council.

#### **Section 4-2-5 Appointment and Duties of Fire Fighters**

Fire fighters shall be appointed at such time and in such manner as the council may deem necessary. Such appointees shall be able-bodied citizens whose business activities are normally

near the confines of the city. The fire fighters shall be subject to supervision by the fire chief or the assistant fire chief and shall be subject to the rules and regulations of the fire department.

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

It is lawful for any fire fighter acting under the direction of the chief or another officer in command to enter upon the premises adjacent to or in the vicinity of any building or other property that is on fire for the purpose of extinguishing such fire, and no person shall hinder, resist or obstruct any fire fighter in the discharge of his duty as provided in this section.

#### **Section 4-2-7 Providing Fire Protection Outside the City**

The council may enter into agreements or contracts to furnish fire protection outside the city or enter into mutual aid agreements, and the fire department is authorized to render fire fighting service pursuant to the terms of such agreements or contracts.

#### **Section 4-2-8 Acknowledgment of Right of Way**

Each member of the department who drives a private motor vehicle shall be issued suitable insignia which may be attached to such motor vehicle. All motor equipment of the department shall have right of way over all other traffic when responding to an alarm. No unauthorized vehicle shall follow within five hundred feet of any apparatus belonging to the department. No person shall park any vehicle or otherwise cause any obstruction to be placed within a reasonable distance of the driveway entrance to any fire station or other place where fire apparatus is stored or on the side of a street opposite the entrance to any fire station or within fifteen feet of any fire hydrant. No person shall drive any vehicle over fire hose except upon specific orders from the chief or other officer in charge where the hose is used. No person shall be at any location at the site of a fire which would, in the opinion of the fire chief or the assistant fire chief, interfere with the control of the fire.

#### **Section 4-2-9 Fire Alarms**

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

#### **Section 4-2-10 Orders of Fire Chief**

It is unlawful for any person to refuse to obey an order issued by the fire chief pursuant to his authority.

**Section 4-2-11 Outdoor Fire Restrictions<sup>3</sup>**

A. Definitions. For the purposes of this section, the following terms shall have the following definitions.

1. Open Outdoor Fire means any combustible material(s) of any type that is not within a fully enclosed building, mobile home or other structure having four walls and a ceiling.
2. Campfire. Means any open outdoor fire that is used for cooking, personal warmth, lighting, ceremony or aesthetic purposes.
3. Gas Barbecue means a fixed or portable device where food is cooked outdoors on a metal frame over a fire fueled by a propane or gas source.
4. Bonfire/Campfire means an open outdoor fire for the purpose of burning rubbish, waste material or refuse.

B. Prohibition against Open Out-door Fires.

1. Prohibition. By order of the St. Johns Fire Chief or by resolution of the St Johns City Council, it shall be unlawful for any person to build, maintain, attend, ignite, or use an open outdoor fire, including a campfire or bonfire, in the incorporated areas of the City of St. Johns, except as provided in this Section.
2. Exemptions. The following open outdoor fires are exempt from the provisions of this ordinance.
  - a. Open outdoor fires used solely for the cooking of food on a gas barbecue.
  - b. Open outdoor fires set or permitted by the Fire Chief in the performance of official duty for the purpose of weed abatement, the prevention of fire hazard or instruction in the methods of fighting fires.

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<sup>3</sup> Added by Ordinance No. 101, July 11<sup>th</sup>, 2002.

- c. Open outdoor fires set or permitted by the Director of the Department of Agriculture or County Agriculture agents for the purpose of disease and pest prevention.
- d. Open outdoor fires set by or permitted by the Federal Government or any of its departments or agencies, or the State of Arizona or any of its departments, agencies, or political subdivisions, for the purpose of watershed rehabilitation or control through vegetative manipulation.
- e. Any campfire within a designated area at a developed recreational site maintained by an agency or department of the federal, state, or local government (unless further prohibited by the government entity having jurisdiction over the recreational she).
- f. Open outdoor fires authorized by a permit issued pursuant to A. R. S. §§49-501*et. seq.*
- g. In addition to the exceptions set forth in paragraphs A through F, the St Johns City Council may, by resolution, exempt certain portions of the incorporated area of the City of St. Johns if the issuance of an order by the Forest Service as described in Section 2.1, or the adoption of a resolution by the City Council as described in described in Section 2,1, is deemed by the City Council not to require city-wide application of this ordinance. In such circumstances, the resolution of the City Council shall clearly specify the areas which are exempted.

#### C. Penalty/Enforcement.

1. Each violation of this ordinance shall result in a civil penalty not to exceed \$100.00. Each day that a violation continues shall be deemed a separate offense. In addition to the

foregoing fine, the reasonable response costs of the governmental entity or entities that respond to the prohibited fire may be assessed against the violators).

2. This ordinance may be enforced by an action in the Justice Court Precinct where the violation occurs.

D. Applicability.

This ordinance applies within all incorporated areas of the City of St. Johns

**CHAPTER 5 MAGISTRATE AND CITY COURT**

**ARTICLE 5-1 MAGISTRATE COURT ESTABLISHED, JURISDICTION<sup>1</sup>**

There is hereby established in the city a magistrate's court which shall have Jurisdiction of all violations of this code, and Jurisdiction concurrently with Justices of the peace of precincts in which the city is located of violation of laws of the state committed within the limits of the city.

**ARTICLE 5-2 PRESIDING OFFICER**

5-2-1 Magistrate

5-2-2 Powers and Duties of Magistrate

5-2-3 Hearing Officers

**Section 5-2-1 Magistrate**

The presiding officer of the magistrate's court shall be the magistrate, who shall be appointed by the council for a two-year term.

**Section 5-2-2 Powers and Duties of Magistrate**

The powers and duties of the magistrate shall include:

- A. The powers and duties set forth and conferred upon him under the provisions of the state constitution and statutes, this code and the ordinances and resolutions of the city.
- B. The keeping of a docket in which shall be entered each action and the proceedings of the court therein.
- C. The fixing and receiving of ail bonds and bails and receiving all fines, penalties, fees and other monies as provided by law.
- D. The payment of ail fees, fines, penalties, and other monies collected by the court to the treasurer.

- E. The submission of a monthly report to the council summarizing court activities for the month.
- F. The preparation of a schedule of traffic violations not involving the death of a person, listing a suggested bail for each violation.
- G. The designation of a deputy other than a law enforcement officer and a specific location at which the deputy shall, during hours when the court is not open, set the amount of bail in accordance with the foregoing schedule and collect such bail, or accept proper bail bonds in lieu thereof, for and on behalf of the court.
- H. The preparation of a schedule of civil traffic violations listing a specific deposit for each violation. The magistrate shall designate a person, a specific location and the hours which such person will be at the location to accept proper deposits for civil traffic violations for and on behalf of the court.

### **Section 5-2-3 Hearing Officers**

The city council may appoint one or more hearing officers to preside over civil traffic violation cases when the appointment of such hearing officers is deemed necessary to assure prompt disposition of civil traffic violation cases. Hearing officers may hear and dispose of civil traffic violation cases under supervision of the presiding officer of the St Johns Magistrate Court, which cases are appealable to the Superior Court pursuant to the Arizona Revised Statutes

### **Section 5-2-4 Fees to be Charged by the Magistrate Court<sup>2</sup>**

The following fees are hereby established to be collected by the Magistrate Court.

- A. Jail Reimbursement Fee - Any person who has been convicted of a misdemeanor criminal offense in the Magistrate Court and sentenced to a term of incarceration in the county jail, or any other detention facility authorized by law, may as a part of any fine imposed by the Magistrate Court in connection with the sentencing, be required to

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<sup>1</sup> A.R.S. § 22-402, et. seq.

<sup>2</sup> Adopted by Ordinance No. 128, December 11<sup>th</sup>, 2008.

reimburse the City for all or any part of the actual expenses the City has or will incur to the county or other authorized detention authority by reason of the incarceration. The maximum amount ordered for reimbursement under this Section shall not exceed the number of days the misdemeanor is actually incarcerated in the county jail or detention facility, multiplied by the prevailing per diem rate, plus the booking fee, charged to the City at the time that the misdemeanor is incarcerated.

B. Court Improvement Fee - The Magistrate Court shall collect a court improvement fee which shall be applied by the Magistrate Court on all fines, sanctions, penalties and assessments imposed by the Magistrate Court. The improvement fee shall also apply to fees collected for court authorized diversion programs. "Court authorized diversion program," as used in this Section, means a program in which an individual charged with any civil, criminal, or petty offense is not prosecuted for the offense on successful completion of an authorized diversion program and it includes authorized defensive driving courses.

C. Probation Service Fee - Any person who has been convicted of a criminal misdemeanor, petty offense, or local code violation in the Magistrate Court and sentenced to a term of probation, may as part of any fine imposed by the Magistrate Court in connection with the sentencing be required to pay a user fee to the City to help defray the cost of probation services as provided by Magistrate Court. The minimum amount ordered for reimbursement on summary or supervised probation under this Section shall be established on a per month basis for each month or part thereof that the defendant is sentenced to probation.

D. Warrant Fee - The Magistrate Court shall collect a warrant fee for each warrant issued by the court. Any person who has a warrant issued by the court for failure to appear, failure to comply with a court order, or any other warrant from the bench shall be required to pay this fee to the City for the cost of issuing and servicing the warrant.

E. Suspension Fee - The Magistrate Court shall collect a suspension fee for each suspension on a driver's license issued by the court. Any person who has had a suspension issued by the court for failure to pay a civil traffic fine or for any other reason shall be

required to pay this fee to the City for the cost of issuing and servicing the suspension. This fee shall be applied to each suspension issued.

F. Default Fee - The Magistrate Court shall collect a default fee for each default judgment entered on a civil traffic violation because the person cited failed to respond to the citation or summons. Any person who has had a default judgment entered against them for failure to respond to a civil traffic citation shall be required to pay this fee to the City for the cost of issuing and servicing the default judgment. This fee shall be applied to each default issued.

G. Time Payment Fee - In addition to any other assessment authorized by law, the court shall collect a time payment fee on each person who pays a court ordered penalty, fine, or sanction on a time payment basis, including parking penalties, restitution and juvenile monetary assessments. A time payment basis shall be any penalty, fine, or sanction not paid in full on the date the court imposed the fine, penalty, or sanction.

H. Reduction in Indigent Cases - If a person has been found by the Magistrate Court to be indigent, the Court magistrate may reduce the amount of any fee set forth in this Section based upon the individual's ability to pay.

I. Civil Collections - In addition to any other remedies which may be allowed by law, the City Attorney is authorized to institute civil legal proceedings in any court of competent jurisdiction to recover any fee owing under this Section.

J. Indigent Representation Reimbursement Fee.<sup>3</sup> Any person who has been appointed counsel to be paid at city expense and who has been convicted of a misdemeanor criminal offense in the City Court, may as a part of any sentence imposed by the City Court in connection therewith be required to reimburse the City for all or any part of the actual expenses of the City has or will incur for the costs of indigent legal representation. The maximum amount ordered for reimbursement under this section shall not exceed the actual amount paid by the city for legal services on behalf of the indigent person or the number of hours spent in representation multiplied by the prevailing per-hour rate the City is paying attorney's who contract with the city to represent indigent

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<sup>3</sup> Adopted by Ordinance No. 131, January 8<sup>th</sup>, 2009.

clients. The amount so ordered may be prorated over the term of probation, if probation is granted, or may be reduced to an order at the time of judgment.

K. Indigent Administration Assessment Fee. Any person who has been determined to be indigent and has been appointed counsel to be paid at city expense may be assessed a one time fee to help defray the costs of administering the indigent representation services. The fee assessed under this sub-section shall not exceed \$25.00. The fees collected pursuant to this sub-section shall be paid into the city general fund and used to defray the costs of appointed counsel.

#### **Section 5-2-5 Establishment of Funds and Allocation of Fees**

A. Magistrate Court Improvement Fund - There is hereby established a Magistrate Court Improvement Fund, which shall be used exclusively to enhance the technological, operational, and security capabilities of the Magistrate Court. The Court Improvement Fund shall be established as a designated fund account with the City Treasurer. The Magistrate Court shall collect the court improvement fees as defined in this Section and deposit them in the Court Improvement Fund account. The City Treasurer shall invest the monies in the fund in the same manner as City funds. Interest earned on fund monies shall be deposited in the fund.

B. Magistrate Court Collection Fund - There is hereby established a Magistrate Court Collection Fund, which shall be used exclusively to enhance the technological, operational and security capabilities of the Magistrate Court, especially, but not exclusively in regards to collection programs. The Court Collection Fund shall be established as a designated fund account with the City Treasurer. The Magistrate Court shall collect warrant and suspension fees as defined in this Section and deposit them in the Court Collection Fund account. The City Treasurer shall invest the monies in the fund in the same manner as City funds. Interest earned on fund monies shall be deposited in the fund.

C. Allocation of Fees - All fees not designated to be deposited in a specific fund as defined in this Section are to be deposited in the City general fund account as reimbursement for costs of court operations.

**Section 5-2-6 Authority to Set Fee Amounts<sup>3</sup>**

- A. The amount to be charged by the Magistrate Court for all fees set forth in this section is to be recommended by the Presiding Magistrate of the Magistrate Court who will present the fees to the City Council in writing for approval.
  
- B. If the City Council desires changes in the fee schedule submitted by the Presiding Magistrate, the Presiding Magistrate may resubmit a new fee schedule as often as deemed necessary. The most recent fee schedule will remain in effect until a new fee schedule is submitted by the Presiding Magistrate.

**ARTICLE 5-3 PROCEEDINGS OF COURT**

**Section 5-3-1 Proceedings**

- A. The magistrate court proceedings shall be commenced by complaint under oath and in the name of the state setting forth the offense charged with and such particulars of time, place, person and property as to enable the defendant to understand distinctly the character of the offense complained of and to answer the complaint.
  
- B. If the magistrate is satisfied that the offense complained of has been committed by the person charged, he shall issue a summons or a warrant of arrest. Before issuing a summons or warrant of arrest on a complaint, the magistrate may subpoena and examine witnesses as to the truth of the complaint.

**Table A. Court Service Fees.**

The following fees are established and adopted for court services provided to litigants in Magistrate Court proceedings.<sup>4</sup>

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<sup>4</sup> Adopted by Ordinance No. 131, January, 8<sup>th</sup>, 2009.

	DESCRIPTION	FEE
A.	Jail Reimbursement Fee	\$57.00
B.	Court Improvement Fee	\$100.00 Order to show cause
C.	Probation Client Fee	\$10.00
D.	Warrant Fee	\$150.00
E.	Suspension Fee	Amount of fine plus time payment fee
F.	Default Fee	\$50.00
G.	Time Payment Fee	\$20.00
H.	Reduction in Indigent Cases	N/A
I.	Civil Traffic Collections	\$50.00
J.	Indigent Representation Reimbursement Fee	\$25.00 per hour
K.	Indigent Representation Administration Services Fee	\$10.00

## CHAPTER 6 ANIMALS

### ARTICLE 6-1 GENERAL

6-1-1	Cruelty
6-1-2	Dangerous Animals
6-1-3	Disposal of Dangerous Animals
6-1-4	Noises and Odors
6-1-5	Strays
6-1-6	Housing
6-1-7	Impeding Animal Control Officer
6-1-8	Impound Fees
6-1-9	Authority to Enter Private Property

#### Section 6-1 -1 Cruelty

It is unlawful for any person to cruelly treat any animal in any way, including, but not limited to, beating, underfeeding, overloading or abandoning said animal.

#### Section 6-1-2 Dangerous Animals

It is unlawful to permit any dangerous or vicious animal of any kind to run at large within the city, and such animals shall be immediately impounded, killed or otherwise disposed of, at the discretion of the animal control officer. Exhibitions or parades of animals which are *ferae naturae* in the eyes of the law may be conducted only upon securing a permit from the chief of police or such person whom he may appoint. A dangerous or vicious animal is one which has a propensity to attack, to cause injury to or otherwise endanger the safety of human beings without provocation. If a dog has bitten a person without provocation or has bitten any person more than once, even if provoked, it is deemed dangerous and vicious. Hybrid wolf dogs are illegal and deemed to be dangerous per se.

#### Section 6-1-3 Disposal of Dangerous Animals

Any police officer, animal control officer or other officer of the city is authorized to kill or otherwise dispose of any dangerous or vicious animal without notice to the owner and without any hearing.

### **Section 6-1-4 Noises and Odors**

It is unlawful to harbor or keep any animals that disturb the peace by unreasonable odors or by loud noises at any time of the day or night.

### **Section 6-1-5 Strays**

Any person who keeps or causes to be kept any horses, mules, cattle, burros, goats, sheep, swine or other livestock or poultry shall keep such livestock or poultry in a pen or similar enclosure to prevent their roaming at large within the corporate limits of the city. Any such livestock or poultry running at large may be impounded by any police officer, animal control officer or other officer of the city.

### **Section 6-1-6 Housing**

It is unlawful to cause or allow any stable or place where any animal is or may be kept to become unclean or unwholesome.

### **Section 6-1-7 Impeding Animal Control Officer**

No person shall in any manner intervene, impede, prevent, obstruct or intimidate, or attempt to intervene, impede, prevent, obstruct or intimidate an animal control officer or other city employee in the discharge of his duties in taking up or attempting to take up and impound any animal which it shall be his duty to impound under the provisions of this chapter, or to rescue or attempt to rescue any animal so taken up by an animal control officer or other city employee, or to release any animal so impounded, or to give any false information to any animal control officer or other city employee engaged in the enforcement of this chapter.

### **Section 6-1-8 Impound Fees**

The owner of any animal and every person having care, charge, custody or control of said animal shall pay to the city a fee, as shall be set from time to time by the city council, for the impoundment, attempted impoundment, housing, care, disposal, vaccination or other action taken with regard to said animal, all of which shall be designated as "impound fees".

### Section 6-1-9 Authority to Enter Private Property

Any police officer, animal control officer or other city employee shall be entitled to enter any private property while in pursuit of any dangerous animal or any animal at large.

### ARTICLE 6-2 DOGS

- 6-2-1 Definitions
- 6-2-2 Licenses and Tags Generally
- 6-2-3 Vaccination Required
- 6-2-4 Running at Large
- 6-2-5 Impoundment
- 6-2-6 Biting Dogs
- 6-2-7 Kennel Permits

#### Section 6-2-1 Definitions

In this article unless the context otherwise requires:

- A. "At large" means not securely indoors or within securely enclosed and locked pen or dog run areas upon the premises of the person having care, charge, custody or control of such animal. Such confinement must be adequate to prevent the escape from the area by the dog and prevent the dog from causing any damage to any person or property.
- B. "Collar" means a band, chain, harness or suitable device worn around the neck of a dog to which a license may be affixed.
- C. "Designated officer of the city" means any person designated by the city to enforce the provisions of this article.
- D. "Dog" means a member of the canis familiaris family.
- E. "Owner" means any person owning, keeping, possessing, harboring or maintaining a dog.

F. "Pound" means any establishment authorized by the city for the confinement, maintenance, safekeeping and control of dogs that come into the custody of the designated officer of the city.

G. "Vaccination" means anti-rabies vaccination using a type of vaccine approved by a licensed veterinarian.

### Section 6-2-2 Licenses and Tags Generally

A. A license fee shall be paid for each dog four months of age or over that is kept, harbored or maintained within the boundaries of the city for at least thirty days of each calendar year. The annual fee shall be as set by the city council by resolution and may be different for males, spayed females, un-spayed females and for various breeds.

B. The license fee shall be due on May 1 of each year and shall be paid within ninety days to the city. A penalty in an amount established by resolution of the council shall be added to the license fee in the event that application is made after the date on which the dog is required to be licensed. This penalty shall not be assessed against applicants who furnish adequate proof that the dog to be licensed has been in their possession in the city less than thirty days.

C. A guide dog belonging to a blind person or any nonprofit organization which is in the business of breeding, raising or training dogs that are to be used for guiding the blind shall, upon presentation of proper proof, be vaccinated and licenses pursuant to this article without payment of a fee.

D. Each dog licensed under the terms of this article shall receive, at the time of licensing, a tag on which shall be inscribed the name of the city, the number of the license and the year in which it expires. The tag shall be attached to a collar which shall be worn by the dog at all times, except as otherwise provided in this article. Whenever a dog tag is lost, a duplicate tag shall be issued upon application by the owner and payment of a fee as established by resolution of the council.

- E. It is unlawful for any person to counterfeit or attempt to counterfeit an official dog tag or remove such tag from any dog for the purpose of willful and malicious mischief or place a dog tag upon a dog unless the tag was issued to that dog.
- F. Whenever the ownership of a dog has changed, the new owner must secure a transfer of license to such owner. A transfer fee as established by resolution of the council shall be charged to transfer any license.
- G. Dogs while being used for hunting or dogs while being exhibited at American Kennel Club approved shows or dogs while engaged in races approved by the Arizona Racing Commission and such dogs while being transported to and from such events need not wear a collar with a valid license attached, provided that they are properly vaccinated and licensed.
- H. The designated officer of the city shall apprehend and impound any dog found without a current valid license tag.

### Section 6-2-3 Vaccination Required

- A. Before a license is issued for any dog, the owner must present a vaccination certificate signed by a veterinarian stating the owner's name and address and giving the dog's description, date of vaccination and type, manufacturer and serial number of the vaccine and date revaccination is due. A duplicate of each rabies vaccination certificate issued shall be transmitted to the police department on or before the tenth day of the month following the month during which the dog was vaccinated. No dog shall be licensed unless it is vaccinated in accordance with the provisions of this article and the regulations promulgated hereunder.
- B. A dog vaccinated in any other place before entry into the city may be licensed in the city provided that at the time of licensing, the owner of such dog presents a vaccination certificate which complies with subsection A of this section.
- C. If a dog is impounded and found to be unvaccinated, the city may cause such dog to be vaccinated at the cost of the owner, or it may release the dog to a person who claims it upon payment of all impound fees, which shall include vaccination. The person claiming the dog shall, within ten days of its release, have it vaccinated by a licensed

veterinarian who shall issue a certificate of vaccination. If such person fails to have the dog vaccinated within ten days, he shall be guilty of a class one misdemeanor and said failure shall be grounds for re-impoundment of the dog.

#### Section 6-2-4 Running at Large

A. No person owning, keeping, possessing, harboring or maintaining a dog shall allow such dog to be at large. A dog is not deemed to be at large:

1. If such dog is restrained by a leash, chain, rope or cord of not more than six feet in length and of sufficient strength to control the action of such dog and with a muzzle when necessary to prevent injury to any person or property.
2. While such dog is actively engaged in dog obedience training, accompanied by and under such control of his owner or trainer, provided that the person training such dog has in his possession a dog leash of not more than six feet in length and of sufficient strength to control such dog, and further, that such dog is actually enrolled in or has completed a dog obedience school which has been approved by the designated officer of the city.
3. While such dog is being used for hunting purposes.
4. While such dog is being exhibited at an American Kennel Club approved show.
5. While such dog is engaged in races approved by the Arizona Racing Commission.
6. Cattle dogs while working cattle or being transported.

B. Any female dog in heat not securely confined in the owner's yard, pen or other enclosure shall be deemed to be at large.

C. Designated offices of the city shall apprehend and impound any dog that is at large or any dog that city officers have seen at large three or more times. Any dog that has been seen at large by city officers three or more times is deemed a nuisance and may be

destroyed by the city. The city officer shall give an owner written notice each time he sees the dog at large.

### Section 6-2-5 Impoundment

A. The designated officers of the city shall apprehend and impound any dog found without a current valid license tag, or any dog at large or which has been seen at large three or more times.

B. Each unlicensed dog impounded shall be kept and maintained at the pound for a minimum of three days. At the expiration of the impoundment period, anyone may claim the dog, provided that such person pays all established pound fees and complies with the licensing provisions of this article within seventy-two hours. If no person claims the dog, the designated officer of the city may dispose of the dog in accordance with state law.

C. Any dog impounded because the dog is at large or has been seen at large three or more times as provided for in Section 6-2-4 may be destroyed by the city as a nuisance.

D. Any dogs which are destroyed shall be done so in the manner provided in A.R.S. § 11-1021.

### Section 6-2-6 Biting Dogs

A. Whenever a dog bites any person, the incident shall be reported immediately to the city police department by any person having direct knowledge thereof.

B. Any dog that bites any person shall be quarantined and impounded or, at the request of and at the expense of the owner, placed in a veterinary hospital for a period of not less than seven days. The owner of any dog that has bitten a person may voluntarily deliver the dog to the police department at the pound; otherwise, there shall be an assessment as established by resolution of the council against the owner if the police department or designated officer of the city picks up the dog. If the dog is impounded in

the pound for observation as a result of a dog bite incident, there shall be a charge for board as established by resolution of the council, and for other impoundment fees.

C. If it is determined that the dog is infected with rabies or other dangerous, contagious or infectious disease, it shall be the duty of the designated officers of the city to destroy such dog in accordance with state law. If at the end of the quarantine or impoundment, a veterinarian is convinced that the dog is free from such diseases and the owner claims the dog, the dog shall be released, unless the dog has been determined by an appropriate city officer to be dangerous or vicious pursuant to §§ 6-1 -2 and 6-1 -3. If the dog dies during the period of quarantine or impoundment, the dog shall be treated as required by state law.

#### **Section 6-2-7 Kennel Permits**

Any person who has, owns or possesses three or more dogs, over one year of age, must have a kennel permit issued by the city and a kennel in which to keep the dogs which is an enclosed, controlled area inaccessible to other animals in which the person will keep, harbor or maintain three or more dogs, over one year of age, under controlled conditions. The kennel permit fee shall be set by City Council by resolution.

CHAPTER 7 BUSINESS REGULATIONS

ARTICLE 7-1 BUSINESS LICENSES<sup>1</sup>

- Art. 7-1 License to do Business within the City of St. Johns
- Art. 7-2 Home Occupations
- Art. 7-3 Temporary Peddlers, Solicitors and Transient Merchants
- Art. 7-4 Special Event Permits
- Art. 7-5 Definitions

ARTICLE 7-1. BUSINESS LICENSES<sup>1</sup>

SEC. 7-1-1. LICENSE REQUIRED.

- (A) **Requirement.** Except as specifically set forth herein, all businesses within the City shall obtain a City Business License in conformity with this Article. Any business, distributor or wholesaler who maintains a business location within the boundaries of the City of St. Johns shall have a local business license issued by the City of St. Johns.
- (B) **Existing Businesses.** Any existing business already licensed by any Professional, Industrial, Agricultural or other official licensing entity, agency or professional association or by any Federal, State, County, Tribal government, Court or Agency or existing at the time of the passage of this Chapter shall be grandfathered into this Chapter and shall automatically be issued a City Business license to engage in that business, within the city of St. Johns without payment of any additional fee or provision of any other documentation other than that required by section 7-1-5 (B) and providing a copy of such license to the City for its files and records.
- (C) **New Businesses.** New business shall be required to have a business license prior to operation within the City of St. Johns. Any business, whether a sole proprietorship, nonprofit, partnership, corporation, Limited Liability Company or other recognized commercial entity which wishes to regularly conduct business in the City of St. Johns or provide delivery of products and/or services from an address or other location(s) within the corporate limits of the City of St. Johns and any distributor or wholesaler who wishes to maintain a business location within the boundaries of the City of St. Johns after the passage of this ordinance shall obtain a business license from the City of St. Johns pursuant to the provisions of Section 7-1-5.
- (D) **Business License Fee.** New Businesses shall be required to pay a fee of \$25.00 upon application for a Business License to defray the costs of review and issuance of the license. Thereafter the business license shall be automatically renewed upon payment

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<sup>1</sup> Adopted by Ordinance No. 07122021 July 14<sup>th</sup>, 2021, effective August 14<sup>th</sup>, 2021.

of a \$10.00 renewal fee to the City. A Late fee of \$5.00 may be assessed by the city if the renewal fee is not tendered within 3 months of being due.

- (E) **Distributors and Wholesalers.** Every distributor/wholesaler who does not have a physical location within the city boundaries, and which does business only as a distributor or wholesaler as defined in this chapter shall not be required to have a license or permit as required by this chapter.

**SEC. 7-1-2. CHANGE OF LOCATION.**

- (A) **Change of Business Address.** A business which possesses a current business License shall notify the City of a change of address within ten (10) business days of the change of address. Upon receipt of a notice of change of address, the City shall give notice of such change to the appropriate Fire district.

**SEC. 7-1-3. PROHIBITED BUSINESS LOCATIONS AND ACTIVITIES.**

- (A) No person shall conduct business within the city in any structure or area where conducting such business is prohibited by state or federal law, by the City's Zoning Ordinance, by the applicable fire code or by other applicable codes or regulations without the consent of the City. No permanent business shall use any location within a public or private street, nor shall an applicant be registered to operate a business in any congested area where its operations might impede traffic or otherwise inconvenience the public.

**SEC. 7-1-4. EXEMPTIONS.**

A business license shall not be required when:

- (A) Federal or state law precludes requiring a business License or license for the business.
- (B) The business is the sale of handmade or homemade goods, or food products by an owner, proprietor or tenant of agricultural lands, orchards, farms and gardens on which such food products are grown, raised or prepared for market.
- (C) The activity is regulated by the requirements for peddlers, solicitors, transient merchants, special events, special event vendors or carnivals as set forth in this chapter.

**SEC. 7-1-5. ISSUANCE OF BUSINESS LICENSE.**

- (A) A Business License Application shall be made on forms and in the manner prescribed by the City as described in subsection (B).
- (B) The business License shall include all of the following information and such other information as the City deems reasonably necessary:
  - (1) Name of business.
  - (2) Name, date of birth and social security number of the applicant and relationship to the business or entity.

- (3) Street and mailing addresses of each business location(s).
  - (4) A brief description of the nature and type of business.
  - (5) The type of business entity. If the business is a corporation or limited liability company, non-profit, or other form of business not registered in the state of Arizona, then the application shall specify the state where the business was formed and the statutory agent's name and address.
  - (6) If applicable, a list of hazardous materials or hazardous waste materials (*as defined by Title 49 USC Chapter 51 Section 5102 and amendments thereto*) which may be handled, used or stored by the business.
  - (7) List of officers/owners/and managers of the business and their addresses. The name and telephone number for the individual(s) who can be called in case of emergency.
  - (9) The length of time for which the right to do business is desired.
  - (10) A copy of the Arizona Transaction Privilege Tax documentation (*if required by the taxing authority*).
  - (11) If the business is subject to a certificate of health or sanitary examination, the applicant shall produce a copy of such certificate or permit from the Apache County Health Department, as provided for in Arizona Revised Statutes. Section 36-136 as amended. This section shall also apply to all new or remodeled restaurants, bars or other businesses which serve food to the public located within the city limits.
  - (12) Where any business specified in this chapter is subject to other federal, state or local licensing, License or permit requirements, i.e., professional, medical, technical, contractors, real estate, etc., the applicant shall produce a copy of such License, License or permit from the appropriate federal, state or local governmental authorities.
  - (13) Any person applying for a business License shall submit the application as established by resolution of the city council.
- (C) Upon receipt of completed business License application, the City shall:
- (1) Check the information provided pursuant to this section.
  - (2) Promptly give a copy of the business License application to the appropriate Fire district providing fire protection services to the property.
  - (3) Issue the License within five working days unless there is good cause to withhold the issuance of a license. If the issuance of a license is withheld, it shall be handled as a suspension of a license pursuant to the provisions of 7-1-12 and 7-1-13 herein.

**SEC. 7-1-6. RENEWAL OF BUSINESS LICENSE (PERMANENT BUSINESS).**

All local business Licenses shall be automatically renewed by the City each year without the necessity of filing additional paperwork upon payment of a \$5.00 renewal fee to the City unless there has been a material change in the information provided pursuant to Section 7- 1-5 or such license is revoked or there is a demonstrable material change in the circumstances upon which the license was originally was granted. A Late fee of \$5.00 may be assessed by the City if the renewal fee is not tendered within 3 months of being due.

**SEC. 7-1-7. EXHIBITION OF LICENSE OR PERMIT.**

- (A) Every business, peddler, solicitor or transient merchant shall display its License or permit in a location conspicuous to the public at its place of business. Every business not having a fixed place of business, shall require its employees or agents to carry the License or permit, or a true facsimile thereof, at all times while carrying on that business for which the License or permit was granted.
- (B) Every special event sponsor or participant shall post any permit required by this chapter in a location conspicuous to the public during all hours of the special event.
  - (1) Every License or permit holder shall produce and exhibit its License whenever requested to do so by the administrator, by any police officer or by any other person. Failure to display, produce or exhibit the License, whether intentional or by neglect, shall be a violation of this chapter.

**SEC. 7-1-8. LICENSE OR PERMIT NOT TRANSFERABLE.**

No License or permit granted or issued pursuant to the provisions of this chapter shall be in any manner assignable or transferable to any other person or business. Upon the sale or other transfer of a business, a new business License or other permit shall be required.

**SEC. 7-1-9. INSPECTIONS.**

- (A) The administrator may inspect the premises of any business for conformance with this chapter. The administrator may inspect the premises only during regular business hours and in a manner, which does not unreasonably interfere with the normal operation of such business.
- (B) Nothing in this chapter shall require any person or business to upgrade or undertake improvements to an existing building or structure to meet new requirements of the city Zoning Ordinance or any other applicable code that would not otherwise be required by that Code. Likewise, a business License shall not have any effect on a legal, nonconforming use as defined in the city Zoning Ordinance. For example, a business currently operating under a legal, nonconforming use designation shall be allowed to continue to carry on that business at the same location in accordance with the City Zoning Ordinance.

### SEC. 7-1-10. RECORDS.

- (A) The City shall keep a record of all business Licenses issued.

### SEC. 7-1-11, NOTICE OF VIOLATION. OPPORTUNITY TO CURE AND DENIAL OR SUSPENSIONS OF I.LICENSE

- (A) A license to engage in any business, whether a sole proprietorship, partnership, corporation, non-profit organization, Limited Liability Company or other legally recognized entity, or any business, occupation or profession already licensed by any governmental agency, Professional licensing board, Industrial licensing authority, Agricultural licensing organization or authority or any other official licensing association or by any Federal, State, County, Tribal government, Court or Agency shall not be subject to suspension by the City unless such license is suspended or revoked by the original licensing authority and/or there is a continuing non-abated violation of the City ordinances, City Zoning Code or the City Fire Code.
- (B) If the administrator has evidence to conclude that a suspension or revocation is authorized for the reasons set forth in subsection (a) of this section, the administrator shall issue a warning of violation and an opportunity to cure or remedy the violation within 90 days. If the violation remains un-abated, the administrator may then temporarily suspend the License. If a license is temporarily suspended the City shall immediately give the applicant notice by certified mail of the suspension, and of a hearing before the City Council to be held within ten (10) days to determine whether or not the License should be suspended or revoked. This notice shall contain a statement of the reason(s) for the proposed suspension and the suspension or revocation. If the City Council determines that there is good and sufficient reason for the suspension or revocation of the business License, the administrator shall enter an order suspending or revoking the License and notifying the applicant of same by certified mail with five working days of the decision of the City Council.

### SEC. 7-1-12. APPEAL RIGHTS.

- (A) If a license is temporarily suspended the City shall immediately give the applicant notice by certified mail of the suspension, and of a hearing before the City Council to be held within ten (10) days to determine whether or not the License should be suspended or revoked. This notice shall contain a statement of the reason(s) for

the proposed suspension and the suspension or revocation. The matter shall then be noticed upon the succeeding City Council Meeting Agenda for hearing before the City Council. The Appeal shall proceed in an informal proceeding at which the City Staff and the Appellant may present evidence freely without reference to the Rules of Evidence used in courts of law. Each side shall have 15 minutes to present the evidence in support of its position. If the City Council determines that there is good and sufficient reason for the suspension or revocation of the business License, the administrator shall enter an order suspending or revoking the License and notifying the applicant of same by certified mail with five working days of the decision of the City Council.

#### SEC. 7-1-13. ENFORCEMENT AND PENALTY.

- (A) It is unlawful for any person to conduct any business from within the city boundaries without first obtaining a license to conduct business within the city in accordance with this chapter. It shall be the duty of the City Manager or his assigned administrator to implement this chapter. The city may enforce this chapter and/or the refusal to issue or the revocation of a business license by the City Council by filing a complaint in the magistrate court through the City Attorney. Any person found guilty of violating this chapter shall be punished in accordance with Chapter 5 of the City of St. Johns City Code.
- (B) Any contested action or proceeding under this Article shall be subject to the jurisdiction of and presided over by the city magistrate and shall be conducted as provided for under the rules of procedure in civil traffic and civil boating violation cases.

#### ARTICLE 7-2. HOME OCCUPATIONS

- A. Home occupations.** A home occupation is any activity carried out for gain by a resident, any occupation or profession which is incidental and subordinate to the use of the dwelling unit for dwelling purposes and which does not change the character thereof. Home occupations shall be subject to the Home Occupation Requirements as listed in Section 606 of the Zoning Ordinance. If such home occupation is already licensed by any governmental agency, Professional licensing board, Industrial licensing authority, Agricultural licensing organization or authority or by any other official licensing association or by any Federal, State, County, Tribal government, Court or Agency it shall be considered to be licensed with the City of St. Johns pursuant to the provisions of this Section upon providing the city with a copy of such license and the information contained

in applicable sections of 7-1-5 (B) if in compliance with the Home Occupation Requirements in Section 606 of the Zoning Ordinance and/or any applicable City Fire Code.

- B. Grandfather Provision.** Any business, activity, trade, calling, profession, or occupation, whether a sole proprietorship, partnership, corporation, Limited Liability Company or other recognized entity, which regularly conducts business in the City of St. Johns or provides delivery of products and/or services from an address or other location(s) within the corporate limits of the City of St. Johns and any distributor or wholesaler who maintains a business location within the boundaries of the City of St. Johns at the time of the passage of this ordinance shall be grandfathered into this Chapter and shall be immediately issued a local business license **without the payment of any fee** or the provision of any documentation except that existing businesses shall provide the information required by Section 7-1-5 (B) along with the delivery of a copy of any existing license to engage in such business, activity, trade, calling, profession, or occupation, whether a sole proprietorship, partnership, corporation, Limited Liability Company or other recognized entity, to the City of St. Johns.

**ARTICLE 7-3. TEMPORARY PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS**

**SEC. 7-3-1. PERMIT REQUIRED.**

It is unlawful for any person to conduct any business which includes sales of goods or services to the general public as a peddler, solicitor or transient merchant without first obtaining a peddler's/solicitor's/transient merchant's permit. A permit card issued by the City shall be kept at all times by any person conducting business as either a peddler, solicitor or transient merchant and shall be surrendered upon request of the administrator (or designee) or any police officer of the city.

**SEC. 7-3-2. EXEMPTIONS.**

A person conducting sales required by statute, sales by order of any court or bona fide auction sales pursuant to Arizona law and distributors/wholesalers shall be exempt from the requirements of this article.

**SEC. 7-3-3. TRANSIENT MERCHANTS.**

A temporary permit may be issued to person(s) operating as a transient merchant for a limited time as determined by the administrator, but in no case greater than fourteen (14)

days within a sixty (60) day period, from the date of issuance. The time restriction, and expiration date, shall be clearly stated on the issued temporary permit.

**SEC. 7-3-4. PEDDLERS AND SOLICITORS.**

An annual permit may be issued to person(s) operating as peddlers or solicitors who meet all the criteria set forth in this article. An annual peddler's/solicitor's permit fee as established by resolution of the city council shall be required at the time of application.

**SEC. 7-3-5. APPLICATION AND ISSUANCE OF PEDDLER S/SOLICITOR'S PERMIT.**

Any person applying for a peddler's/solicitor's permit shall submit an application to the City containing the following information:

- (A) Application for a peddler's/solicitor's permit shall be made on forms and in the manner prescribed by the planning and zoning administrator.
- (B) The peddler's/solicitor's permit application shall include all of the following information and such other information as the administrator deems reasonably necessary:
  - (1) Name of business.
  - (2) Name, date of birth and social security number of the applicant and relationship to the business or entity.
  - (3) Complete street and mailing addresses of business location(s).
  - (4) The applicant's telephone number.
  - (5) A brief description of the nature and type of the business.
  - (6) A list of hazardous materials or hazardous wastes as defined by Title 49 USC Chapter 51 Section 5102 and amendments thereto that will be used or stored by the business.
  - (6) Complete description including make and model. License plate state and number, vehicle identification number (VIN) and other identifying characteristics of any vehicle(s) used in the business.
  - (7) The type of business entity. If the business is a corporation or limited liability company, the state where formed and the statutory agent's name and address.

- (8) List of officers/owners/managers of the business, with their dates of birth, social security numbers, and legal addresses.
  - (9) A copy of the Arizona Transaction Privilege Tax documentation (if applicable).
  - (10) If the business specified in this article is subject to a certificate of health or sanitary examination, the applicant shall produce such certificate or permit from the Apache County Health City, as provided for in Arizona Revised Statutes, Title 36, Chapter 1 Article 2 and applicable Apache County ordinances, as amended. This section shall also apply to all new or remodeled restaurants, bars or other businesses that serve food to the public located within the city limits.
  - (11) Where any business specified in this article is subject to other federal, state or local licensing. License or permit requirements, i.e., professional, medical, technical, contractors, real estate, etc., the applicant shall produce such License, License or permit from the appropriate federal, state or local governmental authorities.
- C. Any person applying for a peddler's/solicitor's permit shall submit the application along with the applicable application fee as set forth in this article.
- D. Upon receipt of a completed peddler's/solicitor's permit application, the City shall:
- (1) Promptly notify the police City of the pending application, after which, the police City shall conduct a criminal history check on the applicant(s).
  - (2) Promptly give notice to the appropriate Fire district providing fire protection services to the area where the peddler/solicitor will be working.
- E. If, as the result of information received from the applicant, the police City, the Fire district or as a result of the City investigation, the administrator determines that the granting of the permit would be detrimental to the public health, welfare or safety, the application shall be denied.

**SEC. 7-3-6. APPLICATION AND ISSUANCE OF TRANSIENT MERCHANT’S PERMIT.**

Any person applying for a transient merchant’s permit shall submit an application to the City containing the following information:

- (A) Application for a transient merchant’s permit shall be made on forms and in the manner prescribed by the planning and zoning administrator.
- (B) The transient merchant’s permit application shall include all of the following information and such other information as the administrator deems reasonably necessary:

- (1) Name of business.
- (2) Name, date of birth and social security number of the applicant and relationship to the business or entity.
- (3) Complete street and mailing addresses of business location(s).
- (4) The applicant's telephone number.
- (5) A brief description of the nature and type of the business.
- (6) A list of hazardous materials or hazardous wastes as defined by Title 49 USC Chapter 51 Section 5102 and amendments thereto that will be used or stored by the business.
- (7) Complete description including make and model, License plate state and number, vehicle identification number (VIN) and other identifying characteristics of any vehicle(s) used in the business.
- (8) The type of business entity. If the business is a corporation or limited liability company, the state where formed and the statutory agent's name and address.
- (9) List of officers/owners/managers of the business, with their dates of birth, social security numbers and legal addresses.
- (10) The length of time up to fourteen (14) days within a sixty (60) day period, for which the right to do business is desired.<sup>2</sup>
- (12) If the business specified in this article is subject to a certificate of health or sanitary examination, the applicant shall produce such certificate or permit from the Apache County Health City, as provided for in Arizona Revised Statutes, Title 36, Chapter 1 Article 2 and applicable Apache County ordinances, as amended. This section shall also apply to all new or remodeled restaurants, bars or other businesses that serve food to the public located within the city limits.
- (13) Where any business specified in this article is subject to other federal, state or local licensing, License or permit requirements, i.e., professional, medical, technical, contractors, real estate, etc., the applicant shall produce such License, License or permit from the appropriate federal, state or local governmental authorities.
- (14) In addition to the requirements in section 7-3-6, applicants for a special event permit may be required by the administrator to submit three copies of a plot plan, indicating the following:

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2 A copy of the Arizona Transaction Privilege Tax documentation (if applicable).

- (a) Exact site location and layout of the event.
  - (b) Location and number of booth spaces, stalls or vending areas.
  - (c) (c) Location of temporary structures and temporary utilities necessary for operation.
  - (d) (d) Location and provision of toilets and other sanitary services.
  - (e) (e) Ingress and egress.
  - (f) (f) Fire and emergency vehicle access.
  - (g) (g) Parking areas.
  - (h) (h) Signage.
  - (i) (i) Lighting.
  - (j) (j) Describe the security and traffic control measures to be taken for the special event.
- (F) Any person applying for a transient merchant's permit shall submit the application along with the applicable application fee as established by resolution of the city council.
- (G) Upon receipt of a completed transient merchant's permit application, the planning and zoning City shall:
- (1) Promptly notify the police City of the pending application, after which, the police City shall conduct a local criminal history check on the applicant(s).
  - (2) Promptly give notice to the appropriate Fire district providing fire protection services to the area where the transient merchant will be working.
- (H) If, as the result of information received from the applicant, the police City, the fire district or as a result of the City investigation, the administrator determines that the granting of the permit would be detrimental to the public health, welfare or safety, the application shall be denied.

**SEC. 7-3-7. ISSUANCE/DENIAL OF PERMIT.**

After receiving and reviewing the information required by sections 7-3-6 or 7-3-7, the administrator shall issue or deny the peddler's/solicitor's/transient merchant permit after five (5) working days, or after a local criminal history check is complete (whichever is

greater), along with the reason(s) for any denial. The City shall keep a record of all permits issued or denied for a period of one year after the date of the application.

**SEC. 7-3-8. TRANSIENT MERCHANT APPLICATION FEES.**

- (A) Transient merchants. Any person applying for a transient merchant permit as required by this article shall submit the application along with an application fee as established by resolution of the city council.
- (B) Peddlers/solicitors. Any person applying for a peddler's/solicitor's permit as required by this article shall submit the completed application, along with an application fee as established by resolution of the city council.

**SEC. 7-3-9. LOCATION.**

It is unlawful for any peddler, solicitor or transient merchant to conduct business in the following manner:

- (A) On any public property, within any public right-of-way or within any portion of a public street, access, lane, or public easement without the city's (or other owner's) express written permission and the permission of the administrator.
- (B) On any public-school grounds without the express written permission of the school district.
- (C) In any congested area where the peddlers or solicitors may impede or inconvenience the public.

**SEC. 7-3-10. RESTRICTIONS.**

Peddlers, solicitors and transient merchants shall comply with the following:

- (A) The administrator may approve certain temporary fencing usage if deemed to be in the interest of public safety or required by either the local fire or police department.
- (B) Use of generators shall comply with the noise control provisions of the City Code.
- (C) Signs shall be permitted in accordance with the Zoning Ordinance.
- (D) Transient merchant activities shall be limited to commercial, industrial and public zoning districts. Any proposed transient merchant activities shall comply with the Zoning Ordinance including compliance with the permitted and conditional use requirements of each section.

**SEC. 7-3-11. SIGNS PROMOTING PEDDLING, SOLICITING OR TRANSIENT MERCHANDISING**

It shall be unlawful for a peddler, solicitor or transient merchant, in the course of business, to ring the doorbell or knock at any building whereon any of the following signs is exposed to public view: No Peddlers, No Solicitors or Canvassers, No Transient Merchants, No Soliciting or No Trespassing or any other sign which has similar words or intent. Peddlers, solicitors and transient merchants shall comply with the following:

- (A) The administrator may approve certain temporary fencing usage if deemed to be in the interest of public safety or required by either the local fire or police department.
- (B) Use of generators shall comply with the noise control provisions of the City Code.
- (C) Signs shall be permitted in accordance with the Zoning Ordinance.
- (D) Transient merchant activities shall be limited to commercial, industrial and public zoning districts. Any proposed transient merchant activities shall comply with the Zoning Ordinance including compliance with the permitted and conditional use requirements of each section.

**SEC. 7-3-11. SIGNS PROHIBITING PEDDLING, SOLICITING OR TRANSIENT MERCHANDISING**

It shall be unlawful for a peddler, solicitor or transient merchant, in the course of business, to ring the doorbell or knock at any building whereon any of the following signs is exposed to public view: No Peddlers, No Solicitors or Canvassers, No Transient Merchants, No Soliciting or No Trespassing or any other sign which has similar words or intent.

**ARTICLE 7-4. SPECIAL EVENT PERMITS.**

**SEC. 7-4-1. PERMIT REQUIRED.**

It is unlawful for any person to conduct or sponsor a special event within the city limits without first obtaining a special event permit pursuant to the requirements of this article. It is also unlawful for any person to sell or offer for sale goods or services at a special event within the city limits without first obtaining a special event vendor's permit pursuant to the requirements of this article.

**SEC. 7-4-2. TIME RESTRICTION.**

A special event permit shall be limited to the specific time restriction shown on the permit and in no case shall exceed five (5) consecutive calendar days.

### SEC. 7-4-3. APPLICATION REQUIREMENTS.

Any person applying for a special event permit shall submit an application to the City with the following information:

- (A) Applications for special event permits shall be made on forms and in the manner prescribed by the planning and zoning City.
- (C) The special event permit application and special event vendor's permit application shall include all of the following information and such other information as the City deems reasonably necessary:
  - (1) Name of person, business or organization.
  - (2) Name, date of birth and social security number of the applicant and relationship to the person, business or organization.
  - (3) Complete street and mailing addresses of each person, business or organization.
  - (4) A brief description of the nature and type of the business or organization.
  - (5) A list of hazardous materials or hazardous wastes as defined by Title 49 USC Chapter 51 Section 5102 and amendments thereto that will be used or stored by the business.
  - (6) The type of business entity. If the business or organization is a corporation or limited liability company, the state where formed and the statutory agent's name and address.
  - (7) Whether the business is for profit or nonprofit. Proof of nonprofit status is required. See Section 7-1-1.
  - (8) List of officers/owners/managers of the business or organization, with their addresses.
  - (9) The dates and times for the special event.
  - (10) A copy of the Arizona Transaction Privilege Tax documentation (if applicable).
  - (11) If the business specified in this article is subject to a certificate of health or sanitary examination, the applicant shall produce such certificate or permit from the Apache County Health City, as provided for in Arizona Revised Statutes, Title 36, Chapter 1, Article 2 and applicable Apache County ordinances, as amended.
  - (12) Where any business specified in this article is subject to other federal, state or local licensing, license or permit requirements, i.e., professional, medical, technical, contractors, real estate, etc., the applicant shall produce such

License, License or permit from the appropriate federal, state or local governmental authorities.

### **SEC. 7-4-4. SPECIAL EVENT PLOT PLAN.**

In addition to the requirements in section 7-4-3, applicants for a special event permit may be required by the administrator to submit three copies of a plot plan, indicating the following:

- (A) Exact site location and layout of the event.
- (B) Location and number of rides, booth spaces, stalls or vending areas.
- (C) Location of temporary structures and temporary utilities necessary for operation.
- (D) Location and provision of toilets and other sanitary services.
- (E) Ingress and egress.
- (F) Fire and emergency vehicle access.
- (G) Parking areas.
- (H) Signage.
- (I) Lighting.
- (J) Describe the security and traffic control measures to be taken for the special event.

### **SEC. 7-4-5. SPECIAL EVENT PERMIT APPLICATION FEE.**

Any person applying for a special event permit as required by this article shall submit an application along with an application fee, as established by resolution of the city council. This fee may be waived by the city manager or his/her designee for nonprofit organizations only. Any determination made by the city manager or his/her designee regarding waiver of the required fee may be appealed to the city council.

### **SEC. 7-4-6. SPECIAL EVENT VENDOR'S PERMIT APPLICATION FEE.**

Any person applying for a special event vendor's permit as required by this article shall submit an application along with an application fee, as established by resolution of the city council. This fee may be waived by the city manager or his/her designee for special event vendors who are nonprofit organizations only. Any determination made by the city

manager or his/her designee regarding waiver of the required fee may be appealed to the city council.

#### SEC. 7-4-7. SPECIAL EVENT PERMIT APPROVAL/DENIAL.

- (A) **Investigation.** Upon receipt of an application, the administrator or designee shall conduct the necessary investigation for the protection of public health, safety, welfare and overall public good. The permit application and any required plot shall be referred to the applicable fire district providing area fire protection and the police City.
- (B) **Criminal History Check.** The police City shall conduct a local criminal history check on the applicants for all special events. After receiving and reviewing the information required by section 7-4-3, the administrator shall issue or deny the special event permit after five (5) working days, or after a local criminal history check is complete (whichever is greater), along with any conditions of approval, or, if denied, the reason(s) for any denial.
- (D) **Records.** The City shall keep a record of all permits issued or denied for a period of one year after the date of the application. If, as a result of such investigation, any agency determines that the granting of the permit would be detrimental to the public health, welfare or safety, the application shall be denied. If a special event permit or a special event vendor's permit application is denied, the reason(s) for the denial shall be given in writing within ten (10) days of the denial. The City shall keep a record of special events permits issued for a period of two (2) years.

#### SEC. 7-5-1. DEFINITIONS.

A. In this chapter, unless the context otherwise requires:

1. **“Business”** means any Partnership, Corporation, Limited Liability Company, Sole Proprietorship or other recognized business entity, which regularly provides delivery of products and/or services from an address or other location(s) within the corporate limits of the City of St. Johns. Business does include a distributor/wholesaler with a business location within the corporate limits of the City of St. Johns but does not include a distributor/wholesaler located outside the city's corporate limits. Business includes "home occupations" as defined by the City of St. Johns Zoning Ordinance but does not include any trade, calling, profession, occupation already requiring a license to engage in such trade, calling, profession, or occupation.<sup>3</sup> Business does not include public schools, churches, amateur athletic teams or other similar organizations.

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<sup>3</sup> A.R.S. §9-842.

2. **“Permanent business”** means a business use which occurs for a period of more than six months in any twelve (12) month period.
3. **“Temporary business”** means a temporary business use which occurs for a period of less than six months in any twelve (12) month period.
4. **“Carnival”** means and includes circuses, menageries, side show, and other similar amusement enterprises which are open to the public. The term “carnival” as used herein shall include rides, merry-go-rounds, and booths for the conduct of games of skill, food dispensing facilities, and side shows.
5. **“City”** means the City of St. Johns, it’s agents and assigns.
6. **“Distributor/wholesaler”** means a person or business that sells or distributes goods to retailers for resale, only. A distributor/wholesaler shall not include a person or business who sells goods direct to the public. A person or business who sells or distributes goods both to resellers and the public does not qualify as a distributor/wholesaler for purposes of this chapter.
7. **“Fire”** means the City of St. Johns Fire City or other fire district, municipal fire City, as applicable.
8. **“Home occupation”** means any occupation or profession which is incidental and subordinate to the use of the dwelling unit for dwelling purposes and which does not change the character thereof. Home occupations shall be permitted in any residential zone consistent with the provisions of the City Zoning Code.
9. **“License” means** a business License required, permanent or temporary, by this article.
10. **“Material change in circumstances” means.** A substantial change in the information provided under 7-1-5 (B) including a change in the telephone number, address, such that failure to update the information would lead to a reasonable person to conclude that failure to update or provide the information would result in a circumvention of the purposes of this chapter.
11. **“Nonprofit organization” means** any association, business or other entity organized and

operated not for pecuniary profit and which has a letter or other document from the Internal Revenue Service verifying such nonprofit status.

12. **“Peddler:** means any person who conducts the business of selling goods, wares, merchandise, food or personal property of any nature whatsoever and who does not intend to establish a permanent business location within the city or who conducts such business by foot, cart, wagon, motor vehicle or any other type of conveyance from place-to-place, house-to-house, street-to- street, or business-to-business. Peddler shall not include a distributor/wholesaler.
  
13. **“Permit”** means a peddler's, solicitor's, transient merchant, special event vendor, carnival or a special event permit as described in this chapter.
  
14. **“Person” means** an individual, firm, sole proprietorship, partnership, joint venture, association, corporation. Limited Liability Company or any other recognized entity acting as a unit, person shall apply in the plural as well as the singular number. Person includes subsidiaries of corporations or other businesses.
  
15. **“Planning and zoning administrator” or “administrator” means** the administrator of the city’s planning and zoning City and his or her designee.
  
16. **“Police” means** the police of the City of St. Johns.
  
17. **“Retailer” means** a person who buys products or goods from a producer. Licensed manufacturer or a distributor/wholesaler for resale to a consumer only.
  
18. **“Reasonably necessary” means** that the information or act is required to accomplish or effectuate the particular purposes of this chapter to a degree that its absence would lead to a reasonable person to conclude that the purposes of this chapter would be circumvented.
  
19. **“Solicitor” means** a salesman or peddler which takes or attempts to take orders for the sale and future delivery of goods, wares, merchandise, intangibles, personal property of any nature whatsoever or services to be furnished or performed in the future, rather than selling such items from inventory or stock currently in possession. A person may be a solicitor regardless of whether such person has, carries, or exposes for sale a sample of the subject of such order, and regardless of whether such person collects advance

payment on such sales or orders. Solicitor shall not include a distributor/wholesaler.

- 20. “Special event” means**, but is not limited to, holiday sales, show promoters and show vendors, carnivals, temporary swap meets, art shows, festivals, religious revivals, political rallies, vehicle shows and displays, swap meets, rodeos, parades, marches, demonstrations and similarly recognized temporary activities. A special event may take place inside a temporary or permanent structure or outside. A special event shall not include weddings and funeral ceremonies, elections, private yard sales, fundraising-type car washes, and activities such as retail sales promotions or sidewalk sales that are otherwise lawfully conducted and which are in accordance with the provisions of the city’s Zoning Ordinance. A special event shall not include minor fundraising activities of public schools, churches, or other nonprofit organizations which have a minimal impact on surrounding properties. Any organization claiming nonprofit status shall possess a letter or other documentation from the Internal Revenue Service proving nonprofit status.
- 21. “Transient merchant or vendor” means** any person who engages in temporary business of selling and delivering goods, wares, or merchandise within the city, and who in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, public room in a hotel, lodging house, apartment, shop, or any street, alley or other place within the city for the exhibition and sale of such goods, wares, or merchandise either privately or at public auction. The person or firm so engaged shall not be relieved from complying with the provisions of this chapter merely be reason of associating temporarily with any local dealer, trader, merchant or auctioneer or by conducting such transient business with, as a part of, or in the name of any such dealer, trader, merchant or auctioneer.

**“Zoning Ordinance” means** the City of St. Johns Zoning Ordinance.

### SALE OF CERTAIN DRUGS<sup>4</sup>

#### 7-2-1 Sale of Ephedrine

##### **Section 7-2-1. Sale of Ephedrine or Pseudoephedrine.**

- A. A person making a retail sale of a product containing ephedrine or pseudoephedrine shall comply with state and federal laws and requirements regulating the sale, display and record keeping requirements for the sale of ephedrine or pseudoephedrine products.
  
- B. Upon request, the seller of products containing ephedrine or pseudoephedrine shall report to the chief of police the information required to be obtained by federal or state law. The report shall not require any additional information than is required by federal and state law and shall be in writing or electronically sent in a manner specified by the chief of police.
  
- C. A violation of this section is a class 1 misdemeanor.

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<sup>4</sup> Added by Ordinance No. 130, *January 8, 2009*

CHAPTER 7 TRANSACTION PRIVILEGE TAX

ARTICLE 7A-1 ADOPTION OF MODEL TAX CODE

The model city tax code adopted by Ordinance No. 53<sup>1</sup> and amendments thereto are hereby adopted by reference. Three copies of the code are on file with the city clerk.

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<sup>1</sup> Adopted by Ordinance No. 53, May 12<sup>th</sup>, 1987 as amended and modified by Ordinance No.'s 58, 67, 70, 73, 79, 93, 96 and 100.

## CHAPTER 8 HEALTH, SAFETY AND SANITATION

### Article 8-1 Garbage and Trash Removal<sup>45</sup>

- 8-1-1 Definitions in general.
- 8-1-2 Garbage and trash removal.
- 8-1-3 Use of private garbage containers.
- 8-1-4 Unattended containers.
- 8-1-5 Inspections.

### Article 8-2 Owner to Maintain Premises

- 8-2-1 Owner to maintain premises.
- 8-2-2 Litter on private property.
- 8-2-3 Placement of debris.
- 8-2-4 Water-flow upon public areas prohibited.

### Article 8-3 Waste Removal Permit(s)

- Section 8-3-1 Permit required for waste service – Exemptions.
- Section 8-3-2 Permit application.
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- Section 8-3-4 Evaluation and disposition of permit applications – Terms and conditions.
- Section 8-3-5 Renewal of permits.
- Section 8-3-6 Interest in multiple permits prohibited.
- Section 8-3-7 Permit requirement for annexed areas.
- Section 8-3-8 Transfer of permits prohibited.
- Section 8-3-9 Insurance.
- Section 8-3-10 Revocation of permit.
- Section 8-3-11 Appeal from denial or revocation – Procedure and notice.
- Section 8-3-12 Dangerous or hazardous waste.

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<sup>45</sup> A.R.S. §9-240 B(22) and §36-6-1, This section repeals and replaces previous sections 8-1, 8-2. Current section 8-2, and 8-3. Abatement of Dangerous Buildings is renumbered to 8-9 and moved.

## CHAPTER 8 HEALTH, SAFETY AND SANITATION

### ARTICLE 8-1 Garbage and Trash Removal <sup>46</sup>

#### Sections:

#### 8-1-1 Definitions in general.

#### 8-1-2 Garbage and trash removal.

#### 8-1-3 Use of private garbage containers.

#### 8-1-4 Unattended containers.

#### 8-1-5 Inspections.

#### 8-1-1 Definitions in general.

- A. For the purposes of interpretation of Articles 8-1, 8-2, and 8-3 the following words and phrases shall mean:
1. **“Blight or blighted” means** unsightly conditions including accumulation of debris; fences characterized by holes, breaks, rot, crumbling, cracking, peeling or rusting; landscaping that is dead, characterized by bare dirt areas, uncontrolled growth or lack of maintenance, or is damaged; any other similar conditions of disrepair and deterioration; and the exterior visible use or display of tarps, plastic sheeting, or other similar materials as flexible or inflexible screening, fencing, or wall covering upon a residential lot; regardless of the condition of other properties in the neighborhood.
  2. **“Business establishment” means** any structure or premises not used as a private premises, including retail, wholesale, warehouse, store, factory, production, processing, manufacturing, restaurant, construction, service, hospitals, governmental entities, public authorities (schools), or office uses.
  3. **“Commercial or industrial waste” means** any waste generated by a business establishment.
  4. **“Commercial or industrial solid waste management services” means** the collection, storage, processing, transportation, treatment, reclamation, or disposal of commercial or industrial waste.
  5. **“Container” means** 60-, 90-, 300- and 440-gallon plastic barrels; 2-, 3-, 4-, 6-, and 8-cubic-yard metal bins; 20-, 30-, and 40-cubic-yard roll-off containers (approximate sizes); and compactors and other containers approved by the city.
  6. **“Dangerous or hazardous waste” means** any solid waste that can cause damage or injury to property or persons and is hazardous by reason of its pathological, explosive, flammable,

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<sup>46</sup> Adopted January 14<sup>th</sup>, 2026, by the common council of the City of St. Johns, Arizona by Ordinance 202600114.1, repealing former sections 8-1, 8-2 and 8-3 in their entirety and renumbering former 8-3 as 8-12 and moving it to the end of chapter 8.

## CHAPTER 8 HEALTH, SAFETY AND SANITATION

radiological, or toxic nature, including, but not limited to, all wastes defined by the provisions of A.R.S. § [49-921](#) and A.A.C. Title [18](#), Chapter [8](#), Article 2.

7. **“Disposal” means** the physical transfer of waste for purposes of recovery, other processing, or for placement at a site approved by the Arizona Department of Environmental Quality or other agency having jurisdiction.
8. **“Garbage, waste or trash” 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 of food, including all such substances from all public and private establishments and private premises.
9. **“Junk motor vehicle”** has the same meaning as in section 8-4-1 A.
10. **“Litter” means** any rubbish, trash, weeds, filth or debris which constitute a hazard to public health and safety and shall include all putrescible and non-putrescible solid wastes including garbage, trash, ashes, street cleanings, dead animals, *junk motor vehicles* and solid market and industrial waste; any deposit, accumulation, pile or heap of brush, grass, debris, weeds, cans, cloth, paper, wood, rubbish or other unsightly or unsanitary matter of any kind whatsoever; and any growth of weeds, brush, grass or other vegetable growth to an unreasonable height or in unreasonable amount. Any debris created during any construction shall be considered litter for purposes of this section, as will any handbills, posters or other similar advertising material posted within the city and not removed within 72 hours after the time of event.
11. **“Permittee” means** a person who engages in, owns, or operates a service to collect, transport, dispose, or recycle commercial or industrial waste or residential waste generated within the city and has obtained a valid permit pursuant to the provisions of this chapter.
12. **“Person” means** a corporation, company, partnership, firm, association, or society, as well as a natural person.
13. **“Private premises” means** any dwelling, house, building or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps or vestibules belonging or appurtenant to such dwelling, house, building or other structures.
14. **“Public place” means** any and all streets, sidewalks, boulevards, alleys or other public ways, and any and all public parks, squares, spaces, grounds and buildings.
15. **“Public works director” means** the director of the public works department or his/her representative.

## CHAPTER 8 HEALTH, SAFETY AND SANITATION

16. **“Recycle” means** any manual or mechanical process which involves the collection or transportation of one or more of the various components of recoverable waste which have been or will be separated, concentrated, or solid.
17. **“Residential, commercial or industrial solid waste recycling services” means** the recycling of any residential waste or commercial or industrial waste.
18. **“Residential waste” means** any waste generated by a private premises.
19. **“Residential solid waste management services” means** the collection, storage, processing, transportation, treatment, reclamation, or disposal of residential waste. [Ord. 20-08 § 1; Code 2004 § 9-1.]

### 8-1-2 Garbage and trash removal.

- A. Requirements for Hauling Waste or Garbage.** It is unlawful for any person to haul or cause to be hauled on or along any public street in the city any waste or garbage, except by a solid waste collection service approved and permitted by the city.
- B. Spilled Waste.** Any person illegally hauling any waste along the streets of the city shall immediately replace in the conveyance used for such hauling any waste which may fall upon any street.
- C. Dumping Waste.** It is unlawful for any person to place or cause to be placed any waste upon any public or private property within the city, except as specifically permitted in Articles 8-1, 8-2, and 8-3.
- D. Residential Property.** Unless otherwise provided in this chapter, all residential properties within the city limits, which are occupied, shall have waste services through a contracted waste collection permittee. In the event the city determines that a legitimate governmental purpose would be advanced by having the city, or a contracted waste collection permittee as selected by the city in its sole and absolute discretion, exclusively provide residential waste or recycling services, solid waste collection service shall be provided by the city or by the person, firm, or corporation identified by the city. Payment for such service shall be made to the permittee.
- E. Prohibition Against Nonuse of City Collection Service.** Except as provided otherwise in this chapter, no person in possession of any residence within the city shall avoid or waste to accept the solid waste collection service provided **by the city’s approved collection company** and such avoidance or refusal shall not exempt such premises from the payment of charges for such collection services.
1. In the event the collection permittee, exclusively provides residential waste or recycling services, all residential customers, by and through their respective homeowners’ association, using a private contractor for solid waste collection shall be required to use the city’s permitted collection company for collection services. The city shall have the right to request verification from any residential customer, or their respective homeowners’ association, that has contracted with a private contractor for solid waste collection and the date such contract expires.

## CHAPTER 8 HEALTH, SAFETY AND SANITATION

**F. Exemptions to Mandatory Collection.** The city manager, or his designee, may issue an exemption to a property owner, if the property owner can establish that the below exception applies. The city manager, or his designee, may at any time revoke an exemption issued to a property.

1. **Shared Solid Waste Disposal Agreement.** The property owner or occupant otherwise has arranged for shared solid waste disposal with the owner or occupant of another structure receiving solid waste collection service in accordance with the city code, and such shared service does not involve an undue accumulation or improper storage of solid waste. Shared service shall be limited to the following circumstances:

- a. One service account shared by no more than two adjacent parcels owned by the same person or entity;
- b. One service account shared by property owners or occupants of no more than two separate structures with a common driveway; or
- c. One service account shared by the primary and secondary units on a single parcel.

**G. Additional Removal of Waste In Addition to Mandatory Collection.** Nothing in this chapter shall prevent the following:

1. **Disposal of Recyclable Materials.** The disposition of recyclable materials for which there are established commercial values, and for which the generator, accumulator or producer actually receives compensation, provided such materials are accumulated in a sanitary manner and disposed of through regular commercial channels.
2. **Donation of Recyclable Materials.** The donation of recyclable material for which there are established commercial values by the generator, accumulator or producer of such recyclable material to any approved drop-off center. Further, recyclable materials may be provided free of charge to any charitable, youth, civic, religious or similar person, group or organization, and the collection, transport and/or disposal of such recyclable material may be provided free of charge by such person, group or organization.
3. **Property Clean-Up and Disposal.** The collection, disposal or transportation of any waste by the owner of property as a result of clean-up of the property as long as the waste disposal is in addition to rather than in lieu of the provisions of this chapter.
4. **Construction or Contractor Materials.** The collection, disposal or transportation of any waste materials which are the result of construction by the contractor or the owner of the property by removal to a facility which is appropriately permitted or authorized under applicable health and safety laws and regulations.
5. **Construction/Demolition Waste.** The disposition, collection, transport or disposal by any person of construction and/or demolition debris and wastes as long as the quantity is less than 10 cubic yards.

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6. **Green Waste.** The collection, transportation or disposal of lawn, tree and garden trimmings or other “green waste” by any person as an incidental part of a landscaping or gardening service by that person, as long as the quantity is less than 10 cubic yards and is conducted consistent with the regulations governing green waste disposal.

### 8-1-3. Use of private garbage containers.

It is unlawful for any person to deposit, or cause to be deposited, any waste in any nonpublic container that he does not own or is not otherwise entitled to use as a tenant or by permission of the owner or lessee of the container.

### 8-1-4 Unattended containers.

A. No person shall place, display or maintain any unattended container for soliciting deposit of recyclable materials or donated items in any exterior location within the city limits, except in conformance with all of the following provisions:

1. Such unattended containers may be located only within the parking lot of private property lawfully zoned, developed and used for commercial or industrial purposes or at schools, churches or charitable organizations which have similar parking facilities.
2. Such unattended containers may be located only with the permission of the property owner, his agent or the person in possession of the property, and the container owner’s name and current telephone number shall be displayed thereon in a conspicuous location.
3. The owner of such unattended container and the property owner shall be jointly and severally responsible for maintaining all exterior areas within 25 feet of the container and shall keep such area free from litter at all times. [Code 2004 § 9-4.]

### 8-1-5 Inspections.

- A. The City of St. Johns may inspect annually single-family residential containers. Inspections will determine resident compliance with applicable laws and regulations and ensure that waste haulers are providing fly-tight containers in good condition. The city shall maintain an inspection log.

## Article 8-2 Owner to Maintain Premises

### Sections

#### 8-2-1 Owner to maintain premises.

#### 8-2-2 Litter on private property.

#### 8-2-3 Placement of debris.

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### 8-2-4 Water-flow upon public areas prohibited.8-2-1 Owner to maintain premises.

A. It is unlawful for a person to fail to maintain residential or commercial real property under his ownership or control, in a clean manner, free from garbage, trash and waste, including but not limited to, solid waste, contamination, garbage, remodeling and demolition debris, hazardous materials and recyclables as well as anything that creates a blighting problem or adversely affects the public health or safety. All properties receiving residential city water service are required by this Chapter to provide proof that they have contracted with a permitted Waste Management Service permitted under the provisions of article 8-3.

B. It is unlawful for any person to interfere with or prevent the city from administering or enforcing Articles 8-1, 8-2, and 8-3. However, nothing in Articles 8-1, 8-2, and 8-3 shall be construed to limit the pursuit of any remedy in any court of competent jurisdiction for property rights by the owner of any property within the city.

### 8-2-2 Litter on private property.

A. No person shall throw or deposit litter on any occupied or unoccupied private property within the city, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place. Any weeds, grass or litter creating a fire hazard shall be removed by the owner.

B. **Weeds, Brush, Grass or Other Vegetable Growth.** It is unlawful for any person owning or controlling any private property to permit any growth of weeds, brush, grass or other vegetable growth or to deposit thereon, or permit or allow thereon any deposit, accumulation, pile or heap of litter as defined in this article or other unsightly or unsanitary matter or any growth constituting a fire hazard of any kind whatsoever.

C. **Fire Hazard.** For purposes of this section, any growth of weeds, brush, grass or other vegetable growth or deposit thereon to a height of over 20 inches is considered a fire hazard except where necessary for the production of crops, forage, pasturage or to prevent soil erosion.

### 8-2-3 Placement of debris.

A. It is unlawful for any person, firm or corporation to place any rubbish, trash, filth or debris upon any private or public property not owned or under the control of said person, firm or corporation and, in addition to any fine which may be imposed for a violation of any provision of this section, shall be liable for all costs which may be assessed pursuant to this chapter for the removal of said rubbish, trash, filth or debris.

### 8-2-4 Water-flow upon public areas prohibited.

A. It is unlawful for any person to willfully or negligently permit or cause the escape or flow of water in such quantity as to cause flooding, to impede vehicular or pedestrian traffic, to create a hazardous

## CHAPTER 8 HEALTH, SAFETY AND SANITATION

condition to such traffic, or to cause damage to the public streets of the city, public utility easements, alleyways or any other publicly owned property.

B. It is unlawful for any person to willfully or negligently permit or cause the escape or flow of water in such quantity as to cause flooding, to impede vehicular traffic or to cause damage to the public streets of the city, public utility easements, alleyways or any other publicly owned property through failure or neglect to properly operate or maintain any structure, delivery ditch, or waste ditch in which said person has a vested right or interest or through the willful or negligent failure of said person to accept water after it has been ordered by him.

C. Swimming pools should be drained on the property to irrigate the landscape on the property whenever possible. If it is not possible to contain all the water from the swimming pool on the property, the water from the swimming pool should be drained into the sanitary sewer cleanout on the property after obtaining approval from the sewer provider.

D. Any person found responsible for a civil violation of this section, whether by admission, default, or after a hearing, shall pay a civil penalty between two hundred fifty dollars (\$250.00) and two thousand five hundred dollars (\$2,500.00) for the first violation. A second finding of responsibility shall result in a civil penalty of five hundred dollars (\$500.00) and two thousand five hundred dollars (\$2,500.00). Any subsequent finding of shall result in a civil penalty of one thousand dollars (\$1,000.00) and two thousand five hundred dollars (\$2,500.00).

### Article 8-3 Waste Removal Permit(s)

#### Sections

8-3-1 Permit required for waste management service – Exemptions.

8-3-2 Permit application.

8-3-3 Billing.

8-3-4 Evaluation and disposition of permit applications – Terms and conditions.

8-3-5 Renewal of permits.

8-3-6 Interest in multiple permits prohibited.

8-3-7 Permit requirement for annexed areas.

8-3-8 Transfer of permits prohibited.

8-3-9 Insurance.

8-3-10 Revocation of permit.

8-3-11 Appeal from denial or revocation – Procedure and notice.

8-3-12 Dangerous or hazardous waste.

**8-3-1 Permit required for waste management service – Exemptions.**

A. Except as otherwise provided in this section, no person shall engage in, operate as, or represent himself to the public as one who is in the business of collecting, transporting, disposing, or recycling residential or commercial or industrial waste, including construction debris, generated within the city unless that person has obtained a valid annual permit from the city pursuant to the provisions of this chapter. Any person found guilty of violating this provision shall be guilty of a Class 3 misdemeanor.

B. The city must have satisfactory evidence that the permit applicant possesses the necessary equipment and qualifications to collect, transport and dispose of residential waste or commercial or industrial waste in a manner satisfactory to the city and in conformity with the state or county department of health laws, rules and regulations.

C. Any community, charitable, philanthropic, or similar organization may collect, transport, dispose of, or recycle residential waste or commercial or industrial waste with a permit upon approval of the city by compliance with the provision of this article; provided, that no part of the earnings or receipts from such activities inure to the benefit of any private shareholder, individual, or corporation and provided that the organization was not established to circumvent the requirements of this chapter.

D. The permit applicant desiring an annual permit to collect residential waste or commercial or industrial waste shall submit to the public works director:

1. An application as set forth in this chapter;
2. A nonrefundable application fee in an amount to be determined by council; and
3. A license bond in an amount to be determined by council.

E. Upon approval of a permit, solid waste permittees shall submit to the public works director a report listing all trucks expected to operate within the city during the term of the permit and financial documentation of expected fee collection during the term of the permit. Within 30 days from the end of each quarter, the solid waste permittee shall submit to the public works director a per-vehicle fee in an amount established by city council or two percent of the gross receipts, whichever is greater. The solid waste permittee shall immediately notify the public works director in the event the expected trucks operated within the city or fee collection as

indicated in the report becomes inaccurate. The city may perform an annual audit to establish the permittee's gross receipts from the collection within the city.

F. Governmental agencies engaged in the collection, transportation, disposal, or recycling of residential waste or commercial or industrial waste within the city shall be exempt from the provisions of this chapter.

G. All persons who primarily collect and dispose of or recycle scrap metal, scrap plastic, waste motor oil, human excreta, animal excreta or remains, yard wastes, medical wastes, infectious wastes, hazardous wastes, toxic wastes, or any other similar category of solid waste that either requires a special state, county, or federal permit to handle or constitutes a limited category of waste that the private hauler specializes in collecting shall be exempt from the permit provisions of this chapter if such persons have a valid state, county, or federal permit.

H. **Property Clean-up.** This section shall not be construed to prevent individual property owners from hauling their own waste from their own premises to a legal point of disposal or recycling as part of the clean-up of their property as long as such hauling is hauled in a covered trailer and is in addition to and not in lieu of the requirements of this chapter.

### 8-3-2 Permit application.

A. Every applicant for a permit under this chapter or for renewal thereof shall file an application with the public works director on the form provided by that officer and shall provide the following information and declarations:

1. The name, local address, permanent home and business address, and local telephone number(s) of the individual applying and of the organization or persons on whose behalf the application is made.
2. If the organization on whose behalf the application is made is a joint venture, partnership, or limited partnership, the names, local and permanent street addresses, and local telephone numbers of all partners and their percentage of participation. If the organization is a corporation, the names, local and permanent street addresses, and local telephone numbers of all officers and the names, local and permanent street addresses, and telephone numbers of all shareholders owning an interest of five percent or more of the outstanding shares and their percentage of participation.

3. The names, local and permanent street addresses, and local telephone numbers of all officers of the organization on whose behalf the application is made.
4. Facts demonstrating that the applicant has arranged for the disposal or recycling of all residential waste or commercial or industrial waste collected and the location of such disposal or recycling site.
5. A description of all vehicles and equipment that the applicant owns or has under his control that will be used for the collection, transportation, disposal, or recycling of residential waste or commercial or industrial waste; the address(es) where all such vehicles will be kept and the land use classification under the Maricopa zoning code of such location(s); a declaration that the applicant has sufficient equipment in good mechanical condition to adequately conduct the business of residential waste or commercial or industrial waste management or residential waste or commercial or industrial waste recycling services if granted a permit; and facts demonstrating that said vehicles and equipment conform to all applicable provisions of A.R.S. Title [28](#) as amended.
6. If applicable, a plan for the recycling of the residential waste or commercial or industrial waste that indicates, at a minimum:
  - a. How such waste shall be sorted and separated for recycling purposes and who shall do the sorting and separating;
  - b. How such waste shall be collected and transported for recycling purposes;
  - c. Where such waste shall be disposed of and processed for recycling purposes and who shall do the processing;
  - d. Whether the applicant proposes to offer any incentives to encourage recycling and if so, the nature of such incentives; and
  - e. Any other information demonstrating what the applicant will do to promote the availability of residential waste or commercial or industrial waste management or residential waste or commercial or industrial waste recycling services and to stimulate competition in rendering such services.
7. Other information and identification as the public works director may require in order to discover the truth of the matters set forth in the application or to determine whether a

permit should be granted. This may include submission to fingerprinting and photographing by the Maricopa police department for the purpose of a police investigation in cases where there is reason to doubt the truthfulness of the application or reason to require further information regarding the qualifications and capabilities of the applicant.

8. Other information as the public works director may require which demonstrates that the applicant is able to render efficient and effective residential waste or commercial or industrial waste management or residential waste or commercial or industrial waste recycling services and that the public health, safety, and welfare would be served by the granting of the permit to the applicant.

9. Whether the applicant has ever had any application for a like permit denied, revoked, suspended, or canceled by any public entity and the reason given therefor.

10. Proof that the applicant has obtained all insurance as required by state law.

11. An emergency notification number (24-hour availability). In the event of an emergency, the police or fire/medical department may need to contact a representative of the company.

B. Every permittee, as a condition to retention of such status, shall immediately file with the public works director any changes in the information and declarations furnished under subsection (A) of this section, as such occur from time to time.

C. A nonrefundable application fee shall be paid to the city with each initial and each renewal application for purposes of paying for the cost of processing such application and ensuring compliance with the permit in an amount to be determined by council and as set forth in Exhibit A<sup>\*</sup>.

D. A license bond shall be paid to the city with each initial and each renewal application in an amount to be determined by council and set forth in Exhibit A<sup>\*</sup>.

\* **Code reviser's note:** Exhibit A – Permit Application is on file in the city clerk's office.

### 8-3-3 Billing.

A. The permittee shall be solely responsible for all billing, accounts receivable and collection for the services offered by the Waste Management Company. The city may, as a courtesy,

list the amount due on the city water bill to the customer as a means of enforcing this Article, but is under no obligation to undertake any additional obligation or action on behalf of the permittee.

- B. The permittee shall deliver to the City a statement of the pending balance due on every customer as directed by the public works director.

#### **8-3-4 Evaluation and disposition of permit applications – Terms and conditions.**

A. The public works director shall issue or reissue a permit only after the applicant/permittee demonstrates that it is capable and qualified to render reliable residential waste or commercial or industrial waste management or residential waste or commercial or industrial waste recycling services and that the public health, safety, and welfare will be substantially served by the issuance or reissuance of the permit.

B. In making the determination required above, the public works director may consider, among other things, the application, all pertinent information, and whether:

1. The applicant/permittee has been convicted of a felony within five years prior to application.
2. The applicant/permittee has had a civil judgment entered against him within five years of the date of the application in a case involving allegations of misrepresentation, fraud, dishonesty, or price-fixing where the subject matter involved the rendering of waste collection, transportation, or recycling services.
3. The applicant/permittee has violated or failed to comply with this chapter or any sanitation law of this state or any other jurisdiction.
4. The applicant/permittee has been delinquent for more than 45 days in the payment of taxes or fees to the city or to any unit of government having jurisdiction.
5. The applicant/permittee has filed with the city or any other city any document that contains information which is false or misleading.
6. The applicant/permittee is unable to pay debts as they fall due in the regular course of business or is otherwise in such financial condition that he cannot continue in business with safety to his customers or the public.

C. In case of a partnership, corporation, or any other group or association, it is sufficient cause for denial or revocation of a permit if any member of such persons or officer or director thereof has performed an act or failed to perform an act which would be cause for denying or revoking a permit of an individual agent for such person.

D. Permits issued under this chapter shall have a term of 12 months from the date of issuance. The permit shall authorize residential waste or commercial or industrial waste management or residential waste or commercial or industrial waste recycling services citywide subject to the permittee's compliance with the permit, all requirements of Articles 8-1, 8-2, and 8-3 and all requirements of county, state, and federal law.

E. All permittees shall furnish their customers with containers consistent with the permit issued under this chapter and necessary and appropriate to maintain a clean and sanitary condition on the customers' premises. Such containers shall display conspicuously the business name of the permittee and telephone number and shall be located so as:

1. Not to interfere with vehicular or pedestrian traffic;
2. Not to interfere with city-owned containers; and
3. To conform with all requirements of law.

F. Permittees shall not remove waste from any business establishment that is located within 500 feet of a private premises between the hours of 7:00 p.m. and 6:00 a.m.

G. Except as authorized for recycling purposes under this chapter, no permittee shall collect, remove, salvage, transport, or dispose of any waste or other waste of any kind produced by, kept on, or accumulated within or upon any private premises, including single-family dwellings, multifamily dwelling units, duplexes, patio homes, mobile home parks, trailer courts, rooming houses, boardinghouses, apartments, condominiums, townhouses, assisted living facilities, or complexes of any of the foregoing.

H. All contracts for service executed by a permittee under this chapter shall contain a clause subjecting the contract to cancellation by the customer in the event the permittee's permit is revoked by the city.

I. In the event the city council determines that legitimate governmental purposes would be advanced by having the city exclusively provide residential waste or commercial or industrial

waste management or recycling services and it is not otherwise prohibited by law, the council may act to prohibit the issuance of permits to perform such services. The city shall not be liable to any permittee for any damages of any kind claimed to result from the actions taken pursuant to this section. All permits issued for residential waste or commercial or industrial waste management or recycling services shall bear a statement indicating that the permit shall expire at the end of 12 months and that it is not automatically renewable. The permit shall indicate that the permittee understands that it will not be entitled to damages of any kind in the event that the city council determines that such permits will not be issued in the future. All permits shall be acknowledged.

J. All permittees engaging in recycling shall report annually to the public works director on forms provided stating the amounts and type of waste collected for recycling during the preceding year.

#### **8-3-5 Renewal of permits.**

A. Permits may be renewed annually by the public works director or designee upon application by a permittee and if the public works director or designee makes the findings required by section 8-3-2. Application for permit renewal shall be submitted by permittees not less than 45 days prior to the expiration of the current permit and shall be submitted in the same manner as prescribed in section 8-3-2.

#### **8-3-6. Interest in multiple permits prohibited.**

A. No person shall have an interest in more than one permit issued pursuant to the provisions of this chapter. For the purposes of this section, the word “interest” includes ownership or control of five percent or more of any joint venture, partnership, or limited partnership or of the outstanding shares of a corporation. [Code 20014, A.R.S. § 9-55.]

#### **8-3-7. Permit requirement for annexed areas.**

A. With respect to any person providing residential waste or commercial or industrial waste management or residential waste or commercial or industrial waste recycling services in any area at the time of its annexation by the city, all such persons shall be subject to the requirements of this chapter. Within 30 days of the effective date of annexation, persons engaging in residential waste or commercial or industrial waste management or residential waste or commercial or industrial waste recycling services in the annexed area who wish to

continue operating after annexation shall apply to the public works director for a permit pursuant to this chapter.

**8-3-8 Transfer of permits prohibited.**

- A. Permits issued under the provisions of this chapter and all other rights or privileges created under this chapter shall have no property value to the holder and may not be sold, transferred, or assigned.

**8-3-9 Insurance.**

- A. All permittees for residential waste or commercial or industrial waste management or recycling services shall secure, maintain, and keep in force throughout the term of the permit insurance coverages as required by state law.

**8-3-10 Revocation of permit.**

- A. The city may suspend or revoke a permit whenever the permittee violates the provisions of that permit, this chapter or any other applicable rule or regulation, or fails to pay all fees when due. Notice of the proposed suspension or revocation shall be delivered personally or by registered mail to the permittee and shall become effective five working days after the receipt of the notice unless the permittee files a notice of appeal pursuant to section 8-3-11. If an appeal is timely filed, the permittee may continue collecting, transporting and/or disposing of waste or other waste until the appeal is final, unless such continuance would cause the city to violate a federal or state law, regulation or permit or cause or continue a public or environmental nuisance. Failure to file a notice of appeal within five working days of the date of the notice of suspension or revocation shall constitute a full waiver of the right to contest that suspension or revocation. Once a permit has been revoked, the permittee must wait 24 months before reapplying for a permit with the city.

**8-3-11 Appeal from denial or revocation – Procedure and notice.**

- A. Any person whose request for a permit is denied or who has received notice of proposed revocation may, within 10 calendar days after receipt of notice of such denial or revocation, file in the office of the public works director a written request for a hearing before the public works director. Such request shall contain the name and address of the person, together with a brief statement as to why such denial or proposed revocation should be reversed. The decision

of the public works director may be appealed by the applicant or permittee within seven days after receipt thereof to the city manager. The decision of the city manager shall be final.

### **8-3-12 Dangerous or hazardous waste.**

- A. No permittee shall collect, cause to be collected, place, or cause to be placed any dangerous or hazardous waste or similar materials from or in any container or from or upon any public or private property except as specifically permitted by the Arizona Department of Environmental Quality or the Federal Environmental Protection Agency.

### **8-3-13 Enforcement.**

- A. This Chapter may be enforced through the provisions of [8-5-7](#) through [8-5-10](#).

## **ARTICLE 8-4 STORAGE OF JUNK VEHICLES**

- 8-4-1 Definitions
- 8-4-2 Storage Declared a Nuisance
- 8-4-3 Prohibition
- 8-4-4 Permitted Storage
- 8-4-5 Violation
- 8-4-6 Removal by City

### **Section 8-4-1 Definitions**

A. "Junk motor vehicle" means any motor vehicle which is of a type subject to registration under Title 28 of the Arizona Revised Statutes but does not have lawfully affixed thereto unexpired license plates assigned to the vehicle by any state, and, in addition, which exhibits one or more of the following conditions: wrecked, partially or fully dismantled, abandoned, stripped, substantially damaged, inoperative, inoperable, unused, scrapped, discarded or unable to be safely operated.

B. "Store" means parking, storing, leaving, locating, keeping, maintaining, depositing, allowing to remain or situating.

### **Section 8-4-2 Storage Declared a Nuisance**

The storage of any junk motor vehicle on any property within the city in violation of this article is hereby declared dangerous to the public safety and a public nuisance. It is further declared that such storage interferes with the enjoyment of property, reduces the value of property, invites plundering, creates fire hazards, represents a hazard to the health and safety of minors, attracts

rodents and insects and poses a serious danger to the public health, safety, comfort, convenience and welfare.

**Section 8-4-3 Prohibition**

It is unlawful for any person, partnership, corporation, association, firm, company or organization of any kind owning or having possession or custody of any junk motor vehicle to store such vehicle or to permit such vehicle to be stored within the boundaries of the city, and it is unlawful for any person, partnership, corporation, association, firm, company or organization of any kind owning or occupying any property within the city to store any junk motor vehicle or to permit such vehicle to remain on said owned or occupied property, except as permitted by Section 8-4-4 of this article.

**Section 8-4-4 Permitted Storage**

This article shall not apply to any junk motor vehicle stored within the boundaries of the city if said vehicle is on the premises of a business enterprise operated in a lawful manner and in accordance with the Zoning Ordinance of the City of St. Johns and licensed by the city, and the storage of said vehicle is a regular part of the operation of said business enterprise. Further, this article shall not apply to any junk motor vehicle stored on property within the boundaries of the city if said vehicle is stored in the rear yard of said property.

**Section 8-4-5 Violation**

Violation of any part of this article is a class 1 misdemeanor, and each day any violation continues shall constitute a separate offense as to each junk motor vehicle stored in violation this article. If a person stores more than one such vehicle in violation of this article, the storage of each vehicle shall constitute a separate offense.

**Section 8-4-6 Removal by City**

The city is authorized to remove any junk motor vehicle pursuant to the provisions of Article 8-2 of this code and to create and enforce a lien upon the property of the owner of said junk motor vehicle or the property on which it is situated in accordance with the provisions of Article 8-2.

## **ARTICLE 8-5 GREEN WASTE DISPOSAL AND DUMPING**

- 8-5-1 Purpose And Short Title
- 8-5-2 Application of Green Waste Dumping Ordinance
- 8-5-3 [Reserved]
- 8-5-4 Definitions
- 8-5-5 Disposal – In General
- 8-5-6 Illegal Dumping at Green Waste Facility
- 8-5-7 Enforcement and Civil Citations.
- 8-5-8 Penalties.
- 8-5-9 Procedures.
- 8-5-10 Other Violations
- 8-5-11 Disposal in Drainage System Prohibited

### **8-5-1 Purpose And Short Title**

#### **Purpose.**

The purpose of this title is to provide a safe and convenient site for the residents of the City of St. Johns to dispose of ordinary vegetative yard matter and to encourage and assist residents of the city to maintain and beautify their yards and properties. The Green Waste Facility is designed for the disposal of green waste, as defined in this article, only.

#### **Short Title.**

This chapter may be cited as the City of St. Johns Green Waste Dumping Ordinance.

### **Section 8-5-2 Application Of Green Waste Dumping Ordinance**

Unless specific provisions provide for imposition of a criminal penalty, violation of this chapter shall constitute a civil violation. Nothing in this chapter is designed to restrict or alter the

application of any state or federal criminal or civil ordinances, statutes or regulations which may also apply to situations covered by this chapter.

### Section 8-5-3 Reserved

### Section 8-5-4 Definitions

In this chapter, unless the context otherwise requires:

- A. **"Green waste disposal or dumping" means** the disposal of green waste materials as specifically defined in this article by methods approved in this article.
  
- B. **"Green Waste" means**, organic materials that arise from households and private yards and gardens including leaves, cut weeds, hedge and bush clippings, home garden vegetation and residues, compost, yard trimmings, shrubs, plants, cut grass, vegetative clippings, plant limbs and stumps, tree limbs and branches, wood chips and other organic materials. Green waste does not include plastic bags, cardboard boxes, tarps, sacks or other containers whether organic or inorganic used in transporting green waste to the green waste facility.
  
- C. **"Non-Green Waste Garbage" means**, any and all other garbage, waste or other materials not specifically listed in subsection 8-5-4B. All other materials are required to be disposed of or deposited in an approved sanitary landfill including but not limited to household waste, furniture, construction material, abandoned vehicles, barrels, containers, manure, farming waste materials, commercial organic waste; household trash, appliances, cardboard, plastic bags, tires, lumber, feed sacks, paper or any other type of garbage, waste or other material that is not specifically designated as "green waste" herein, whether its source be commercial or private.
  
- D. **"Dispose or disposal" means** to place, deposit or allow to be placed or deposited garbage or non-green waste materials on private or public property owned by a person other than the owner or possessor of the material being disposed of.
  
- E. **"Designated enforcement person" includes** the county sanitarian, any city, state or county law enforcement officer, or any specially designated employee of the city or a private landfill corporation which has been so empowered by the St. Johns City Manager.

**Section 8-5-5 Disposal - In General**

- A. No person shall dispose of any green waste at the City green waste disposal facility except as provided by this article.
- B. No person shall dispose of any green waste at the city green waste disposal facility except at such times and places as are authorized by the city.
- C. No person shall dispose of any non-green waste garbage or other objectionable waste, except at an approved sanitary landfill.
- D. Carcasses of large dead animals shall be buried or cremated, or disposed of at designated locations within a sanitary landfill, unless satisfactory arrangements have been made for disposal by rendering or other approved methods.
- E. Manure is not “green waste” as defined in this article and shall not be disposed of at the City of St. Johns green waste facility but shall be disposed of by sanitary landfill, composting, legal incineration or used as fertilizer in such a manner as not to create insect breeding or a nuisance.

**Section 8-5-6 Illegal Dumping At Green Waste Facility**

- A. It shall be unlawful for any individual, partnership, business or corporation to engage in dumping or disposal of other than green waste as defined in this chapter at the green waste facility.
- B. Any designated law enforcement person may monitor and enforce this chapter against wildcat dumping or of disposal of non-green waste materials at the green waste facility in violation of this article or in contrary to the manner prescribed herein.
- C. It is not a defense to the charge of illegal dumping that the garbage or refuse disposed of, while admittedly belonging to the suspected person, was not dumped or deposited by that person. Evidence of ownership found in the illegally dumped material

creates a presumption that the owner thereof wrongfully deposited the garbage or refuse where it was found.

**Section 8-5-7. Enforcement And Civil Citations**

A. Issuance of Complaint. Any citizen may refer a complaint to the city police department for a violation or suspected violation of this article. Any city police officer or duly authorized agent of the city may stop and detain a person or persons as is reasonably necessary to investigate an actual or suspected violation of this article and to serve a copy of the complaint for any alleged civil violation of this chapter.

1. Service. A complaint issued pursuant to this Article may be served upon the party by the officer investigating the complaint, or by delivering a copy of the uniform complaint citation to the person charged with the violation or by any means authorized by the rules of civil procedure. At the discretion of the issuing authority, a complaint for a violation issued after an investigation in conjunction with a violation of this Article may be sent by certified mail, return receipt requested, delivered to addressee only to the address provided by the person charged with the violation.
2. Sufficiency of Service. Service of the complaint is complete on filing the receipt in the court having jurisdiction of the violation.

B. Filing of Complaint. The original complaint shall be filed in a court having jurisdiction of the violation within ten court days of the time the complaint was issued. A city police officer or duly authorized agent of any City enforcement agent may issue the complaint.

C. Appearance at Court. A person served with a civil complaint pursuant to this article shall:

1. Appear at the time and place stated in the complaint, or may appear before the time, if so authorized by the court, or may pay the civil fine indicated on the directions contained in the complaint.
2. Admit or deny the allegations of the complaint.

3. Allegations not denied at the time of appearance are deemed admitted. A fee shall not be charged for the appearance.

a. Allegations Admitted. If the allegations are admitted, the court shall enter judgment for the city and shall impose a civil penalty. The person may admit the allegations with an explanation, and then the court shall enter judgment for the city and impose a civil penalty. In determining the civil penalty, the court shall consider the explanation submitted and any rehabilitative action taken prior to the hearing.

b. Allegations Denied. If the person denies the allegations of the complaint the court shall set the matter for a hearing. The hearing is informal and without a jury. At the hearing, the city is required to prove the violation charged by a preponderance of the evidence. Technical rules of evidence do not apply, except for statutory provisions relating to privileged communications. If the person elects to be represented by counsel the person shall notify the court at least ten days before the hearing date. Hearings shall be recorded. If the court finds in favor of the person, the court shall enter an order dismissing the allegation. If the court finds in favor of the city, the court shall enter judgment for the city and shall impose a civil penalty.

D. Failure to Appear. If a resident of this city served with a complaint alleging a violation of this Article or if a nonresident served with a complaint fails to appear at or before the time directed to appear or at the time set for a hearing by the court, the allegations in the complaint are deemed admitted, and the court shall enter judgment for the city and impose a civil penalty.

E. Payment of Fines. A person shall pay all civil penalties within thirty days from entry of judgment, except that if payment within thirty days will place an undue economic burden on a person, the court may extend the time for payment or may provide for installment payments. If the civil penalty is not paid or an installment payment is not made when due, the court may declare the entire civil penalty due.

F. Reduction of Penalties. Notwithstanding subsection A of Section 8-5-8, if a civil penalty is paid on entry of judgment, the court may reduce the civil penalty by up to twenty-five per cent of the penalty imposed.

**Section 8-5-8. Penalties**

A. Civil violations. Upon a finding that a person is responsible for a civil violation of This article, the city magistrate or civil hearing officer shall impose a civil sanction of not less than \$100.00 nor more than \$500.00 for each violation.

B. Habitual offenders. An habitual offender is a person who commits a violation of this article after previously having been found responsible for committing three or more civil violations of this article within a 24-month period, whether by admission, by payment of the fine, by default or by judgment after hearing, shall be guilty of a criminal misdemeanor complaint in the city municipal court against habitual offenders who violate this article. For purposes of calculating the 24-month period under this paragraph, the dates of the commission of the offenses are the determining factor.

1. Habitual Offender - Criminal Offenses. Violation of this article three times within a period of two years constitutes a criminal violation. Upon conviction of three or more civil violations of this article within a 24-month period, whether by admission, by payment of the fine, by default or by judgment after hearing, the court may impose a sentence of incarceration not to exceed six months in jail; or a fine not to exceed \$2,500.00, exclusive of penalty assessments prescribed by law; or both. The court shall order a person who has been convicted of violation of this division to pay a fine of not less than \$500.00 for each count upon which a conviction has been obtained. A judge shall not grant probation to or suspend any part of all of the imposition or execution of any sentence required by this subsection except on the condition that the person pays the mandatory minimum fines as proved in this paragraph.

**Section 8-5-9. Procedures**

A. In General. The procedure of the issuance of a citation and notice to appear pursuant to this article may be as provided for city police officers in A.R.S. §13-3903, except the police officer or enforcement agent, in lieu of arrest, may issue a civil citation for any civil violation of this article. The issuance of civil citations pursuant to this article shall be subject to provisions of A.R.S. §13-3899.

B. Conduct of Hearings. Every contested civil action or proceeding under this Article shall be subject to the jurisdiction of and presided over by the city magistrate and shall be conducted as provided for under the rules of procedure in civil traffic and civil boating violation cases.

C. Failure to comply with court orders. Failure to comply with the court's orders will be deemed to be contempt of court and the party found to be in contempt may be subject to incarceration or fines up to the maximum jurisdiction amount for municipal courts.

D. Appeal. Any judgment of the municipal court may be appealed pursuant to the procedures set forth in A.R.S. §22-261 et seq.

#### **Section 8-5-10 Other Violations**

In addition to the provisions of this article, persons found in violation of this article may be prosecuted for criminal littering or polluting public property. This includes illegal dumping on all public Right-of-Ways in city limits.

#### **Section 8-5-11 Disposal In Drainage System Prohibited**

No person shall throw or place any refuse, green waste, paper, trash, glass, wire, bottles, cans, concrete, earthen fill, garbage, containers, or litter or other debris in any ditch, wash, stream, river, or detention basin that regularly or periodically carries surface water runoff. Any persons who deposit any of the above shall remove it or shall cause it to be removed immediately.<sup>1</sup>

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<sup>1</sup> Adopted by the City Council of the city of St. Johns, December 10<sup>th</sup>, 2009.

ARTICLE 8-6 UNREASONABLE OR EXCESSIVE NOISE<sup>2</sup>

Section 8-6-1. Excessive Noise<sup>3</sup>

Declaration of policy. It is hereby declared to be the policy of the City of St. Johns to prohibit unnecessary, excessive and offensive noises from all sources subject to its police power. At certain levels, noises are detrimental to the health, safety and welfare of the citizenry, and in the public interest, such noise shall be systematically proscribed.

Section 8-6-2. Unnecessary noise

A. Unnecessary, excessive or offensive noise. Notwithstanding any other provision of this article, and in addition thereto, it shall be unlawful for any person without justification to make or continue, or cause or permit to be made or continued, any unnecessary, excessive or offensive noise, which disturbs the peace or quiet of any neighborhood or which causes repeated and continuing discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.

B. Factors. The factors which will be considered in determining whether a violation of the provisions of this section exists will include, but not be limited to, the following:

1. The volume of noise;
2. The intensity of the noise;
3. Whether the nature of the noise is usual or unusual;
4. Whether the origin of the noise is natural or unnatural or consistent or inconsistent with the zoning ordinances and regulations of the area;
5. The volume and intensity of the background noise, if any;

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<sup>2</sup> Adopted by City Ordinance No. 126, June 6<sup>th</sup>, 2008.

<sup>3</sup> State Law References: Offenses against public order, A.R.S. § 13-2901 et seq.. City Code References: City of Gilbert, Arizona Ordinance No. 42-61 through 42-65, Ord. No. 1410, § I, 7-23-02).

6. The proximity of the noise to residential sleeping facilities;
7. The nature and zoning of the area within which the noise emanates;
8. The density of the inhabitation of the area within which the noise emanates.
9. The time of the day or night the noise occurs;
10. The duration of the noise;
11. Whether the noise is recurrent, intermittent or constant;
12. Whether the noise is produced by a commercial or noncommercial activity;
13. Whether it is a pure tone noise; Pure tone noise means any noise which is distinctly audible as a single pitch (frequency) or set of pitches as determined by the enforcement officer.
14. Whether it is an impulse noise. Impulse noise means a noise of short duration, usually less than one second, with an abrupt onset and rapid decay.

#### Section 8-6-3. Exemptions.

- A. The following uses and activities shall be exempt from noise level regulations:
  1. Air-conditioning, pool and spa equipment when it is functioning in accord with manufacturer's specifications and is in proper operating condition.
  2. Lawn maintenance equipment when it is functioning in accord with manufacturer's specifications and with all mufflers and noise-reducing equipment in use and in proper operating condition;
  3. Non-amplified noises resulting from the activities such as those planned for school, governmental, religious or community groups or duly authorized by such groups;

4. Noises from safety and warning devices such as safety signals, warning and alarm devices, emergency generators, storm warning sirens, emergency pressure relief valves or horns and the authorized testing of such equipment;
5. Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency
6. Noises resulting from emergency work.
7. All noises coming from necessary services such as the normal operations of railroad trains and other necessary services and activities;
8. Noises of churches and church facilities such as bells or chimes;
9. Noises from organized sporting events such as bands, cheerleading, cheering, authorized fireworks and other noises relating to those events;
10. Noises created by the normal operation of airports or aircraft or the normal operation of airport facilities;
11. Public or utility owned or operated stationary mechanical equipment so long as such equipment is properly functioning pursuant to manufacturer's specifications;
12. Road and street noise generated from the normal operation of traffic except as regulated herein.
13. Noises resulting from special events, holidays and celebrations authorized by the City of Sf. Johns.

#### Section 8-6-4. Specially regulated noise sources.

- A. Unreasonable noise created by power generators. It is unlawful to operate any power generating equipment in such a manner that a reasonable person of normal sensitiveness residing in the area is caused continuing discomfort or annoyance.

- B. Unreasonable noise created by sound trucks; loudspeakers; other sound amplifiers. It is unlawful to play, operate or use any device known as a sound truck, loudspeaker or sound amplifier, radio or other sound equipment with a loudspeaker or sound amplifier or any instrument of any kind or character which emits loud and raucous noises including but not limited to those attached to and upon any vehicle unless such person in charge of such vehicle shall have first applied to and received a permit from the chief of police to operate any such vehicle so equipped. Such permit shall not be granted unless the chief of police believes the activity will not disturb the public peace.
- C. Unreasonable noise created by motor vehicles.
1. Unreasonable noises caused by vehicle repair. It shall be unlawful for any person within or adjacent to any residential area of the town to repair, rebuild or test any motor vehicle between the hours of 10:00 p.m. of one day and 5:00 a.m. of the next day or in such a manner that a reasonable person of normal sensitiveness residing in the area is caused continued discomfort or annoyance.
  2. Unreasonable noises caused by motor vehicle exhaust. It is unlawful for any person to operate a motor vehicle which shall not at all times be equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise, and it is unlawful for any person operating any motor vehicle to use a cutout, bypass or similar muffler elimination appliance.
  3. Unreasonable noises created by braking devices. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the town any compression release or other engine braking device designed to aid in the braking or deceleration of any vehicle which results in noise in excess of that which would otherwise be produced from such vehicle without such braking device or that is in violation of Section 9-1-5. The provisions of this article do not apply to public safety vehicles.
  4. Unreasonable noises created by vehicle operation. No person shall operate either a motor vehicle or combination of vehicles at any time or under any condition of grade, load, acceleration or deceleration in such a manner that a reasonable person of normal

sensitiveness residing in the area is or reasonably would be caused discomfort or annoyance.

D. Unreasonable noises created by barking dogs. It is unlawful to keep or harbor any dog which, by frequent, habitual or continued barking, yelping, howling, growling, charging, menacing or other offensive conduct or noise, shall cause repeated and continuing annoyance or inconvenience to a neighbor residing in the area or to people passing to and from upon the public streets or sidewalks.

E. Unreasonable noises around schools, churches and hospitals. It shall be unlawful for any person to create any noise on any street, sidewalk or public place adjacent to any school, institution of learning or church while the same is in use or adjacent to any hospital or health related care facility, which noise unreasonably interferes with the workings of such institution or which disturbs or unduly annoys patients in the hospital or other health related care facility; provided that conspicuous signs are displayed in such streets, sidewalk or public place indicating the presence of a school, church or hospital.

#### Section 8-6-5. Enforcement and civil citations.

Authority to detain persons and to serve complaint.

A. Any city police officer or duly authorized agent of the city may stop and detain a person or persons as is reasonably necessary to investigate an actual or suspected violation of this article and to serve a copy of the complaint for any alleged violation of this chapter.

B. With regard to the enforcement of section 8-6-5 D. hereof, any city police officer or duly authorized agent of the city may issue a civil citation to the dog owner or person acting for the owner when a dog belonging to the owner or within the owners possession or control is in violation or suspected violation of this chapter.

C. A complaint issued pursuant to this Article may be served upon the party by the officer investigating the complaint, or by delivering a copy of the uniform complaint citation to the person charged with the violation or by any means authorized by the rules of procedure in civil traffic and civil boating violation cases. At the discretion of the issuing authority, a complaint for a violation issued after an investigation in conjunction

with a violation of this Article may be sent by certified mail, return receipt requested, delivered to addressee only to the address provided by the person charged with the violation. Service of the complaint is complete on filing the receipt in the court having jurisdiction of the violation.

- D. The original complaint shall be filed in a court having jurisdiction of the violation within ten court days of the time the complaint was issued. A city police officer or duly authorized agent of any City enforcement agent may issue the complaint.
- E. A person served with a civil complaint pursuant to this article shall:
1. Appear at the time and place stated in the complaint, or may appear before the time, if so authorized by the court, or may pay the civil fine indicated on the directions contained in the complaint.
  2. Admit or deny the allegations of the complaint. Allegations not denied at the time of appearance are deemed admitted. A fee shall not be charged for the appearance.
- F. If the allegations are admitted, the court shall enter judgment for the city and shall impose a civil penalty. The person may admit the allegations with an explanation, and then the court shall enter judgment for the city and impose a civil penalty. In determining the civil penalty, the court shall consider the explanation submitted and any rehabilitative action taken prior to the hearing.
- G. If the person denies the allegations of the complaint the court shall set the matter for a hearing. The hearing is informal and without a jury. At the hearing, the city is required to prove the violation charged by a preponderance of the evidence. Technical rules of evidence do not apply, except for statutory provisions relating to privileged communications. If the person elects to be represented by counsel the person shall notify the court at least ten days before the hearing date. Hearings shall be recorded. If the court finds in favor of the person, the court shall enter an order dismissing the allegation. If the court finds in favor of the city, the court shall enter judgment for the city and shall impose a civil penalty.

H. If a person is served with a complaint alleging a violation of this Article and fails to appear at or before the time directed to appear or at the time set for a hearing by the court; the allegations in the complaint are deemed admitted, and the court shall enter judgment for this state, impose a civil penalty.

I. A person shall pay all civil penalties within thirty days from entry of judgment, except that if payment within thirty days will place an undue economic burden on a person, the court may extend the time for payment or may provide for installment payments. If the civil penalty is not paid or an installment payment is not made when due, the court may declare the entire civil penalty due.

J. Notwithstanding subsection A of this section, if a civil penalty is paid on entry of judgment, the court may reduce the civil penalty by up to five percent of the penalty imposed.

#### Section 8-6-6. Penalties.

A. Civil violations. Upon a finding that a person is responsible for a civil violation of this article, the city magistrate or civil hearing officer shall impose a civil sanction of not less than \$100.00 or more than \$500.00 for each violation.

B. Habitual offender. An habitual offender is a person who commits a violation of this article after previously having been found responsible for committing three or more civil violations of this article within a 24-month period, whether by admission, by payment of the fine, by default or by judgment after hearing, shall be guilty of a criminal misdemeanor complaint in the city municipal court against habitual offenders who violate this article. For purposes of calculating the 24-month period under this paragraph, the dates of the commission of the offenses are the determining factor.

##### 1. Habitual Offender - Criminal Offenses.

a. Upon conviction of three or more civil violations of this article within a 24-month period, whether by admission, by payment of the fine, by default or by judgment after hearing, the court may impose a sentence of incarceration not to exceed six months in jail; or a fine not to exceed \$2,500.00, exclusive of penalty assessments prescribed by law; or both. The court shall order a person who has been convicted of violation of this

division to pay a fine of not less than \$500.00 for each count upon which a conviction has been obtained.

- b. A judge shall not grant probation to or suspend any part of all of the imposition or execution of any sentence required by this subsection except on the condition that the person pays the mandatory minimum fines as proved in this paragraph.

#### Section 8-6-7. Procedures.

A. The procedure of the issuance of a citation and notice to appear pursuant to this article shall be as provided for by the rules of procedure in civil traffic and civil boating violation cases.

B. Every contested action or proceeding under this Article shall be subject to the jurisdiction of and presided over by the city magistrate and shall be conducted as provided for under the rules of procedure in civil traffic and civil boating violation cases.

## ARTICLE 8-7 MEDICAL MARIJUANA<sup>1</sup>

### Section 8-7-1. Definitions

- A. For the purpose of this article, the following terms shall have the following meaning:
1. "DISPENSARY AGENT" means a medical marijuana dispensary director, officer, employee or volunteer who has been issued a valid registry identification card by the DHS.
  2. "DHS" - means the Arizona department of health services or its successor agency.
  3. MEDICAL MARIJUANA DISPENSARY - means a nonprofit medical marijuana dispensary duly registered and certified pursuant to A.R.S. § 36-2804.
  4. MEDICAL MARIJUANA DISPENSARY OFFSITE CULTIVATION LOCATION - means the single additional location if any duly identified pursuant to A.R.S. 36-2806 (E) during the process of registering a nonprofit medical marijuana dispensary where marijuana will be cultivated for sale at a nonprofit medical marijuana dispensary duly registered and certified pursuant to A.R.S. § 36-2804 or that is used to incorporate medical marijuana (cannabis) by the means of cooking, blending, or incorporation into consumable/edible goods.
  5. MEDICAL MARIJUANA - means of all parts of the genus cannabis whether growing or not, and the seed of such plants that may be administered to treat or alleviate a qualifying patients debilitating medical condition or symptoms associated with the patient's debilitating medical condition.
  6. MEDICAL MARIJUANA CULTIVATION - means the process by which a person grows a marijuana plant. A facility shall mean a building, structure or premises used for the cultivation or storage of medical marijuana that is physically separate and off-site from a medical marijuana dispensary.

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<sup>1</sup> Adopted by Resolution No. 478 passed March 10, 2011

7. **MEDICAL MARIJUANA QUALIFYING PATIENT** - means person who has been diagnosed by a physician as having a debilitating medical condition as defined in A.R.S. § 36-2801.13.
8. **OPERATOR** - for the purpose of the Arizona Medical Marijuana Act, means the chief executive officer of the medical marijuana dispensary, whether referred to as the Executive Director, President CEO or other designation.
9. **PATIENT** – for the purpose of the Arizona Medical Marijuana Act, means a person who has been issued a Registry Identification Card by the DHS authorizing him/her to use marijuana to treat his/her debilitating medical condition or symptoms associated with the debilitating medical condition.
10. **SCHOOL** - means an institution of learning for minors, whether public or private, offering a regular course of instruction required by Arizona Revised Code Title 15. This definition includes a pre-school or daycare provider, an elementary school, middle or junior high school, senior high school, or any special institution of education for persons under the age of eighteen years, whether public or private.

#### Section 8-7-2. Zoning Requirements

“Medical Marijuana Dispensaries” and “Medical Marijuana Dispensary Offsite Cultivation Locations” are allowed in C-1 and C-2 Zones only within the MM-01 overlay area and must be accompanied by conditional use permit.

#### Section 8-7-3. Permit Procedure

- A. Medical marijuana dispensary off-site cultivation locations are subject to the conditional use permit procedure set forth in Article 4, § 404.
- B. Medical marijuana dispensary off-site cultivation locations are subject to the requirements of Article 6, § 618 Medical Marijuana Dispensaries and Medical Marijuana Dispensary Offsite Cultivation Locations.
- C. Conditional use permits may only be granted in the MM-01 Overlay area of C-1 zoning.

### Section 8-7-4. Application, inspection, limitations and suspension

- A. Preliminary requirements, application, inspection, limitations.
1. Transaction Privilege Tax License Required: An operator of a Medical Marijuana Dispensary shall be required to apply for and obtain a Transaction Privilege (Sales) Tax License from the city of Saint Johns.
  2. Application Requirements: In addition to the information required in the standard application, a Medical Marijuana Dispensary shall also provide the following information as part of an application for a Transaction Privilege (Sales) Tax License.
  3. Proof of Registration. Proof of an approved registration with the DHS permitting operation as a Medical Marijuana Dispensary.
  4. Floor Plan Layout. A dimensioned floor plan, clearly labeled, showing:
    - a. Structural Layout. The layout of the structure and the floor plan in which the medical marijuana business is to be located;
    - b. Principal Uses. The principal uses of the floor area depicted on the floor plan, including but not limited to the areas where non-patients will be permitted, private consulting areas, storage areas, retail areas and areas where medical marijuana will be dispensed and cultivated;
    - c. Operating Hours. A Medical Marijuana Dispensary shall have operating hours not earlier than 9:00 a.m. and not later than 5:00 p.m.
    - d. Initial Inspection. An inspection of the proposed medical marijuana business by the City may be required prior to issuance of a license. Such inspection shall occur after the licensed premises are ready for operation, but prior to the opening of the business to any patients or the public. The inspection is to verify that the business facilities are constructed and operated in accordance with the application submitted and the applicable requirements of this ordinance and any other applicable law, rule or regulation. The inspection shall not unreasonably delay the opening of the dispensary for business and in no case shall delay the issuance of the license by more than seven (7) days.

- e. **Consent to Future Inspections.** Acceptance of the Transaction Privilege (Sales) Tax License by a Medical Marijuana Dispensary from the city of Saint Johns constitutes consent by the licensee, owners, managers and employees to permit the city to conduct routine inspections of the licensed medical marijuana business to ensure compliance with this chapter or any other applicable law, rule or regulation. The city shall provide 72 hours' notice of any intended inspection.
- B. Suspension or Revocation of Licenses.** A medical marijuana Transaction Privilege (Sales) Tax License may be suspended or revoked for any of the following violations:
- 1. **Misrepresentation or Omission.** Misrepresentation or omission of any material fact, or false or misleading information, on the application or any amendment thereto, or any other information provided to the City related to the medical marijuana business;
  - 2. **Criminal Conviction.** Conviction of any person named on the application or amendment thereto of a crime which, if occurring prior to submittal of the application, would have been cause for denial of the registration by the DHS;
  - 3. **Nonpayment of Tax.** In the event a medical marijuana business that has been open and operating and submitting sales tax returns to the City ceases providing sales tax returns to the City for a period of three months or longer, the medical marijuana license shall be deemed to have expired and a new license required prior to reopening at the location of the business.
- C. Additional Licenses and Permits May be Required.** The license requirement set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state or local law, including, by way of example, a state retail sales and use tax license, a retail food establishment license or any applicable health, safety or building permit.
- D. Limitations on the Permitted Location of a Dispensary.**
- 1. **Single or Separate Locations.** Pursuant to the Arizona Medical Marijuana Act, dispensaries can be located at the same location as grow operations or the

dispensary and grow operation may be located at separate locations.

2. **Permissible Zoning for Dispensaries.** A dispensary or combined dispensary and grow operation may only be located within the C-1 zoned areas of Saint Johns located in the MM-01 overlay as so designated in the Saint Johns Municipal Code and official zoning maps.
3. **Permissible Zoning for Separate Grow Operations:** A separate grow operation may only be located within the C-1 zoned areas of Saint Johns located in the MM-01 overlay as so designated in the Saint Johns Municipal Code and official zoning maps.
4. **Storefront Locations.** A dispensary shall only be located in a visible store-front type location which provides public views of the dispensary entrance, its windows, and the entrance to the dispensary premises from a public street or parking lot. Windows should not be impeded, so that citizens and law enforcement can see into the dispensary and visit the non-marijuana area of the dispensary.

E. **Areas and Zones Where Dispensaries Not Permitted.** Notwithstanding § Four, subparagraph (A) above, a dispensary shall not be allowed or permitted in the following locations or zones:

1. On a parcel located within 800 feet of a school existing before the date of the Medical Marijuana Dispensary DHS application date.
2. On a parcel zoned for residential use.

F. **Location Measurements.** The distance between a dispensary and the above-listed uses shall be made in a straight line measuring pedestrian walking routes from any parcel line of the real property on which the dispensary is located to the parcel line of the real property on which the facility, building, or structure, or portion of the building or structure, in which the above-listed use occurs or is located.

**Section 8-7-5. Operating Requirements**

A. **Operating requirements for dispensaries.**

1. **Patient Rules.** The operator shall provide patients with a list of the rules and regulations governing medical marijuana dispensaries and the use and consumption of medical marijuana within the city of Saint Johns. Each patient shall sign a copy of the rules and regulations, and the operator shall keep said copy in its business records.
2. **Consumption of Marijuana.** Marijuana shall not be consumed by patients on the premises of the dispensary. Nor shall it be consumed via smoking or vaporization form in any public area within the City. The term "premises" includes the actual building, as well as any accessory structures, parking lot or parking areas which are part of the approved location.
3. **Retail Sales of Other Products and Services by a Dispensary.** The retail sales of marijuana use items and other health care services to registered patients is also permitted.
4. **Marijuana Paraphernalia.** No dispensary shall display any medical marijuana paraphernalia or any implement that may be used to administer medical marijuana in the public areas of the dispensary.
5. **Other Health Care Services:** The dispensary may provides other caregiver services consistent with a wellness center, including but not limited to health treatments or therapy generally not performed by a medical doctor or physician, such as physical therapy, massage, acupuncture, aromatherapy, yoga, audiology or homeopathy or knowledgeable consultation on the effects of amount and forms of ingestion of different types of marijuana for medical use;
6. **Floor Plan.** A dispensary shall have an open door policy with an integrative approach to natural health. The floor plan should have a waiting area at the entrance of the dispensary to receive patients and as required by the Arizona Medical Marijuana Act, must have a separate enclosed, locked and secure area for dispensing medical marijuana to qualified patients or designated caregivers. The primary entrance shall be located and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site driveways.

7. **Security Plans.** Pursuant to the Arizona Medical Marijuana Act, the DHS is responsible for promulgating regulations pertaining to dispensary security. A dispensary shall comply with DHS security requirements provide for adequate lighting, alarms, security cameras and locks in order to ensure the safety of persons and to protect the premises from theft.
8. **Hours of Operation.** Dispensaries and Offsite Marijuana Cultivation Locations are permitted to operate between the hours of 9:00 AM and 5:00 PM only.
9. **Illumination of Premises After-hours and during hours of darkness.** Dispensaries shall illuminate all areas of the premises, including adjacent public sidewalks, so that all areas are readily visible by law enforcement personnel. During all hours, the medical marijuana dispensary shall illuminate the entire interior of the building, with particular emphasis on the locations of the counter, a safe, and any location where people are prone to congregate.

#### Section 8-7-6. Site management Requirements

- A. **Good Neighbor.** The operator shall be responsible for monitoring the real property of the dispensary site activity (including the adjacent public sidewalk and rights-of-way) and if directly related to the patrons of the subject dispensary, shall take all reasonable steps to discourage and correct loitering and other objectionable conditions that (a) affect the health, peace, or safety of persons living or working in the surrounding area and (b) constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours.
- B. **Image.** Dispensaries shall be responsible for maintaining a professional medical/pharmaceutical image and appearance consistent with those types of business currently in operation in Saint Johns.
- C. **Ventilation.** The licensed premises shall be properly ventilated to filter the odor from marijuana so that the odor cannot be detected by a person with a normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.
- D. **Trash, Litter, Graffiti.**

1. The operator shall undertake reasonable efforts clear the sidewalks adjoining the premises as well as any parking lots under the control of the operator, as needed to control litter, debris and trash.
2. The operator shall remove all graffiti from the premises and parking lots under the control of the operator within 72 hours of its application.

#### Section 8-7-7. Dispensary signage and notices

- A. Posting of DHS Registration. The Registration document issued by the DHS shall be clearly, conspicuously and legibly posted in the dispensary so that the same may be readily seen by all persons entering the dispensary.
- B. Name And Contact Information. A notice shall be clearly, conspicuously and legibly posted in the dispensary indicating the name and contact information for the owner or owners and operator of the medical marijuana business.
- C. TPST License Posting. The Transaction Privilege (Sales) Tax License issued by the city of Saint Johns shall be clearly, conspicuously and legibly posted in the dispensary.
- D. Posting of Prohibitions. A notice shall be clearly, conspicuously and legibly posted in the dispensary indicating that ingesting or consuming marijuana with in any public area within the city is prohibited and that ingesting or consuming marijuana on the premises is prohibited.
- E. Non-Obstruction. Signs on the premises shall not obstruct the entrance or windows.
- F. No Loitering Posting. A “No Loitering” sign shall be posted on the front exterior of the premises.
- G. Business identification signage. Business identification signage shall comply with the all applicable signage ordinances in Saint Johns and be limited to that needed for identification only, consisting of a single window sign or wall sign that shall not exceed twelve square feet in area or 20 percent of the window area, whichever is less.

- H. Advertisements. Dispensaries must not under any circumstances direct advertisements to persons under 21 or within 500 feet of areas in which they congregate.

#### Section 8-7-8. Community meetings

Upon formal request by the city of Saint Johns, dispensaries shall meet, on site, no more than once per quarter with police, appropriate city personnel, businesses operating in the same 2 block area, and interested neighborhood groups to assess the dispensary's impact on the neighborhood, ensure compliance, and address any issues caused by the operation of the dispensary and to be part of the neighborhood activities and projects. The designated employee of the city of Saint Johns should organize this meeting, issue invitations and notifications, take attendance, and follow up on concerns raised or rectify problems identified.

#### Section 8-7-9. Compliance with other requirements

The dispensary operator shall comply with all provisions of all local and state regulations or orders, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders.

#### Section 8-7-10. Alcoholic beverages

No dispensary shall hold or maintain a license from the State Division of Alcoholic Beverage Control for the sale of alcoholic beverages, or operate a business on the premises that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on the premises.

#### Section 8-7-11. Off-site cultivation requirements

- A. The operation of a Medical Marijuana Dispensary Offsite Cultivation Location or any type of Medical Marijuana Infusion or Manufacturing Facility shall be allowed in C-1 Zone in the MM-01 overlay and only upon issuance of a conditional use permit from the City of Saint Johns Arizona.
- B. Prior to opening or operating a Medical Marijuana Dispensary Off-site Cultivation Location or any type of Medical Marijuana Infusion or Manufacturing Facility, the owner shall apply for a special use permit allowing such use.

- C. In addition to the information required by this section, the applicant for a conditional use permit for a Medical Marijuana Dispensary Off-site Cultivation Location or any type of Medical Marijuana Infusion or Manufacturing Facility shall provide the city with a notarized certification stating that the Medical Marijuana Dispensary Offsite Cultivation Location or any type of Medical Marijuana Infusion or Manufacturing Facility shall:
1. be located in a permanent building and may not be located in a trailer, cargo container or motor vehicle.
  2. not have drive-through service.
  3. not emit dust, fumes, vapors or odors into the environment.
  4. not provide off-site delivery of medical marijuana.
  5. prohibit consumption of marijuana on the premises.
  6. not have outdoor seating areas.
  7. display in a prominent area the license obtained from the Arizona Department of Health Services obtained pursuant to A.R.S. § 36-2801.13.

**Section 8-7-12. Off-site cultivation Separation Requirements**

A Medical Marijuana Dispensary or a Medical Marijuana Offsite Cultivation Location shall meet the following minimum separations measured in a straight line from the boundary of the parcel containing the Medical Marijuana Dispensary or Medical Marijuana Dispensary Offsite Cultivation Location to the property boundary of the parcel containing any existing uses listed below:

**Section 8-7-13. Off-site Cultivation Location Prohibitions**

A Medical Marijuana Dispensary Offsite Cultivation Location not associated with a Medical Marijuana Dispensary is prohibited, and only one Medical Marijuana Dispensary Off-site Cultivation Location shall be permitted for the single medical marijuana dispensary with which it is associated.

**Section 8-7-14. Off-site Cultivation Location Limitation**

The number of Medical Marijuana Dispensary Offsite Cultivation Locations permitted within the town limits of the City of Saint Johns, Arizona shall be limited to one for every 5,000 residents of the city of Saint Johns, Arizona. The number of permitted medical marijuana dispensaries shall be increased by one for each Saint Johns population increase of 5,000 persons over and above the official 2010 census figure for the City of Saint Johns.

**Section 8-7-15 Registry Identification Card Required to Operate a Dispensary**

It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City, the operation of a dispensary, unless the person first obtains and continues to maintain in full force and effect a Registry Identification Card issued by the DHS. Any dispensaries that conduct business without a permit are subject to immediate shutdown and all penalties under current municipal code that apply to businesses operating without a valid license.

**Section 8-7-16. Enforcement and civil citations**

This article may be enforced pursuant to the provisions of Sections 8-6-5 through 8-6-7 herein.

## ARTICLE 8-8 CEMETERY REGULATIONS<sup>1</sup>

### Section 8-8-1 Purpose

These Rules and Regulations are designed for the protection of interment rights as a group. This enforcement will help protect St. Johns Cemetery and preserve its beauty. These Rules and of interment rights, visitors and contractors performing work within the St. Johns Cemetery shall be subject to said Rules and Regulations, amendments or alterations as shall be adopted by the City.

### Section 8-8-2 Definitions

- A. The term "CASKET" means a commercially made container or equivalent, constructed of wood, board, or metal, in which a body is buried.
- B. The term "CITY" means the City of St. Johns and its successors and assigns.
- C. The term "CONTRACTOR" shall mean any person, firm or corporation or anyone engaged in placing, erecting or repairing any memorial, or performing any work in the St. Johns Cemetery, other than an employee of the City.
- D. The term "INTERMENT" shall mean entombment or burial of the remains of a deceased person.
- E. The term "MEMORIAL" shall mean any marker or structure upon or in any lot or niche, placed thereupon or therein or partially therein for the purpose of identification or in memory of the interred.
- F. The term "OFFICERS" shall mean the Cemetery Board of the City of St. Johns and their successors and assigns.
- G. The term "OWNER" shall mean the legal possessor of used or unused rights of interment.
- H. The term "ST. JOHNS CEMETERY" shall mean the area set aside, dedicated and platted for the interment of the human dead.

I. The term "PERPETUAL CARE" shall mean that all lots for which interment rights are sold or transferred shall have "perpetual" care as herein defined, free of further cost to the purchaser after payment of the original purchase price.

### **Section 8-8-3 Supervision Of Cemetery**

A. The City reserves the right to compel all persons coming into the St. Johns Cemetery to obey all rules and regulations adopted by the City by resolution.

B. The City shall take reasonable precaution to protect owners and the property rights of owners within St. Johns Cemetery from loss or damage but distinctly disclaims all responsibility for loss or damage from causes beyond its reasonable control, particularly in movement of headstones and collars set prior to interments, and especially from damage caused by the elements, an act of God, common enemy, thieves, vandals, malicious mischief makers, explosions, unavoidable accidents, invasion, insurrections, riots or order of any military or civil authority whether the damage be direct or collateral, other than as herein provided.

C. The City reserves the right to correct any errors that could be made by either making interments or in the transfer or conveyance and substituting in lieu thereof other interment rights of equal and similar location as far as possible.

D. Automobiles shall obey the speed limits posted and stay on the designated roadways.

E. The right to enlarge, reduce, re-plat or change boundaries or grading of the St. Johns Cemetery or of a section or sections from time to time, including the right to modify or change the locations of, or any part thereof, or remove or re-grade roads, drives and walks is hereby expressly reserved.

F. The right to lay, maintain and operate, or alter or change pipe lines or gutters for sprinkling systems, drainage, lakes and other similar items is also expressly reserved, as

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<sup>1</sup> Adopted Ordinance No. 117 passed May 10, 2007

well as the right to use St. Johns Cemetery property, not sold to individual owners, for City purposes, including the interring, preparing for interment, or for anything necessary, incidental or convenient thereto. The City reserves to itself and to those lawfully entitled thereto, a perpetual right of ingress and egress over lots for the purpose of passage to and from lots.

#### **Section 8-8-4 Sale And Purchase Of Interment Rights**

- A. The sale or transfer of any interment right by any owner or purchaser shall not be binding upon the City unless the same shall first be duly approved in writing or by the properly authorized officer or other designated agent of the City, and then such interment right must be re-conveyed to the City; the City shall thereupon issue a conveyance to the new owner. The same rule shall apply in all cases of assignment or purchase of contracts for interment rights. This procedure is required in order that the City may at all times have a complete and accurate record of all owners.
- B. Any and all transfers of any interment right, whether the same be by conveyance or assignment of purchase contract, are subject to all rules and regulations of the St. Johns Cemetery which are now in full force and effect or which hereafter may be enacted. The City may refuse to consent to a transfer or to an assignment as long as there is any indebtedness due the City from the owner so recorded in the records of the City office.
- C. The subdivision of interment rights is not allowed without the consent of the City and no one shall be buried in any lot not having an interest therein, except by written consent of the City and of all parties interested in such lot.
- D. All interment rights are sold subject to receipt of payment of the amount posted for burial in the office of the City Hall. In cases of interment, full payment shall be received for interment rights and opening and closing of the gravesite. If hardship is declared, the City Manager is given the power to grant such waiver as deemed necessary to the rule upon the purchaser furnishing the City with information pertaining to insurance company and/or lawyer.

For purchase of pre-need lot(s) there shall be a payment schedule as outlined below:

There will be a 10% down payment of total cost and a monthly payment amount that will insure paying off the charges in a maximum of 18 months, such as the following example:

Item	Price	10% Down	Balance
1 Burial Plot	\$300.00	\$30.00	\$270.00
1 Cremation Plot*	\$100.00	\$10.00	\$90.00

\*(1/3 price of burial plot)

If pre-need interment right is used prior to being paid in full, then the balance will be paid in full at time of need. If, at any time, payments are not up to date, the City has the right to cancel any and all reservations and refund monies paid in, less a 10% penalty fee.

Collections of balances owing will be referred immediately to the Finance Department for issuance of a Bill of Collection. The bill of collection will be issued monthly showing current balance until paid in full. If, at any time, payments become delinquent, there will be issuance of a "Second Notice" with the penalty noted that the City has a right to cancel the reservation and retain 10% penalty fee. If there is no response to the second notice, an issuance of a "Third Notice" will take place with ten (10) day response period or cancellation proceedings will commence. The City Manager is allowed power to grant a time extension if extenuating circumstances are proven. In case of non-payment of charges for used interment rights, collection will be referred to the office of the City Attorney.

E. Interment rights can be purchased at City Hall only with the written approval of the City Clerk or such other agent as the Officers shall direct and are subject to the Rules and Regulations of St. Johns Cemetery now or here- after adopted for the governing of St. Johns and for the purpose of interment only. This provision applies to all sales, whether made directly by the City or made by owners.

F. No interment rights or contracts for the purchase of interment rights can be sold, assigned, transferred, pledged, or hypothecated without the written approval of the City or such agent as the Officers may designate.

G. All agreements for the purchase of St. Johns Cemetery interment rights must be on forms approved and signed by the City. All terms and conditions for the purchase of interment rights must be recited in the purchase contract; verbal agreements or

representations will not be recognized. All said agreements must provide for payment as posted in the City office for the area of the lot.

H. The City may exchange interment rights when desired by owners. When such an exchange is made, the original conveyance must be surrendered by proper assignment, or by re-conveyance, if considered necessary, before any change is effected.

I. Each owner is vested with the ownership of his or her interment right for the sole purpose of interment of human dead remains. Under the regulations of the St. Johns Cemetery, the interment rights cannot be conveyed without the consent of the City, nor any use, division or improvements of them be made which the City prohibits or may deem improper. The owner of interment rights may dispose of same by will, subject to the foregoing conditions. If the owner dies intestate, the interment rights will descend to his or her heirs according to the laws of descent of the State of Arizona then in force and effect.

J. No conditional or partial transfer of interment rights and no sale of an undivided interest, except to a person or persons who are already part owners, will be recorded, as the City cannot be responsible for the carrying out of the intent of the Grantor.

K. The general care of the entire St. Johns Cemetery grounds and lots is assumed by the City through the operation of a Perpetual Care Fund or other monies that may be available. Perpetual care is that general care and maintenance necessitated by the natural growth, ordinary wear, and natural elements, and will be provided at reasonable intervals within the budget limits of the cemetery. It includes upkeep of buildings, walks and roadways, and removal of dead flowers or other items considered distracting from the overall appearance of the grounds by City personnel. It shall also include the care of trees, shrubs and flowers planted by City personnel. Perpetual care does not include maintenance of monuments, markers, collars, flower vases or other items furnished by the owners or maintenance of vegetation on individual plots. Personal landscaping should be viewed as temporary. All plants become the property of the City and may be removed as the City deems necessary as beautification plans proceed. Cost of straightening of monuments and markers or other special services to the owners will be established on a time and material cost basis with a pre-paid deposit of 50% of the estimated costs.

L. No permanent fences, curbing, or grave caps are permitted. Any temporary fences or structures other than headstones may be removed by the City as beautification plans proceed.

M. If any memorial or structure in the St. Johns Cemetery is offensive, vulgar or inappropriate the officers of the St. Johns Cemetery have the right and it shall be their duty, to enter upon such lot and remove, change or correct the object or objects found to be offensive or improper. If any memorial, or structure which has been determined to be in non-compliance or offensive is removed by the Officers of the St. Johns Cemetery, the owner shall be notified at their last known address to claim said memorial which shall be retained for ninety (90) days and then disposed of.

N. If any tree, shrub or plant standing upon any lot, by reason of its roots, branches, or otherwise, be or become detrimental to adjacent lots or avenues, or if for any other reason its removal be deemed necessary, the Officers of the St. Johns Cemetery shall have the right, and it shall be their duty, to remove such tree, shrub or plant, or any part thereof, or otherwise correct the conditions existing as in their judgment seems best.

O. Interment rights shall be used for no other purpose than the burial of the human remains. Any personal items to be interred with the deceased must be placed within the casket prior to entering the cemetery grounds. Caskets are to remain closed after entering the cemetery grounds-

### Section 5 Funeral Regulations

A. Funerals. After entering the gates, funerals shall be subject to the direction of the authorized employees of the City.

B. Arrangements for an interment must be completed by 12:00 noon of the day prior to the scheduled interment; except for a Saturday interment, in which case, to guarantee availability of City employees, all arrangements must be completed by 12:00 noon Thursday. City recognized holidays and Sunday interments will not be permitted. "Arrangements" includes choice of interment site by family members, payment in full of all fees, completion of necessary forms and authorizations. Exceptions to this rule will be

made only in cases of death from infectious disease or when so authorized by the Officers or City.

C. Sites for interment may be located by the family or representatives of the family within an area designated by the City.

D. The burial of two bodies in one grave will not be permitted except where one occupies a horizontal space less than three feet in length. No grave space may contain more than three urns of cremated remains.

E. The placement of a headstone in the plot shall be located by a designated City employee. This keeps the headstones in order and regulates the setting of monuments (headstones) for ease of maintenance and for uniformity. Each headstone shall be placed on a cement foundation which shall be at ground level and shall extend a minimum of four inches (4") to a maximum of eight inches (8") beyond the headstone or monument. Also, the headstone and foundation can not encroach onto neighboring sites other than within family plots.

E. Urns will be buried in plots 24" x 24" x 24". Monuments for urn plots will be a maximum of 12" x 16" and will be placed flat and flush with the ground.

F. All standard grave sites will be five (5) feet by ten (10) feet.

G. All standard size graves will be required to have a fiberglass liner or vault. This does not include urn burials.

H. When pre-requested at City Hall, one [or more] designated person[s] may be allowed to witness the covering of the gravesite. Under normal conditions, the closing of the grave will take place only after all persons attending the funeral have left the cemetery.

I. The minimum acceptable container for burial of the remains of a deceased person shall be a casket as defined in [Section 8-2-2.A](#). This does not apply to urn burials.

**Section 8-8-6 General Regulations**

- A. Consumption of intoxicating liquors within St. Johns Cemetery is strictly forbidden.
- B. The City is not responsible for the loss or damage to anything placed on graves or lots.
- C. No person shall be permitted to enter or leave the St. Johns Cemetery except by the public entrance.
- D. Management reserves the right to remove any and/or all decorations when deemed necessary for proper maintenance of the cemetery. Flowers associated with funerals may be removed 10 days after the interment service. The City reserves the right to remove decorations at any time which, in the judgment of the employees, are determined unsightly or weathered.
- E. No person will be permitted to use profane or boisterous language or in any way disturb the quiet and good order of St. Johns Cemetery
- F. All persons are strictly forbidden to break or injure any tree or shrub; or mar any landmark, marker or memorial; or in any way deface the grounds of the St. Johns Cemetery.
- G. All persons are reminded that St. Johns Cemetery is sacredly devoted to interment and that the provisions and penalties of the law, as provided by statute, will be strictly enforced in all cases of wanton injury, disturbance and disregard of the rules.
- H. All persons are urged to inform the City of any breach of proper decorum that may come to their notice.
- I. No person or persons, other than an employee of the City, shall be permitted to bring or carry firearms within the St. Johns Cemetery except a Military or Police Guard of

Honor, and then only during a Military or Police service; or as approved in advance by the Officers.

J. The City may, at any time or times upon recommendation of officers, adopt new rules and regulations, or amend, alter and/or repeal any rule, regulation and/or article, section, paragraph and/or sentence in these Rules and Regulations with public notice published one time in a local newspaper and the City hereby expressly reserves this right

K. Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. The City, therefore, reserves the right, without notice, to make exceptions, suspensions, or modifications in any of the Rules and Regulations when, in its judgment, the same appear advisable; and such temporary exceptions, suspensions or modifications shall in no way be construed as affecting the general application of such.

**Section 8-8-7 Cometary Fees**

Standard Burial Plot Interment Rights	\$300.00
Open/Close of burial plots (Weekday)	\$100.00
Open/Close of burial plots (Weekend)	\$150.00
Cremation Burial Plot Interment Rights	\$100.00
Open/Close Cremation plots (Weekday)	\$50.00
Open/Close Cremation plots (Weekends)	\$75.00

## Article 8-9 Use of City Property

Section 8-9-1	Purpose.
Section 8-9-2	General Provisions
Section 8-9-3	Council to Establish Fees
Section 8-9-4	Applicability
Section 8-9-5	Construction and interpretation
Section 8-9-6	Definitions.
Section 8-9-7	Structures, plants, trees, earth and rubbish
Section 8-9-8	Use of Vehicles on Public Property
Section 8-9-9	Firearms, weapons, and tools
Section 8-9-10	Explosives and fireworks
Section 8-9-11	Advertising, assemblages, and entertainment
Section 8-9-12	Merchandise sale prohibited
Section 8-9-13	Ignitable and combustible materials
Section 8-9-14	Controlled dangerous substances, alms and gambling
Section 8-9-15	Miscellaneous conduct
Section 8-9-16	Picnic areas
Section 8-9-17	Hours
Section 8-9-18	Regulated activities
Section 8-9-19	Prohibited Activities
Section 8-9-20	Permits
Section 8-9-21	Enforcement
Section 8-9-22	Violation—Penalty

### 8-9-1 - Purpose.

A. The purpose of this chapter is to provide rules and regulations for the safe use of and conduct in the parks and recreation areas of the City of Saint Johns, Arizona .

### 8-9-2 - General Provisions.

A. All municipal parks, playgrounds and recreational areas or facilities shall be open for use of the general public between the hours posted unless closed by a decision of the parks and recreation director, City Manager or his or her designee.

B. No person shall trespass or otherwise be upon the grounds of any municipal park, playground, recreational area, or facility, other than the public streets and adjacent sidewalks located therein, between the hours posted that the facility is closed without express permission of the parks and recreation director or his authorized representative, or by the Police Chief or Fire Chief during an emergency.

### 8-9-3. - Council May Establish Fees.

The council counsel may from time to time, establish and set, by resolution the amount of charges for all activities sponsored by the parks and recreation department or for the use of park property or facilities of the town.

### 8-9-4 - Applicability.

A. This chapter shall apply in all parks, recreation areas, and property under the jurisdiction of the city, unless expressly exempted, For the issuance of permits, temporary designations, authorizations, granting of approval and other actions, the approving governing agency shall be the council of the city of Saint Johns.

### 8-9-5. - Construction and interpretation.

A. In the interpretation of this chapter and all succeeding park and recreation area ordinances, the provisions shall be construed as follows:

B. Any requirement or prohibitions of any act shall respectively extend to and include the causing and procuring, directly or indirectly, of such act.

C. No provision hereof shall make unlawful any act necessarily performed by any officer or employee of the city in line of duty or work as such, or by any person, member of the public or his or her agent or employees, in the exercise of constitutional rights or in the and proper and necessary execution of the terms of any agreement with the city.

D. Any act otherwise prohibited by law or local ordinance shall be lawful if performed under, by virtue of, and strictly within the provisions of a permit to do so, and to the extent authorized thereby.

### 8-9-6 - Definitions.

A. In this chapter unless the context otherwise requires:

1. **"Animals" means** cats, dogs, horses, any fowl or birds and any living creatures within the jurisdiction of the park or recreation area.
2. **"Approving governing agency" means** the council of the city of Saint Johns, any body appointed thereby or any designee thereof.

3. **"Crossing" means** any crossing, whether marked by a pavement or otherwise; the extension of any sidewalk or space across any intersecting drive, street or highway.
4. **"Curb" means** any boundary of any street, road, avenue, boulevard or drive whether or not marked by a curb.
5. **Dangerous, irresponsible, or threatening manner means** in a manner reasonably likely to cause a person of ordinary prudence to be placed in reasonable apprehension of imminent physical injury or threat of physical injury or death.
6. **"Director" means** the mayor of the city of Saint Johns or other employee, designee or other person appointed by the council as the person in charge of the recreation areas within the city.
7. **"Park attendant" means** any person employed by the city as a parks attendant to perform duties or tasks within the park and recreation areas.
8. **"Path" means** any footpath, walk or any other path maintained for pedestrians.
9. **"Pedestrians" means** any person afoot.
10. **"Permit" means** any written license issued by or under the authority of the city permitting a special event or activity on park facilities.
11. **"Person" means** any natural person, corporation, company, association, joint stock association, firm or co-partnership.
12. **"Soliciting" means** selling goods or services by sample or taking orders for future delivery with or without accepting advance payment for the goods or seeking any form of contributions.
13. **"Stopping or standing" means**, when prohibited, any cessation of movement of a vehicle, occupied or not, except when necessary to avoid conflict with pedestrians or other traffic including bicycles or horses.
14. **"Traffic" means** pedestrians, ridden or herded animals and vehicles, either singly or together.
15. **"Vehicle" means** any conveyance (except baby carriages) including motor vehicles, trailers of all types, campers, tricycles, bicycles, motorized or not, sleds, sleighs, pushcarts or vehicles propelled by other than by muscular power, including any horse or horse-drawn conveyance.
16. **"Vending" means** selling or trading any item or service.

#### 8-9-7 - Structures, plants, trees, earth and rubbish.

- A. It is unlawful for any person in a public park or recreation area to:

1. Mark, deface, disfigure, injure, tamper with, displace or remove any buildings, bridges, tables, benches, fireplaces, railings, paving's or paving materials, water lines or other public utilities or parts or appurtenances thereof, signs, notices, placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal;
2. Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over six years of age shall use the restrooms and washrooms designated for the opposite sex;
3. Dig or remove any soil, rock, sand, stones, trees, shrubs, plants or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency; Construct or erect any *permanent building or structure* of whatever kind, or run or string any public service utility into, upon or across such lands, *in a manner inconsistent with the use of the park by the general public*, except on special prior written permission issued pursuant to this chapter or other municipal ordinances;
4. Damage, cut, carve, mark, transplant or remove any plant, injure the bark, pick flowers or seed of any tree or plant, dig in or otherwise disturb grass areas or in any other way injure the natural beauty or usefulness of any area;
5. Climb, stand or sit upon any monuments, vases, planters, fountains, railings, fences, or upon any other property not designated or customarily used for such purpose.
6. Attach any rope, cable or other contrivance to any tree, fence, railing, bridge, bench or any other structure or improvement, *in a manner inconsistent with the use of the park by the general public*.
7. Throw, discharge or otherwise place or cause to be placed in the water of any fountain, pond, lake, stream, or other body of water in or adjacent to any park, or any tributary, stream, storm sewer or drain flowing into such water, any substance, matter or thing, liquid or solid, which will or may result in the pollution of the waters;
8. Take into, carry through or put into any park any rubbish, refuse, garbage or other material. Such refuse and rubbish shall be deposited in receptacles so provided. Where receptacles are not provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere;

9. Intentionally break or fail to dispose of any glass container in a proper receptacle or proper fashion;
10. Cause or permit to run lose any animal;
11. Tie or hitch any animal to any tree or plant for more than fifteen (30) minutes in any one hour period;
12. Hunt, molest, harm, frighten, kill, trap, pursue, chase, tease, shoot or throw anything at any animal, wildlife, reptile or bird, nor shall he remove or have in his or her possession the young of any wild animal, or the eggs, nest or young of any reptile or bird. Exception to the foregoing is made in that snakes or other animals known to be deadly or poisonous to humans may be killed on sight;
13. Ride a horse, except on designated equestrian trails. Horses shall be thoroughly broken and properly restrained, ridden with due care and shall not be allowed to graze or go unattended or to be present in crowds of people where they could kick or otherwise injure other members of the public;
14. Walk a dog or other domestic animal without a leash, said leash to be no longer than six feet. Further, the owner or person having custody of the dog or other domestic animal shall be responsible for removal of any animal solid waste.

#### **8-9-8 - Use of Vehicles on Public Property.**

- A. It is unlawful for any person in a public park or recreation area to:
  1. Drive any vehicle in any area except the surfaced park roads or parking areas, or such areas as may, on occasion, be specifically designated a temporary area;
  2. Park a vehicle anywhere except in a designated parking area;
  3. Leave a vehicle standing or parked in established parking areas, or elsewhere in the park and recreation areas during hours when the park and recreation area is closed. During a snowstorm and for seventy-two (72) hours after the conclusion thereof, established parking areas in parks and recreation areas may be utilized for parking, but not by travel trailers, motor homes or any other form of living facility;
  4. Ride a bicycle *recklessly or without reasonable regard to the safety of others*;
  5. Leave a bicycle lying on the ground or paving, or set against trees, or in any place or position where other persons may trip over or be injured by it;
  6. Wash any vehicle;

7. Drive or operate within the parks any bus or vehicle adapted for more than twelve (12) passengers, any hearse, truck, tractor or vehicle used for advertising; provided that taxis, buses and trucks may be used to carry visitors to the parks and recreation areas except as authorized by the City;
8. Use the parks, park drives, parking places or parkways for the purpose of demonstrating any vehicles, or for the purpose of instructing another to drive or operate any vehicle, nor shall any person use any park area, including parking places, for the repairing or cleaning of any vehicle, except as authorized by the City or in an emergency;
9. Cause or permit a vehicle in tow of another vehicle to enter the parks or proceed therein, except that in the case of a breakdown a disabled vehicle may be towed to the nearest exit; or to operate or drive a vehicle containing any person or object projecting or hanging outside of or beyond the side or the rear thereof.

#### **8-9-9 - Firearms, weapons, and tools.**

A. It is unlawful for any person to possess or use a rifle, shotgun, BB gun, air gun, spring gun, slingshot, bow or other weapon in which the propelling force is gunpowder, a spring or air in a dangerous, irresponsible, or threatening manner in any park or recreation area.<sup>1</sup>

#### **8-9-10 - Explosives and fireworks.**

A. It is unlawful for any person to have in his or her possession or set off any explosives or *dangerous* fireworks. Permits may be given for conducting a properly supervised fireworks display in designated park areas.

#### **8-9-11 - Advertising, assemblages, and entertainment.**

A. No person shall post, paint, affix, distribute, deliver, place, cast or leave about any bill, billboard, placard, ticket, handbill, circular or advertisement *without consent of the City Manager or his or her designee*.

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<sup>1</sup> Amended 8-9-23 at recommendation of council.

B. No person shall do any of the following without a permit, provided that no permit shall be required for any action or event sponsored by the city:

1. Display any advertising signs or other advertising matter, provided that a sign attached to a vehicle to identify the vehicle, or a sign lawfully on a taxi or bus, is not prohibited;
2. Operate for advertising purposes any musical instrument, soundtrack or drum;
3. Hold public assemblages;
4. Conduct exhibitions; or
5. Hold a parade.

**8-9-12 - Merchandise sale prohibited.**

A. No person shall expose or offer for sale any article in any park or recreation area in a manner inconsistent with the use of the park or area by the general public without a license as a concessionaire.

**8-9-13 - Ignitable and combustible materials.**

A. No person shall kindle, build, maintain or use a fire except in places provided for such purposes. Any fire shall be continuously under the care and direction of a competent person from the time that it is kindled until it is extinguished. No person shall throw away or discard any lighted match, cigar, cigarette, tobacco, paper or other material within or against any building, boat or vehicle, or under any tree or in underbrush.

**8-9-14. - Controlled dangerous substances, alms and gambling.**

A. While in a public park or recreation area, all persons shall conduct themselves in a proper and orderly manner, and, in particular, no person shall:

1. Bring controlled dangerous substances or use the same at any time, nor shall any person be under the influence of intoxicating liquor or a controlled dangerous substance in a park or recreation area;
2. Solicit alms or contributions for any purpose, whether public or private;
3. Play any games of chance or have possession of any instrument or device for illegal gambling;

4. Play, engage or take part in any game or competitive sport for money or other valuable thing in a manner inconsistent with the use of the park or area by the general public or without a written permit.

#### 8-9-15. - Miscellaneous conduct.

A. It is unlawful for any person in a park or recreation area to:

1. Camp or stay overnight anywhere except in areas designated for camping or staying overnight in vehicles or trailers;
2. Take part in the playing of games involving thrown or otherwise propelled objects except in those areas designated for such forms of recreation in a manner inconsistent with the use of the park or area by the general public.
3. Play football, baseball, basketball, soccer, or lacrosse, in a manner inconsistent with the use of the park or area by the general public except in areas designated for such games;
4. Roller-skate or use skateboards in a manner inconsistent with the use of the park or area by the general public except in those areas specifically designed for such pastimes;
5. Enter an area posted as "closed to the public."
6. Engage in threatening, abusive, insulting, or indecent language, or engage in any disorderly conduct or behavior tending to breach the public peace;
7. Fail to produce and exhibit any permit he or she claims to have, upon request of any authorized person who shall desire to inspect the same for the purpose of enforcing compliance with this chapter, any ordinance or rule;
8. Disturb or interfere unreasonably with any person or party lawfully and peacefully occupying any area or participating in any activity under the authority of a permit;
9. Permanently erect or occupy any tent, stand or other structure in any park or playground, or sell or give away from any such tent, stand or other structure any food, drink or other thing for commercial gain, without a permit;
10. Bring Alcoholic beverages anywhere within any park or playground.
11. Engage in any dangerous or potentially dangerous commercial or other activity or event without prior city authorization.

#### 8-9-16 - Picnic areas.

A. It is unlawful for any person or group of persons to hold a picnic in any park area in a manner inconsistent with the use of the park or area by the general public.

**8-9-17 - Hours.**

A. Except for designated camping areas, no person shall be in any park during the hours the park is closed. During the months of May, June, July, August and September all parks in the city limits shall open or closed at the times posted thereon. During all other months all the parks in the city limits shall open or closed at the times posted thereon. Signs clearly informing the public of the Open and Closing hours shall be posted at all parks.

B. Special use permits may be obtained at the offices of the city for the purpose of permitting use of the parks within the city limits during hours when the parks would otherwise be closed.

**8-9-18. - Regulated activities.**

A. The following activities are permitted only at the times and in the areas so designated for that purpose, and are prohibited elsewhere within the parks:

1. Swimming,
2. bathing,
3. fishing;
4. Ice skating;
5. sun-bathing;
6. Archery;
7. Horseshoe pitching;
8. Tennis;
9. Camping;
10. Basketball;
11. Soccer;
12. Bicycle riding;
13. Throwing or propelling any objects; and
14. Roller skating.
15. Circuses
16. Commercial Amusement activities or rides.

**8-9-19. - Prohibited Activities.**

- A. Bouncing Houses and inflatable recreational activities or events are prohibited on any property owned or operated by the City.<sup>2</sup>
- B. Electronic Bull Riding recreational activities or events are prohibited on any property owned or operated by the City.
- C. Slip-n-slide recreational activities or events are prohibited on any property owned or operated by the City.
- D. Any other activity or event considered a dangerous or "high risk" activities and/or which are or may be uninsured by the City's General Liability Insurance policy or policies.

### 8-9-20 - Permits.

#### A. Application.

1. **Permits.** Permits for special events in parks and recreation areas shall be obtained by application to the council or their designee in accord with the following procedure:

**a. Contents.** A person seeking issuance of a permit hereunder shall file an application stating:

1. The name and address of the applicant;
2. The name and address of the person, persons, corporation or association sponsoring the activity, if any;
3. The day and hours for which the permit is desired;
4. The park, or portion thereof, for which the permit is desired;
5. Proof of adequate Liability Insurance Coverage for the event.
6. Any other information reasonably necessary to permit a determination as to whether a permit should be issued hereunder; and

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<sup>2</sup> City's Insurance Policy has an express "exclusion" for Bouncy Houses. Means city would have to pay for it's own defense. Currently no insurance companies provide insurance for bouncy houses. Specialty Insurance Company's do provide insurance, but minimum starts at \$5,000.00 per bouncy house per activity.

**B. Variances.** Variances are required from park rules and regulations.

**C. Findings.** Standards for issuance of a permit shall include the following findings that the:

1. Proposed activity or use of the park will not unreasonably interfere with or detract from the general public's enjoyment of the park;
2. Proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety, and recreation;
3. Proposed activity or use that is reasonably anticipated will not include violence, crime or disorderly conduct;
4. Proposed activity has provided proof on insurance coverage for the event with the City named as an additional insured.
5. Proposed activity or use will not entail extraordinary or burdensome expense or police operation by the city; and
6. Proposed activity or use will not expose the public to unreasonable risk of harm, injury or danger.
7. Facilities desired have not been reserved for other uses on the date and at the hours requested in the application.

### **D. Appeal.**

1. Within ten days after the receipt of an application, the council, or its designee, shall inform the applicant of its decision, in writing, to grant or deny a permit; in the event of a denial, the notification shall include the reason therefor. Any aggrieved person shall have the right to appeal to the entire council by serving written notice thereof on the clerk within five business days after receipt of notification of denial.
2. A copy of the appeal notice shall also be served on the body or person that denied the permit application, if other than the council, within the same time limit, and the body or person shall immediately forward the application and the reasons for its denial to the council. The council shall decide within ten days from the receipt of the appeal by the clerk, or at the first meeting of the council after such receipt by the clerk, whichever is later. The decision of the council shall be final and binding on all parties.

**E.** A permittee shall be bound by all park rules and regulations and all applicable ordinances fully as though the same were inserted in the permit.

F. An applicant for a permit may be required to submit evidence of liability insurance covering injuries to members of the general public arising out of such permitted activities in such amounts as may be from time to time determined prior to the commencement of any activity or the issuance of any permit.

G. **Revocation.** The council shall have the authority to revoke a permit upon a finding of a violation of any rule, ordinance or upon

**8-9-21 - Enforcement.**

A. The police department of the city, their designees, if any, the council, their designees, if any, and any park attendants, shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.

B. The police department of the city, their designees, if any, the council, their designees, if any, and any park attendants shall have the authority to order any person or persons acting in violation of this chapter to leave the park or recreation areas.

**8-9-22 - Violation—Penalty.**

A. Any person, firm or corporation violating any provision of this chapter shall be guilty of a civil violation and may be fined up to \$50 for a violation by a person or persons and up to \$500 for any corporation or firm.

## Article 8-10 Recreational Marijuana.<sup>1</sup>

8-10-1	Purpose
8-10-2	Definitions
8-10-3	Marijuana Prohibited on Public Property
8-10-4	Marijuana Establishment Prohibited
8-10-5	Marijuana Testing Facility Prohibited
8-10-6	Marijuana Delivery Prohibited.
8-10-7	Individual's Primary Residence for Personal
8-10-8	Use Violations
8-10-9	Enforcement; Penalties

### Section I. Recreational Marijuana Use.

#### 8-10-1 Purpose.

This article is adopted to protect the health, safety, and welfare of the community. Except as allowed by law for personal, private use, the City prohibits the retail sale, cultivation, and manufacturing of marijuana or marijuana products in City. Nothing in this article is intended to promote or condone the sale, cultivation, manufacture, transport, production, distribution, possession, or use of marijuana or marijuana products in violation of any applicable law.

#### 8-10-2 Definitions.

The words and phrases below, wherever used in this article, shall be construed as defined in this section unless, clearly from the context, a different meaning is intended. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

- A. **“Chemical Extraction ” means** the process of removing a particular component of a mixture from others present, including removing resinous tetrahydrocannabinol from marijuana.
- B. **“Chemical Synthesis” means** production of a new particular molecule by adding to, subtracting from or changing the structure of a precursor molecule.
- C. **“Consume ” “Consuming, ” and “Consumption” mean** the act of ingesting, inhaling

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<sup>1</sup> Adopted by Ordinance #0412021.1, April 14<sup>th</sup>, 2021, by the common council of the City of St. Johns, Arizona. Effective date: May 14<sup>th</sup>, 2021. Codified as Section 8-10 of the City of St. Johns City Code, January 28<sup>th</sup>, 2026.

or otherwise introducing marijuana into the human body.

- D. **'Consumer "** means an individual who is at least twenty-one years of age and who purchases marijuana or marijuana products.
- E. **'Cultivate" and "Cultivation ”** means to propagate, breed, grow, prepare and package marijuana.
- F. **'Deliver" and "Delivery"** mans the transportation, transfer or provision of marijuana or marijuana products to a consumer at a location other than the designated retail location of a marijuana establishment.
- G. **Department' means** the State of Arizona Department of Health Services or its successor agency.
- H. **“Dual Licensee" means** an entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license.
- I. **'Enclosed Area'" means** a building, greenhouse, or other structure that has:
  - 1. A complete roof enclosure supported by connecting walls that are constructed of solid material extending from the ground to the roof
  - 2. Is secure against unauthorized entry.
  - 3. Has a foundation, slab or equivalent base to which the floor is securely attached;
  - And
  - 4. Meets performance standards ensuring that cultivation and processing activities cannot be and are not perceptible from the structure in terms of not being visible from public view without using binoculars, aircraft or other optical aids and is equipped with a lock or other security device that prevents access by minors.

Extraction" means the process of extracting or separating resin from marijuana to produce or process any form of marijuana concentrates using water, lipids, gases, solvents, or other chemicals or chemical processes.
- J. **'Manufacture" and ‘"Manufacturing" mean** to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.
- K. **'Marijuana'**
  - 1. **Means,** all parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and

every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin.

2. **Includes** cannabis as defined in A.R.S. § 13-3401.
3. **Does not include** industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds of the plant that are incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

L. **'Marijuana Concentrate'**

1. **Means** resin extracted from any part of a plant of the genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation of that resin or tetrahydrocannabinol.
2. Does not include industrial hemp or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or other products.

M. **'Marijuana Establishment'** means an entity licensed by the Department to operate all of the following:

1. A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.
2. A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

3. A single off-site location at which the licensee may manufacture marijuana products and package and store marijuana and marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.
- N. **'Marijuana Products'** means marijuana concentrate and products that are composed of marijuana and other ingredients and that are intended for use or consumption, including edible products, ointments, and tinctures.
- O. **'Marijuana Testing Facility'** means the Department or another entity that is licensed by the Department to analyze the potency of marijuana and test marijuana for harmful contaminants.
- P. **'Nonprofit Medical Marijuana Dispensary'** means a nonprofit entity as defined in A.R.S. § 36-2801(12).
- Q. **'Open Space'** means a public park, public sidewalk, public walkway or public pedestrian thoroughfare.
- R. **'Person'** means an individual, partnership, corporation, association, or any other entity of whatever kind or nature.
- S. **'Process'** and **'Processing'** means to harvest, dry, cure, trim or separate parts of the marijuana plant.
- T. **'Public Place'** has the same meaning prescribed in the Smoke-Free-Arizona Act, A.R.S. § 36-601.01.
- U. **'Smoke'** means to inhale, exhale, burn, carry or possess any lighted marijuana or lighted marijuana products, whether natural or synthetic.

**8-10-3 Marijuana Prohibited on Public Property.**

- A. The use, sale, cultivation, manufacture, production or distribution of marijuana or marijuana products is prohibited on property that is occupied, owned, controlled or operated by the City.
- B. It is unlawful for an individual to smoke marijuana in a public place or open space in City.

**8-10-4. Marijuana Establishment Prohibited.**

- A. To the fullest extent allowable by law, the operation of a marijuana establishment is prohibited in City.

**8-10-5 Marijuana Testing Facility Prohibited.**

- A. To the fullest extent allowable by law, the operation of a marijuana testing facility is prohibited in City.

**8-10-6 Marijuana Delivery Prohibited.**

- A. It is unlawful to deliver or to facilitate the delivery of marijuana in the City of St. Johns to a person who is not a medical marijuana cardholder as defined in the Arizona Medical Marijuana Act, chapter 28.1 of Title 36, Arizona Revised Statutes as defined under A.R.S. 38-2850(6) and A.R.S. 36-2859(D)(1)

**8-10-7 Individual's Primary' Residence for Personal Use**

- A. To the fullest extent allowable by law, marijuana possession, consumption, processing, manufacturing, transportation, and cultivation is permitted in a residential zoning district in City and is subject to the following conditions and limitation:
  - 1. It shall be unlawful for any individual who is at least twenty-one (21) years of age to possess, transport, cultivate or process more than six (6) marijuana plants.
  - 2. It shall be unlawful for two or more individuals who are at least twenty-one (21) year of age to possess, transport, cultivate or process more than twelve (12) marijuana plants at the individuals' primary residence.
  - 3. Except as provided by A.R.S. § 36-2801 et al. and this Section, it shall be unlawful for an individual to otherwise cultivate marijuana in a residential zoning district within the City limits.

4. Individuals shall not process or manufacture marijuana by means of any liquid or gas other than alcohol, that has a flashpoint below one hundred (100) degrees Fahrenheit.
5. Kitchen, bathrooms, and primary bedroom(s) shall be used for their intended use and shall not be used primarily for residential marijuana processing, manufacturing, or cultivation.
6. A residence shall not emit dust, fumes, vapors, or odors into the environment and individuals shall ensure that ventilation, air filtration, building and design standards are compatible with adjacent uses and the requirements of adopted building codes of City.
7. Cultivation shall be limited to a closet, room, greenhouse, or other enclosed area on the grounds of the residence equipped with a lock or other security device that prevents access by minors. Cultivation shall take place in an area where the marijuana plants are not visible from public view without using binoculars, aircraft or other optical aids.

**8-10-8 Violations.**

- A. It is unlawful and a violation of this article for a person to sell, cultivate, process, manufacture or transport marijuana or marijuana products if the person fails to meet all the requirements in this article or state law, including the Department's rules.
- B. It is a violation of this article for any person to provide false information on any permit application.
- C. Each day any violation of any provision of this article shall continue shall constitute a separate offense.

**8-10-9 Enforcement; Penalties.**

- A. Violations of this article are in addition to any other violation enumerated within the City ordinances or the City Code and in no way limits the penalties, actions or abatement procedures which may be taken by the City for any violation of this article, which is also a violation of any other ordinance or Code provision of the City or Federal or State law. Conviction and punishment of judgment and civil sanction against any person under this article shall not relieve such person from the responsibility of correcting prohibited

conditions, or removing prohibited structures or improvements, and shall not prevent the enforced correction or removal thereof

- B. **Civil Penalty:** Violations of any provision of this article shall be civil code offenses which may be adjudicated and enforced by the City civil hearing process set forth in [Section 8-6-5 through 8-6-7](#) of the City Code.

### **Section II. Providing for Repeal of Conflicting Ordinances.**

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

### **Section III. Recitals.**

The recitals above are fully incorporated in this Ordinance by reference.

### **Section IV. Effective Date.**

### **Section V. Emergency**

Because of the urgent need for the implementation of the City's regulations concerning recreational marijuana, the immediate operation of this Ordinance is necessary for the preservation of the health, safety, and general welfare. An emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor and Council as required by law.

### **Section V. Zoning Considerations.**

In accordance with Article II, Sections 1 and 2, Constitution of Arizona, the City Council has considered the individual property rights and personal liberties of the residents of the City before adopting this ordinance.

### **Section VI. Preserving Rights and Duties.**

This Ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Ordinance.

### **Section VII. Providing for Severability.**

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

**ARTICLE 8-11 RESERVED**

**ARTICLE 8-12 ABATEMENT OF DANGEROUS BUILDINGS<sup>1</sup>**

The Uniform Code for the Abatement of Dangerous Buildings, current edition, or as may be revised from time to time by the International Conference of Building Officials, is hereby adopted by reference.

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<sup>1</sup> Adopted by Ordinance No. 66, 14th day of June 1990.

## ARTICLE 9-1 OFFENSES.

Section	9-1-1	Possession or Consumption of Intoxicating Liquor
Section	9-1-2	Sale or Dispensing of Intoxicating Liquor
Section	9-1-3	Curfew
Section	9-1-4	Glass Beverage Containers
Section	9-1-5	Engine Breaks
Section	9-1-6	Unlawful Camping, Loitering, or Living on City Property
Section	9-1-7	Unlawful Urinating or defecating in public.
Section	9-2-1	Noise.
Section	9-2-2	Unnecessary noise
Section	9-2-3	Exemptions
Section	9-2-4	Specially regulated noise sources
Section	9-2-5	Enforcement and civil citations
Section	9-2-6	Penalties
Section	9-2-7	Procedures

### **Section 9-1-1 Possession or Consumption of Intoxicating Liquor**

A. It Is unlawful for any person to consume any spiritous or intoxicating liquor or to possess any open container which contains a spiritous or intoxicating liquor in or upon any facilities, alleyways, culverts, drainage ditches, right of ways, or real property owned or operated by the City of St. Johns, unless, prior to any such consumption or possession, said person shall have received a written permit for the same from the chief of police.

B. A violation of this section is a Class 1 Misdemeanor.

### **Section 9-1-2 Sale or Dispensing of Intoxicating Liquor**

It is unlawful for any person or entity to sell or to dispense for any fee or as part of any commercial activity, any intoxicating liquor in or upon any public property, unless, prior to any such sale or dispensing, said person shall have received a written permit for the same from the chief of police, after approval by the council and any further approval as may be required by the Arizona Department of Liquor Licenses and Control.

Section 9-1-3 Curfew<sup>1</sup>

A. It is unlawful for any juvenile under the age of eighteen (18) years to be, remain or loiter in, about or upon any place in the City away from the dwelling house or usual place of abode of said juvenile, on Sunday, Monday, Tuesday, Wednesday and Thursday nights between the hours of 11:00 o'clock p.m. and 5:00 o'clock a.m. of the following day; and on Friday and Saturday nights between the hours of 12:00 a.m. and 5:00 a.m..

B. It is unlawful for a parent, guardian, or other person having the care, custody or supervision of a juvenile to permit such juvenile to be, remain or loiter in, about or upon any place in the City away from the dwelling house or usual place of abode of said juvenile in violation of Section A.

C. It is unlawful for any parent, guardian or other person having the care, custody or supervision of a juvenile to fail or refuse to take such juvenile into custody after demand is made pursuant to subsection F below.

D. The curfew set forth above does not apply to any legally emancipated minor, whether the emancipation be through marriage, military service or other legally sufficient grounds; to any minor who is accompanied by his parent, guardian or other person to any minor, who might otherwise be in violation of the terms of this section, when any of the following applies:

1. His presence is reasonably required in the pursuit of a lawful occupation, business or profession in which he is then engaged, with the permission of a parent, guardian or other person having his legal care and custody; or
2. He is on an emergency errand, medical or otherwise; or
3. He is going directly to or from a place or function sponsored by or related to a school, church or civic organization. These functions shall include, but are not limited to, classes, services, meetings, dances, dramatic or musical performances, sporting events, or other

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<sup>1</sup> Adopted by Ordinance No. 77, September, 8<sup>th</sup>, 1994.

social events sponsored by a school, religious or civic organization, with the permission of his parent, guardian or other person having his legal care and custody.

E. It shall not constitute a defense to this section that any parent, guardian or other adult having the care, custody or supervision of a juvenile did not have actual knowledge of the presence of such juvenile in, about or upon any place in the City away from the dwelling house or usual abode of the juvenile, if said parent, guardian or other person having the care, custody or supervision of such juvenile, in exercise of reasonable care and diligence, should have known of the aforementioned unlawful act or acts of such juvenile.

F. In addition to any other powers that he may have, any law enforcement officer who arrests a juvenile for violating any of the provisions of subsection A is also empowered to demand of said juvenile's parent, guardian or other person having his care, custody or supervision, that such parent, guardian or other person take custody of such juvenile. If the parent, guardian or other person fails to take custody of the juvenile, the law enforcement officer shall then be authorized to take the juvenile to the dwelling house or usual place of abode of the juvenile.

G. Each violation of the provisions of subsections A, B and C above shall constitute a separate offense.

H. Any violation of the terms of this section shall be a Class 1 Misdemeanor.

#### Section 9-1-4 Glass Beverage Containers

It is unlawful for any person to possess any open glass beverage container in or upon any public property or to deposit any glass beverage container in or upon any public property.

#### Section 9-1-5 Engine Brakes<sup>2</sup>

It is unlawful to operate a motor vehicle on any street or highway within the city limits with the assistance of an engine brake (commonly referred to as a "Jake Brake") or similar device.

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<sup>2</sup> Adopted by City Ordinance No. 95, October 14, 1999.

Section 9-1-6 Unlawful Camping, Loitering or Living on City Property.<sup>3</sup>

A. It is unlawful for any person to *camp, loiter or live* in or upon any city park, building, facility, parking lot or structure, or on any property adjacent thereto, that is owned, possessed or controlled by the City, except as permitted in paragraph C below.

B. **Definition.** For the purposes of this section the term "*camp, loiter or live*" means to use real property of the City for living accommodation purposes such as sleeping activities, or making preparations to sleep, including the laying down of bedding for the purpose of sleeping, or storing personal belongings, or making any fire, or using any tents or shelter or other structure or vehicle for sleeping or doing any digging or earth breaking or carrying on cooking activities *when it reasonably appears, in light of all the circumstances, that the participants, in conducting these activities, are in fact using the area for living accommodation purposes regardless of the intent of the participants or the nature of any other activities in which they may also be engaging.*

C. **Permits.** The City Manager or his designee, may authorize the Chief of Police to issue permits or reservations to authorize the public or organizations to use real property of the City for living accommodation purposes such as sleeping activities or park vehicles overnight in any city park, facility, parking lot or structure, or on any property adjacent thereto.

D. **Limitation.** Nothing in this section shall be interpreted to prohibit or require permitting of normal recreational camping or parking in or upon private property or in or upon authorized areas of recreational facilities such as Patterson's Pond or camping *on designated areas* pursuant to events sponsored by the City of Saint Johns.

E. **Violation.** A violation of this section is a civil violation and may be cited and fined according to the provisions of Chapter 8 of the City Code.

F. Established Hours of Operation of City Parks and Recreational Facilities.

1) **Established Hours of Operation<sup>4</sup>.** It shall be a violation of this chapter for any person other than a peace officer, city employee working in an official capacity, or designated park ranger to be in any park and recreation outside the established Hours of Operations. The City Manager or

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<sup>3</sup> Adopted by City Ordinance No. 06132018, June 13<sup>th</sup>, 2018, effective July 11, 2018.

<sup>4</sup> Amended by Ordinance No. 8142019.1 passed August 14<sup>th</sup>, 2019.

his designee may establish hours of operations for each park and recreation area, which shall be posted at all park and recreation areas. Unless otherwise established by the City Manager or his designee, Community and Neighborhood Park and recreation areas shall be closed from 10:00 p.m. to 6:00 a.m. on Sunday, Mondays, Tuesdays, Wednesdays and Thursdays. On Fridays and Saturdays, Community and Neighborhood Park and recreation areas shall be closed from 11:00 p.m. to 5:00 a.m. The City Manager, Director of the Community Services Department or their designee may extend or reduce the hours of operation of any park and recreation area for such events as they determine to be appropriate.

2) **Posting of Hours of Operation.** The Public Works Director is authorized to post appropriate signage, set appropriate speed limits and install appropriate control devices to restrict access into parks and recreation areas.

3) **Temporary Closure, Posting.** The City Manager or their designee may direct that a park and recreation area be closed for a temporary period where a situation arises that the public health or safety require that the premises be closed. A copy of the closure order shall be posted at the entrance to the Park and recreation area. In emergency circumstances, involving public health or safety, a park ranger, designated police services officer, or peace officer may temporarily close a park and recreation area or any portion of a park and recreation area. Any such closure shall be reported to the City Manager or their designee.

4) **Civil Violation.** Violation of this sub-section, other than subsection F 1) and/or F 2) shall be deemed to be a civil infraction.

5) **Criminal Violations.** Violations of Subsection F 3) of this section shall be a class one (1) misdemeanor.

6) **Overnight Camping, Procedures, Permits.** The Chief of Police or Parks and Recreation Director may, in accordance with the Parks and Recreation Department's established procedures, issue special use permits or reservations to authorize the public or other organizations to camp or park vehicles overnight in a park or preserve. Nothing in this section shall be interpreted to prohibit camping or overnight parking sponsored by the City of Saint Johns.

**Sec. 9-1-7. Urinating or defecating in public.<sup>5</sup>**

- A. It is unlawful for any person to urinate or defecate in public or upon any public street, alley, sidewalk or park or other public grounds or in any place which is easily visible or readily accessible from a public thoroughfare or public conveyance, except where
- B. **Enforcement.** This section may be enforced under the provisions of Section 9-2-6 and 9-2-7 of Title 9 except that repeated violations of this section within a 24-month period shall constitute a class one (1) misdemeanor punishable pursuant to Section 9-2-6 (1) of this Code.

**Sec. 9-2-1. Noise.**

(1) Declaration of policy. It is hereby declared to be the policy of the City of St. Johns to prohibit unnecessary, excessive and offensive noises from all sources subject to its police power. At certain levels, noises are detrimental to the health, safety and welfare of the citizenry, and in the public interest, such noise shall be systematically proscribed.

**Sec. 9-2-2. Unnecessary noise.**

- (a) Unnecessary, excessive or offensive noise. Notwithstanding any other provision of this article, and in addition thereto, it shall be unlawful for any person without justification to make or continue, or cause or permit to be made or continued, any unnecessary, excessive or offensive noise, which disturbs the peace or quiet of any neighborhood or which causes repeated and continuing discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.
- (b) **Factors.** The factors which will be considered in determining whether a violation of the provisions of this section exists will include, but not be limited to, the following:
- (1) The volume of noise;
  - (2) The intensity of the noise;
  - (3) Whether the nature of the noise is usual or unusual;
  - (4) Whether the origin of the noise is natural or unnatural or consistent or inconsistent with the zoning ordinances and regulations of the area;

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<sup>5</sup> Enacted by the City Council July 8<sup>th</sup>, 2020 by ordinance #07082020-3.

- (5) The volume and intensity of the background noise, if any;
- (6) The proximity of the noise to residential sleeping facilities;
- (7) The nature and zoning of the area within which the noise emanates;
- (8) The density of the inhabitation of the area within which the noise emanates;
- (9) The time of the day or night the noise occurs;
- (10) The duration of the noise;
- (11) Whether the noise is recurrent, intermittent or constant;
- (12) Whether the noise is produced by a commercial or noncommercial activity;
- (13) Whether it is a pure tone noise; Pure tone noise means any noise which is distinctly audible as a single pitch (frequency) or set of pitches as determined by the enforcement officer.
- (14) Whether it is an impulse noise. Impulse noise means a noise of short duration, usually less than one second, with an abrupt onset and rapid decay.

### **Sec. 9-2-3. Exemptions.**

The following uses and activities shall be exempt from noise level regulations:

- (1) Air-conditioning, pool and spa equipment when it is functioning in accord with manufacturer's specifications and is in proper operating condition.
- (2) Lawn maintenance equipment when it is functioning in accord with manufacturer's specifications and with all mufflers and noise-reducing equipment in use and in proper operating condition;
- (3) Non-amplified noises resulting from the activities such as those planned for school, governmental, religious or community groups or duly authorized by such groups;
- (4) Noises from safety and warning devices such as safety signals, warning and alarm devices, emergency generators, storm warning sirens, emergency pressure relief valves or horns and the authorized testing of such equipment;
- (5) Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency;
- (6) Noises resulting from emergency work.
- (7) All noises coming from necessary services such as the normal operations of railroad trains and other necessary services and activities;
- (8) Noises of churches and church facilities such as bells or chimes;
- (9) Noises from organized sporting events such as bands, cheerleading, cheering, authorized fireworks and other noises relating to those events;
- (10) Noises created by the normal operation of airports or aircraft or the normal

operation of airport facilities;

(11) Public or utility owned or operated stationary mechanical equipment so long as such equipment is properly functioning pursuant to manufacturer's specifications;

(12) Road and street noise generated from the normal operation of traffic except as regulated herein.

(13) Noises resulting from special events, holidays and celebrations authorized by the City of St. Johns.

#### **Sec. 9-2-4. Specially regulated noise sources.**

(a) Unreasonable noise created by power generators. It is unlawful to operate any power generating equipment in such a manner that a reasonable person of normal sensitiveness residing in the area is caused continuing discomfort or annoyance.

(b) Unreasonable noise created by sound trucks; loudspeakers; other sound amplifiers. It is unlawful to play, operate or use any device known as a sound truck, loudspeaker or sound amplifier, radio or other sound equipment with a loudspeaker or sound amplifier or any instrument of any kind or character which emits loud and raucous noises including but not limited to those attached to and upon any vehicle unless such person in charge of such vehicle shall have first applied to and received a permit from the chief of police to operate any such vehicle so equipped. Such permit shall not be granted unless the chief of police believes the activity will not disturb the public peace.

(c) Motor vehicles.

(1) Unreasonable noises caused by vehicle repair. It shall be unlawful for any person within or adjacent to any residential area of the town to repair, rebuild or test any motor vehicle between the hours of 10:00 p.m. of one day and 5:00 a.m. of the next day or in such a manner that a reasonable person of normal sensitiveness residing in the area is caused continued discomfort or annoyance.

(2) Unreasonable noises caused by motor vehicle exhaust. It is unlawful for any person to operate a motor vehicle which shall not at all times be equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise, and it is unlawful for any person operating any motor vehicle to use a cutout, bypass or similar muffler elimination appliance.

(3) Unreasonable noises created by braking devices. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the town any compression release or other engine braking device designed to aid in the braking or deceleration of any vehicle which results in noise in excess of that which would

otherwise be produced from such vehicle without such braking device or that is in violation of Section 9-1-5. The provisions of this article do not apply to public safety vehicles.

(4) Unreasonable noises created by vehicle operation. No person shall operate either a motor vehicle or combination of vehicles at any time or under any condition of grade, load, acceleration or deceleration in such a manner that a reasonable person of normal sensitiveness residing in the area is or reasonably would be caused discomfort or annoyance.

d) Unreasonable noises created by barking dogs. It is unlawful to keep or harbor any dog which by frequent, habitual or continued barking, yelping, howling, growling, charging, menacing or other offensive conduct or noise shall cause repeated and continuing annoyance or inconvenience to a neighbor residing in the area or to people passing to and from upon the public streets or sidewalks.

e) Unreasonable noises around schools, churches and hospitals. It shall be unlawful for any person to create any noise on any street, sidewalk or public place adjacent to any school, institution of learning or church while the same is in use or adjacent to any hospital or health related care facility, which noise unreasonably interferes with the workings of such institution or which disturbs or unduly annoys patients in the hospital or other health related care facility; provided that conspicuous signs are displayed in such streets, sidewalk or public place indicating the presence of a school, church or hospital.

#### **Sec. 9-2-5. Enforcement and civil citations.**

(a) Sec. 9-2-5-1. Authority of City to detain persons to serve complaint.

(1) Any city police officer or duly authorized agent of the city may stop and detain a person or persons as is reasonably necessary to investigate an actual or suspected violation of this article and to serve a copy of the complaint for any alleged civil violation of this chapter.

(2) With regard to the enforcement of section 9-2-3(d) hereof, any city police officer or duly authorized agent of the city may issue a civil citation to the dog owner or person acting for the owner when a dog belonging to the owner or within the owners' possession or control is in violation or suspected violation of this chapter.

(3) A complaint issued pursuant to this Article may be served upon the party by the officer investigating the complaint, or by delivering a copy of the uniform complaint citation to the person charged with the violation or by any means authorized by the rules

of civil procedure. At the discretion of the issuing authority, a complaint for a violation issued after an investigation in conjunction with a violation of this Article may be sent by certified mail, return receipt requested, delivered to addressee only to the address provided by the person charged with the violation. Service of the complaint is complete on filing the receipt in the court having jurisdiction of the violation.

(5) The original complaint shall be filed in a court having jurisdiction of the violation within ten court days of the time the complaint was issued. A city police officer or duly authorized agent of any City enforcement agent may issue the complaint.

(6) A person served with a civil complaint pursuant to this article shall:

1. Appear at the time and place stated in the complaint, or may appear before the time, if so authorized by the court, or may pay the civil fine indicated on the directions contained in the complaint.

2. Admit or deny the allegations of the complaint.

B. Allegations not denied at the time of appearance are deemed admitted. A fee shall not be charged for the appearance.

C. If the allegations are admitted, the court shall enter judgment for the city and shall impose a civil penalty. The person may admit the allegations with an explanation, and then the court shall enter judgment for the city and impose a civil penalty. In determining the civil penalty, the court shall consider the explanation submitted and any rehabilitative action taken prior to the hearing.

D. If the person denies the allegations of the complaint the court shall set the matter for a hearing. The hearing is informal and without a jury. At the hearing, the city is required to prove the violation charged by a preponderance of the evidence. Technical rules of evidence do not apply, except for statutory provisions relating to privileged communications. If the person elects to be represented by counsel the person shall notify the court at least ten days before the hearing date. Hearings shall be recorded. If the court finds in favor of the person, the court shall enter an order dismissing the allegation. If the court finds in favor of the city, the court shall enter judgment for the city and shall impose a civil penalty.

E. If a resident of this city served with a complaint alleging a violation of this Article or if a nonresident served with a complaint fails to appear at or before the time directed to appear or at the time set for a hearing by the court, the allegations in the complaint are deemed admitted, and the court shall enter judgment for this state, impose a civil penalty.

F. A person shall pay all civil penalties within thirty days from entry of judgment, except that if payment within thirty days will place an undue economic burden on a person, the

court may extend the time for payment or may provide for installment payments. If the civil penalty is not paid or an installment payment is not made when due, the court may declare the entire civil penalty due.

G. Notwithstanding subsection A of this section, if a civil penalty is paid on entry of judgment, the court may reduce the civil penalty by up to five per cent of the penalty imposed.

#### **Sec. 9-2-6. Penalties.**

(a) Civil violations. Upon a finding that a person is responsible for a civil violation of this article, the city magistrate or civil hearing officer shall impose a civil sanction of not less than \$100.00 nor more than \$500.00 for each violation.

(b) Habitual offender. An habitual offender is a person who commits a violation of this article after previously having been found responsible for committing three or more civil violations of this article within a 24-month period, whether by admission, by payment of the fine, by default or by judgment after hearing, shall be guilty of a criminal misdemeanor complaint in the city municipal court against habitual offenders who violate this article. For purposes of calculating the 24-month period under this paragraph, the dates of the commission of the offenses are the determining factor.

(1) Habitual Offender - Criminal Offenses. For habitual offenders, upon conviction of three or more civil violations of this article within a 24-month period, whether by admission, by payment of the fine, by default or by judgment after hearing, the court may impose a sentence of incarceration not to exceed six months in jail; or a fine not to exceed \$2,500.00, exclusive of penalty assessments prescribed by law; or both. The court shall order a person who has been convicted of violation of this section to pay a fine of not less than \$2500.00 for each count upon which a conviction has been obtained. A judge shall not grant probation to or suspend any part of all of the imposition or execution of any sentence required by this subsection except on the condition that the person pays the mandatory minimum fines as proved in this paragraph.

#### **9-2-7. Procedures.**

(1) The procedure of the issuance of a citation and notice to appear pursuant to this article may be as provided for city police officers in A.R.S. § 13-3903, except the police officer or enforcement agent, in lieu of arrest, may issue a civil citation for any civil violation of this article. The issuance of civil citations pursuant to this article shall be

subject to provisions of A.R.S. § 13-3899.

(2) Every contested civil action or proceeding under this Article shall be subject to the jurisdiction of and presided over by the city magistrate and shall be conducted as provided for under the rules of procedure in civil traffic and civil boating violation cases.

'State Law References: Offenses against public order, A.R.S. § 13-2901 et seq.

'City Code References: City of Gilbert, Arizona Ordinance No. 42-61 through 42-65, Ord. No. 1410, § I, 7-23-02)

CHAPTER 10 SUBDIVISIONS<sup>1</sup>

10-1	Compliance Required
10-2	Definitions
10-3	Procedure for Obtaining Approval of A Subdivision
10-4	Planning, Development and Improvement Requirements
10-5	Platting Requirements – Final Plats
10-6	Guarantee Of Performance
10-7	General Requirements
10-8	Subdivision of Land Within Three Miles of the City Limits
10-9	Penalty

ARTICLE 10-1 COMPLIANCE REQUIRED

- A. No person shall subdivide any tract of land which is located wholly or in part within the city nor shall any person sell, exchange or offer for sale or purchase, or offer to purchase any parcel of land which is any part of a subdivision of a larger tract of land within the above described territory, nor shall any person offer for recording any deed conveying such a parcel of land or any interest therein unless he shall first have or cause to have made a plat thereof, which plat must be approved by the city council and recorded in the office of the recorder of the County of Apache before such sale or exchange or purchase is affected. The approval of the final plat shall be obtained by complying with all of the requirements of this chapter.
- B. Land lying within three miles of the corporate limits of the city is subject to the provisions of Article 10-8 of this chapter and to the subdivision ordinance of the County of Apache, Arizona.

ARTICLE 10-2 DEFINITIONS

In this chapter unless the context otherwise requires:

- A. "Arterial street" means a street, existing or proposed, which serves or is intended to serve as a major traffic way and is designated as a major street on the comprehensive plan.
- B. "City planner - Planning and Zoning Administrator" means an Individual who has been appointed by the city council to work with the planning and zoning commission as its administrative officer.

- C. "Collector street" means a street, existing or proposed, which is supplementary to an arterial street and serves, or is intended to serve, between neighborhoods or areas within the city.
- D. "Easement" means the quantity of land set aside or over which a liberty, privilege or advantage in land without profit, existing distinct from the ownership of the land, is granted to the public or some particular person or part of the public.
- E. "Engineering drawings" means drawings showing typical cross-sections of streets and the details of location and size of sidewalks, curbs and gutters, storm sewers, water and sewer mains and other improvements to be installed within the subdivision.
- F. "Final plat" means a map or chart of the land-division which has been prepared in accordance with the provisions of this chapter, and which has been accurately surveyed and such survey marked on the ground, so that streets, alleys, blocks, lots and other divisions thereof are identified.
- Q. "Intervening property" means property located between the existing service facility and the territory within the subdivision.
- H. "Large scale development" means a tract of land which is planned and developed as a single entity wherein the requirements applying to all buildings and improvements are modified to conform to the approved plan and wherein the streets, driveways, parks and other common properties lying within the development are maintained by the owners of the lots
- I. "Metes and bounds" means the description of a lot or parcel of land by courses and distances.
- J. "Minor street" means a street, existing or proposed, which is supplementary to a collector street and of limited continuity which serves, or is intended to serve, the local needs of a neighborhood.
- K. "Off-site facilities" means facilities designed or located so as to serve other property outside of the boundaries of the subdivision, usually lying between the development and existing facilities.
- L. "On-site facilities" means facilities installed within, or on the perimeter of, the subdivision.

- M. "Over-size facilities" means facilities with added capacity designed to serve other property in addition to the land within the boundaries of the subdivision or development site.
- N. "Planning and zoning commission" means the duly appointed planning and zoning commission of the City of St. Johns, Arizona.
- O. "Preliminary plan" means a map or chart of a proposed land-division prepared in accordance with the provisions of this chapter.
- P. "Subdivided" means any person or legal entity laying out or making a land-division for the purpose of sale, offering for sale or selling for himself or others a subdivision or any part thereof.
- Q. "Subdivision" (or subdivided lands) means improved or unimproved land or lands divided for the purpose of financing, sale or lease, whether immediate or future, into four or more lots, tracts or parcels of land, or, if a new street is involved, any such property which is divided into two or more lots, tracts or parcels of land, or, any such property, the boundaries of which have been fixed by a recorded plat, which is divided into more than two parts. "Subdivision" also includes any condominium, cooperative, community apartment, townhouse or similar project containing four or more parcels, in which an undivided interest in the land is coupled with the right of exclusive occupancy of any unit located thereon, but plats of such projects need not show the buildings or the manner in which the buildings or airspace above the property shown on the plat are to be divided. "Subdivision" does not include the following:
1. The sale or exchange of parcels of land to or between adjoining property owners if such sale or exchange does not create additional lots.
  2. The partitioning of land in accordance with other statutes regulating the partitioning of land held in common ownership.
  3. The leasing of apartments, offices, stores or similar space within a building or trailer park, or mineral, oil or gas leases.
- R. "Vicinity plan" means a map or chart showing the relationship of streets and lands within a proposed subdivision to streets and lands in the surrounding area.

### ARTICLE 10-3 PROCEDURE FOR OBTAINING APPROVAL OF A SUBDIVISION

- 10-3-1 Outline of Procedure
- 10-3-2 Notification of City Manager of Proposed Development - Preapplication
- 10-3-3 Preparation of Vicinity Plan
- 10-3-4 Planning and Zoning Commission Approval of Vicinity Plan
- 10-3-5 Preparation of Preliminary Plan and Engineering Drawings
- 10-3-6 Planning and Zoning Commission Approval of Preliminary Plan
- 10-3-7 Final Plat Preparation and Presentation; Filing Fee
- 10-3-8 Planning and Zoning Commission Approval of Final Plat
- 10-3-9 Assurance of Performance
- 10-3-10 City Council Approval of Final Plat
- 10-3-11 Recording of Plat

#### Section 10-3-1 Outline of Procedure

The following steps or procedures must be followed in order to obtain approval of a subdivision:

- Step 1. Subdivider notifies city manager. City manager furnishes subdivider with platting requirements affecting the land to be subdivided.
- Step 2. Subdivider prepares vicinity plan and submits the same to the planning and zoning commission (three copies). Subdivider may also prepare and submit preliminary plan and engineering drawings with vicinity plan (6 copies).
- Step 3. Planning and zoning commission approves, disapproves or requires modification of vicinity plan. City planner advises planning and zoning commission.
- Step 4. Subdivider prepares preliminary plan and engineering drawings, if it has not already done so, and submits to planning and zoning commission (6 copies).
- Step 5. Planning and zoning commission submits copies of plan to city engineer and utility companies, then approves, disapproves or approves plan with modifications. City planner and city engineer, and utility companies advise planning and zoning commission.

- Step 6. Subdivider prepares and submits final plat to planning and zoning commission. (One tracing, one permanently reproducible copy and three prints).
- Step 7. Planning and zoning commission approves, disapproves or approves final plat with modifications. City planner and city engineer advise planning and zoning commission.
- Step 8. Subdivider posts bond with city manager guaranteeing required improvements.
- Step 9. Subdivider submits final plat to city council for approval.
- Step 10. City manager records plat in office of county recorder upon approval by city council.

### Section 10-3-2 Step 1. Notification of City Manager of Proposed Development Pre-application

- A. Any person wishing to subdivide land within the city shall notify the city manager of such Intention. The city manager shall furnish information pertaining to the city's plan of streets, parks, drainage and zoning, and the extent of improvements which the subdivider will be required to construct along with other requirements affecting the land to be subdivided.
- B. Note: Upon the appointment of a city planner, the said city planner shall be the authorized representative designated to furnish the information to subdivides.

### Section 10-3-3 Step 2. Preparation of Vicinity Plan

After the subdivider has discussed its proposed development with the city manager or with the city planner, if one has been appointed, it shall then prepare a vicinity plan at a scale of not smaller than one inch to five hundred feet and shall submit three copies of the same to the city planning and zoning commission, accompanied by a written application on a form furnished by the city manager or planner.

### Section 10-3-4 Step 3. Planning and Zoning Commission Approval of Vicinity Plan

The planning and zoning commission shall review and shall approve or disapprove the layout of the subdivision or approve it subject to modifications.

### Section 10-3-5 Step 4. Preparation of Preliminary Plan and Engineering Drawings

- A. Upon approval of the vicinity plan by the planning and zoning commission, the subdivider shall prepare a preliminary plan of the subdivision and shall submit three copies of the plan to the planning and zoning commission, and one copy each to the electric and telephone utility

companies and to the city engineer. The subdivider shall also submit a like number of engineering drawings showing:

1. Typical cross-sections of streets
2. Designs and locations of curbs, gutters, sidewalks
3. Location and size of both "on-site" and "off-site" water and sewer mains
4. Any other information or material required by the planning and zoning commission.

- B. Note: Where a subdivider owns or controls more land than it wishes to develop immediately, the planning and zoning commission may require that a preliminary plan of the whole area be submitted, in which case the subdivider shall indicate on the preliminary plan the portion to be developed immediately and the portion to be held for future development. Whenever final approval has been obtained on any part of an approved preliminary plan, approval of the remaining part of said preliminary plan shall remain in effect for a period of one year and may be extended for another year by submitting the plan to the planning and zoning commission and obtaining approval from such commission.

#### Section 10-3-6 Step 5. Planning and Zoning Comm. Approval of Prelim. Plan

- A. The planning and zoning commission shall obtain recommendations from the city planner and city engineer with respect to the plan, from the utility companies with respect to easements for utilities, and from the health officer with respect to water supply and sewage disposal in the event that the subdivision is not to be served by a public water supply and a public sewage disposal system.
- B. The planning and zoning commission shall then review and approve, disapprove or approve the plan with modifications and shall report their action to the city council. Approval or denial of the plan shall be based upon compliance or non-compliance with the city's comprehensive plan and zoning ordinance, and with the standards and conditions of approval as set forth herein, and as may be modified or extended by the city council or the planning and zoning commission.
- C. Action of the planning and zoning commission shall be written on the face of three copies of the plan, two of which shall be retained in the files of the city manager and one of which shall be returned to the subdivider.

- D. Approval of the preliminary plan by the planning and zoning commission constitutes authorization for the subdivider to proceed with the preparation of the final plat. If the preliminary plan is disapproved, the planning and zoning commission shall express its reasons therefor to the subdivider on the face of the copy of the plan which is returned to the subdivider. The city council shall have the power to overrule the planning and zoning commission's approval or disapproval provided it first expresses its reasons for so doing to the planning and zoning commission and gives the planning and zoning commission at least thirty days to respond.
- E. The preliminary plan, along with the engineering drawings, may be presented to the planning and zoning commission at the same time as the vicinity plan.

#### Section 10-3-7 Step 6. Final Plat Preparation and Presentation; Filing Fee

- A. After the preliminary plan has been approved, the subdivider shall then, prepare and submit one tracing, one permanently reproducible copy and three prints of the final plat of the subdivision to the planning and zoning commission. A written application for approval of the final plat on forms furnished by the planning and zoning commission shall also be submitted with the final plat.
- B. The permanently reproducible copy shall be filed in the office of the city manager.
- C. In the case of subdivisions located within the city, a checking fee shall be charged in accordance with a schedule to be adopted from time to time by the council and shall be submitted to the planning and zoning commission along with the final plat.
- D. All field measurements shall close within 0.05 feet in 100 feet.

#### Section 10-3-8 Step 7. Planning and Zoning Commission Approval of Final Plat

- A. The planning and zoning commission shall obtain the recommendation of the city planner, if one has been appointed, and the city engineer with respect to the final plat and shall review, approve, disapprove or approve the plat with modifications. Recommendations from the health officer shall also be obtained whenever all or part of the subdivision will not be served by a public water and sewer system. Approval of the final plat shall be based upon compliance with the approved preliminary plan, and with all other standards and conditions which the city has adopted with respect to subdivisions.

- B. Minutes of the planning and zoning commission shall show the action taken. If approved, the chairman or his authorized representative shall sign the plat and shall indicate the date of approval. The original tracing of the final plat shall then be returned to the subdivider.

Section 10-3-9 Step 8. Assurance of Performance

The subdivider shall then post a bond or other assurance with the city manager in an amount which is at least equal to the cost of constructing ail required improvements plus ten percent as determined by the city engineer. The purpose of the bond shall be to guarantee that the improvements will be installed and paid for without cost to the city within two years from the date of approval.

Section 10-3-10 Step 9. City Council Approval of Final Plat

The final plat shall then be submitted to the city council for its approval or disapproval or approval with modifications.

Section 10-3-11 Step 10. Recording of Plat

Upon approval of the final plat by the city council, the city manager shall submit the final plat tracing bearing all required signatures and approvals to the Apache County Recorder. No lot shall be sold within such subdivision until the plat has been so approved and recorded. Approval of the final plat by the planning and zoning commission shall not be deemed as the acceptance of the dedication of any street, public way or ground by the city. Such dedication shall occur only upon approval by the city council and the recording of the approved plat. In the event that the subdivision lies in the unincorporated area of the county, but within three miles of the corporate boundaries of the city, the final plat must be endorsed by the Board of Supervisors of Apache County.

ARTICLE 10-4 PLANNING, DEVELOPMENT AND IMPROVEMENT REQUIREMENTS

- 10-4-1 Vicinity Plan and Preliminary Plan
- 10-4-2 Streets and Alleys
- 10-4-3 Blocks
- 10-4-4 Lots
- 10-4-5 Design Specifications
- 10-4-6 Improvement Requirements
- 10-4-7 Costs and Charges in Connection with the of Subdivisions
- 10-4-8 Environmental Impact Statement

## Section 10-4-1 Vicinity Plan and Preliminary Plan

- A. Vicinity Plan. The purpose of the vicinity plan is to show how the streets and utilities within the subdivision will be coordinated with streets and utilities in the surrounding area. The vicinity plan shall show a simple sketch of the proposed layout of streets, lots and other features, in relation to the existing and planned streets within at least one-fourth mile of the subdivision. The plan may be pencil sketch or may be made directly on an aerial photograph. The plan shall be prepared at a scale of not smaller than one inch to five hundred feet.
- B. Preliminary Plan. The preliminary plan shall be drawn to a scale of one inch to one hundred feet and shall show:
1. The proposed name of the subdivision.
  2. The location of the subdivision as forming a part of a larger tract or parcel where the plan submitted covers only a part of the subdivided tract.
  3. The names and addresses of the subdivides the engineer or surveyor of the subdivision and the owners of the land immediately adjoining the land to be subdivided.
  4. Information sufficient to locate accurately the property shown on the plan, with reference to survey markers or monuments.
  5. Contour map at one foot intervals, when required by the planning and zoning commission.
  6. The boundary lines of the tract to be subdivided.
  7. The location, width and other dimensions of ail existing or platted streets and other important features such as water courses, exceptional topography and buildings within the tract and within two hundred feet of the tract to be subdivided.
  8. Existing sanitary facilities, sewers, storm drains, water supply mains and bridges within the tract or within two hundred feet thereof. The location, width and other dimensions of proposed streets, alleys, easements, parks and other open spaces with proper labeling of spaces to be dedicated to the public.
  9. North Point, scale and date.
  10. Engineering drawings, including typical cross-sections, plans or written statements

regarding the width and type of proposed road surfacing, sanitary facilities, sewers, drainage facilities and other proposed improvements, such as sidewalks, curbs and gutters, parks and fire hydrants.

11. An indication of the intended use of each lot in the subdivision.
12. Copies of protective covenants or other documents limiting the use of the land or lots within the subdivision.

#### Section 10-4-2 Streets and Alleys

##### A. Streets.

Arterial and collector streets shall conform to the widths as shown in the comprehensive plan adopted by the city council. Wherever there is any doubt regarding the required width of any street or highway, the following dimensions shall apply:

1. Minor street dedications shall have a minimum width of sixty feet or other city requirement, whichever is greater.
2. Collector street dedications shall have a minimum width of sixty feet or other city requirement, whichever is greater.
3. Arterial street dedications shall have a minimum width of eighty feet or other city requirement, whichever is greater.
4. State and federal highways shall have widths as required by the appropriate agency.
5. Minimum width of roadway wherever curb and gutters are installed (face to face of curb) shall be as follows:
  - a. For minor or local streets - forty feet or other city requirement, whichever is greater.
  - b. For collector streets - forty feet or other city requirement, whichever is greater.
  - c. For arterial streets - sixty feet or other city requirement, whichever is greater.

- B. Alleys.
1. Alleys may be provided in residential areas and shall be provided in business areas, except that the commission may waive this requirement where other definite and assured provision is made for service access such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.
  2. The width of alleys shall be 20 feet or more.
  3. Alley intersections and sharp changes in alignment shall be avoided.
- C. Cul-de-Sacs. Cul-de-sacs (dead-end streets) shall be used only where unusual drainage or land ownership configurations exist which make other designs undesirable. Each cul-de-sac shall have a minimum dedicated width of fifty feet and must be terminated by a turn-around which has a dedicated diameter of not less than one hundred feet. Surface water must drain away from the turn-around, except that where surface water cannot be drained along the street away from the turn-around due to the grade, necessary catch basins and drainage easements shall be provided.
- D. Easements. Where alleys are not provided, easements of not less than eight feet on each side of all rear lot lines and side lines will be required where necessary for poles, wire, conduits, storm or sanitary facilities, sewers, gas and water mains and other public utilities. Easements of greater width may be required along property lines where necessary for surface over-flow or for the extension of main sewers or similar utilities.
- E. Reverse Curves. Reverse curves shall have a tangent of at least one hundred feet, unless in the opinion of the planning and zoning commission such is not necessary.
- F. Street Intersection. Streets shall intersect each other as nearly as possible at right angles. Minor streets shall approach the arterial or collector streets at an angle of not less than eighty degrees. Off-sets in street alignment between ten feet and one hundred twenty feet shall be prohibited.
- G. Street Grades. Minimum street grade of 0.5% will be required, except that the planning and zoning commission shall have the power to require a steeper grade when in the opinion of the city engineer the best development of the land is thereby secured.
- J. Street Curves. Where the street lines within a block deflect from each other at any one point more than ten degrees, there shall be a connecting curve. The radius of the curve for

the inner street line shall be not less than three hundred fifty feet for arterial streets, two hundred fifty feet for collector streets and one hundred feet for minor streets.

- I. Curbs. Curbs at all intersections shall be rounded with curves having a minimum radius of twenty-five feet. Property lines at street intersections shall be rounded with a curve where necessary.
- J. Street Names. New street names shall not duplicate those already existing and shall be approved by the planning and zoning commission and the council. A street, obviously a continuation of another already in existence, shall bear the same name.
- K. Street Dedications. All streets shall be dedicated for public use, except in an approved large scale development where a property owners association has been established which will maintain the streets in a manner comparable to streets that are maintained by the city. The dedication of half streets in any subdivision is prohibited, except on the borders of subdivisions.
- L. Relation to Adjoining Street System. The arrangement of streets in new subdivisions shall make provision for the continuation of the existing streets in adjoining areas (or their proper protection where adjoining land is not subdivided) at the same or greater width (but in no case less than the required minimum width) unless variations are deemed necessary by the planning and zoning commission. Where the planning and zoning commission determines that it is desirable to provide for street access to adjoining property in order to provide an orderly development of a street system, proposed streets shall be extended by dedication to the boundary of such property.

#### Section 10-4-3 Blocks

- A. Length. The maximum length of blocks shall be thirteen hundred feet and the minimum length of blocks shall be four hundred feet. In blocks over eight hundred feet in length, the sub-divider may be required to dedicate a passageway or alley through the block at approximately the center of the block. Such passageway or alley shall not be less than twenty feet in width.
- B. Width. The width of blocks shall be sufficient to allow two tiers of lots.

- C. Use. Blocks intended for business and industrial use shall be designed especially for such purposes with adequate space set aside for off-street parking and delivery facilities, and for loading and unloading.

#### Section 10-4-4 Lots

- A. Building Sites. The lot arrangement, design and shape shall be such that lots will provide a compact body of land for buildings and be properly related to topography and conform to requirements set forth herein. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage which would be unusable for normal purposes.
- B. Lot Sizes. All lots shown on the final plat must conform to the minimum requirements of the zoning ordinance (for the zone in which the subdivision is located), unless an amendment in the zoning ordinance or map has been obtained prior to approval of the final plat.
- C. Lots Must Abut on Public Streets. Each lot shall abut on an approved street or on an existing publicly dedicated street which is more than twenty-six feet wide, except when approved by the planning and zoning commission as a large scale development. Interior lots having frontage on two streets shall be prohibited, except where topographic conditions make such design desirable.
- D. Corner Lots. Corner lots shall have dimensions sufficient for the maintenance of required building set-back lines on both streets, with sufficient area to comply with area requirements of the zone in which the subdivision is located.
- E. Angle of Lots. Side lines of lots shall be approximately at right angles or radial to the street line, except where conditions make it advisable to have side lot lines deflect at sharper angles.
- F. Parts of Lots. All remnants of lots below minimum size, left over after subdividing a larger tract, must be attached to adjacent lots, rather than be allowed to remain as unusable parcels.
- Q. Divided Lots. Where the land covered by a subdivision includes two or more parcels in separate ownership and the lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be transferred by deed to single ownership before approval of the final plat, and such transfer recorded in the county recorder's office before being certified to the planning and zoning commission by the subdivides

## Section 10-4-5 Design Specifications

## A. Design Standards and Specifications for Roadway Construction

## 1. Definitions.

a. "Arterial Streets" shall mean streets that serve as the principal network of traffic flow throughout the urban area. They provide direct service to the principal traffic generators—the central business district, major employment centers, goods distribution and transfer centers, transportation terminals, etc.—and interconnect all portions of the urban area. They also provide connections to and extensions of rural arterial or rural collector highways, such provision including both internal penetration routes and circumferential or bypass routes, as applicable.

b. "Collector Streets" shall mean streets that collect traffic from the local streets and channel it into the arterial system, naturally performing the reciprocal function (distributing arterial traffic to local streets as well). Collectors are spaced at reasonably regular intervals to fulfill this function and also to provide necessary cross--connections between arterials. Collectors also provide direct service to neighborhood traffic generators not served by arterial streets.

c. "Minor Streets" shall mean streets whose principal purpose is to provide access to property located along their immediate length. Such property may be of residential, commercial or other use. The localized nature of the traffic, and not the specific land use, is the criterion.

B. Administration.

The City Clerk or authorized representative, as designated by the City Council, is charged with the duties of administrating all roadway design standards and construction specifications.

- C. Specifications for the design of street sub-base, base, hard-surfacing, curb and gutters, sidewalks and the treatment of drainage courses shall comply with standards and specifications as adopted by the city council. Any specification or requirement of the city for the design or construction of any portion of the subdivision or any improvement thereto, which specification or requirement is greater than that set forth in this chapter, shall be binding upon the subdivider.

#### Section 10-4-6 Improvement Requirements

The city council shall not approve a final plat until the subdivider provides a bond or other assurance satisfactory to the council that improvements will be installed. The purpose of the bond or other assurance is to insure construction of the required improvements within two years from date of approval of the subdivision without cost to the city. Said required improvements shall include:

- A. The grading, graveling, hard-surfacing and installation of culverts in compliance with standards and specifications as adopted by the city.
- B. The installation of water lines, fire hydrants, water meters, sewer and gas lines in compliance with standards and specifications as adopted by the city.
- C. Underground electric and telephone lines, where feasible and where required by the city.
- D. The installation of survey monuments in accordance with standards and specifications as adopted by the city.

#### Section 10-4-7 Costs and Charges In Connection with the Development of Subdivisions

Cost of Improvements which are required under the provisions of this chapter, as well as the cost of other improvements which the subdivider may install, shall be the sole responsibility of the subdivider, except in circumstances in which the city agrees to share any expenses.

#### Section 10-4-8 Environmental Impact Statement

A statement shall be prepared by a registered professional engineer or other qualified person and submitted to the planning and zoning commission indicating or describing the measures that will be taken with respect to each of the following services:

- A. Control of erosion within the subdivided area.

- B. Provision for potable water for the occupants of the subdivision.
- C. Provision for the proper disposal of solid and liquid wastes that will likely come from the occupants of the subdivision when it is fully developed.
- D. Prevention of fire and control of dust.
- E. Prevention of the accumulation of noxious weeds or debris.
- F. Preservation of the existing vegetation or the establishment of new vegetation.

#### ARTICLE 10-5 PLATTING REQUIREMENTS - FINAL PLATS

- A. A final plat shall be prepared for all subdivisions. The plat shall consist of a sheet of approved tracing linen or Mylar having outside or trim line dimensions of twenty-four by twenty-six inches or as otherwise approved by the council. The border line of the plat shall be drawn in heavy lines, leaving a margin of at least one and one-half inches on the left-hand side of the sheet for binding and at least one-half inch on the other three sides of the sheet. The plat shall be so drawn that the top of the sheet either faces North or West, whichever accommodates the drawings better. All lines, dimensions and markings shall be made on the tracing linen with approved waterproof black "India Drawing Ink" or equivalent. The actual map shall be made on a scale of one inch to one hundred feet unless approved otherwise by the planning and zoning commission. Details and the workmanship on finished drawings shall be neat, clean cut and readable.
- B. The subdivider shall also furnish the planning and zoning commission with one permanently reproducible copy and three prints of the final plat when submitting the tracing.
- C. The final drawings or plats shall contain the following information:
  - 1. Subdivision name and the general location of the subdivision. A north point and scale on the drawing and the date.
  - 2. Accurately drawn boundaries, showing the proper bearings and dimensions of all boundary lines of the subdivision, properly tied to public survey monuments. Said lines should be slightly heavier than street and lot lines.
  - 3. The names, width, length, bearings and curve data on center lines of proposed public streets, alleys or easements; also the boundaries, bearings and dimensions of all portions within the subdivision, as intended to be dedicated to the use of the public; the lines, dimensions, bearings and numbers of all lots, blocks and parks reserved for any

reason within the subdivision. Ail lots and blocks are to be numbered consecutively under a definite system. All proposed streets shall be named or numbered in accordance and in conformity with the street naming and numbering system of the city.

4. The location of all required monuments.
5. The description and locations of ail monuments set and established by the county or the United States government that are adjacent or near the proposed subdivision.
6. The standard forms approved by the planning and zoning commission lettered for the following:
  - a. Description of land to be included in subdivision.
  - b. Registered professional engineer’s or land surveyor's "Certificate of Survey".
  - c. Owner's dedication.
  - d. Notary public's acknowledgment.
  - e. Planning and zoning commission's certificate of approval.
  - f. The city council's certificate of acceptance attested by the city manager.

ARTICLE 10-6 GUARANTEE OF PERFORMANCE

- 10-6-1 Type and Amount of Guarantee
- 10-6-2 Duration
- 10-6-3 Default
- 10-6-4 Final Inspection and Release

Section 10-6-1 Type and Amount of Guarantee

The type of guarantee shall be in the form of a performance bond, or other assurance equal to the cost of the required improvements, plus ten percent as determined by the city engineer. The subdivider shall furnish an estimate of the cost of constructing the required improvements. Said estimate shall be prepared by an engineer registered to practice in the State of Arizona and approved by the city engineer.

Section 10-6-2 Duration

- A. The duration of the performance bond or other assurance shall be as agreed by developer and city council. In no event shall completion of performance exceed more than two years from the date of approval of the final plat of the subdivision by the city council.

- B. An extension of time may be granted by the city council upon application by the subdivider, provided such application is submitted at least sixty days prior to the expiration of the bond or other assurance and provided the issuer of the bond or other assurance is willing to extend the time of the assurance.

Section 10-6-3 Default

In the event that the subdivider defaults or fails or neglects to satisfactorily install the required improvements within the time specified from the date of approval of the final plat by the city council, the city council may declare the bond or other assurance forfeited and the city may install the required improvements or cause the required improvements to be installed, using the proceeds of the collection of the bond or other assurance to defray the expense thereof. The subdivider shall be responsible for any additional costs incurred by the city in the actions set forth above.

Section 10-6-4 Final Inspection and Release

The subdivider shall be responsible for the quality of all materials and workmanship. One year after the completion of the work, the city manager or authorized representative shall make a preliminary inspection of the improvements and shall submit a report to the city council, setting forth the condition of such facilities. If all liens are paid, and other conditions thereof are found to be satisfactory, the city council shall release the bond. If the condition of materials or workmanship shows unusual depreciation or does not comply with the city standards, the city council may declare the subdivider in default.

ARTICLE 10-7 GENERAL REQUIREMENTS

- 10-7-1 School Sites; Other Public Places
- 10-7-2 Construction and Maintenance of Private Roads and Driveways
- 10-7-3 Work to be Done by Engineer or Surveyor
- 10-7-4 Continuity of Dead-End Streets Protected

Section 10-7-1 School Sites; Other Public Places

In subdividing property, consideration shall be given to sites for schools, parks, playgrounds and other areas for public use, as shown on the city's comprehensive plan. Any provision for such open spaces shall be indicated on the preliminary plan in order that it may be determined in what manner such areas will be dedicated to, or acquired by, the appropriate agency.

Section 10-7-2 Construction and Maintenance of Private Roads and Driveways

- A. The city shall not have any responsibility to open, grade, pave or perform any maintenance work on any private or undedicated streets or alleys, nor shall it have any responsibility for laying utility lines in any street which has not been accepted by the city council as a public street or alley, or which has not received approval of the city council as part of a final plat of a subdivision.
- B. The city shall not accept or maintain streets or other public ways unless said streets have been constructed in accordance with standards and specifications which have been adopted by the city council.

Section 10-7-3 Work to be Done by Engineer or Surveyor

All engineering work and surveying of property must be done by or under the direction of a registered professional engineer and land surveyor, respectively, registered in the State of Arizona

Section 10-7-4 Continuity of Dead-End Streets Protected

Whenever a proposed subdivision has a street which terminates against private property of an individual, other than the subdivides a strip of land at least one foot wide across the entire end of the subdivider's proposed street and on the subdivider's property must be platted as a lot, and said lot shall be deeded to the city as a lot in the proposed subdivision for future street purposes.

ARTICLE 10-8 SUBDIVISION OF LAND WITHIN THREE MILES OF THE CITY LIMITS

- 10-8-1 Written Notice of Intent to Subdivide
- 10-8-2 Submission of Preliminary Plan
- 10-8-3 Projection of Streets and Alleys: Costs
- 10-8-4 Written Report by City
- 10-8-5 Duty of Subdivides Map
- 10-8-6 Additional Contents of Map
- 10-8-7 Filing of Map or Plat
- 10-8-8 Hearing by the Board of Supervisors
- 10-8-9 Appearance by City
- 10-8-10 Approval by the Board of Supervisors
- 10-8-11 Amendments to Plat
- 10-8-12 Nonacceptance by Owner; Projection Expenses
- 10-8-13 Subdivision Name

- 10-8-14 Limitation of Name of Subdivision
- 10-8-15 Title to Property Reserved to Public Use
- 10-8-16 Conveyance by Reference to Plat; Restriction

### Section 10-8-1 Written Notice of Intent to Subdivide

When the owner of land, the whole or part of which lies in the unincorporated area within three miles of the corporate limits of the city, desires to subdivide such land, it shall file an application with the city planning and zoning commission on forms furnished by the commission.

### Section 10-8-2 Submission of Preliminary Plan

in addition to the written notice, the subdivider shall submit to the planning and zoning commission a preliminary plan of the land showing the manner in which it desires to subdivide the land.

### Section 10-8-3 Projection of Streets and Alleys: Costs

The city may, if it desires that the streets or alleys of the tract conform with the projected streets or alleys of the city, project the lines of such streets and alleys to the nearest outer boundary lines of the subdivision and thereon mark the same. The city shall supply the subdivider with the courses of the lines.

### Section 10-8-4 Written Report by City

The city may submit a written report to the subdivider, recommending changes in the submitted plan of the location or dimension of streets, alleys, parks, easements for rights-of-way or property intended to be devoted to the use of the public. One copy of such report shall be furnished to the Board of Supervisors of Apache County.

### Section 10-8-5 Duty of Subdivider; Map

The subdivider, when furnished with a written report or the projection of street and alley lines or both, shall cause the land to be subdivided into lots, blocks, streets, alleys, parks and parkways so as to reasonably conform to the report and projected lines and the courses thereof, and shall prepare in duplicate an accurate map or plat thereof on cloth, drawn and attested to by a civil engineer from his survey of the ground. The engineer shall, in making the surveys, leave sufficient permanent monuments so that another surveyor or engineer may retrace his work. The nature and location of the monuments shall be plainly shown on the map.

### Section 10-8-8 Additional Contents of Map

The final plat shall particularly set forth and describe:

- A. Parcels of ground within the tract or subdivision to be used for public purposes or offered for dedication for public uses and their dimension, boundaries and courses.
- B. Evidence that the proposed use of land and size of lots conforms to the provisions of the zone in which the land is located.
- C. Either by number or letter, lots intended for sale or reserved for private use, and their dimensions, boundaries and courses.
- D. The location of the subdivision and lots therein with reference to adjacent subdivisions, the maps and plats of which have been previously recorded, or if none, then with reference to corners of a United States survey, or if on land un-surveyed by the United States, then to some prominent artificial monument established for such purpose.

### Section 10-8-7 Filing of Map or Plat

One copy of the map or plat shall be filed with the city manager and the other copy filed with the Board of Supervisors of Apache County, together with an application for the approval of the map or plat

### Section 10-8-8 Hearing by the Board of Supervisors

Pursuant to statutes, the board of supervisors may set the application for hearing as provided in A.R.S. § 9-475.

### Section 10-8-9 Appearance by City

Representatives of the city may appear at the hearing and show cause why the application should not be granted.

### Section 10-8-10 Approval by the Board of Supervisors

Pursuant to statutes, if it appears to the board of supervisors that the plan or map reasonably conforms to legal requirements and to the provisions of the comprehensive plan, it may approve and endorse the approval upon the map or plat and transmit it to the county recorder for filing.

### Section 10-8-11 Amendments to Plat

If, at the hearing, it is determined by the board of supervisors that corrections, additions or amendments in any respect must be made to the map or plat, then the map or plat shall be prepared by the subdivider in accordance with the amendments, corrections or additions, and the consent of the subdivider and the board of supervisors may be endorsed thereon and filed with the county recorder.

### Section 10-8-12 Non-acceptance by Owner; Projection Expenses

If the subdivider declines to accept the amendments, additions or corrections, it shall pay to the city the actual engineering expenses incurred in the preparation of the projections.

### Section 10-8-13 Subdivision Name

A name, title or designation of the subdivision shall be placed on the plat and acknowledgment thereof shall be made by the subdivider.

### Section 10-8-14 Limitation of Name of Subdivision

No title, name or designation shall be given that is the same as that of a subdivision in the city.

### Section 10-8-15 Title to Property Reserved to Public Use

Upon the filing of the plat or map, the fee of all streets, alleys, parks and other parcels of ground reserved therein to the use of the public shall vest in the public.

### Section 10-8-16 Conveyance by Reference to Plat; Restriction

No property shall be sold or described in a conveyance or other instrument by reference to any map or plat of a subdivision comprehended within the provisions of Title 9, Chapter 4, Article 7, Arizona Revised Statutes unless the map or plat has been prepared and filed under the provisions of said article.

## ARTICLE 10-9 PENALTY

- A. It is unlawful for any person, firm or corporation to transfer or sell any lot or land in a subdivision within the corporate limits of the city, as defined in this chapter, which subdivision has not been approved by the city council as provided herein and recorded in the office of the Apache County Recorder.

- B. The description of such lot or parcel of land by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties as are provided for violation of this code, or from the remedies provided.
- C. The city may enjoin such transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction or may recover any penalty by civil action in any court of competent jurisdiction.

## CHAPTER 11 WATER AND SEWER

### ARTICLE 11-1 ADMINISTRATION OF WATER AND SEWER

11-1-1 Management of Water and Sewer Systems

11-1-2 Receipts and Deposits

#### Section 11-1-1 Management of Water and Sewer Systems

The council may from time to time by ordinance or resolution, as may be appropriate, establish, amend and delete regulations to govern the city water and sewer systems. The city manager shall make such other rules as may be necessary to properly administer and enforce this chapter.

#### Section 11-1-2 Receipts and Deposits

The manager shall keep a correct account of all receipts, make out all bills for water and sewer service and materials furnished to consumers, collect the same, and deposit the proceeds so collected to the credit of the city, and in accordance with the direction of the council.

### ARTICLE 11-2 APPLICATION FOR SERVICE

11-2-1 Application for Water and Sewer Service

11-2-2 Grounds for Rejection of Application

11-2-3 Violation of Application Provisions

#### Section 11-2-1 Application for Water and Sewer Service

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Application for the use of water and sewer service shall be made in person, at the city hall, to the manager by the owner or agent of the property to be benefited, designating the location of the property and stating the purpose for which the water and sewer may be required.

**Section 11-2-2 Grounds for Rejection of Application**

The city may reject any application for water service for any good and sufficient reason including the following: service not available under a standard rate; service which involves excessive service expense; service which may affect the supply to other consumers; service when the applicant is delinquent in payment of bills incurred for service previously supplied at any location; violation by the applicant or proposed user of any provision of Chapters 8, 10 or 11 of this code or of the city's zoning code; nonconformance of the property to which service applied for would be supplied, with any provision of this code or of the city's zoning code.

**Section 11-2-3 Violation of Application Provisions**

For violation of any of the provisions relating to application for or provision of service, the city shall, at the expiration of fifteen days after mailing written notice to the last known address of the consumer and providing an opportunity for a hearing, at its option, remove the meter and discontinue service. Where the meter is thereafter reinstalled, the consumer shall first pay to the city a reinstallation charge which shall be set by resolution of the council.

**ARTICLE 11-3 DEPOSIT**

11 -3-1 Deposit Required

11-3-2 Payment Responsibility

**Section 11-3-1 Deposit Required**

A deposit as established by resolution of the council or, at the option of the manager a deposit equal to not less than twice the estimated amount of the probable monthly bill shall be charged for service before such service commences to applicants who rent or lease and occupy the premises for which such service shall be provided. Deposits shall be non-interest bearing and shall be refunded to the consumer upon discontinuance of service and payment of charges, provided that charges may be deducted from said security deposit before the refund is made.

### Section 11-3-2 Payment Responsibility

When a deposit is made, the individual in whose name such deposit is made shall be responsible for payment of all bills incurred in connection with the service furnished. The owner of the premises to which services are provided and any other person who has control of said premises shall also be responsible for payment of ail bills incurred in connection with the services furnished.

## ARTICLE 11-4 DISCONTINUANCE OF SERVICE

### 11-4-1 Notice Required

### 11-4-2 Discontinuance Under Certain Conditions

#### Section 11-4-1 Notice Required

Any person who desires to discontinue the use of water service shall file written notice with the manager at least three working days in advance of intended termination of service. Responsibility for services extends to the time of departure or to the time specified for departure, whichever occurs last.

#### Section 11-4-2 Discontinuance Under Certain Conditions

The city may discontinue services under any of the following conditions:

- A. To prevent fraud or abuse.
- B. Upon violation or disregard of any city rule pertaining to services.
- C. To facilitate emergency repairs.
- D. When there is an insufficient supply caused by factors outside the control of the city.
- E. To secure or comply with any legal process.
- F. Upon the proper direction of public authorities.
- Q. Upon any local emergency requiring emergency measures.
- H. Upon tampering with meter by the consumer.
- I. Upon nonpayment of any bill as provided in Section 11-5-4.
- J. Upon failure of any user to give the city sufficient access to the user's property or to protect city's property or equipment connected with the provision of service.
- K. Upon violation by any user of any provision of Chapters 8, 10 or 11 of this code or of the city's zoning code.

L Nonconformance of the property to which services are supplied, with any provision of this code or of the city's zoning code.

ARTICLE 11-5 RATES AND BILLS

- 11-5-1 Water Rates
- 11-5-2 Sewer Rates
- 11-5-3 Minimum Rate
- 11-5-4 Water and Sewer Bills
- 11-5-5 Incorrect Bill
- 11-5-6 Turn Off and Turn On

Section 11-5-1 Water Rates

All water sold by the city shall be sold at monthly rates to be determined by the city council by resolution and shall provide for a minimum charge both inside and outside the corporate limits and a charge per thousand gallons above the minimum charge.

Section 11-5-2 Sewer Rates

All sewer service shall be billed at monthly rates to be determined by the city council by resolution and may provide for different rates, depending upon the type of connection.

Section 11-5-3 Minimum Rate

Service for a time period less than a month shall be charged at the minimum monthly rate, plus additional charge for any usage above the minimum charge usage.

Section 11-5-4 Water and Sewer Bills

A. Water meters shall be read by a date to be set by the city council, and a separate bill shall be rendered for each meter and mailed on a date to be set by the council. All bills shall include sewer charges, when applicable, and such other charges for other city services as may be authorized by the council. Bills shall become delinquent on a date to be set by the council.

B. If any amount due to the City under this section or any other section of the code is delinquent for more than thirty days, a delinquency notice shall be sent to the address on the City records. If the customer is delinquent for more than sixty days an additional delinquency notice will be sent, and if a payment is not made within thirty days following the mailing of the second delinquency notice all service may be immediately disconnected and the customer's account closed. Discontinued service may be reconnected only after payment of all amounts due to the City under any provision of this code including any amounts accruing since the latest billing from the City, and including reconnection charges, any legal fees incurred, a new deposit fee and any other charges and expenses incurred by the City in connection with any action on said account. Any existing deposit on the account would be applied to any balance due on the account. If any amount of the deposit remains, it will be refunded to the account holder after all of the aforesaid deductions. If there is any remaining balance due to the City, that amount would be referred for collection. All parties listed on an account shall be jointly and severally liable for any payment due under this section. Furthermore interest on any unpaid balance which is overdue by more than thirty days shall carry interest from the date the balance was due at the rate of 10% per annum until paid in full.

C. Prior to terminating service for nonpayment of amounts due, the city will give written notice to the consumer and provide an opportunity for a hearing for such consumer with a city officer as designated by the council.

D. The city may charge the consumer for any applicable transaction privilege taxes in addition to the regular water and sewer rates.

#### Section 11-5-5 Incorrect Bill

Any consumer may present a claim to the city if he believes that he may have received an incorrect bill. Such claim shall be presented in person at the city hall before such bill becomes delinquent, provided that the consumer may make a claim following payment of his bill and his payment shall not prejudice his claim. Such claim shall not exempt the consumer from delinquency penalties if he fails to pay his bill on time.

Section 11-5-6 Turn On and Turn Off

The council shall by resolution set a charge for each turn on and each turn off of service.

Section 11-5-7 Commencement and Application of Charges

The city shall commence service charges for a consumer when the water meter is installed and the water or sewer connection is made, regardless of whether or not water or sewer service is used.

ARTICLE 11-6 METERS

11-6-1 General Provisions

11-6-2 Installation Fee

11 -6-3 Meter Readings

11-6-4 Meter Tests

Section 11-6-1 General Provisions

- A. All water sold by the city shall be metered by meters which shall be owned and kept in repair by the city.
  
- B. The city may install a water meter on the property line or on the consumer's property in such location as deemed necessary and which is conveniently accessible by a meter reader.
  
- C. Pipes and equipment for water and sewer service belonging to the consumer shall be so arranged as to permit the placing of a single water meter and a single sewer connection for that property convenient to the city. If the pipes and equipment belonging to the consumer are not arranged to permit such placement of a meter and sewer connection, and additional meters or connections are required, each such additional meter shall be considered as an additional account and shall be so billed.

D. When two or more meters are installed on the same premises for different consumers, they shall be closely grouped and each meter shall be clearly marked as to the consumer to whom it belongs.

### Section 11-6-2 Installation Fee

The fee for a water meter installation shall be set by resolution of the council and may provide for different rates for different size meters.

### Section 11-6-3 Meter Readings

A. If a water meter fails to operate or for any reason a reading cannot be taken, a bill will be made by the city in an amount based on the average monthly billing of the previous three months.

B. Any consumer may request and have the city perform a special reading of his water meter. If the special reading indicates that the regular meter reading was incorrect, an adjustment shall be made for the current billing period.

### Section 11-6-4 Meter Tests

Any consumer may, upon written application, have his meter tested for accuracy by the city. If the meter registers a deviation from accuracy greater than three percent, an adjustment shall be made in the water service charges for a total period not longer than the then current period and the monthly period immediately preceding. All inaccurate and defective meters shall be replaced by the city immediately when detected.

## ARTICLE 11-7 ADMINISTRATION OF SEWER SYSTEM

## 11-7-1 Purpose; Scope

## 11-7-2 Liquid Waste Disposal Policy

## 11-7-3 Superseding Previous Regulations

## 11-7-4 Definitions

## Section 11-7-1 Purpose; Scope

A. The purpose of this article and Articles 11-8, 11-9, 11-10 and 11-11 are to provide for the maximum possible beneficial public use of the city's sewer facilities through regulation of sewer construction, sewer use and industrial wastewater discharges, to provide for equitable distribution of the city's costs and to provide procedures for complying with requirements placed upon the city by other regulatory agencies.

B. This article and Articles 11-8, 11-9, 11-10 and 11-11 shall be interpreted in accordance with the definitions set forth herein and shall apply to the direct or indirect discharge of all liquid-carried wastes to facilities of the city. It provides, among other things, for regulation of sewer construction, the quantity and quality of discharged wastes, the degree of waste pretreatment required, the setting of waste discharge fees to provide for equitable distribution of costs, the approval of plans for sewer construction, the issuance of permits and the establishment of penalties for violation of this article and Articles 11-8, 11-9, 11-10 and 11-11.

## Section 11-7-2 Liquid Waste Disposal Policy

Generally, liquid wastes originating within the city will be removed by the city's sewerage system, provided the wastes will not:

- A. Damage structures;
- B. Create nuisance such as odors;
- C. Menace public health;
- D. Impose unreasonable collection, treatment or disposal costs on the city;
- E. Interfere with wastewater treatment processes;

- F. Exceed quality requirements set by regulatory government agencies; or
- Q. Detrimentially affect the local environment.

#### Section 11-7-3 Superseding Previous Regulations

This article and Articles 11-8, 11-9, 11-10 and 11-11 shall supersede all previous regulations and policies of the city which are inconsistent with this article and Articles 11-8, 11-9, 11-10 and 11-11, but shall not supersede any that are consistent herewith or that place more stringent restrictions upon use of the sewer system or more stringent requirements upon customers of the system.

#### Section 11-7-4 Definitions

In this article and Articles 11-8, 11-9, 11-10 and 11-11 unless the context otherwise requires:

- A. "BOD" or "biochemical oxygen demand" means the measure of decomposable organic material in domestic or industrial wastewaters as represented by the oxygen utilized over a period of five days at 20°C and as determined by the appropriate procedure in "Standard Methods".
- B. "Chlorine demand" means the difference between the amount of chlorine added to a wastewater sample and the amount remaining at the end of a thirty minute period as determined by the procedures given in "Standard Methods".
- C. "COD" or "chemical oxygen demand" means the measure of chemically decomposable material in domestic or industrial wastewater as represented by the oxygen utilized as determined by the appropriate procedure described in "Standard Methods".
- D. "Discharger" means any person who discharges or causes a discharge to a public sewer. "Dissolved solids" or "dissolved matter" means the solid matter in solution in the wastewater and shall be obtained by evaporation of a sample from which all suspended matter has been removed by filtration as determined by the procedures in "Standard Methods".
- E. "Dissolved solids" or "dissolved mater" means the solid matter in solution in the wastewater and shall be obtained by evaporation of a sample from which all suspended

matter has been removed by filtration as determined by the procedures in “Standard Methods”.

F. "Domestic wastewater" means the water-carried wastes produced from non-commercial or non-industrial activities and which result from normal human living processes.

G. "Effluent" means the liquid outflow of any facility designed to treat, convey or retain wastewater.

H. "Gravity separation interceptor" means any facility designed, constructed and operated for the purpose of removing and retaining dangerous, deleterious or prohibited constituents from wastewater by differential gravity separation before discharge to the public sewer.

I. "House connection sewer" means the sewer connecting the building sewer or building waste drainage system to the public sewer for the purpose of conveying domestic wastewater.

J. "Industrial connection sewer" means the sewer connecting the building sewer or building waste drainage system to the public sewer for the purpose of conveying industrial wastewater.

K. "Industrial wastewater" means all water-carried wastes and wastewater of the community, excluding domestic wastewater and uncontaminated water, including all wastewater from any producing, manufacturing, processing, institutional, commercial, agricultural or other operation where the wastewater discharged includes significant quantities of wastes of non-human origin.

L. "Inspector" means a person authorized by the city to inspect wastewater generation, conveyance, processing and disposal facilities.

M. "Lateral sewer", "collecting sewer" or "main line sewer" mean the public sewer used to collect wastewater from house connection and industrial connection sewers and transport it to trunk sewers.

- N. "Peak flow rate" means the average rate at which wastewater is discharged to a public sewer during the highest thirty minute flow period in the preceding twelve months.
- O. "Public sewer" means any sewer dedicated to public use and whose use is controlled by the city.
- P. "Sewage" means wastewater.
- Q. "Sewerage system" means a network of wastewater collection, conveyance, treatment and disposal facilities interconnected by sewers and owned by the city.
- R. "Solid wastes" means the non-liquid carried wastes normally considered to be suitable for disposal with refuse at sanitary landfill refuse disposal sites. S. "Standard Methods" means the current edition of Standard Methods for the Examination of Water and Wastewater, as published by the American Public Health Association.
- S. "Suspended solids" or "suspended matter" means the insoluble solid matter suspended in wastewater that is separable by laboratory filtration in accordance with the procedure described in "Standard Methods".
- T. "Trunk sewer" means a sewer constructed, maintained and operated by the city that conveys wastewater to treatment facilities and into which lateral and collecting sewers discharge.
- U. "Uncontaminated water" means any wasted water of the community not contaminated or polluted with wastewater and which is suitable or could readily be made suitable for discharge to the municipal storm water drainage system.
- V. "User" means discharger.
- W. "Wastewater" means the water-carried wastes of the community derived from human or industrial sources, including domestic wastewater and industrial wastewater. Rainwater, groundwater or drainage of uncontaminated water is not wastewater.

ARTICLE 11-8 GENERAL PROVISIONS

- 11-8-1 Administration and Enforcement
- 11-8-2 Notice
- 11-8-3 Inspections
- 11-8-4 Approval of Plans, Issuance of Permits and Certification of Final Inspection
- 11 -8-5 Fees and Charges
- 11-8-6 Use of Revenues

Section 11-8-1 Administration and Enforcement

The city manager shall administer, implement and enforce this article and Articles 11-7, 11-9,11-10 and 11-11.

Section 11-8-2 Notice

A. The city manager shall notify any person found to be in violation of this article and Articles 11-7, 11-9, 11-10 and 11-11 before he takes any action to implement the penalty clause, Section 1-8 of this code, and shall take no such action until the elapse of ten days from the date notice is given.

B. Unless otherwise provided herein, any notice required to be given by the city manager under this article and Articles 11-7, 11-9, 11-10 and 11-11 shall be in writing and served in person or by mail. If served by mail, the notice shall be sent to the last address known to the city manager. Where the address is unknown, service may be made upon the owner of record of the property involved or by publication one time in the newspaper used by the city. C. Notice shall be deemed to have been given at the time of deposit, postage prepaid, in a facility regularly serviced by the United States Postal Service or the date of publication.

Section 11-8-3 Inspections

A. Adequate identification shall be provided by the city for all inspectors and other authorized personnel, and these persons shall identify themselves when entering any property for inspection purposes.

B. Inspection of every facility that is involved directly or indirectly with the discharge of wastewater to the city's sewerage systems may be made by the city manager, as he deems necessary.

C. Access shall be given at all reasonable times to inspect the facilities. No person shall interfere with, delay, resist or refuse entrance to an authorized inspector attempting to inspect any wastewater generation, conveyance or treatment facility connected directly or indirectly to the city's sewerage system.

#### Section 11-8-4 Approval of Plans, Issuance of Permits and Certification of Final Inspection

A. The city manager will approve plans for sewerage construction, issue a permit for industrial wastewater discharge or any other permit under this article and Articles 11-7, 11-9, 11-10 and 11-11, only if it appears to the city manager that the sewerage construction, sewer connection, industrial wastewater discharge or other procedure conforms to the requirements of this article and Articles 11-7, 11-9, 11-10 and 11-11.

B. All required fees and charges shall be paid before approval of plans or issuance of a permit.

C. The approval of plans or the issuance of a permit shall not relieve the discharger of any duty imposed upon him pursuant to this article and Articles 11-7, 11-9, 11-10 and 11-11.

#### Section 11-8-5 Fees and Charges

All fees and charges payable under the provisions of this article and Articles 11-7, 11-9 and 11-10 shall be paid to the city. An equitable system of user charges shall be established by the city council by resolution to defray the costs of operation, maintenance and replacement of the sewerage system. All industrial users shall be required to pay charges sufficient to pay that portion of the cost of treatment allocable to the treatment of wastes from such users.

### Section 11-8-6 Use of Revenues

Revenues derived under the provisions of this article and Articles 11-7, 11-9 and 11-10 shall be used first for the acquisition, construction, reconstruction, maintenance and operation of sanitation or sewerage facilities, to repay principal and interest on bonds issued for the construction or reconstruction of such sanitation or sewerage facilities, and to repay federal or state loans or advances made to the city for construction or reconstruction of sewerage facilities.

### ARTICLE 11-9 SEWERAGE CONSTRUCTION AND SEWER USE

#### 11-9-1 Approval of Plans for Sewerage Construction

#### 11-9-2 Permit for Sewer Six Inches or Smaller in Diameter Connecting Directly to a Trunk Sewer

#### 11-9-3 Inspection of Construction

#### 11-9-4 Plan Approvals and Permits Not Transferable

#### 11-9-5 Discharge of Rainwater or Uncontaminated Water Prohibited

#### 11-9-6 Industrial Wastewater Discharges Prohibited

#### 11-9-7 Improper Use of Connected Sewers

#### 11-9-8 Excessive Sewer Maintenance Expense

### Section 11-9-1 Approval of Plans for Sewerage Construction

A. No person, other than employees of the city, persons contracting to do work for the city or maintenance workers of the city, shall construct or cause to be constructed, or alter or cause to be altered, any public sewer, lateral sewer, house connection or industrial connection sewer over six inches in diameter, sewage pumping plant, pollution control plant or other sewerage facility within the city where existing or proposed wastewater flows will discharge directly or indirectly to facilities of the city, without first obtaining approval of sewerage construction plans from the city manager.

B. The applicant shall submit to the city manager for approval, construction plans and such specifications and other details as required to describe fully the proposed sewerage facility. The plans shall have been prepared under the supervision of and shall be signed by an engineer of suitable training registered in the State of Arizona.

- C. Plans for sewerage construction shall not be approved by the city manager for any facility which will convey industrial wastewater, unless the discharger has first obtained a permit for industrial wastewater discharge.
- D. Plans for sewerage construction shall meet all design requirements of the city and shall also meet all design requirements as established from time to time by the city manager.
- E. Inspection of all sewerage construction under this section shall be made by personnel of the city, in the manner described in Section 11-9-3.
- F. An approval of plans for sewerage construction shall expire one year after date of approval, unless construction has been initiated.

**Section 11-9-2 Permit for Sewer Six Inches or Smaller In Diameter Connecting Directly to a Trunk Sewer**

- A. Any person desiring to connect a sewer six inches or smaller in diameter directly to a trunk sewer of the city shall make written application to the city. The applicant shall furnish such information as required by the city manager to substantiate that the proposed work or use will comply with the provisions of this article and Articles 11-7, 11-8, 11-10 and 11-11.
- B. A trunk sewer connection permit will not be issued for any sewer which will convey industrial wastewaters, unless the discharger has first obtained a permit for industrial wastewater discharge.
- C. Direct attachment of a sewer six inches or smaller in diameter to a trunk sewer will be permitted only if the city manager determines that a suitable local sewer is not available, that adequate trunk sewer capacity exists, that the connection will function properly and that the connection will not adversely affect existing or anticipated facilities or operations of the city.
- D. Sewers six inches or smaller in diameter to be attached directly to a trunk sewer shall be constructed in a manner and at the location specified by the city. Inspection of the

connections to a trunk sewer shall be made by personnel of the city, in the manner described in Section 11-9-3.

- E. A trunk sewer connection permit shall expire one hundred twenty days after issuance.

#### Section 11-9-3 Inspection of Construction

A. All sewers to be attached directly to a trunk sewer shall be inspected by personnel of the city during construction. At least forty-eight hours prior to cutting into a city sewer, the city shall be notified. In making a connection to a trunk sewer, no physical alteration of the city's facilities shall commence until an inspector is present.

B. No wastewater shall be discharged into any sewerage facility tributary to the city's facility prior to obtaining inspection and approval of sewerage construction by the city.

#### Section 11-9-4 Plan Approvals and Permits Not Transferable

Approval of plans for sewerage construction and trunk sewer connection permits are not transferable from one person to another person, or from one location to another location.

#### Section 11-9-5 Discharge of Rainwater or Uncontaminated Water Prohibited

No person shall discharge or cause to be discharged any rainwater, storm water, groundwater, street drainage, subsurface drainage, yard drainage, water from yard fountains, ponds or lawn sprays or any other such water into any sewerage facility which directly or indirectly discharges to facilities owned by the city.

#### Section 11-9-6 Industrial Wastewater Discharges Prohibited

No industrial wastewaters shall be discharged to a trunk sewer or to a sewer discharging directly or indirectly to a trunk sewer until a permit for industrial wastewater discharge has been approved by the city.

Section 11-9-7 Improper Use of Connected Sewers

- A. The city hereby reserves the right to inspect any existing lateral or collecting sewers that discharge wastewater directly or indirectly to trunk sewers. If it is found that such lateral or collecting sewers are improperly used or improperly maintained, thereby causing discharge of septic wastewater, excessive groundwater, debris or any other objectionable substance to the city's sewers, or causing any other objectionable circumstance, the city manager will give notice of the unsatisfactory condition to the offending discharger and shall direct that the condition be corrected.
- B. In case of non-compliance with the city's directive, the city may disconnect the offending sewer from the city's sewerage system.

Section 11-9-8 Excessive Sewer Maintenance Expense

- A. No person shall discharge or cause to be discharged to a trunk sewer, either directly or indirectly, any waste that creates a stoppage, plugging, breakage, any reduction in sewer capacity or any other damage to sewers or sewerage facilities of the city. Any excessive sewer or sewerage maintenance expenses, or any other expenses attributable thereto, will be charged to the offending discharger by the city.
- B. Any refusal to pay excessive maintenance expenses duly authorized by the city manager shall constitute a violation of this article and Articles 11-7, 11-8, 11-10 and 11-11.

ARTICLE 11-10 INDUSTRIAL WASTEWATERS

- 11-10-1 Permit for Industrial Wastewater Discharge
- 11-10-2 Procedure for Obtaining Permit for Industrial Wastewater Discharge
- 11-10-3 Change of Industrial Wastewater Permit Restrictions
- 11-10-4 Suspension of Permit for Industrial Wastewater Discharge
- 11-10-5 Revocation of Permit for Industrial Wastewater Discharge
- 11-10-6 Prohibited Waste Discharges
- 11-10-7 Hospital Wastes
- 11-10-8 Availability of City Facilities
- 11 -10-9 Industrial Wastewater Treatment Surcharge
- 11-10-10 Establishment of Unit Charge Rates for industrial Wastewater Treatment Surcharge 1
- 1-10-11 Annual Treatability Charge and Charges for Unusual Industrial Wastewaters
- 11-10-12 Pretreatment of Industrial Wastewaters

11-10-13	Control Manhole and Separation of Domestic and Industrial Wastewaters
11-10-14	Industrial Wastewater Sampling, Analysis and Flow Measurements
11-10-15	Discrepancies Between Actual and Reported Industrial Wastewater Discharge Quantities
11-10-16	Industry Classifications
11-10-17	Damage Caused by Prohibited Wastewater Discharge
11-10-18	Trucker's Discharge Permit
11-10-19	Trade Secrets

Section 11-10-1 Permit for Industrial Wastewater Discharge

A. No person shall discharge or cause to be discharged any industrial wastewaters directly or indirectly to sewerage facilities owned by the city without first obtaining a permit for industrial wastewater discharge.

B. The permit for industrial wastewater discharge may require pretreatment of Industrial wastewaters before discharge, restriction of peak flow discharges, discharge of certain wastewaters only to specified sewers of the city, relocation of point of discharge, prohibition of discharge of certain wastewater components, restriction of discharge to certain hours of the day, payment of additional charges to defray increased costs of the city created by the wastewater discharge and such other conditions as may be required to effectuate the purpose of this article and Articles 11-7, 11-8, 11-9 and 11-11.

C. All pretreatment shall be approved by the city before being used, and Environmental Protection Agency and Arizona Department of Environmental Quality pretreatment standards which have been or may be established in the future shall be compiled with for specific industrial classes, where they are more stringent.

D. No city permit for industrial wastewater discharge is transferable without the prior written consent of the city manager.

E. No person shall discharge industrial wastewaters in excess of the quantity or quality limitations set by the permit for industrial wastewater discharge. Any person desiring to discharge wastewaters or use facilities which are not in conformance with the industrial wastewater permit should apply to the city for an amended permit.

**Section 11-10-2 Procedure for Obtaining Permit for Industrial Wastewater Discharge**

A. Applicants for a permit for industrial wastewater discharge shall complete an application form available at the office of the city manager. The city may require additional information on the characteristics of the wastewater discharge beyond that required on the application form

B. Upon receipt of all required information, the application shall be processed and, upon approval, be signed by the city manager and one copy returned to the applicant. When properly signed, the application form shall constitute a valid permit for industrial wastewater discharge.

C. The application shall be approved if the applicant has complied with all applicable requirements of this article and Articles 11-7, 11-8, 11-9 and 11-11 and furnished to the city all requested information and if the city manager determines that there is adequate capacity in the city's facilities to convey, treat and dispose of the wastewaters.

**Section 11-10-3 Change of Industrial Wastewater Permit Restrictions**

The city may change the restrictions or conditions of a permit for industrial wastewater discharge from time to time as circumstances may require. Except in cases of emergency, the city shall allow an industrial discharger a reasonable period of time to comply with any changes in the industrial wastewater permit required by the city.

**Section 11-10-4 Suspension of Permit of Industrial Wastewater Discharge**

A. The city manager may suspend a permit for industrial wastewater discharge for a reasonable period when such suspension is necessary in order to stop a discharge which presents an imminent hazard to the public health, safety or welfare, to the local environment or to the city's sewerage system.

B. Any discharger notified of suspension of his industrial wastewater permit shall immediately cease and desist the discharge of all industrial wastewater to the sewerage system. In the event of a failure of the discharger to comply voluntarily with the suspension order, the city manager shall take such steps as are reasonably necessary to

insure compliance. Violation of this section shall be a class one misdemeanor, and each day of violation shall constitute a separate offense.

C. Any suspended discharger may file with the city manager a request for hearing in which event the city council shall meet within fourteen days of the receipt by the city manager of such request. The city council shall hold a hearing on the suspension and shall either affirm or revoke the action of the city manager. Reasonable notice of the hearing shall be given to the suspended discharger in the manner provided for in Section 11-8-2.

D. The duty manager shall reinstate the industrial wastewater permit upon proof of satisfactory compliance with all discharge requirements of the city.

#### Section 11-10-5 Revocation of Permit for Industrial Wastewater Discharge

A. The city council may revoke a permit for industrial wastewater discharge upon a finding that the discharger has violated any provision of this article or Articles 11-7, 11-8, 11-9 and 11-11. No revocation shall be ordered until a hearing on the question has been held by the city council. Notice of the hearing shall be given to the discharger in accordance with Section 11-8-2 at least fifteen days prior to the date of hearing.

B. Any discharger whose industrial wastewater permit has been revoked shall immediately stop all discharge of any liquid carried wastes covered by the permit to any public sewer that is tributary to a sewer or sewerage system of the city. The city manager may disconnect or permanently block from such public sewer the industrial connection sewer of any discharger whose permit has been revoked if such action is necessary to insure compliance with the order of revocation. Violation of this section shall be a class one misdemeanor, and each day of violation shall constitute a separate offense.

C. Before any further discharge of industrial wastewater may be made by the discharger, he must apply for a new permit for industrial wastewater discharge, pay all charges that would be required upon initial application together with all delinquent fees, charges and penalties and such other sums as the discharger may owe to the city. Costs incurred by the city in revoking the permit and disconnecting the industrial connection

sewer shall be paid for by the discharger before issuance of a new permit for industrial wastewater discharge.

#### Section 11-10-6 Prohibited Waste Discharges

A. In most cases, the concentration or amount of any particular constituent which will be judged to be excessive or unreasonable cannot be foreseen but will depend on the results of technical determinations and the actions of regulatory agencies. The list of constituents which may be regulated provides specific limits only where they are now reasonably well established. The other constituents in the list are presented with the objective of enumerating the types of wastes which will be regulated from time to time.

B. Except as provided in Section 11-10-7, no person shall discharge or cause to be discharged to a public sewer, which directly or indirectly connects to the city's sewerage systems, the following wastes:

1. Any gasoline, benzene, naphtha, solvent, fuel oil or any liquid, solid or gas that would cause or tend to cause flammable or explosive conditions to result in the sewerage system.
2. Any waste containing toxic or poisonous solids, liquids or gases in such quantities that, alone or in combination with other waste substances, may create a hazard for humans, animals or the local environment, interfere detrimentally with wastewater treatment processes, cause a public nuisance, or cause any hazardous condition to occur in the sewerage system.
3. Any waste having a pH lower than 6.0 or having any corrosive or detrimental characteristic that may cause injury to wastewater treatment or maintenance personnel or may cause damage to structures, equipment or other physical facilities of the sewerage system.
4. Any solids or viscous substances of such size or in such quantity that they may cause obstruction to flow in the sewer or be detrimental to proper wastewater treatment plant operations. These objectionable substances include, but are not limited to: asphalt, dead animals, offal, ashes, sand, mud, straw, industrial process shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch

manure, bones, hair and flesh, entrails, paper dishes, paper cups, milk containers or other similar paper products either whole or ground.

5. Any rainwater, storm water, groundwater, street drainage, subsurface drainage, roof drainage, yard drainage, water from yard fountains, ponds or lawn sprays or any other such water.

6. Any water added for the purpose of diluting wastes which would otherwise exceed applicable maximum concentration limitations.

7. Any non-biodegradable cutting oils, commonly called soluble oil, which form persistent water emulsions.

8. Any excessive concentrations of non-biodegradable oil, petroleum oil or refined petroleum products.

9. Any dispersed biodegradable oils and fats, such as lard, tallow or vegetable oil in excessive concentrations that would tend to cause an adverse effect on the sewerage system.

10. Any waste with an excessively high concentration of cyanide.

11. Any unreasonably large amounts of un-dissolved or dissolved solids.

12. Any wastes with excessively high BOD, COD or decomposable organic content.

13. Any strongly odorous waste or waste tending to create odors.

14. Any wastes containing over 0.1 milligram/liter of dissolved sulfides.

15. Any wastes with a pH high enough to cause alkaline incrustations on sewer walls.

16. Any substance promoting or causing the promotion of toxic gases.

17. Any waste having a temperature of 120°F or higher.

18. Any wastes requiring an excessive quantity of chlorine or other chemical compound used for disinfection purposes.
  19. Any excessive amounts of chlorinated hydrocarbon or organic phosphorus type compounds.
  20. Any excessive amounts of deionized water, steam condensate or distilled water.
  21. Any waste containing substances that may precipitate, solidify or become viscous at temperatures between 50°F and 100°F.
  22. Any waste producing excessive discoloration of wastewater or treatment plant effluent
  23. Any garbage or waste that is not ground sufficiently to pass through a 3/8 inch screen.
  24. Any wastes containing excessive quantities of iron, boron, chromium, phenols, plastic resins, copper, nickel, zinc, lead, mercury, cadmium, selenium, arsenic or any other objectionable materials toxic to humans, animals, the local environment or to biological or other wastewater treatment processes.
  25. Any blown-down or bleed water from cooling towers or other evaporative coolers exceeding one-third of the makeup water.
  26. Any single pass cooling water.
  27. Any excessive quantities of radioactive material wastes.
  28. Recognizable portions of the human anatomy.
- C. No person shall discharge or cause to be discharged to any public sewer which directly or indirectly connects to the city's sewerage system any wastes, if, in the opinion of the city manager, such wastes may have an adverse or harmful effect on sewers,

maintenance personnel, wastewater treatment plant personnel or equipment, treatment plant effluent quality, public or private property, or may otherwise endanger the public, the local environment or create a public nuisance. The city manager, in determining the acceptability of specific wastes, shall consider the nature of the waste and the adequacy and nature of the collection, treatment and disposal system available to accept the waste.

D. The city manager may from time to time prepare a list of the maximum permissible quantities or concentrations of certain constituents in industrial wastewater flows and otherwise issue detailed directions for meeting the requirements of this section.

#### Section 11-10-7 Hospital Wastes

A. Hospitals, clinics, offices of medical doctors and convalescent homes may discharge, through a city approved grinder installation with inlet size and design features suitable for its intended use and so constructed that all particles pass through a maximum 3/8 inch opening, wastes of the following categories

1. Wet organic kitchen wastes from food preparation and disposal but excluding all paper and plastic items.

2. Infectious wastes, defined as:

- a. Laboratory and surgical operating room wastes except as excluded in subsection B, paragraph 2 of this section.

- b. Wastes from outpatient areas and emergency rooms similar to those included in subsection A of this section.

- c. Equipment, instruments, utensils and other materials of a disposable nature that may harbor or transmit pathogenic organisms and that are used in the rooms of patients having a suspected or diagnosed communicable disease which by the nature of the disease is not required to be isolated by public health agencies.

B. Hospitals, clinics, offices of medical doctors and convalescent homes shall not discharge to the sewer by any means:

1. Solid wastes generated in the rooms of patients who are isolated because of a suspected or diagnosed communicable disease.
2. Recognizable portions of the human anatomy.
3. Wastes excluded by other provisions of this article and Articles 11-7, 11-8, 11-9 and 11-11 except as specifically permitted in subsection A of this section.
4. All solid wastes not included in subsection A of this section.

C. Nothing in this section shall be construed to limit the authority of the health officer of Apache County to define wastes as being infectious and, with the concurrence of the city manager, to prohibit their discharge to the sewer.

#### Section 11-10-8 Availability of City Facilities

If sewerage capacity is not available, the city may require the industrial wastewater discharger to restrict his discharge until sufficient capacity can be made available. When requested, the city will advise persons desiring to locate new facilities as to the areas where industrial wastewater of their proposed quantity and quality can be received by available sewerage facilities. The city may refuse service to persons locating facilities in areas where their proposed quantity or quality of industrial wastewater is unacceptable in the available treatment facility.

#### Section 11-10-9 Industrial Wastewater Treatment Surcharge

A. An industrial wastewater treatment surcharge shall be paid to the city annually, following the fiscal year in which charges accrue, by those industrial wastewater dischargers whose contribution of flow, chemical oxygen demand, suspended solids or peak flow create costs in excess of the value of any ad valorem taxes assessed by and paid to the city. The treatment surcharge shall be based on the appropriate city sewerage system's total maintenance, operation and capital expenditures for providing industrial wastewater collection, treatment and disposal services as described in Section 11-10-10.

B. The annual industrial wastewater treatment surcharge shall be computed by the following formula:

$$\text{Surcharge} = a(V) + b(\text{COD}) + c(\text{SS}) + dM(P) - \text{TAX}$$

Where:

Surcharge = Net annual industrial wastewater treatment surcharge in dollars. No refund will be made if a negative number results.

V= Total annual volume of flow, in millions of gallons. COD = Total annual discharge of chemical oxygen demand, in thousands of pounds.

SS = Total annual discharge of suspended solids, in thousands of pounds

P = Peak discharge rate over a thirty minute period, occurring between the hours of 8:00 am. and 10:00 p.m. and determined by averaging a maximum of ten substantiated peak flow rate measurements of the accrual year in gallons per minute. Values of "P" less than ten gallons per minute shall be considered equal to zero.

A= Average discharge rate, determined by dividing "V by the total annual hours of operation or working time for the industrial discharger, converted to gallons per minute. (See M)

a, b, c & d = Unit charge rates adopted annually by the city based upon the projected annual total costs for wastewater collection, treatment and disposal, in dollars per unit, as described in Section 11-10-10.

M = a multiplying factor accounting for increased city costs due to high ratios of industrial discharger peak to average flow rates (P/A). Factor  $M^N$  is  $2.5 \log (P/A)$ .

TAX = The annual ad valorem taxes assessed by and paid to the city

during the accrual year on the land or property utilized for the generation of industrial wastewater in dollars. For the purpose of establishing this amount, only the land and property owned or hired by the discharger, and which is contiguous to the source of the industrial discharge shall be considered. If requested to do so by the city manager, the industrial wastewater discharger shall submit a verified copy of the annual tax bill to substantiate the amount of the tax.

C. The quantities for yearly total flows, COD, suspended solids and peak flow rates used in the above formula may be established by engineering estimation, short term sampling, analysis and flow measurement extrapolated to a yearly total, or by extensive sampling, analysis and flow measurement, all as approved by the city manager. The city manager shall set the minimum requirements for sampling, analysis and flow measurement by the discharger necessary to establish quantities to be used in the above formula.

D. The city may require industrial dischargers to discharge during certain times of the day or night. If the industrial discharger elects or is required by the city to discharge the peak rates of industrial flow during the nighttime hours between 10:00 p.m. and 8:00 am., the flow discharge shall be made approximately uniform during these ten nighttime hours. Certain industrial dischargers may be prohibited from discharging peak flows during the nighttime hours if these flows would adversely affect city operations.

#### Section 11-10-10 Establishment of Unit Charge Rates for Industrial Wastewater Treatment Surcharge

A. Unit charge rates "a", "b", "c" and "d" in the industrial wastewater treatment surcharge shall be established annually for the sewerage system by the procedure described herein and shall be adopted by the city.

B. Appropriate unit charge rate parameters for flow, chemical oxygen demand and suspended solids - respectively designated "a" (in dollars per million gallons), "b" (in dollars per one thousand pounds of COD) and "c" (in dollars per one thousand pounds of suspended solids) - shall be determined by the following method:

1. The total capital outlay for construction of sewerage facilities including debt principal and interest over the next five fiscal years less anticipated grant funds shall be estimated and distributed among the three parameters in accordance with the city manager's determination of the percentage of the total existing capital facilities of the sewerage system predominantly related to each parameter.
2. The total operation and maintenance costs of the system shall be estimated for the next five fiscal years and distributed among the three parameters in accordance with the city manager's determination as to which charges are predominantly related to each parameter.
3. The sum of the capital costs and operation and maintenance costs determined for each parameter in paragraphs 1 and 2 of this subsection shall be divided by the projected five year total volume of wastewater and weight of COD and suspended solids to be

treated by the sewerage system in order to obtain the unit charge "a", "b" and "c" for the system.

- C. The unit charge rate related to peak flow rate and designated "d" (in dollars per gallon per minute of peak flow) shall be determined by the following method:
1. The total non-depreciated value of the historic capital investment in the system shall be divided by the total peak hydraulic capacity of all treatment facilities in the system to determine a unit cost per million gallons per day of peak flow capacity.
  2. The unit cost determined in paragraph 1 of this subsection shall be amortized over thirty years at six percent interest and converted to a gallon per minute basis to obtain the unit charge rate "d".

#### Section 11-10-11 Annual Treatability Charge and Charges for Unusual Industrial Wastewaters

An annual treatability charge to be set by the city manager or the council, or any charge per unit of offending constituent as established by the city manager, shall be paid by those industrial dischargers having wastes of such a character as to impose unusual operation and maintenance or capital costs upon the city which are unrelated to total flow volume, chemical oxygen demand, suspended solids or peak flow rates. Such charges shall be reasonably calculated to defray costs attributable to such wastes.

#### Section 11-10-12 Pretreatment of Industrial Wastewaters

A. An industrial wastewater pretreatment system or device may be required by the city manager to treat industrial flows prior to discharge to the sewer when it is necessary to restrict or prevent the discharge to the sewer of certain waste constituents, to distribute more equally over a longer time period any peak discharges or industrial wastewaters or to accomplish any pretreatment result required by the city manager. All pretreatment systems or devices shall be approved by the city manager, but such approval shall not absolve the industrial discharger of the responsibility of meeting any industrial effluent limitation required by the city. In special cases, the city manager may require construction of sewer lines by the discharger to convey certain industrial wastes to a specific trunk sewer. All pretreatment systems Judged by the city manager to require engineering design shall have

plans prepared and signed by an engineer of suitable discipline licensed in the State of Arizona.

B. Normally a gravity separation interceptor, equalizing tank, neutralization chamber and control manhole will be required respectively to remove prohibited settleable and floatable solids, to equalize wastewater streams varying greatly in quantity or quality, to neutralize low or high pH flows and to facilitate inspection, flow measurement and sampling. Floor drains from commercial or manufacturing buildings, warehouses or multi-use structures shall not discharge directly to the sewer, but shall first discharge to a gravity separation interceptor.

#### Section 11-10-13 Control Manhole and Separation of Domestic and Industrial Wastewaters

A. All domestic or sanitary wastewaters from rest rooms, showers, drinking fountains, etc., shall be kept separate from all industrial wastewaters until the industrial wastewaters have passed through any required pretreatment system or device.

B. A control manhole of a design approved by the city manager shall be furnished and installed by certain designated industrial wastewater dischargers to facilitate inspection, sampling and flow measurements by personnel of the city. This control manhole shall be located off the industrial premise, or, if placed within the plant fence, a special locked gate adjacent to the manhole and at a location approved by the city shall be provided, with keys to the gate lock given to the city. Unrestricted access to this control manhole shall be available to authorized personnel of the city at all times. The control manhole may be used as a junction manhole for domestic sewage and industrial wastes provided the junction occurs downstream of the sampling or flow measuring point.

#### Section 11-10-14 Industrial Wastewater Sampling, Analysis and Flow Measurements

A. Periodic measurements of flow rates, flow volumes, COD and suspended solids for use in determining the annual industrial wastewater treatment surcharge and such measurements of other constituents believed necessary by the city manager shall be made by all industrial wastewater dischargers, unless specifically relieved of such obligation by the city manager. All sampling, analyses and flow measurements of industrial wastewaters shall be performed by a state certified independent laboratory, by a laboratory of an industrial discharger approved by the city manager or by personnel of the city. If

performed by city personnel, an appropriate charge shall be paid by the discharger requesting the tests. Prior to submittal to the city of data developed in the laboratory of an industrial discharger, the results shall be verified by a responsible administrative official of the industrial discharger under the penalty of perjury.

B. All wastewater analyses shall be conducted in accordance with the appropriate procedure contained in "Standard Methods." If no appropriate procedure is contained therein, the standard procedure of the industry or a procedure judged satisfactory by the city manager shall be used to measure wastewater constituents. Any independent laboratory or discharger performing tests shall furnish any required test data or information on the test methods of equipment used, if requested to do so by the city manager.

C. All dischargers making periodic measurements shall furnish and install at the control manhole or other appropriate location a calibrated flume weir, flow meter or similar device approved by the city manager and suitable to measure the industrial wastewater flow rate and total volume. A flow indicating, recording and totalizing register may be required by the city manager. In lieu of wastewater flow measurement, the city manager may accept records of water usage and adjust the flow volumes by suitable factors to determine peak and average flow rates for the specific industrial wastewater discharge.

D. The sampling, analysis and flow measurement procedures, equipment and results shall be subject at any time to inspection by the city. Sampling and flow measurement facilities shall be such as to provide safe access to authorized personnel.

E. Those industrial wastewater dischargers required by the city manager to make periodic measurements of industrial wastewater flows and constituents shall annually make the minimum number of such measurements required. The minimum requirement for such periodic measurements shall be at least one twenty-four hour period, properly refrigerated, composited according to measured flow rates during the twenty-four hours and analyzed for the specified wastewater constituents. Dischargers required to sample on only a few days per year shall sample during the periods of highest wastewater flow and wastewater constituent discharges. Industrial plants with large fluctuations in quantity or quality of wastewater may be required to provide continuous sampling and analyses for

every working day. When required by the city manager, dischargers shall install and maintain in proper order automatic flow-proportional sampling equipment and/or automatic analysis and recording equipment.

F. Measurements to verify the quantities of waste flows and waste constituents reported by industrial dischargers may be conducted on a random basis by personnel of the city.

#### Section 11-10-15 Discrepancies Between Actual and Reported Industrial Wastewater Discharge Quantities

A. Should measurements or other investigations reveal that the industrial discharger is discharging a flow rate, or a quantity of flow, chemical oxygen demand or suspended solids significantly in excess of that stated on the industrial wastewater permit or in excess of the quantities reported to the city by the discharger and upon which the industrial wastewater treatment surcharge is based, the discharger shall apply for an amended industrial wastewater permit and shall be assessed for all delinquent charges together with penalty and interest. Before these charges shall be assessed, at least two additional twenty-four hour samples and flow measurements shall be obtained by the city with all costs of sampling and analyses to be paid by the discharger.

B. For the purpose of establishing the correct treatment surcharge, the data obtained in these samplings along with any other relevant information obtained by the city or presented by the discharger shall be used by the city manager in determining the quantity parameters for use in the surcharge formula. An industrial discharger found in violation shall, in the absence of other evidence, be presumed to have been discharging at the determined parameter values over the preceding three years or subsequent to the previous city verification of quantity parameters, whichever period is shorter.

#### Section 11-10-16 Industry Classifications

The city manager may classify dischargers by industrial categories and establish an industrial wastewater treatment surcharge based upon average flow quality and flow quantity for the industrial category adjusted by some commonly recognized parameter selected by the city manager that establishes the relative size of the industrial discharger being charged.

### Section 11-10-17 Damage Caused by Prohibited Wastewater Discharge

Any industrial wastewater discharger who discharges or causes the discharge of prohibited wastewaters which cause damage to city facilities, detrimental effects on treatment processes or any other damages resulting in cost to the city shall be liable to the city for all damages occasioned thereby.

### Section 11-10-18 Trucker's Discharge Permit

- A. All persons owning vacuum or "cesspool" pump trucks or other liquid waste transport trucks and desiring to discharge septic tank, seepage pit, interceptor or cesspool contents, industrial liquid wastes or other liquid wastes to sewerage facilities of the city or to facilities that discharge directly or indirectly to such sewerage facilities shall first have a valid trucker's discharge permit. All applicants for a trucker's discharge permit shall complete the application form, pay the appropriate fee, receive a copy of the city's regulations governing discharge to sewers of liquid wastes from trucks and shall agree, in writing, to abide by these regulations.
- B. Discharge of septic tank, seepage pit, interceptor or cesspool contents or other wastes containing no industrial wastes may be made by trucks holding a city permit at any of the city's designated public dumping manholes. Truck transported industrial wastes shall be discharged only at the locations specified by the city manager for the specific waste. The city may require payment for treatment and disposal costs or may refuse permission to discharge certain prohibited wastes.
- C. The trucker's discharge permit shall be valid for one year from date of issuance.
- D. Any person negligently or willfully violating the city's requirements for liquid waste discharges from trucks shall be in violation of this article and Articles 11-7, 11-8, 11-9 and 11-11 and may have his permit revoked by the city manager.

### Section 11-10-19 Trade Secrets

In respect to trade secrets, it is determined that the public interest served by not making said records public clearly outweighs the public interest served by the disclosure of said records. Accordingly, any trade secrets acquired by the city in the course of implementation or

enforcement of this article and Articles 11-7, 11-8, 11-9 and 11-11 shall not be made public except to that extent necessary to enforce this article and Articles 11-7, 11-8, 11-9 and 11-11.

ARTICLE 11-11 CONSUMER RESPONSIBILITIES

11-11-1	Consumer Water and Sewer Facilities
11-11-2	Consumer Negligence
11-11-3	Rights-of-way
11-11-4	Installation of Lines
11-11-5	Protection of City Property
11-11-6	Prohibited Uses
11-11-7	Water Restrictions
11-11-8	Waste of Water
11-11-9	Inspections
11-11-10	Charges as Liens

Section 11-11-1 Consumer Water and Sewer Facilities

The consumer shall have complete responsibility for the installation and maintenance of adequate water and sewer facilities on the customer's premises, and the city shall not in any way be responsible for the installation, maintenance, inspection or damage of such facilities or damage caused by any defect in such facilities on the consumer's premises. Such facilities shall be maintained by the consumer in full compliance with any and all such rules and regulations of the city in addition to applicable state statutes.

Section 11-11-2 Consumer Negligence

Any damage to the city water and sewer system or injury to city employees or other city property caused by the negligence of any consumer or other person shall be borne by said consumer or other person, and the cost of such shall be immediately paid to the city. The cost of such damage may be added to a consumer's bill, and if the charge for the same is not paid when the remaining portion of the bill is due, service may be discontinued.

Section 11-11-3 Right-of-Way

Each consumer shall provide to the city such easement and right-of-way as is necessary to provide water and sewer service to that consumer. Use by any person or entity of the water or sewer system shall constitute the granting and acknowledgement of an easement by said user in

favor of the city over, under and across all such user's property as is necessary to install and maintain facilities of the water or sewer system.

#### Section 11-11-4 Installation of Lines

The city may refuse to provide service unless the lines or piping are installed on the premises so as to prevent cross-connections or backflow.

#### Section 11-11-5 Protection of City Property

The consumer shall guarantee proper protection for city property placed on his premises and shall permit access to it only to authorized representatives of the city.

#### Section 11-11-6 Prohibited Uses

- A. No occupant or owner of any building into which water is introduced will be allowed to supply water to other persons or families or for use on any other property. The city reserves the right to shut off the supply for abuses of water privileges.
  
- B. Any water service for commercial use shall not be included in a residential service account; each account shall have a separate meter and connection

#### Section 11-11-7 Water Restrictions

In case of water shortage or scarcity, the council may by resolution place any restrictions which it deems necessary upon the use of water for irrigation, sprinkling or other purposes

#### Section 11-11-8 Waste of Water

Consumers shall prevent unnecessary waste of water and keep all water outlets closed when not in actual use. All water outlets, including those used in conjunction with hydrants, urinals, water closets, bathtubs and other fixtures, must not be left running for any purpose other than the use for which they were intended. In addition to the penalty provided herein for code violations, the water supply may be turned off where any such waste occurs.

#### Section 11-11-9 Inspections

Whenever In the judgment of the council or the city manager it is deemed necessary, either may provide for the inspection of the premises or buildings of any water or sewer consumer for the purpose of examining the condition of ail pipes, motors, meters and fixtures, or the manner in which such facilities are used.

Section 11-11-10 Charges as Lien

Each charge or fee levied by or pursuant to this code is a lien upon the real property of the users to or for whom such services are supplied. Such lien shall attach immediately upon the providing of the service pursuant to this code. If such charge or fee is not paid within thirty days after it shall become due and payable, the city may issue a notice and claim of lien setting forth the name of the user owing such charge or fee, the amount owed, the penalty accrued, if any, the period for which due and stating that the city claims a lien therefor and a description of the property liened. At such time as such lien is filed, the cost of preparing, processing and releasing such lien shall be added to ail charges then due.

ARTICLE 11-12 LIABILITY

11-12-1 Interruption of Service

11-12-2 Liability Limited

Section 11-12-1 Interruption of Service

The city shall notify the consumer in advance of any anticipated interruption of service when such advance notice is possible. The city shall not be responsible for any interruption of water and sewer service caused by forces beyond its control.

Section 11-12-2 Liability Limited

No liability shall attach to the city for any injury or damages that may result from turning on or shutting off the water in any main, service connection or pipe, or the restriction of use or discontinuance of any water or sewer service, or any failure of the water supply, regardless of any notice or lack of notice thereof. The city shall not be held liable, in any respect, for the

condition, defects, failure or use of any pipe, connection, fixture or appurtenance, not belonging to the city, on any premises, or for loss or damage resulting therefrom.

ARTICLE 11-13 REGULATIONS PART OF CONTRACT

All regulations contained in this chapter shall be considered a part of the contract of every person taking water and sewer service from the city, and every person taking water and sewer service shall be considered as having expressly consented to be bound thereby. Consumers outside the city limits shall, upon application for water and sewer service, be required to sign a statement agreeing to the regulations set forth in this chapter. The city shall have no obligation to provide service to any person or entity outside the city limits.

Section 11-13-1 Deposit required.

A deposit in an amount and as established by resolution or motion of the Council or, at the option of the manager, a deposit equal to not less than twice the estimated amount of the probable monthly bill shall be charged for services before such service commences to any applicant for water services who rents, or owns, or leases, or occupies the premises for which such service shall be provided. Deposits shall be non-interest bearing and shall be refunded to the owner, renter, lessee or occupier upon discontinuance of service and payment of all charges due, provided the charges may be deducted from said security deposit before the refund is made.<sup>1</sup>

ARTICLE 11-14 CONTROL OF BACKFLOW AND CROSS-CONNECTIONS<sup>2</sup>

- 11-14-1 Purpose
- 11-14-2 Responsibility
- 11-14-3 Definitions
- 11-14-4 Designation of Water System
- 11-14-5 Requirements

<sup>1</sup> Amended by Ordinance No. \_\_\_\_\_, effective October \_\_, 2025.

<sup>2</sup> Adopted by Ordinance No. 76, effective April 14<sup>th</sup>, 1994.

### Section 11-14-1 Purpose

The purpose of this Article is:

- A. To protect the public potable water supply of the City from the possibility of contamination or pollution by isolating within the customer's internal distribution system(s) or the consumer's private water system(s) such contaminants or pollutants which could backflow into the public water systems; and,
- B. To promote the elimination or control of existing cross-connections, actual or potential, between the consumer's in-plant potable water system(s) and non-potable water system(s), plumbing fixtures and industrial piping systems; and
- C. To provide for the maintenance of continuing program of cross-connection control which will systematically and effectively prevent the contamination or pollution of all potable water systems.

### Section 11-14-2 Responsibility

The Water Department Superintendent shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow of contaminants or pollutants through the water service connection. If, in the judgment of said Water Department Superintendent, an approved backflow prevention assembly is required at the customer's water service connection or within the customer's private water system for the safety of the water system, the Water Department Superintendent or his designated agent shall give notice in writing to said customer to install such an approved backflow prevention assembly(s) at specific location(s) on his premises. The consumer shall immediately install such approved assembly(s) at the consumer's own expense; failure, refusal or inability on the part of the customer to install, have tested and maintain, said assembly(s) shall constitute a ground for discontinuing water service to the premises until such requirements have been satisfactorily met.

### Section 11-14-3 Definitions

In this Article, unless the context otherwise requires:

- A. Water Department Superintendent. The Water Department Superintendent in charge of the water department of the City, is invested with the authority and responsibility for the implementation of an effective cross-connection control program and for the enforcement of the provisions of this Ordinance.
- B. Approved. Accepted by the Water Department Superintendent as meeting an applicable specification stated or cited in this ordinance, or as suitable for the proposed use.
- C. Auxiliary Water Supply. Any water supply on or available to the premises other than the purveyor's approved public water supply will be considered as an auxiliary water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source(s) such as well, spring, river, stream, harbor, etc., or "used waters" or "industrial fluids." These waters may be contaminated or polluted or they may be objectionable and constitute an unacceptable water source over which the water purveyor does not have sanitary control.
- D. Backflow. The reversal of the normal flow of water caused by either back-pressure or back-siphonage.
- E. Backpressure. The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply from any source other than its intended source caused by the reduction of pressure in the potable water supply system.
- F. Back-siphonage. The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply from any source other than its intended source caused by the reduction of pressure in the potable water supply system.
- G. Backflow Preventer. An assembly or means designed to prevent backflow:
1. Airgap. The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing, fixture, or other device and the flood level rim of said vessel. An

approved airgap shall be at least double the diameter of the supply pipe, measured vertically, above the overflow rim of the vessel; and in no case less than one inch.

2. **Reduced Pressure Principle Assembly.** An assembly of two independently acting approved check valves together with a hydraulically operating, mechanically independent differential pressure relief valve located between the check valves and at the same time below the first check valve. The unit shall include properly located resilient seated test cocks and resilient seated shut-off valves at each end of the assembly. The entire assembly shall meet the design and performance specifications as determined by a laboratory and a field evaluation program resulting in an approval by a recognized and Water Department approved testing agency for backflow prevention assemblies. The assembly shall operate to maintain the pressure in the zone between the two check valves at an acceptable level less than the pressure on the public water supply side of the assembly. At cessation of a normal flow the pressure between the two check valves shall be less than the pressure on the public water supply side of the assembly. In case of leakage of either of the check valves the differential relief valve shall operate to maintain the reduced pressure in the zone between the check valves by discharging to the atmosphere. When the inlet pressure is two pounds per square inch or less, the relief valve shall open to the atmosphere. To be approved these assemblies must be readily accessible for in-line testing and maintenance and be installed in a location where no part of the assembly will be submerged.
3. **Double Check Valve Assembly.** An assembly of two independently operating approved check valves with resilient seated shut-off valves on each end of the check valves, plus properly located resilient seated test cocks for the testing of each check valve. The entire assembly shall meet the design and performance specifications as determined by a laboratory and field evaluation program resulting in an approval by recognized and Water Department approved testing agency for backflow prevention assemblies. To be approved these assemblies must be readily accessible for in-line testing and maintenance. Contamination. An impairment of the quality of the potable water by sewage, industrial fluids or waste liquids,

compounds or other materials to a degree which creates an actual or potential hazard to the public health through poisoning or through the spread of disease.

H. Contamination. An impairment of the quality of the potable water by sewage, industrial fluids or waste liquids, compounds or other materials to a degree which creates an actual or potential hazard to the public health through poisoning or through the spread of disease.

I. Cross-Connection. Any physical connection or arrangement of piping or fixtures between two otherwise separate piping systems one of which contains potable water and the other non-potable water or industrial fluids of questionable safety, through which, or because of which, backflow may occur into the potable water system. This includes any temporary connections, such as swing connections, removable sections, four way plug valves, spools, dummy section of pipe, swivel or change-over devices or sliding multiport tube.

J. Cross-Connections - Controlled. A connection between a potable water system and a non-potable water system with an approved backflow prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

K. Cross-Connection Control by Containment. The installation of an approved backflow prevention assembly at the water service connection to any customer's premises where it is physically and economically infeasible to find and permanently eliminate or control all actual or potential cross-connections within the customer's water system; or, it shall mean the installation of an approved backflow prevention assembly on the service line leading to and supplying a portion of a customer's water system where there are actual or potential cross-connections which cannot be effectively eliminated or controlled at the point of cross-connection.

L. Hazard, Degree of. The term is derived from an evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system:

1. Hazard - Health. Any condition, device, or practice in the water supply system and its operation which could create, or in the judgment of the Water Department

Superintendent, may create a danger to the health and well-being of the water consumer.

2. Hazard - Plumbing. A plumbing type cross-connection in a consumer's potable water system that has not been properly protected by an approved air-gap or approved backflow prevention assembly.

3. Hazard - Pollutational. An actual or potential threat to the physical properties of the water system or to the potability of the public or the consumer's potable water system or which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances but would not be dangerous to health.

4. Hazard - System. An actual or potential threat of severe damage to the physical properties of the public potable water system or the consumer's potable water system or of a pollution or contamination which would have a protracted effect upon the quality of the potable water in the system.

M. Industrial Fluids System. Any system containing a fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, system, pollutational or plumbing hazard if introduced into an approved water supply. This may include, but not be limited to: polluted or contaminated waters; all types of process waters and "used waters" originating from the public potable water system which may have deteriorated in sanitary quality; chemicals in fluid form; plating acids and alkalines, circulating cooling waters connected to an open cooling tower and/or cooling towers that are chemically or biologically treated or stabilized with toxic substances; contaminated natural waters such as from wells, springs, streams, rivers, bays, harbors, seas, irrigation canals, or systems, etc., oils, gases, glycerine, paraffins, caustic and acid solutions and other liquid and gaseous fluids used in industrial or other purposes or for fire-fighting purposes.

N. Pollution. The presence of any foreign substance (organic, inorganic, or biological) in water which tends to degrade its quality so as to constitute a hazard or to impair the usefulness or quality of the water to a degree which does not create an actual

hazard to the public health, but which does adversely and unreasonably affect such waters for domestic use.

O. Water - Potable. Any water which, according to recognized standards, is safe for human consumption.

P. Water – Non-potable. Water which is not safe for human consumption, or which is of questionable potability.

Q. Water - Service Connection. The terminal end of a service connection from the public potable water system; i.e., where the water purveyor loses jurisdiction and sanitary control over the water at its point of delivery to the customer's water system. If a meter is installed at the end of the service connection, the service connection shall mean the downstream end of the meter. There should be no unprotected takeoffs from the service line ahead of any meter or any backflow prevention assembly located at the point of delivery to the customer's water system. Service connection shall also include water service connection from a fire hydrant and all other temporary or emergency water service connections from the public potable water system.

R. Water - Used. Any water supplied by a water purveyor from a public potable water system to a consumer's water system after it has passed through the point of delivery and is no longer under sanitary control of the water purveyor.

#### Section 11-14-4 Designation of Water System

A. The water system shall be considered as made up of two parts: The Utility System and the Customer System.

B. The utility system shall consist of the source facilities and the distribution system, and shall include all those facilities of the water system under the complete control of the utility, up to the point where the customer's system begins.

C. The source shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the distribution system.

- D. The distribution system shall include the network of conduits used for the delivery of water from the source to the customer's system.
- E. The customer's system shall include those parts of the facilities beyond the termination of the utility distribution system which are utilized in conveying utility-delivered domestic water to points of use.

### Section 11-14-5 Requirements

- A. No water service connection to any premises shall be installed or maintained by the water purveyor unless the water supply is protected as required by state laws and regulations and this Article. Service of water to any premises shall be discontinued by the Water Purveyor if a backflow prevention assembly required by this Article is not installed, tested and maintained, or if it is found that a backflow prevention assembly has been removed or by-passed, or if an unprotected cross-connection exists on the premises. Service will not be restored until such conditions or defects are corrected.
- B. The customer's system shall be open for inspection at all reasonable times to authorized representatives of the Water Department to determine whether cross-connections or other structural or sanitary hazards, including violations of these regulations, exist. When such a condition becomes known, the Water Department Superintendent shall deny or immediately discontinue service to the premises by providing a physical break in the service line until the customer has corrected the condition(s) in conformance with the state and city statutes and regulations relating to plumbing and water supplies and the regulations adopted pursuant thereto.
- C. An approved backflow prevention assembly shall also be installed on each service line to a customer's water system at or near the property line or immediately inside the building being served; but, in all cases, before the first branch line leading off the service line wherever the following conditions exist:
1. In the case of premises having an auxiliary water supply which is not or may not be of safe bacteriological or chemical quality and which is not acceptable as an additional source by the Water Department Superintendent, the public water system

shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line appropriate to the degree of hazard.

2. In the case of premises on which any industrial fluids or any other objectionable substance is handled in such a fashion as to create an actual or potential hazard to the public water system, the public system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line appropriate to the degree of hazard. This shall include the handling of process waters and waters originating from the utility system which have been subject to deterioration in quality.

3. In the case of premises having internal cross-connection that cannot be permanently corrected or controlled, or intricate plumbing and piping arrangements, or where entry to all portions of the premises is not readily accessible for inspection purposes, making it impracticable or impossible to ascertain whether or not dangerous cross-connections exist, the public water system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line.

D. The type of protective assembly required under subsections C 1, 2, and 3 shall depend upon the degree of hazard which exists as follows:

1. In the case of any premises where there is an auxiliary water supply as stated in subsection C. 1 of this section and it is not subject to any of the following rules, the public water system shall be protected by an approved air-gap separation or an approved reduced pressure principle backflow prevention assembly.

2. In the case of any premises where there is water or substance that would be objectionable but not hazardous to health, if introduced into the public water system, the public water system shall be protected by an approved double check valve assembly.

3. In the case of any premises where there is any material dangerous to health which is handled in such a fashion as to create an actual or potential hazard to the public water system, the public water system shall be protected by an

approved air-gap separation or an approved reduced pressure principle backflow prevention assembly. Examples of premises where these conditions will exist include sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries and plating plants.

4. In the case of any premises where there are uncontrolled cross-connections, either actual or potential, the public water system shall be protected by an approved air-gap separation or an approved reduced pressure principle backflow prevention assembly at the service connection.

5. In the case of any premises, where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete in-plant cross-connection survey, the public water system shall be protected against backflow from the premises by either an approved air-gap separation or an approved reduced pressure principle backflow prevention assembly on each service to the premises.

E. Any backflow prevention assembly required herein shall be a model and size approved by the Water Department Superintendent. The term "approved backflow prevention assembly" shall mean an assembly that has been manufactured in full conformance with the standards established by the American Water Works Association entitled:

- \*AWWA C506-84 Standards for Reduced Pressure Principle and Double Check Valve Backflow Prevention Devices

and have met completely the laboratory and field performance specifications of the Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California established by

- Specifications of Backflow Prevention Assemblies -Section 10 of the most current issue of the MANUAL OF CROSS-CONNECTION CONTROL.

Said AWWA and FCCC&HR standards and specifications have been adopted by the Water Department Superintendent. Final approval shall be evidenced by a "Certificate of

Approval" issued by an approved testing laboratory certifying full compliance with the said AWWA standard and FCCC&HR specifications.

- The following testing laboratory has been qualified by the Water Department Superintendent to test and certify backflow preventers:  
Foundation for Cross-Connection Control and Hydraulic Research  
University of Southern California University Park Los Angeles, California  
90089

Testing laboratories other than the laboratory listed above will be added to an approved list as they are qualified by the Water Department Superintendent. Backflow preventers which may be subjected to backpressure or back-siphonage that have been fully tested and have been granted a Certificate of Approval by said qualified laboratory and are listed on the laboratory's current list of "Approved Backflow Prevention Assemblies" may be used without further test or qualification.

F. It shall be the duty of the customer-user at any premises where backflow prevention assemblies are installed to have certified inspections and operational tests made upon installation and at least once per year. In those instances where the Water Department Superintendent deems the hazard to be great enough, he may require certified inspections at more frequent intervals. These inspections and tests shall be at the expense of the water user and shall be performed by the assembly manufacturer's representative, Water Department personnel or by a certified tester approved by the Water Department Superintendent. It shall be the duty of the Water Department Superintendent to see that these tests are made in a timely manner. The customer-user shall notify the Water Department Superintendent in advance when the tests are to be undertaken so that an official representative may witness the tests if so desired. These assemblies shall be repaired, overhauled or replaced at the expense of the customer-user whenever said assemblies are found to be defective. Records of such tests, repairs and overhaul shall be kept and made available to the Water Department Superintendent.

G. All presently installed backflow prevention assemblies which do not meet the requirements of this section but were approved devices for the purposes described herein at the time of installation and which have been properly maintained, shall, except for the inspection and maintenance requirements under subsection F, be excluded from the

requirements of these rules so long as the Water Department Superintendent is assured that they will satisfactorily protect the utility system. Whenever the existing device is moved from the present location or requires more than minimum maintenance or when the Water Department Superintendent finds that use or maintenance of the device constitutes a hazard to health, the unit shall be replaced by an approved backflow prevention assembly meeting the requirements of this section.

## CHAPTER 12 FLOOD DAMAGE CONTROL

### ARTICLE 12-1 PURPOSE

#### 12-1-1 Findings of Fact

#### 12-1-2 Statement of Purpose

#### 12-1-3 Methods of Reducing Flood Losses

##### Section 12-1-1 Findings of Fact

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

##### Section 12-1-2 Statement of Purpose

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

- A. Protect human life and health.
- B. Minimize expenditure of public money for costly flood control projects.
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

- D. Minimize prolonged business interruptions.
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard.
- F. Help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas.
- G. Insure that potential buyers are notified that property is in an area of special flood hazard.
- H. Insure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- I. Maintain eligibility for state disaster relief.

### Section 12-1-3 Methods of Reducing Flood Losses

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

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

## ARTICLE 12-2 DEFINITIONS

In this chapter, unless the context otherwise requires:

- A. "Appeal" means a request for a review of the floodplain administrator's interpretation of any provision of this chapter or a request for a variance.
- B. "Area of shallow flooding" means a designated AO Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.
- C. "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.
- D. "Breakaway wall" means a wall that is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building supporting foundation system.
- E. "Critical feature" means an integral and readily identifiable part of a flood protection system without which the flood protection provided by the entire system would be compromised.
- F. "Development" means any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.
- G. "Financial assistance" means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect federal assistance, other than general or special revenue sharing or formula grants made to states.
- H. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of flood waters.
  2. The unusual and rapid accumulation or runoff of surface waters from any source, or
  3. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.
- 
- I. "Flood Boundary Floodway Map" means the official map on which the Federal Insurance Administration has delineated both the areas of flood hazard and the floodway.
  - J. "Flood Insurance Rate Map" (FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.
  - K. "Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the Flood Boundary Floodway Map and the water surface elevation of the base flood.
  - L. "Floodplain or flood-prone are all means any land area susceptible to being inundated by water from any source (see definition of "flooding").
  - M. "Floodplain administrator means the clerk of the City of St. Johns who is hereby authorized by the floodplain board to administer the provisions of this chapter.
  - N. "Floodplain board" means the mayor and common council of the City of St. Johns at such times as they are engaged in the enforcement of this chapter.

- O. "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.
- P. "Floodplain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
- Q. "Flood proofing" means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- R. "Flood protection system" means those physical structural works for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
- S. "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.
- T. "Floodway" means the channel of a river or other water course and the adjacent land areas necessary in order to discharge the one hundred-year flood without

cumulatively increasing the water surface elevation.

- U. "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers and ship building and ship repair facilities but does not include long-term storage or related manufacturing facilities.
- V. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- W. "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.
- X. "Levee system" means a flood protection system which consists of a levee and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.
- Y. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.
- Z. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.
- AA. "Manufactured home park or subdivision" means a parcel (or contiguous parcels)

of land divided into two or more manufactured home lots for sale or rent.

- BB. "Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate map are referenced.
- CC. "New construction" means, for floodplain management purposes, structures for which the "start of construction" commenced on or after July 1, 1983.
- DD. "Person" means any individual or his agent, firm, partnership, association, corporation or agent of the aforementioned groups or the state or any agency or political subdivision thereof.
- EE. "program" means the National Flood Insurance Program authorized by 42 U.S.C. 4001-4128.
- FF. "Program deficiency" means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the NFIP standards.
- GG. "Regulatory flood elevation" means an elevation one foot above the base flood elevation.
- HH. "Remedy a violation means to bring the structure or other development into compliance with state or local floodplain management regulations or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.
- II. "Riverine" means relating to, formed by or resembling a river (including tributaries), stream, brook, etc.

- JJ. "Special flood hazard area" means an area having special flood or flood-related erosion hazards and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99 or AH.
- KK. "Start of construction" means substantial improvement, and mean the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory
- LL. "Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
- MM. "Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:
1. Before the improvement or repair is started, or
  2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not however, including either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

NN. "Variance"<sup>ll</sup> means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

OO. "Violation" means the failure of structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

### ARTICLE 12-3 GENERAL PROVISIONS

12-3-1 Application of Chapter

12-3-2 Establishment of Special Flood Hazard Areas

12-3-3 Compliance

12-3-4 Abrogation and Greater Restrictions

12-3-5 Interpretation

12-3-6 Warning and Disclaimer of Liability

12-3-7 Statutory Exemptions

12-3-8 Declaration of Public Nuisance

12-3-9 Abatement of Violations

12-3-10 Unlawful Acts

#### Section 12-3-1 Application of Chapter

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

the City of St. Johns.

### Section 12-3-2 Establishment of Special Flood Hazard Areas

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study," dated to be effective June 16, 1993, with an accompanying Flood Insurance Rate Map is hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at the office of the city clerk, City Hall, St. Johns. The Flood Insurance Study is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the floodplain board by the floodplain administrator.

### Section 12-3-3 Compliance

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

### Section 12-3-4 Abrogation and Greater Restrictions

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

### Section 12-3-5 Interpretation

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

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

### Section 12-3-6 Warning and Disclaimer of Liability

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

### Section 12-3-7 Statutory Exemptions

- A. In accordance with Section 48-3609, A.R.S., nothing in this chapter shall:
1. Affect existing uses of property or the right to continuation of the use under conditions which exist on June 16, 1993.
  2. Affect repair or alteration of property for the purposes for which such property was used on July 1, 1983; providing such repair or alteration does not exceed 50 percent of the value of the property prior to the repair or alteration: and provided the repair or alteration does not decrease the carrying capacity of the watercourse.
  3. Affect or apply to facilities constructed or installed pursuant to a certificate of environmental compatibility issued under the authority of Title 40, Chapter 2, Article 6.2, Arizona Revised Statutes.
- B. In accordance with Section 48-3613, A.R.S., written authorization shall not be required, nor shall the floodplain board prohibit:
1. The construction of bridges, culverts, dikes and other structures necessary to the construction of public highways, roads and streets intersecting a watercourse.
  2. The construction of storage dams for watering livestock or wildlife,

structures on banks of a creek, stream, river, wash, arroyo or other watercourse to prevent erosion of or damage to adjoining land, or dams for the conservation of flood waters as permitted by Title 48, Chapter 21, Arizona Revised Statutes.

3. Construction of tailing dams and waste disposal areas for use in connection with mining and metallurgical operations. This paragraph does not exempt those sand and gravel operations which will divert, retard or obstruct the flow of waters in any watercourse.
  4. Any flood control district, or other political subdivision, from exercising powers granted to it under Title 45, Chapter 10, Arizona Revised Statutes.
- C. Before any construction authorized by subsection B of this section may begin, the responsible person must submit plans for the construction to the floodplain board for review and comment.
- D. These exemptions do not preclude any person from liability if that person's actions increase flood hazards to any other person or property.

#### Section 12-3-8 Declaration of Public Nuisance

Every new structure, building, fill, excavation or development located or maintained within any area of special flood hazard after August 8, 1973, in violation of this chapter is a public nuisance per se

#### Section 12-3-9 Abatement of Violations

Within 30 days of discovery of a violation of this chapter, the floodplain administrator shall submit a report to the floodplain board which shall include all information available to the floodplain administrator which is pertinent to said violation. Within 30 days of receipt of this report, the floodplain board shall either:

- A. Take any necessary action to effect the abatement of such violation; or
- B. Issue a variance to this chapter in accordance with the provisions of Article 12-6: or

- C. Order the owner of the property upon which the violation exists to provide whatever additional information may be required for their determination. Such information must be provided to the floodplain administrator within 30 days of such order, and he shall submit an amended report to the floodplain board within 20 days. At their next regularly scheduled public meeting, the floodplain board shall either order the abatement of said violation or they shall grant a variance in accordance with the provisions of Article 12-6.
  
- D. Submit to the administrator of the Federal Insurance Administration a declaration for denial of insurance, stating that the property is in violation of a cited state or local law, regulation or ordinance, pursuant to section "1316 of the National Flood Insurance Act of 1968 as amended.

### Section 12-3-10 Unlawful Acts

It is unlawful for any person to divert, retard or obstruct the flow of waters in any watercourse whenever it creates a hazard to life or property without securing the written authorization of the floodplain board.

## ARTICLE 12-4 ADMINISTRATION

12-4-1 Establishment of Development Permit

12-4-2 Duties and Responsibilities of the Floodplain Administrator

### Section 12-4-1 Establishment of Development Permit

- A. A development permit shall be obtained before construction, or development begins within any area of special flood hazard established in Section 12-3-2. Application for a development permit shall be made on forms furnished by the floodplain administrator and may include but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevation of the area in question: existing or proposed structures, fill, storage of materials and drainage facilities: and the location of the foregoing.
  
- B. Specifically, the following information is required:

1. Proposed elevation in relation to mean sea level of the lowest floor (including basement) of all structures: in Zone AO, elevation of existing grade and proposed elevation of lowest floor of all structures.
2. Proposed elevation in relation to mean sea level to which any structure will be floodproofed.
3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 12-5-1(C)(3).
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

### Section 12-4-2 Duties and Responsibilities of the Floodplain Administrator

Duties of the floodplain administrator shall include, but not be limited to:

- A. Permit Review. Review all development permits to determine that:
  1. The permit requirements of this chapter have been satisfied.
  2. All other required state and federal permits have been obtained.
  3. The site is reasonably safe from flooding.
  4. The proposed development does not adversely affect the carrying capacity of the floodway. For purposes of this chapter, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point.
- B. Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 12-3-2, Establishment of Special Flood Hazard Areas, the floodplain administrator shall obtain,

review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer Article 12-5. Any such information shall be submitted to the floodplain board for adoption.

C. Information to be Obtained and Maintained. Obtain and maintain for public inspection and make available as needed for flood insurance policies:

1. The certified elevation required in Section 12-5-1(C)(1).
2. The certification required in Section 12-5-1(C)(2).
3. The floodplain certification required in Section 12-51(C)(3).
4. The certified elevation required in Section 12-5-4(B).

D. Alteration of Watercourses. Whenever a watercourse is to be altered or relocated:

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

E. Delineation of Floodplains Affected

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

F. Written Notice of Development Plan

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

### G. Interpretation of FIRM Boundaries

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Article 12-6.

### H. Actions on Violations

Take actions on violations of this chapter as required in Section 12-3-9.

## ARTICLE 12-5 PROVISIONS FOR FLOOD HAZARD REDUCTION

12-5-1 Standards of Construction

12-5-2 Standards for Storage of Materials and Equipment

12-5-3 Standards for Utilities

12-5-4 Standards for Subdivisions

12-5-5 Standards for Manufactured Homes

12-5-6 Floodways

### Section 12-5-1 Standards of Construction

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

### A. Anchoring

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
2. All manufactured homes shall meet the anchoring standards of Section 12-5-5(B).

### B. Construction Materials and Methods

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

### C. Elevation and Floodproofing

1. New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the regulatory flood elevation. Nonresidential structures may meet the standards in paragraph 3 of this subsection. Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor and provided to the floodplain administrator.
2. New construction and substantial improvement of any structure in Zone AO shall have the lowest floor, including basement, higher than the highest adjacent grade, at least one foot higher than the depth number on the FIRM, or at least two feet if no depth number is specified. Nonresidential structures may meet the standards in paragraph 3 of this subsection. Upon the completion of the structure, a registered professional engineer shall certify to the floodplain administrator that the elevation of the structure meets this standard.
3. Nonresidential construction shall either be elevated in conformance with paragraphs 1 and 2 of this subsection or together with attendant utility and

sanitary facilities:

- a. Be floodproofed so that below the regulatory flood level the structure is watertight with walls substantially impermeable to the passage of water:
  - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy: and
  - c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the floodplain administrator.
4. For all new construction and substantial improvements, require that fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect to meet or exceed the following minimum criteria:
- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b. The bottom of all openings shall be no higher than one foot above grade.
  - c. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
5. Manufactured homes shall meet the above standards and also the standards in Section 12-5-5.

#### Section 12-5-2 Standards for Storage of Materials and Equipment

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

within the time available after flood warning.

### Section 12-5-3 Standards for Utilities

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

### Section 12-5-4 Standards for Subdivisions

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

### Section 12-5-5 Standards for Manufactured Homes

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

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

### Section 12-5-6 Floodways

Located within areas of special flood hazard established in Section 12-5-3 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

Prohibit encroachments, including fill, new construction, substantial improvements and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

All new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of Article 12-5.

### ARTICLE 12-6 VARIANCE PROCEDURE

#### 12-6-1 Appeal Board

#### 12-6-2 Conditions for Variances

#### Section 12-6-1 Appeal Board

- A. The floodplain board shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The floodplain board shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this chapter.
- C. In passing upon such applications, the floodplain board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
  - 1. The danger that materials may be swept onto other lands to the injury of others:
  - 2. The danger to life and property due to flooding or erosion damage:

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  4. The importance of the services provided by the proposed facility to the community;
  5. The necessity to the facility of a waterfront location where applicable;
  6. The availability of alternative locations for the proposed use which are not Subject flooding or erosion damage;
  7. The compatibility of the proposed use with existing and anticipated development;
  8. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
  9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site; and
  11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water system, and streets and bridges.
- D. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing paragraphs 1-11 of subsection C of this section have been fully considered. As the lot size increases beyond one half acre, the technical justification required for issuing the variance increases.
- E. Upon consideration of the factors of subsection C of this section and the purposes of this chapter, the floodplain board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

- F. The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

#### Section 12-6-2 Conditions for Variances

- A. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
- B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- D. Variances shall only be issued upon:
1. A showing of good and sufficient cause;
  2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
  3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- E. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest flood elevation below the regulatory flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notice will also state that the land upon which the variance is granted shall be ineligible for exchange of state land pursuant to the flood relocation and land exchange program provided by Title 26, Chapter 2, Article 2, A.R.S. A copy of the notice shall be recorded by the floodplain board in the office of the Apache County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.



# Active Ordinances

Ord. No.	Active Ordinances	Date	Codified at:
17	Civil Defense		
50	Roadway Construction standards		
51	Advertising tax exemption		
66	Dangerous Building Abatement		
68	City Code Establishment		(Revise)
76	Required backflow prevention		
77	Establish minor curfew		
78	Establish City Treasurer		
89	Natural Gas Franchise		
95	Prohibiting use of engine brakes		
99	Moratorium on pre-1976 mobile homes		
101	Open burning permit process		
103	Establishing a bed tax		
105	Allowing fireworks displays		
106	Establishing a utility board		
107	Adopting a Zoning Code		
108	Authorizing flood management		
110	Animal Control		
112	Housing Overlay;		
113	Amending Zoning Ord. & Map		
115	Water & Sewer Deposits		
116	Position/duties of City Clerk		
117	Cemetery Rules & Regulations		
118	National Flood Insurance Program;		
120	2003 Building Code adoption		
121	Beneficiaries of waterline project		
124	Transaction Privilege Tax Code of 2003		Chap. 7A.
125	Water Use Restrictions		
126	Noise Restrictions		
127	Valuation Data Adoption		
128	Municipal Court Schedule of fees		5-2-4, 5
	Medical Marijuana		
130	Ephedrine/Pseudoephedrine Sale Reporting		7-2-1
131	Establishing Indigent Fees;		5-2-4, 5
133	Employee Residency Require		

Ord.No.	Repealed Ordinances	Superseded by:
8	Publication	State Law
15	Traffic Control Devices	State Law
18	Vehicle Parking or standing	State Law
28	Sewer Construction	State Law
47	City Magistrate	City Code
48	Public Property	City Code
55	Sewer billing	State Law
56	Police Department	City Code
61	Junk Vehicles	City Code
63	Liquor on City property	City Code
67	Tax Code of 1990	Ord. 124
69	Tax Code of 1991	Ord. 124
70	Tax Code of 1991	Ord. 124
71	Zoning	Ord. 107
72	Zoning	Ord. 107
73	Tax Code 1993	Ord. 124
74	Flood Management	Ord. 108
75	Zoning	Ord. 107
79	Tax Code of 1994	Ord. 124
80	Cable TV Franchise	Ord. 92
81	Animal Control	Ord. 110
82	Animal Control	Ord. 110
83	Zoning	Ord. 107
84	Tax Code of 1995	Ord. 124
85	Natural Gas Franchise	Ord. 89
86	Zoning	Ord. 107
87	Animal Control	Ord. 110
88	Zoning	Ord. 107
90	Zoning	Ord. 107
91	Zoning	Ord. 107
92	Cable TV Franchise	Expired
93	Tax Code of 1998	Ord. 124
94	Zoning	Ord. 107
96	Tax Code of 1999	Ord. 124
97	Zoning	Ord. 107
98	Zoning	Ord. 107
100	Tax Code of 2001	Ord. 124
102	Tax Code of 2003	Ord. 124
104	Zoning	Ord. 107
109	Adopting Bid Codes	Ord. 120
111	Tax Code of 2006	Ord. 124
114	Tax Code of 2009	Ord. 124

