

MAYOR AND COUNCIL

CHAPTER 2 MAYOR AND COUNCIL

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Article 2-1 COUNCIL

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Section 2-1-1 Elected Officers ^{451 606 668}

- A. The elected officers of the Town shall be a Mayor and six Council Members. The Mayor and Council Members shall constitute the Council and shall continue in office until assumption of duties of office by their duly elected successors.
- B. The Mayor shall serve a two year term of office.

Section 2-1-2 Corporate Powers

The corporate powers of the Town 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 Assumption of Duties ⁶⁶⁸

The Mayor and Council Members shall assume the duties of office at the first regularly scheduled Council meeting in January following the election at which they were elected.

Section 2-1-4 Vacancies in Council ^{615 640}

- A. Council vacancies shall be filled as provided in state law pursuant to A.R.S. § 9-235.
- B. The member appointed shall meet the qualifications established in A.R.S. § 9-232, or successor statute, as applicable.

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Section 2-1-5 Compensation

The compensation of elective officers of the Town shall be fixed from time to time by resolution of the Council; provided, that the compensation allowed to the Mayor and Council Members shall not exceed that allowed by State statutes.

Section 2-1-6 Oath of Office

All Town officers, whether elected by the people or appointed by the Mayor or Council, shall before entering upon the duties of the office, subscribe to the following oath of office or such other oath as may be prescribed by law:

I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution and laws of the State of Arizona; that I will bear true faith and allegiance to the same, and defend them against all enemies, foreign and domestic, and that I will faithfully and impartially discharge the duties of the office of _____ of the Town of Paradise Valley, Arizona, according to the best of my ability, so help me God, (or I so do affirm).

Section 2-1-7 Bond ^{606 668}

Unless a blanket bond or other equivalent coverage is provided by the Town prior to taking office, every Elected Officer 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 Town or any such officer in his official capacity. Bonds shall be in such sum as set forth in A.R.S. §38-251, *et seq.*, *as amended* and the premium for such bonds shall be paid by the Town.

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Article 2-2 **MAYOR**

- 2-2-1 Election of Mayor ^{606 668}
- 2-2-2 Vice Mayor ^{606 638 668}
- 2-2-3 Acting Mayor ⁶⁰⁶
- 2-2-4 Powers and Duties of the Mayor
- 2-2-5 Absence of Mayor ⁶⁰⁶
- 2-2-6 Failure to Sign Documents
- 2-2-7 Powers and Duties of the Vice Mayor ⁶⁶⁸

Section 2-2-1 Election of Mayor ^{606 668}

The Mayor of the Town of Paradise Valley shall be directly elected by the qualified electors of the Town. The term of office shall be two years.

Section 2-2-2 Vice Mayor ^{606 668}

At the first regular meeting in January of each year, the Council shall designate one of its members as Vice Mayor, subject to a term limit of no more than 2 consecutive yearly terms for any individual member. The Vice Mayor shall perform the duties of the Mayor during his absence or disability.

Section 2-2-3 Acting Mayor

In case of the absence or inability to act of both the Mayor and the Vice Mayor, the Council shall appoint an Acting Mayor from among their number to act in the Mayor's stead.

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 Town.
- 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. He may administer oaths and compel the attendance of witnesses.
- 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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- F. He shall take command of the police force of the Town and govern by proclamation in the event of the threat of or occurrence of acts of riot, rout, or affray sufficient to constitute great danger to the Town and its residents.
1. In such areas of the Town as shall be designated by the Mayor by proclamation under the conditions set forth in this section, and within the area within all or any part of the Town so designated by the Mayor, a curfew shall be in effect the hours of each day designated in the proclamation, and all persons living or residing within any such designated area shall go immediately to their homes, and remain there until the curfew is lifted by order of the Mayor, and all other persons not residing within the designated area shall immediately leave.
 2. During the imposition of any curfew as set forth in this section, all business establishments in the designated curfew area, having on their premises intoxicating beverages, shall be closed during the state of emergency and until the curfew is lifted.
- 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 Town.

Section 2-2-5 Absence of Mayor⁶⁰⁶

The Mayor shall not absent himself from the Town for a greater period than thirty days without the consent of the Council. In the event of the Mayor's death, resignation, or vacation of office for any reason, the Council, by majority vote, shall fill the vacancy by appointment from among the Council to serve the remainder of the Mayor's term. The resulting vacancy on the Council shall be filled pursuant to Section 2-1-4.

Section 2-2-6 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, then 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.

Section 2-2-7 Powers and Duties of the Vice Mayor⁶⁶⁸

The powers and duties of the Vice Mayor shall include the following:

- A. In the absence of the Mayor, the Vice Mayor shall execute the duties of Mayor.
- B. The Vice Mayor shall serve as the Council's liaison to the Planning Commission.
- C. The Vice Mayor shall be responsible for coordinating the annual performance reviews for the Town Manager and Town Attorney.

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Article 2-3 COUNCIL ELECTION

- 2-3-1 Consolidated Election Dates ⁶⁶⁸
- 2-3-2 Primary Election ^{668 692}
- 2-3-3 Non-political Ballot ^{668 292}
- 2-3-4 General Election Nomination ⁶⁹²
- 2-3-5 Election to Office
- 2-3-6 Mail Ballot Election ^{668 repealed 692}
- 2-3-7 Initiative, Referendum, and Recall Election ⁵⁴⁶
- 2-3-8 Adoption of State Law ⁵⁴⁶
- 2-3-9 Additional Provisions ⁵⁴⁶

Section 2-3-1 Consolidated Election Dates ⁶⁶⁸

All elections shall be held pursuant to A.R.S. §16-204, as amended.

Section 2-3-2 Primary Election ^{668 692}

- A. 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. If more candidates receive a majority than there are offices to be filled-then those candidates equal in number to the offices to be filled who have received the highest number of votes shall be declared elected.

- B. The majority of all the votes cast shall be determined pursuant to A.R.S. § 9-821.01.

Section 2-3-3 General Election

If there are offices that are not filled at the primary election, a general election shall be held to fill any such offices. Those candidates not elected at the primary election but receiving the next highest number of votes are qualified for inclusion on the general election ballot. Not more than twice the number of candidates for which there are vacancies on the council may be placed on the general election ballot.

Section 2-3-4 Election and Assumption to Office

The candidates equal in number to the persons to be elected who receive the highest number of votes shall be declared elected at the general election. The Mayor and Council Members shall assume the duties of office pursuant to Section 2-1-3.

Section 2-3-5 Non-political Ballot ⁶⁶⁸

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Elections shall be non-partisan and nothing on the ballot in any election shall be indicative of the support of the candidate. Candidates' names shall appear on the ballot pursuant to the procedure set forth in A.R.S. § 16-464, as amended.

Section 2-3-6 Reserved ⁶⁹²

Section 2-3-7 Initiative, Referendum, and Recall Election ⁵⁴⁶

There is reserved to the qualified electors of the municipality the power of the initiative, referendum, and recall as prescribed by the state constitution. When an initiative, referendum, or recall is required to be placed upon the ballot, the council shall do so at the next regularly scheduled municipal general election, except as set forth below. When a special election permits the issue to be sooner determined, the council may call a special election for this purpose or, if a special election has been called, the initiative or referendum may be placed on the ballot at the special election. Any election at which an initiative or referendum is placed upon the ballot shall be scheduled as provided in Arizona revised statutes section 16-204, or successor statute, as applicable.

Section 2-3-8 Adoption of State Law ⁵⁴⁶

The applicable requirements, limitations and authorities of the constitution of Arizona as now constituted and hereafter amended and the applicable provisions of Arizona revised statutes as now constituted and hereafter amended, relating to initiative, referendum, and recall are hereby adopted as provisions of this chapter governing the manner of exercising the initiative, referendum, and recall powers herein reserved.

Section 2-3-9 Additional Provisions ⁵⁴⁶

A. Initiative Petitions. Initiative petitions shall be filed at least one hundred twenty days prior to the election at which they are to be voted upon. The total number of registered voters qualified to vote at the last municipal election, whether regular or special, immediately preceding the date upon which any initiative petition is filed shall be the basis upon which the number of qualified electors of the town required to file an initiative petition shall be computed.

B. Recall Petitions. Every public officer of the town holding an elective office, either by election or appointment, is subject to recall from such office by the qualified electors of the town.

Article 2-4 COUNCIL PROCEDURE

- 2-4-1 Town Council Rules and Procedures ^{414 486}
- 2-4-2 Procedures for Reconsideration of Various Subdivision or Zoning
Applications by Town Council and Planning and Zoning Commission ^{423 486}

Section 2-4-1 Town Council Rules and Procedures ^{414 486}

The Town Council shall adopt by resolution rules and procedures for the setting of meeting dates and times, preparation of the agenda, rules and procedures for debate and voting, and rules of order; with said rules and procedures to be modified as deemed necessary by the Council from time to time by subsequent resolution.

Section 2-4-2 Procedures for Reconsideration of Various Subdivision or Zoning
Applications by the Town Council and Planning and Zoning
Commission ^{423 486}

- A. If an application for an amendment to the zoning ordinance or to the general plan or an application for a special use permit is denied by the Town Council or Planning and Zoning Commission, neither the Council nor the Planning and Zoning Commission may reconsider the application nor consider another application for amendment to the zoning ordinance, general plan or special use permit relating to the property described in the original application or any part thereof for a period of at least one (1) year from the date of denial except as otherwise provided in this Section.
- B. If an application for a lot split or subdivision is denied by the Town Council or the Planning and Zoning Commission, neither the Council nor the Planning and Zoning Commission may reconsider the application nor consider another application to split or subdivide property described in the original application or any part thereof for a period of at least one (1) year from the date of denial except as otherwise provided in this Section.
- C. Following denial of an application described in Subsections A or B of this Section, a member voting with the majority may move to reconsider the action at the next regular meeting of the Town Council, or Planning and Zoning Commission if applicable, and include in the motion a specific date and any other necessary procedures related to reconsideration, including but not limited to Planning and Zoning Commission reconsideration and other matters related to the application or property. If the motion is approved, the application will be reconsidered in accordance with the terms of the motion.
- D. An applicant desiring reconsideration or reapplication of an application described in Subsections A or B of this Section less than one (1) year from the date of denial may file a request for reconsideration or reapplication when material change and substantive new matter not contained in the original application are proposed. The

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request shall be in writing, stating the changes and new matters for consideration. If the Council, or the Planning and Zoning Commission if applicable, determines, in its sole discretion, that there exists material change and substantive new matter, it may consider a motion to reconsider the application and include in the motion a specific date and any other necessary procedures related to reconsideration, including but not limited to Planning and Zoning Commission reconsideration and other matters related to the application or property. If the motion is approved, the application will be reconsidered in accordance with the terms of the motion. The decision on the existence of material change and substantive new matter is final.

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At any time during the review process, the assigned committee and commission may, by a favorable vote of the majority, request clarification and/or expansion of the Statement of Direction based upon matters not considered by the Town Council.

Section 2-5-2 Planning Commission ^{6, 429 575 623 643 646 684 2016-05 2018-20}

- A. Creation and Membership. The Planning Commission as previously established is hereby continued in full force and effect, and there is established herewith a Planning Commission which shall consist of seven members, each of whom shall be appointed for a term of three years. The Planning Commission as created herewith may be referred to as the Zoning Commission or the Planning and Zoning Commission. Members of the Commission shall be appointed by the Town Council. All persons seeking to be appointed or re-appointed to a term on the Planning Commission shall file a written application for such appointment or re-appointment with the Mayor on or before the date set by the Town of the year that the term subject to appointment would become vacant. However, this written application requirement does not apply to an appointment to serve the balance of a term which has become vacant prior to the expiration of the term. Vacancies shall be filled for the unexpired term of the member whose place has become vacant. The Planning Commission shall, at its first meeting in April of each year, elect one of its members to serve as its Chairman-designate. The member designated to be Chairman shall be approved or disapproved for the Chairmanship by the Town Council within thirty (30) days of the election by the Commission. If the Chairman-designate is approved for the Chairmanship by the Town Council, he shall become the Chairman immediately upon such approval, and he shall serve as Chairman of the Commission (1) until a successor as Chairman is elected and approved in the following year, or (2) until the Chairmanship shall, for any reason, become vacant. If the Chairman-designate is disapproved for the Chairmanship by the Town Council, the Planning Commission shall, at its next meeting after such Council disapproval, elect another one of its members to serve as its Chairman-designate, and the member so designated shall be approved and become the Chairman or be disapproved pursuant to the procedures described herein. If, for any reason, the position of Chairman becomes vacant, then the Commission, at its next meeting after such position becomes vacant, shall elect a Chairman-designate for the remainder of the term, and the member so designated shall be approved and become the Chairman or be disapproved pursuant to the procedures prescribed herein. No member shall serve as Chairman of the Commission for a period of time in excess of two (2) consecutive terms.
- B. Planning Commission Meetings, Administration of Oaths and Compelling Attendance of Witnesses. All meetings of the Planning Commission shall be held at the call of the Chairman and at such other times as the Planning and Zoning Commission may determine. All meetings of the Planning Commission shall be open to the public. The Chairman, or in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses.

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C. Planning Commission Rules, Regulations, and Records. The Commission shall have power to make and publish rules and regulations to govern its proceedings and to carry into effect the provisions of this section. The Commission shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact, and shall also keep records of its examinations and other official actions. Every rule, regulation, or every amendment or repeal thereof, and every order, requirement, decision, or determination of the Commission shall immediately be filed in the office of the Commission and in the office of the Town Clerk and shall be a public record.

D. Time Limits for Commission Action.

1. All applications, cases, or other matters before the Planning Commission shall be heard and considered by the Commission in an expeditious manner and without unreasonable delay, and as provided by the following limits:
 - (a) Complete applications for preliminary and final subdivision approval shall be heard, approved or disapproved, and forwarded to the Council within ninety (90) days of the filing of the application for subdivision approval.
 - (b) Applications for Special Use Permits and amendments to Special Use Permits shall be heard, approved or disapproved, and forwarded to the Council within the time period specified by the Town Council in its Statement of Direction for a particular Special Use Permit application; or in the absence of a specified time period, the time period shall be the lesser of ninety (90) days from the approval of the Statement of Direction or one hundred fifty (150) days from the filing of the application for the Special Use Permit.
 - (c) Proposed amendments, additions, and repeals of provisions of the Zoning Ordinance shall be heard, approved or disapproved, and forwarded to the Council within these time limits:
 - (1) Where the proposal is referred to the Commission by the Council, within forty-five (45) days of such Council action.
 - (2) Where the proposal would amend, supplement or change zoning district boundaries pursuant to Article XVIII of the Zoning Ordinance, within forty-five (45) days after Council initiation of such action pursuant to Section 1801 of the Zoning Ordinance, or within forty-five (45) days after the filing of a petition pursuant to Section 1801 of the Zoning Ordinance with the Town.
 - (3) ⁷ Where the proposal is submitted by the Town Manager, within forty-five (45) days after the Town Manager has mailed or

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delivered or caused to be delivered to the Chairman of the Commission the proposal.

- (d) For the purpose of this section, the term “filing” of an application shall mean an application which is filed by the applicant and accepted as complete by the Town, in accordance with applicable Planning Commission rules and regulations, ordinances and laws.

2. Effect of Failure of Commission to Act Within Prescribed Time Limits.

When the Commission fails to hear, approve or disapprove, and forward to the Council any application, case, or other matter within the time limits provided by Subsection D-1 of this Section, the following shall occur:

- (a) Applications for preliminary subdivision plat approval, final subdivision plat approval, Special Use Permits, and amendments to Special Use Permits, shall be forwarded to the Council for Council action on such application along with the minutes of all Commission meetings where such application was heard, considered, or discussed, and the Commission shall be deemed to have recommended for approval such application; however, where the Commission finds that it cannot recommend approval or disapproval of an application because the applicant has failed to appear at a Commission meeting, then such application shall be deemed to have been withdrawn and vacated by the applicant, and the application shall be moot.
- (b) A proposed amendment, addition, or repeal of a provision of the Zoning Ordinance shall be forwarded to the Council for Council action on such proposal. The Council shall comply with the provisions of A.R.S. 9-462.04, Subsection A, before enacting any amendment, addition, or repeal of a provision of the Zoning Ordinance.

- 3. For good cause shown by the applicant, the Commission, by majority vote of those Commission members present at a Commission hearing, may extend the time limits set forth hereinabove for a period not to exceed thirty (30) days. Only one such extension shall be granted.

E. Pre-Application Review Process and Procedures

- 1. Prior to filing a formal application for development projects that will require an administrative or public approval process, a pre-application review with the Community Development Department is required. The purpose of the pre-application review is:
 - (a) To provide an opportunity, when deemed necessary by the Community Development Director, for the applicant, adjacent landowners, and Town staff to: 1) Learn about the proposed project; and 2) Identify issues that can be addressed, and necessary changes that can be made

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- to the development plans before the applicant prepares the final plans and other documents for the formal application review process.
- (b) To familiarize the applicant with the review process and procedures and application requirements;
- (c) To identify the requirements, if any, for citizen participation during the formal application review process;
- (d) To streamline the subsequent formal application review process.

2. The Community Development Director shall establish procedures for the Pre-Application review process.

F. Citizen Review Process

1. The purpose of the citizen review process is to provide an opportunity for citizen involvement and public awareness of applications for the rezoning of property or for a new or amended special use permit (collectively called a “Rezoning Application” herein). The citizen review process is not intended to produce complete consensus on all Rezoning Applications, but to ensure that citizens have:
 - (a) Sufficient time to learn the substance of the Rezoning Application;
 - (b) Enough information to determine how they might be impacted by the Rezoning Application;
 - (c) An opportunity to communicate their issues or concerns with respect to the Rezoning Application at an early stage in the process and prior to any public hearings on the Rezoning Application.
2. The citizen review process shall apply to all Rezoning Applications that require a public approval process.
3. Procedures.
 - (a) The applicant, in coordination with the Community Development Department, shall establish a time, date, and place for a Citizen Review Session to provide a reasonable opportunity for the applicant, adjacent landowners, and other potentially affected citizens to discuss issues or concerns they may have with the Rezoning Application proposed by the applicant. Community Development staff may attend the meeting as an observer and shall not conduct the meeting. The applicant shall supply the Community Development Department with minutes of the neighborhood meeting and a list of all individuals in attendance. The results of the neighborhood meeting shall be made available to the Planning Commission and/or Town Council at such time as they take action on the Rezoning Application, if any.

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- (b) Written notice of the Citizen Review session shall be given at least 10 days prior to the meeting and shall include the time, date, and location of the citizen review meeting and sufficient details regarding the substance of the proposed Rezoning Application so as to allow citizens and other affected persons to determine how they might be affected by the proposed Rezoning Application.
- (c) The applicant shall provide such notice by first class mail to: 1) Each property owner within 1000 feet of the boundary of the property subject to the Rezoning Application; 2) All other interested parties who have requested that they be placed on a notification list maintained by the Community Development Department; and 3) Adjoining municipalities sharing borders with the property subject to the Rezoning Application.
- (d) The Community Development Director may establish additional procedures for the Citizen Review Process as is deemed necessary.

G. Text Amendments to the Zoning Code

1. The Town Council may, from time to time as public necessity, convenience, general welfare and good zoning practice require, make changes to the text of the Zoning Ordinance, impose a regulation not previously imposed, or modify a regulation previously established by the Town of Paradise Valley Zoning Ordinance. The Town Council or the Planning Commission on its own motion may initiate such amendments.
2. A citizen review session shall be held at a work-study session of the Planning Commission scheduled at least 10 days prior to the Public Hearing for the consideration of the proposed text amendment. Landowners and other citizens potentially affected by the proposed text amendments will be invited to gather further information regarding the proposed text amendments at the citizen review session and to express any issues or concerns they may have with the proposed text amendment.
3. Notice of the citizen review session shall be given to landowners and other citizens potentially affected by the proposed text amendments at least 10 days prior to the Planning Commission work-study session scheduled for the citizen review of the proposed text amendments. This notice shall state the date, time, and place of the citizen review session and shall include a general explanation of the substance of the proposed text amendment to the zoning ordinance. The form of notice to be used will vary according to the type of text amendment proposed, and any means deemed by the Town to provide the appropriate method of notice for the proposed text amendment shall be considered sufficient. The form of notice given may include, but is not limited to, the following:

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- (a) Publication in a local newspaper distributed to residents living within the Town of Paradise Valley.
 - (b) Posting at official Town posting locations.
 - (c) Posting on the Town’s web site.
4. After the citizen Review session, the Planning Commission may take all issues and concerns raised by landowners and other citizens potentially affected by the proposed text amendments at such session into account when it considers its recommendation to the Town Council on the proposed text amendment and shall, prior to the Council’s public hearing on the proposed text amendment, report to the Council the issues and concerns raised during the citizen review input and discussion session.
- H. Planning Agency. Pursuant to Arizona Revised Statute §9-461.01, the Community Development Department is hereby established as the Planning Agency for all purposes set forth in the Arizona Revised Statutes.

I. Small Wireless Service Facilities Located in the Rights-Of-Way ^{2017-05 2018-01 2019-08}
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- I-1 Purpose
- I-2 Definitions
- I-3 General Requirements
- I-4 Siting Standards
- I-5 Design Standards
- I-6 Alternative Design Standards
- I-7 Radiofrequency (RF) Performance and Interference Standards and Monitoring
- I-8 Noise and Environmental Standards
- I-9 Co-Location and Limitations
- I-10 Submittal Requirements
- I-11 Permit Limitations and General Conditions
- I-12 Applicability

1. Purpose.

The purpose of this ordinance is to establish appropriate locations, site development standards, and permit requirements to allow for Small Wireless Facilities to be located in the rights-of-way as required by A.R.S. § 9-591 et. seq., subject to such small wireless facilities meeting the objective design standards and stealth and concealment requirements provided in this section. The approval and installation of Small Wireless Facilities are intended to be done in a manner which has been a successful design standard in place since 2010. The nature of residences, their scale (height and mass), their proximity to each other and the street, and the extensive

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natural, informal landscaping all contribute to this distinctive character and require design standards and stealth and concealment requirements that will preserve the residential character of the Town while also providing design alternatives that will permit a quick and timely review of Small Wireless Facility applications consistent with the intent of A.R.S. § 9-592. Minimizing the adverse visual impact of these Small Wireless Facilities within the predominately residential areas of the Town is one of the primary objectives of this ordinance. The Town, its residents and some providing utilities have made significant investment in eliminating overhead utility lines in Paradise Valley. Protecting that investment is also consistent with this ordinance. Limitations on the height of antennas are intended to conform the antennas to the existing limitations on height of residential buildings in the Town. The ordinance is also intended to allow Small Wireless Facilities which are sufficient in location choices and height to provide adequate personal wireless service to citizens, resort guests, the traveling public, and others within the Town.

2. Definitions.

For the purpose of this Section, the following terms shall have the meanings prescribed herein unless the context clearly requires otherwise:

- a) "Administrative Small Wireless Facility Permit" means the administrative permit approved by the Town for a Small Wireless Facility site.
- b) "Antenna" means communication equipment that transmits or receives electromagnetic radio frequency signals and that is used as part of a Small Wireless Facility;
- c) "Applicant" means a person or other entity who submits an application to the Town for an Administrative Small Wireless Facility Permit for a Small Wireless Facility in the Town rights-of-way. A Permittee and the owner of the subject property (which may be through a master license agreement), and/or utility pole shall be an Applicant(s) or co-Applicant(s) on such application;
- d) "Application" means a complete submittal for an Administrative Small Wireless Facility Permit on a form or set of forms prescribed by the Town that is deemed complete by the Town staff and contains all of the required submittals, studies, diagrams, photo simulations, and other documentation required pursuant to the checklists on the prescribed form(s) or in this Section.
- e) "Co-location" means the use of a single mount and/or site by more than one small wireless service provider;
- f) "Design" means the appearance of a Small Wireless Facility, including but not limited to its material, color or shape;
- g) "Equipment cabinet" means an enclosed box that is either located in a vault at or near the base of the SWF which contains, among other things, batteries and

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electrical equipment (hereinafter referred to as "equipment"). This equipment is connected to the antenna by underground cables.

- h) "Location" means property(ies) or site(s) where Small Wireless Facilities are located or could be located;
- i) "Modification" means any physical or operational change, alteration, or other modification of any of the following as they relate to a Small Wireless Facility or the subject property upon which it is located, including but not limited to:
 - i. The site plan;
 - ii. The sight line representation;
 - iii. The design submittal as required in this Section;

The conversion of a single-use Small Wireless Facility to a co-location is also considered a modification;
- j) "Monopole" means a type of mount that is self-supporting with a single shaft of steel or concrete or other acceptable material that is not more than forty inches in diameter at ground level and that has all of the small wireless facilities mounted on the pole or contained inside the pole;
- k) "Permittee" means an Applicant who has an approved Administrative Small Wireless Facility Permit;
- l) "Small Wireless Facility" or "SWF" means any of several technologies using radio signals at various frequencies to send and receive voice, data or video to and from mobile transceivers; which are composed of a faux cactus that houses Antennas internally or a replacement Utility Pole that has Antennas that are no more than six cubic feet in volume, AND any of the following:
 - i. Equipment cabinet less than twenty-eight cubic feet in volume; or
 - ii. Underground vault for equipment; or
 - iii. Electric meter (where required by law); or
 - iv. Grounding Equipment and a power transfer switch
- m) "Small Wireless Services" means commercial mobile radio services, unlicensed wireless services and common carrier wireless exchange access services as defined in the Telecommunications Act of 1996, and any amendments thereto, and any services that are provided to the public and that use licensed or unlicensed spectrum, whether at a fixed location or mobile and that use small wireless facilities;

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- n) "Sight Line Representation" means a drawing in which a sight line is drawn from a street level view (viewpoint shall be approximately 4 feet above grade) within five hundred (500) feet of the SWF to the highest point (visible point) of the SWF. Each sight line shall be depicted in profile, drawn at one inch equals forty (40) feet unless otherwise specified by the Town. The profiles shall show all intervening trees and structures;
- o) "Site" means the subject property where a small wireless facility is located or proposed to be located.
- p) "Siting" means the method and form of placement of a small wireless facility on a specific area of a subject property pursuant to the provisions of this Section;
- q) "Subject Property" means all the specific rights-of-way upon which a small wireless facility is either proposed to be, or already is, developed, located, constructed or operated; and
- r) "Utility Pole" means a pole or similar structure that is used in whole or in part for communications services, electric distribution, lighting or traffic signals, but excludes a monopole.

3. General Requirements.

- a) In order to locate a SWF in the Town's rights-of-way, a Permittee must obtain or hold a Master License Agreement.
- b) No SWF may be developed, located, constructed or operated without an Administrative Small Wireless Facility Permit. An Administrative Small Wireless Facility Permit is also required for any modification to a SWF. The requirements to obtain an Administrative Small Wireless Facility Permit are more fully described in subsection 10 below.
- c) The process for an Administrative Small Wireless Facility Permit shall be:
 - i. Determination of a complete application by the Town Manager or designee. An application on a form prescribed by the Town shall be submitted (and the fee set forth in the Town of Paradise Valley Fee Schedule, as such may be amended from time to time, shall be paid) by the applicant at the time of submission of the application.
 - ii. Review of the proposed site by staff with a staff recommendation to Planning Commission regarding the proposed site or an alternate site within one hundred (100) feet that maintains the technical needs of the Applicant and blends with the existing built and natural environment.
 - iii. Review of the application by the staff to determine if the applicant is applying for compliance with the objective design standard, the alternate objective design standard or neither. An Applicant who chooses not to

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comply with the objective design and concealment standards or the alternative provided for herein shall follow the requirements for a special use permit for a new utility pole under the provisions of Article XI of the Town Zoning Ordinance which shall be processed within one hundred eighty (180) days after the filing of a complete application for a special use permit. All applications for monopoles within the Town rights-of-way shall be excluded from the Application process for SWFs and shall instead be subject to Article XI of the Town Zoning Ordinance.

- iv. The Administrative Small Wireless Facility Permit application shall be forwarded to the Planning Commission for a review of the siting and the site specific design; the Commission shall then hold a public meeting to take input from interested parties, including the notified property owners within five hundred feet of the selected site on matters pertaining to view-sheds, sightlines, blending of the site with existing built or natural environment, and compliance with the objective design standards or alternative objective design standard and any aesthetic concerns not otherwise addressed in the site specific design.
 - v. The Commission shall either approve or deny an application within seventy-five (75) days of an Applicant having submitted a complete Application for a specific site; with any denials to specify the basis for the denial and specific parts of the Application that do not comply with the provisions of this Section. The Applicant may then seek to cure the deficiencies in the Application and resubmit the Application within thirty days of the denial. The Commission shall then meet and review the resubmittal within thirty days after having received the resubmittal to determine whether the deficiencies have been cured or not. If cured, the Commission shall approve the Application.
- d) The objective design standards for the Town that achieve reasonable stealth and concealment are:
- i. Generally described as a twenty-four foot faux cactus; or
 - ii. An existing or replaced traffic signal pole or street light pole consistent with the specifications noted below;
 - iii. If no existing or replacement utility pole exists, the Applicant may request a new SWF through the Town's Special Use Permit process outlined in Article XI of the Town's Zoning Ordinance.
4. Siting Standards. The following siting criteria apply to consideration of an Administrative Small Wireless Facility Permit for a SWF:
- a) After an Applicant identifies an area to site a Small Wireless Facility, Town staff shall evaluate the area near the site with the Applicant to find the optimal location for the small wireless facility (said area to include the total area

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within a one hundred foot radius of the Applicant's preferred site, provided that any staff-proposed alternate location does not substantially compromise the coverage and capacity of the proposed antenna), with initial siting to be objectively chosen based on the following criteria:

i. Safety.

- A. Sites should not be located within the Town's corner vision view triangle near street or driveway intersections so as to not be in areas where car accidents are more frequent, that is, near the intersection of streets;
- B. Sites should be spaced as far back from the sidewalk or street curb so as to not pose a hazard to bicyclists, pedestrians or vehicular traffic; and
- C. In order to maintain a safe "fall zone" a SWF shall be set back from existing habitable structures on private property by a distance equal to the height of the top of the antenna structure.

ii. Appearance.

- A. New SWFs shall be located in areas where they can blend into the existing built and natural environment, that is, in areas where existing trees and shrubs of size similar to the antenna height already exist and where the addition of the antenna to the built environment will least affect the view sheds from neighboring properties.
- B. Depending upon the degree to which the SWF "blends with" or "disturbs" the setting, the subject property and its character and use, or neighboring properties and their character and use, the Commission may request that additional landscaping be installed as part of the approval. The SWF landscaping may include trees, mature vegetation, natural features or hardscaping within the rights-of-way area surrounding the SWF.
- C. All equipment shall be located within the faux cactus structure to the greatest extent possible, and all other equipment shall be located underground or within a faux rock to the greatest extent possible. At no time is the "other equipment" to extend beyond the rights-of-way area.
- D. No signage shall be placed on a faux cactus.
- E. If equipment cabinets are deemed necessary by the Town, they shall be completely screened from view by a compatible wall, fence or landscaping consistent with the Town landscaping guidelines and consistent with this ordinance. Any utility meter

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associated with the SWF shall face away from the street or shall be camouflaged in some manner.

- F. To the extent allowed by law, the Commission shall consider the cumulative visual effects of SWFs and any mount, specifically their appearance or domination of the skyline, natural and structural features or terrain, in determining whether to approve an Administrative Small Wireless Facility Permit, provided that in no case does this subsection allow the complete rejection of a site within the fifty (50) foot radius of the preferred site.
 - iii. Form. The degree to which the shape of the SWF and any equipment shall relate to its surroundings.
 - iv. Color. A SWF shall be in natural tones and a non-reflective color or color scheme appropriate to the background against which the SWF would be viewed from a majority of points within its viewshed. "Natural" tones are those reflected in the natural features and structural background against which the SWF is viewed from a majority of points within its viewshed. Final colors and color scheme must be approved by the Planning Commission.
 - v. Strength. Any SWF shall be designed to withstand the requirements related to wind loads in the most current building code adopted by the Town.
- b) Subsequent to staff review and recommendation of a selected site, said site, along with the original proposed site by the Applicant if said site differs from staff recommendation, shall be forwarded to Planning Commission as part of the Commission's review of the Administrative Small Wireless Facility Permit.
5. Design Standards and Aesthetics Mandate the Use of "Faux Cactus" SWFs. To maximize the concealment of SWFs, the first type of antenna and support structure to be considered shall be a faux cactus installation designed as follows:
- a) Shall utilize the Larson Camouflage model LCA-0-24-24 fiberglass antenna structure or equivalent, maximum twenty four foot tall from the ground or base;
 - b) Shall contain standard details, such as dimensions, colors and materials, the same as those used for the existing faux cactus installation throughout the Town (please refer to standard details provided in the application);
 - c) Shall be designed to the greatest extent possible to look like part of the natural environment, thus they shall not be placed in existing concrete such as a sidewalk nor shall concrete be placed around the base of the facility except as needed to anchor and support the structural elements of the SWF, with such

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concrete anchor to be hidden by earth, rocks, decomposed granite and the planting of two (2) trees and three (3) shrubs near the base or alternate landscape as approved by the Town.

- d) All ground mounted equipment and connections shall be buried with the exception of the utility meter which shall face away from the street and the disconnect switch;
6. Alternative Design Standards Utilizing an Existing Utility Pole. An Applicant may propose the use of an existing Utility Pole SWF installation, for which the following design and concealment criteria shall be used:
- a) If the selected Utility Pole is a traffic signal or street light, the existing traffic signal or street light shall be replaced with a new engineered street light or traffic signal pole design that has the appropriate structural support strength including any footing modifications to accommodate the height and weight of the antenna and equipment located within, or atop, the replacement pole;
 - b) The maximum height of the replacement pole shall not be more than six feet above the pre-existing height of the street light vertical pole or traffic signal vertical pole that it replaced (not including the mast arm);
 - c) All wiring associated with the SWF shall be contained within the replacement pole or underground;
 - d) All ground mounted equipment and connections shall be buried with the exception of the utility meter and the disconnect switch;
 - e) Shall contain standard details, such as dimensions, colors and materials, the same as those used for the existing 56th Street and Lincoln traffic signal installation that is consistent with the standard details in the application.
 - f) For all traffic signal installations as well as street light installations not along Scottsdale Road, all antennas and “pole-mounted” equipment shall be within a cylinder or container (or within the replacement pole) that is within two (2) inches of the width or diameter of the traffic signal or street light pole to which it is affixed, with said container diameter not to exceed twenty (20) inches. The only protrusions or extensions from the signal or street light pole shall be those that existed before the replacement pole, that is, in the case of traffic signals or street lights the mast arms or other supports for luminaires, street name signs, and traffic signals;
 - g) For street light installations in a series along Scottsdale Road, the replacement pole shall substantially match the existing pole in finish and color, diameter and taper, and have a luminaire arm that substantially matches the existing luminaire arm of the existing light pole. The application shall be considered in context with adjacent existing light poles to ensure consistency along the streetscape. All antennas and “pole-mounted” equipment shall be within a cylinder or container (or within the replacement pole) with said container not

exceeding twenty (20) inches in diameter, with a three hundred and sixty (360) degree shroud that tapers from the bottom of the container to the pole. The only protrusions or extensions from the pole shall be those that existed before the replacement pole, that is, in the case of street lights the mast arms or other supports for luminaires.

7. Radiofrequency (RF) Performance and Interference Standards and Monitoring.

- a) To the extent allowed by law, the following radiofrequency (RF) maximum permissible exposure standards apply to consideration of an Administrative Small Wireless Facility Permit for a SWF, in addition to monitoring requirements as required in this Article:
 - i. All equipment proposed for a SWF shall meet the current FCC RF Guidelines and any amendments thereto (hereafter "FCC Guidelines");
 - ii. For SWFs attached to utility poles or any other structures not owned by the Applicant, graphically shall illustrate in three dimensions the worst case exposure levels that exceed FCC limits for service personnel accessing the area near the SWF exposure zones. If the graphic illustration exceeds the FCC exposure limit in any area accessible to workers who would work on maintenance or repair to the traffic signals, lights, or utility wiring on the utility pole, a narrative must be supplied containing all the information required to provide an RF Safety plan to protect workers from RF exposure above the FCC limits. Said illustrations shall be kept on file with Public Works.
- b) Within ninety (90) days after FCC issuance of an operational permit for the SWF the Permittee shall submit a written report providing existing measurements and worst case predictions of RF power density levels from the SWF for:
 - i. Existing SWF: Report the maximum RF power density levels (spatially averaged per FCC Guidelines) measured in the areas identified as readily accessible to the public or workers;
 - ii. Existing SWF plus cumulative: Maximum estimate of RF power density levels (spatially averaged per FCC Guidelines) measured in the SWF RF environment to be inclusive of any other significant contributors to the RF environment (i.e. co-located SWF). Definition of "Significant Contributors" to be any contributor >5% of the FCC Public limit at any measurement location;
 - iii. Certification signed by a competent person stating that RF radiation measurements are performed with properly calibrated test equipment and meet FCC Guidelines.
- c) If FCC Guidelines are changed during the period of any Administrative Small Wireless Facility Permit for a SWF use, then the SWF shall be brought into compliance with such revised guidelines within the time period provided by

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the FCC; or if no time period is stated, then within sixty (60) days of the effective date of such guidelines.

- d) If at any time during the term of the permit the Town has reasonable evidence that the Permittee is not in compliance with FCC Guidelines, and the Town provides notice of such, the Permittee so notified shall provide to the Town, within thirty (30) days after such notice, an analysis and determination of its compliance with FCC guidelines showing the data collected and status pursuant to FCC Guidelines. If on review, the Town finds that the SWF does not meet FCC Guidelines, the Permittee shall immediately turn off the SWF and shall have sixty (60) days from the date of the Town's finding of noncompliance to bring the SWF into compliance. If compliance is not achieved in the sixty-day period, the Administrative Small Wireless Facility Permit may be revoked or modified by the Town.
- e) The Permittee shall ensure that the SWF does not cause localized interference with the reception of other FCC licensed services. If on review the Town finds that the SWF interferes with such reception, and if such interference is not cured by the Permittee within sixty (60) days after notice from the Town, the Town may revoke or modify the Administrative Small Wireless Facility Permit.

8. Noise and Environmental Standards.

- a) To the extent allowed by law, the following noise and environmental standards apply to consideration of an Administrative Small Wireless Facility Permit for a SWF in addition to the monitoring requirements of this Article:
 - i. A SWF shall not generate noise in excess of the noise limits specified in Article 10-7 of the Town Code measured at ground level at the base of the facility closest to the antenna;
 - ii. If an environmental assessment is required by the National Environmental Policy Act (NEPA) for any SWF prior to commencing operations the Applicant shall specify which of the following exist:
 - A. Wilderness area;
 - B. Wildlife preserve;
 - C. Endangered species;
 - D. Historical site;
 - E. Indian religious site;
 - F. FEMA designated flood plain;
 - G. Other

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- iii. Where any of the above conditions exist, an environmental assessment which, at a minimum, conforms to FCC requirements shall be submitted to the Town for each SWF where any of the above exists, and when the FCC requires such an environmental assessment to be submitted to the FCC. If the Applicant has determined that an environmental assessment is not required pursuant to FCC rules, this Article and applicable state law and Town Code, a written certification to that effect must be submitted to the Town.
9. Co-Location and Limitations. Co-location of antennas and equipment is permitted and encouraged on approved SWFs. All proposed co-locators must also receive an Administrative Small Wireless Facility Permit for the use at such site from the Town.
10. Submittal Requirements.
- a) In addition to the information requested in the Town's Administrative Small Wireless Facility Permit application, the following items shall be required for a SWF application:
 - i. A master site plan showing the subject property and adjoining properties within one hundred (100) feet of the proposed SWF site including existing SWF, roads, sidewalks and driveways; all existing and proposed structures on the subject property and their purpose; the specific placement of the SWF antenna and equipment; fall zone; and all proposed changes to the existing site;
 - ii. A landscape plan showing the location of existing and proposed vegetation, trees and shrubs, identified by species and size of specimen in accordance with Town Landscape Guidelines. Said landscape plan shall be approved by the Planning Commission to ensure appropriate blending with the site;
 - iii. Photographs(or digital images), diagrams, photo simulations and sight line representations as listed below:
 - A. Aerial photograph showing SWF location;
 - B. Elevations of antenna and associated equipment;
 - C. Sight line representation;
 - D. Existing (before condition) photographs of what can currently be seen from any adjacent residential buildings or properties, private roads and rights-of-way adjacent to the site;
 - E. Photo simulations of the proposed facility from each adjacent residential properties or buildings, private roads and public rights-of-way adjacent to the site (after condition photographs). Such photo simulations shall include, but not be limited to, each of the

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existing condition photographs with the proposed SWF superimposed on it to show what will be seen from residential buildings, properties, private roads and rights-of-way adjacent to the site at the adjacent properties' property line;

iv. Design submittals as follows:

- A. Equipment brochures for the SWF such as manufacturer's specifications or trade journal reprints;
- B. Materials of the SWF and faux cacti, replacement pole, faux rock, and camouflaged equipment shelter, if any, specified by generic type and specific treatment, such as painted fiberglass, anodized aluminum, stained wood, etc.;
- C. Colors represented by samples or a color board showing actual colors proposed;
- D. Dimensions of all equipment specified for all three dimensions: height, width and breadth;

- v. Evidence of permission to use utility pole by owner if SWF is to be located on an existing or replacement utility pole;
- vi. If the Applicant determines that an environmental assessment is not required, certification to that effect shall be provided. To the extent allowed by law, environmental submittals shall include an environmental assessment if required in the environmental standards section of this ordinance.

- b) The Town shall have twenty (20) days to deem the application complete. A complete application will have all submittals listed in this subsection and each submittal shall fulfill the stated requirements.

11. Permit Limitations and General Conditions.

- a) An Administrative Small Wireless Facility Permit shall expire ten (10) years after the date of approval. A Permittee desiring to continue the use at the end of the ten-year period must apply for a renewal at least six months prior to its expiration. In ruling on the renewal the Planning Commission shall apply all then-existing regulations affecting the application.
- b) The Administrative Small Wireless Facility Permit shall become null, void and non-renewable if the permitted facility is not constructed and placed into use within one hundred eighty days after the issuance date unless extended by agreement of the Town and the Applicant or a delay is caused by a lack of commercial power at the Site.
- c) The permit shall expire and the Permittee must remove the SWF and all associated equipment and wiring and restore the site to its original condition

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leaving the approved landscaping if the license agreement with the Town expires or is void due to breach or other cause. A Permittee shall notify the Town in writing at least thirty (30) days prior to abandonment or discontinuance of operation of the SWF.

- d) If the Administrative Small Wireless Facility Permit expires, terminates, is abandoned or revoked for any reason pursuant to this Article or the Town Code, if removal of the SWF is required in this Article, or if the use is discontinued pursuant to this Article, the SWF shall be removed as required by the terms of the License agreement between the Town and the Permittee. For purposes of this subsection, abandoned shall mean not in use for SWF functions for ninety (90) days.
- e) The Permittee shall maintain the SWF to standards that are imposed by the Town at the time of granting of a permit. Such maintenance shall include, but shall not be limited to, maintenance of the paint, structural integrity and landscaping. If the Permittee fails to maintain the facility, the Town may undertake the maintenance at the expense of the Permittee or terminate or revoke the permit, at its sole option. If such maintenance expense is not paid by the Permittee within thirty (30) days of notice by the Town, the Permittee agrees that the Town's costs shall constitute a lien upon any personal property of the Permittee installed with the Town's rights-of-way.
- f) An Administrative Small Wireless Facility Permit granted to a Permittee is specific to the Permittee and may not be assigned, provided, however, that the Permittee may assign its interest in the permit to any subsidiary or other affiliate of the Permittee. In the event of such assignment, the assignee shall re-execute through Town Manager or designee the Administrative Small Wireless Facility Permit and Master License Agreement within ninety (90) days of the effective date of the assignment or the permit shall automatically expire.
- g) Any violation of the terms of this Article or the Administrative Small Wireless Facility Permit may result in revocation by the Town of the Administrative Small Wireless Facility Permit. Acceptance of any portion of the Administrative Small Wireless Facility Permit is acceptance of the entire Administrative Small Wireless Facility Permit and the terms of this Article.
- h) Within ninety (90) days after issuance of the FCC operational permit, the Permittee shall provide a copy of such permit to the Town and register the SWF, providing information and data as may be requested by the Town. Any change in the permit or registration data shall be filed with the Town within thirty (30) days after the change is made. The Permittee shall submit to the Town a copy of all current applicable FCC licenses by call sign prior to the Town's approval of final inspection of a building permit for the SWF or portion thereof.

12. Applicability.

The requirements of this ordinance apply to all new SWFs in the rights-of-way and modification of any existing SWFs.

J. General Plan Amendments ²⁰¹⁸⁻²⁰

1. General Legal Requirements: Pursuant to Arizona Revised Statutes (ARS) §9-461.05(A) the Town is required to include provisions in the general plan that identify changes or modifications to the general plan that constitute amendments and major amendments to the Town's general plan. The Town's existing general plan (hereinafter "General Plan") states that the Town shall identify and implement a transparent application process for the consideration of General Plan amendments. The provisions set forth below satisfy the requirements of state law and the General Plan.
2. Applicants: The elements of the General Plan may be amended, supplemented or modified. Requests to amend the General Plan, whether major or minor, may be initiated by the Planning Commission, Town Council or the property owner of real property that is the subject of the application. The Zoning Administrator shall receive and process all General Plan amendment requests.
3. Major Amendments/Annual Deadline: A "Major General Plan Amendment" is any application that: a) proposes a change in the General Plan land use map that requests a "greater density classification" (as defined in the General Plan) for any property in the Town; or b) requests a change to the circulation map that would change a particular roadway to a "higher capacity classification" (as defined in the General Plan). An applicant may apply on an annual basis and be part of the annual process for the consideration of Major General Plan Amendments. The annual deadline for the filing an application for a Major General Plan Amendment is the fourth Thursday of May of each year.
4. Minor Amendments/Deadline: A "Minor General Plan Amendment" is any application to amend the General Plan that is not a Major General Plan Amendment. There is no formal deadline for a Minor General Plan Amendment, thus such applications may be filed at any time.
5. Required Hearings/Notices: All Major General Plan Amendments and all Minor General Plan Amendments shall receive a set of hearings first before the Planning Commission and then before Council (per ARS §9-461.06(E) and (G)). All Major General Plan amendment applications must be heard at a single public hearing in the calendar year in which the application is made (per ARS §9-461.06(H)). The Planning Commission

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shall hold public hearings as required by law to make recommendations to the Town Council on all matters concerning or relating to General Plan amendments.

- (a) The Planning Commission shall hold at least one (1) public hearing before making a recommendation on a Major General Plan Amendment request.
- (b) Notice of the time and place of the Planning Commission hearing along with a general summary of the Major General Plan Amendment request and the availability of studies and summaries related to the hearing shall be given at least fifteen and not more than thirty calendar days before the hearing. Such notice shall be published at least once in a newspaper of general circulation published or circulated in the Town, or if there is none, the notice shall be posted in at least ten (10) public places in the Town.
- (c) The Zoning Administrator may provide notice in other manners, in addition to publication required above, as the Zoning Administrator may deem necessary or desirable.
- (d) At least sixty (60) days before a Major General Plan Amendment is noticed for a public hearing before the Planning Commission, the Zoning Administrator shall transmit the Major General Plan Amendment proposal to the Planning Commission and the Town Council and submit a copy for review and further comment to:
 - i. The Planning Agency of Maricopa County;
 - ii. Each county or municipality that is contiguous to the corporate limits of the Town of Paradise Valley;
 - iii. The Regional Planning Agency within which the Town of Paradise Valley is located;
 - iv. The agency that is designated as the General Planning Agency for the State; and
 - v. Any person or entity that requests in writing to receive a review copy of the proposal.
- (e) The Town Council shall hold at least one (1) public hearing before adopting any Major General Plan Amendment, subject to the provision of notice the same as that for the Planning Commission hearing specified in subsection b of this section. Major General Plan Amendments may only be enacted by an affirmative vote of at least two-thirds of the members of the Town Council (per ARS §9-461.06(H)).
- (e) Minor General Plan Amendments may be heard at any time and do not require formal notice. Further, minor amendments may be enacted by the action of a majority of the Town Council acting by

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motion or resolution at a duly constituted meeting at any time of the year.

6. Other Duties and Recommendations: The Community Development Department shall maintain, and when necessary, develop a new general plan or propose amendments to the existing general plan for Town Council consideration and action. The Community Development Department (per ARS §9-461.07) shall also undertake the following actions to encourage effectuation of the General Plan:
 - (a) Investigate and make recommendations to the Town Council upon reasonable and practical means for putting into effect the General Plan or part thereof in order that it will serve as a pattern and guide for the orderly growth and development of the Town and as a basis for the efficient expenditure of its funds relating to the subjects of the General Plan.
 - (b) Render an annual report to the Town Council on the status of the plan and progress in the application of the General Plan.
 - (c) Endeavor to promote public interest in and understanding of the General Plan and regulations relating to it.
 - (d) Consult and advise with public officials and agencies, public utility companies, civic, educational, professional and other organizations and citizens generally with relation to carrying out the General Plan.

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Section 2-5-3 Board of Adjustment 8 188 583 623 646 654 685 2016-05

- A. Creation and Membership. The Board of Adjustment as previously established is hereby continued in full force and effect, and there is established herewith a Board of Adjustment which shall consist of seven members, each of whom shall be appointed for a term of three years. The word "Board" when used in this article shall mean the Board of Adjustment. Members of said Board shall be appointed by the Mayor subject to confirmation by majority vote of the Town Council. All persons seeking to be appointed or re-appointed to a term on the Board of Adjustment shall file a written application for such appointment or re-appointment with the Mayor on or before the date set by the Town of the year that the term subject to appointment would become vacant. However, this written application requirement does not apply to an appointment to serve the balance of a term which has become vacant prior to the expiration of the term. Vacancies shall be filled for the unexpired term of the member whose place has become vacant. The Board of Adjustment shall, at its first meeting in April of each year, elect one of its members to serve as its Chairman-designate. The member designated to be Chairman shall be approved or disapproved for the Chairmanship by the Town Council within thirty (30) days of the election of the Board of Adjustment. If the Chairman-designate is approved for the Chairmanship by the Town Council, he shall become the Chairman immediately upon such approval, and he shall serve as Chairman of the Board (1) until a successor as Chairman is elected and approved in the following year, or (2) until the Chairmanship shall, for any reason, become vacant. If the Chairman-designate is disapproved for the Chairmanship by the Town Council, the Board of Adjustment shall, at its next meeting after such Council disapproval, elect another one of its members to serve as its Chairman designate, and the member so designated shall be approved and become the Chairman or be disapproved pursuant to the procedures described herein. If, for any reason, the position of Chairman becomes vacant, then the Board at its next meeting after such position becomes vacant, shall elect a Chairman-designate for the remainder of the term, and the member so designated shall be approved and become the Chairman or be disapproved pursuant to the procedures described herein. No member shall serve as Chairman of the Board for a period of time in excess of two (2) consecutive years.
- B. Board of Adjustment, Meeting, Administration of Oaths, and Compelling Attendance of Witnesses. All meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. All meetings of the Board shall be open to the public. The Chairman, or in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses.
- C. Rules and Regulations, Records, Procedures, Limitations.¹⁷⁶ The Board shall have power to make and publish rules and regulations to govern its proceedings and to carry into effect the provisions of this section. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact, and shall also keep records of its examinations and other official actions. Every rule, regulation, or

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every amendment or repeal thereof, and every order, requirement, decision, or determination of the Board shall immediately be filed in the office of the Board and in the office of the Town Clerk, and shall be a public record.

1. Appeal of a Ruling of the Zoning Administrator.^{81 144 176 685}

Application for appeal to the Board of Adjustment for relief from the rulings of the Zoning Administrator of the Town, in which it is alleged there is an error in an order, requirement or decision made by the Zoning Administrator in the enforcement of the zoning ordinance, may be made by any aggrieved person or by any officer, department, board or bureau of the municipality affected by a decision of the Zoning Administrator by filing with the Zoning Administrator and with the Board, within thirty (30) days after the Zoning Administrator's ruling, a notice of appeal specifying the grounds thereof together with an application form and payment of the appeal prescribed in the Town of Paradise Valley Fee Schedule. The Community Development Director shall be the Zoning Administrator for purposes of this article.

2. Variance¹⁷⁶

- a. The Board may authorize such variances from and exceptions to the strict application of the terms of this section as are in harmony with its general purposes and intents, if it shall find that the granting of such variances and exception will serve not merely as a convenience to the applicant but are necessary to alleviate some demonstrable hardship or difficulty so great as to warrant a variance under the circumstances.
- b. The commencement of construction, alteration, repair, removal, or demolition of any building or structure without first obtaining a duly licensed building permit from the Town of Paradise Valley shall not constitute a demonstrable hardship under this section, and a variance shall not be granted for such reason alone.

3. Appeal From Board.

A person aggrieved by a decision of the Board, including a Town officer, may, at any time within thirty (30) days after the decision of the Board or, if reviewed by the Town Council, within 30 days of the Town Council decision, bring a special action in the Superior Court of Maricopa County for the purpose of reviewing the Board's decision, pursuant to the "Rules of Procedure for Special Actions." Commencement of the special action shall not stay proceedings upon the decision appealed from unless the court shall otherwise order.

4. The Board of Adjustment May Not:^{176 188}

- a. Make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the Zoning

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Ordinance provided the restriction in this paragraph shall not affect the authority to grant variances.

- b. Grant a variance if the special circumstances, hardship or difficulty applicable to the property are self-imposed by the property owner, or predecessor, special circumstances, hardship, or difficulty which arise out of misunderstanding or mistake are not grounds for a variance.

D. Zoning Code Interpretations.⁵⁸³

1. The Community Development Director shall be responsible for interpretation of the Paradise Valley Zoning Ordinance. Interpretations may be considered if there is a question of clarity of any development standard or other provision of this ordinance, or a review is required within the permitted use categories of a specified zone district.
2. An application clearly stating the section requiring interpretation or the characteristics of the desired use and zone district in which it is proposed to be located shall be submitted on a form prescribed by the Community Development Director with the required fee before an interpretation will be made. All requests for written interpretations shall be filed in the Community Development Department.
3. The Community Development Director shall issue a written interpretation within ten (10) working days of the submission of a completed application and request for interpretation. All interpretations shall be maintained in the Community Development Department records.
4. Prior to determining that a use is permitted within a specific zoning district, the Community Development Director shall find that:
 - a. The use is described and included in the zoning district;
 - b. The intensity of the use will not adversely affect other properties within the district; or
 - c. If there is more than one principal use, all of the principal uses are permitted and that the combination of uses will not alter the basic land use characteristics of each principal use or create a different use than that which would otherwise be prohibited.

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E Administrative Relief. 583 654

1. The Community Development Director may authorize administrative relief to a property owner in the Town of Paradise Valley of up to ten (10) percent of any development standard contained in Article X, and for solar device installations only, Article XXII of the Town Zoning Code, unless specifically restricted elsewhere in this ordinance. For gates on hillside properties, administrative relief may be authorized as described in subsection (i) below. Administrative relief shall be subject to the following requirements and limitations:
 - a. An application shall be submitted (and the fee set forth in the Town of Paradise Valley Fee Schedule, as such may be amended from time to time, shall be paid) by the property owner requesting administrative relief, on a form prescribed by the Community Development Director for such, identifying the proposed improvement to the property that is subject to the request;
 - b. Notice shall be made by first class mail, postmarked at least five (5) days prior to the proposed date of determination by the Community Development Director, to adjacent property owners determined by the Community Development Director as potentially affected by the request for administrative relief;
 - c. The proposed improvement requiring relief will not be detrimental to the property requesting relief, any adjacent property, or the Town, as determined by the Community Development Director;
 - d. The relief granted is the minimum required to meet the needs of the proposed improvement, as determined by the Community Development Director;
 - e. The relief shall not be contrary to the purpose and intent of this ordinance; and
 - f. Administrative relief related to a particular property may only be requested once during an eighteen (18) consecutive month period and only twice during the period of ownership by a recorded owner of the property, the term “owner” to be interpreted for purposes of this section to include any person, firm, corporation, partnership, joint venture, trust, or any related persons, parties, firms, corporations, partnerships, joint ventures or trusts, including any successor trusts where the beneficiaries included are the same as any of the persons included as an owner above or as a beneficiary of any preceding trusts.
 - g. The relief requested is limited to livable primary and accessory structures and walls, gates, and fences. It is not applicable to:

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- i. New home construction, except to request relief related to an inadvertent error,
 - ii. Properties that are subject to special use permits,
 - iii. Floor area ratio limitations,
 - iv. Tennis or other types of sport courts,
 - v. Gazebos or other similar structures.
 - h. The Community Development Director may impose reasonable conditions upon any administrative relief granted to ensure that the public health, safety, and general welfare are protected and substantial justice is done.
 - i. Relief for gates on hillside properties may be allowed. Such relief shall only be granted for the location to allow the gates to be as close as necessary to the property line when the topography of the lot precludes them from meeting the setback. Consideration shall be given to proper stacking of vehicles for public safety. No increase in height or size or other deviations of the code shall be granted.
 2. Any relief authorized by the Community Development Director shall be documented with findings consistent with the standards above and filed with the building permit records, subdivision case file, or other department files, as appropriate.
- F. Appeals.⁵⁸³
- All decisions and interpretations by the Community Development Director performed in accordance with Section 2-5-3.E may be appealed to the Board of Adjustment in accordance with the procedures prescribed in Section 2-5-3.C.

Section 2-5-4 Personnel Board^{124 401 466} Repealed

Section 2-5-5 Personnel Appeals Board^{401 467 655 686}

- A. The personnel appeals board consists of three members appointed by the Mayor and Council to staggered three-year terms. The members of the board must be residents of the Town. The initial terms of the Board will be set by the Council at time of appointment.
- B. No person shall be appointed to the board if he is employed by or is an official of the Town of Paradise Valley.
- C. Vacancies occurring during a term must be filled by appointment by the Mayor and Council for the balance of the unexpired term.
- D. The board shall hear only appeals submitted by regular employees in the classified service who have received a disciplinary suspension of greater than three days, involuntary demotion, disciplinary pay reduction, or dismissal.

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- E. In an investigation or hearing, the board has the power to examine witnesses under oath.
- F. Each member of the board has the power to administer oaths to witnesses.
- G. The board has the power to issue subpoenas and compel the attendance of witnesses and production of evidence.
- H. Neither the Arizona Rules of Civil Procedure nor the Arizona Rules of Evidence shall be used in proceedings before the board. The chairperson shall have the authority to control the proceedings and to determine if the evidence proposed is relevant to the board's considerations.
- I. The board may affirm, modify or reverse the decision from which an appeal is taken.
- J. The decision of the board is final.

Section 2-5-6 Hillside Building Committee 425 461 474 608 629 683 2018-09

- A. The Hillside Building Committee (Committee) is hereby established. The Committee shall review applications for building permits in a Hillside Development Area, as defined under the Zoning Ordinance of the Town.
- B. The Committee shall consist of three (3) rotating members of Planning Commission and two citizen members. The citizen members shall be appointed by the Mayor and confirmed by the Town Council. The citizen members must be Town residents, but may not be members of the Planning Commission or Town staff.
- C. The term of citizen members shall be two (2) years. The first appointees shall serve individual terms of one year and two years. The rotating terms of the members of the Planning Commission shall coincide with their terms of office, however, such members shall serve on the Committee for staggered intervals as established by the Chair of the Planning Commission.
- D. At the start of each rotation cycle, the Committee members shall select the Hillside Committee Chair, who shall serve until the start of a new rotation cycle.

If a Planning Commission member in active service on the Committee will be absent from any meeting of the Committee, a substitute from the Commission may serve. Such substitute member shall be considered a member of the Committee for voting and quorum purposes. Three Committee members shall constitute a quorum.

In addition to the review of applications for development within lands designated as "Hillside Development Areas" pursuant to the provisions of Article 22 of the Zoning

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Ordinance of the Town of Paradise Valley, otherwise referred to as the “Hillside Development Regulations,” the Hillside Building Committee shall, in conjunction with the Town Engineer, coordinate the Hillside Safety Improvement Measures and Process to the extent required by Section 5-10-9 of the Town Code and the Hillside Safety Improvement Measures and Process Manual. As part of the Hillside Safety Improvements and Process, all applications for development or building and construction within Hillside Development Areas are required to submit a pre-application to the Town Engineer with the forms and submittals required by the Town Engineer as needed to determine the need for all such applications to comply with certain requirements pursuant to the Hillside Development Regulations and the Hillside Safety Improvement Measures and Process Manual.

Section 2-5-7 Special Use Permit Review Committee ^{425 474} Repealed

Article 2-6 ORDINANCES, RESOLUTIONS AND CONTRACTS

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

Section 2-6-1 Prior Approval

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 2-6-2 Introduction

Ordinances, resolutions, and other matters or subjects requiring action by the Council shall be introduced and sponsored by a member of the Council.

Section 2-6-3 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 be included in the ordinance.

Section 2-6-4 Effective Date of Ordinances

No ordinance, resolution, or franchise shall become operative until thirty (30) 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 Town, but such an 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 2-6-5 Publishing Required

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 2-6-6 Posting Required

Every ordinance imposing any penalty, fine, forfeiture, or other punishment shall, after passage, be posted by the Clerk in three or more public places within the Town, and an affidavit of the person who posted the ordinances shall be filed in the office of the Clerk as proof of posting.

Article 2-7 FINANCIAL DISCLOSURES FOR ELECTED OFFICIALS^{10 11 107 349 2016-16}

Any person who qualifies as a public officer at any time during the preceding calendar year shall file by January 31 of each year, on a form prescribed by law, a Financial Disclosure Statement setting forth such information as required by A.R.S. §38-542, as amended.

Article 2-8 INDEMNIFICATION OF OFFICERS AND EMPLOYEES ⁵¹⁴

- 2-8-1 Persons Covered
- 2-8-2 Indemnification and Protection of Town Officials
- 2-8-3 Insurance Coverage
- 2-8-4 Notice of Claims
- 2-8-5 Effective Date
- 2-8-6 Emergency Declaration

Section 2-8-1 Persons Covered

All of the protections and benefits conferred by this article shall be enjoyed by any present or former Mayor, Vice Mayor and each and all of the present or former members of the Council, Town Officers, Town Magistrates and Town Employees and every one of the members of all Town Boards and Commissions, Subcommittees and Advisory Committees, which protected parties are hereinafter referred to individually as a "Town Official" and collectively or jointly as "Town Officials".

Section 2-8-2 Indemnification and Protection of Town Officials

- A. Any Town Official and all Town Officials shall be exonerated, indemnified and held harmless by the Town from and against any liability or loss in any manner arising out of, or occasioned by, his service as a Town Official and based upon any claim by any third-party that the Town or such Town Official, by any action or failure to act, damaged the property or infringed the rights of said third party, or of any other person on whose behalf said third-party brings a claim or legal action, provided such Town Official acted, or failed to act, in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Town.
- B. The right to indemnification provided for in subsection A of this section shall extend as well to any claim brought by, or on behalf of, the Town to recover damages alleged to have been occasioned to it, or any of its property, by any act or failure to act of any Town Official, except that no indemnification or exoneration shall be made in respect of any claim, issue or matter as to which such Town Official shall have been adjudged to be liable to the Town unless and only to the extent that the court in rendering such judgment shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such Town Official is fairly and reasonably entitled to indemnity for such expenses as such court may deem proper. The court in which any such action or suit was brought may determine upon application that, in view of all of the circumstances of the case, indemnity for amounts paid in settlement is proper and may order indemnity for the amount so paid in settlement.
- C. In any case where indemnification is required under the provisions of subsections A or B of this section, the Town treasurer shall pay, on behalf of such Town Official, any money judgment and shall perform the onerous provisions of any court order

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which may be entered against him when such judgment or order has become final and no longer appealable, or has not been stayed pending appeal.

- D. In any case where any Town Official is or may be entitled to be exonerated, indemnified and held harmless pursuant to the provisions of subsection A of this section, the Town shall protect and defend him from and against any litigation commenced against him, by engaging and compensating competent legal counsel to conduct his defense, and by paying all court costs, and any fees of opposing legal counsel, taxed or imposed by the court having jurisdiction.
- E. In any case where any Town Official is or may be entitled to be exonerated, indemnified and held harmless pursuant to the provisions of subsection B of this section, the Town shall pay the expenses, including attorneys' fees and the cost of a bond or other security pending appeal, incurred in defending the civil action, suit or proceeding by such Officer or Official in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such Town Officer or Official to repay such amount if it is ultimately determined that he is not entitled to be indemnified by the Town as authorized in subsection B of this section.
- F. The coverage afforded by this section shall not apply in any case where indemnification is not permissible pursuant to any state statute or any determination that such indemnification would be contrary to public policy or unconstitutional by the decision of any court of competent jurisdiction, however, any such determination shall not affect the validity of the remaining portions thereof.

Section 2-8-3 Insurance Coverage

The Town shall at all times procure insurance policies providing the maximum coverages and limits procurable at reasonable rates to protect its interests and to indemnify and protect all Town Officials entitled to indemnification and protection pursuant to this article. Acceptance of coverage and undertaking of protection by any such insurance carrier shall be deemed to satisfy the requirements of this article on the part of the Town. However, in any case or instance where an insurance carrier does not in fact accept coverage and defend a Town Official, or where the insurance policy limits are insufficient to cover any judgment entered against any Town Official, the Town shall be bound by the provisions of this article to protect and indemnify pursuant to the provisions of Section 2-8-2.

Section 2-8-4 Notice of Claims

It shall be a precondition to the assertion of any claim for protection and indemnity under this article that any Town Official, after having been served with process commencing litigation against him or them, or after having received written notice of a possible claim alleged to be covered under the provisions of subsections A or B of Section 2-8-2, shall

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promptly give notice of the pendency of such action, or the presentation of any such claim, to the Town Clerk, who shall in turn present such actual or potential claim to the Council, together with such Town Officials' request for indemnity and protection hereunder. It shall further be a precondition to coverage hereunder that a Town Official claiming the protection and benefits conferred by this article shall at all times, and in every way, cooperate fully with legal counsel appointed by the Town to defend against any threatened or pending litigation under the provisions of subsection D of Section 2-8-2.

Section 2-8-5 Effective Date

This article shall be effective with regard to any and all claims and lawsuits brought against Town Officials or any Town Officer arising out of any act or omission by the Town or any Town Officer since the date of the Town's incorporation on May 24, 1961.

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FOOTNOTES:

- 2 Ordinance #127 - 12/2/76
3 Ordinance #145 - 4/13/78
4 Ordinance #150 - 11/9/78
5 Ordinance #127 - 12/2/76
6 Ordinance #117 - 3/25/76
7 Ordinance #99 - 5/22/75
8 Ordinance #117 - 3/25/76
9 Ordinance #117 - 3/25/76
10 Ordinance #89 - 8/22/74
11 Ordinance #137 - 8/11/77
81 Ordinance #167 - 4/24/80
107 Ordinance #213 - 12/1/83
124 Ordinance #236 - 1/23/86
137 Ordinance #253 - 11/13/86
144 Ordinance #260 - 2/12/87
176 Ordinance #300 - 7/27/89
188 Ordinance #316 - 11/8/90
349 Ordinance #349 - 9/29/92
401 Ordinance #401 - 3/1/95
412 Ordinance #412 - 10/26/95 (Term Limits)
413 Ordinance #413 - 4/25/96 (Repeal Ordinance #413)
414 Ordinance #414 - 4/25/96
423 Ordinance #423 - 9/12/96
425 Ordinance #425 - 9/12/96
429 Ordinance #429 - 10/24/96
433 Ordinance #433 - 1/9/97
435 Ordinance #435 - 1/9/97
451 Ordinance #451 - 12/18/97
461 Ordinance #461 - 6/4/98
466 Ordinance #466 - 8/27/98
467 Ordinance #467 - 8/27/98
474 Ordinance #474 - 12/17/98
486 Ordinance #486 - 6/10/99
514 Ordinance #514 - 7/26/2001
532 Ordinance # 532 - 8/12/2003
546 Ordinance # 546 - 09/23/2004
575 Ordinance # 575 - 02/09/2006
582 Ordinance #582 - 06/05/2006
583 Ordinance #583 - 09/14/2006
606 Ordinance #606 - 01/22/2009 Approved
by voters 03/09/10
608 Ordinance #608 - 01/22/2009
615 Ordinance #615 - 09/10/2009
621 Ordinance #621 - 05/13/2010
623 Ordinance #623 - 05/27/2010
629 Ordinance #629 - 10/21/2010
632 Ordinance #632 - 01/27/2011
638 Ordinance #638 - 10/13/2011
639 Ordinance #639 - 10/27/2011
640 Ordinance #640 - 01/12/2012
643 Ordinance #643 - 03/08/2012
646 Ordinance #646 - 04/12/2012
655 Ordinance #655 - 09/27/2012
668 Ordinance #668 - 03/28/2013
654 Ordinance #654 - 03/13/2014
683 Ordinance #683 - 06/11/2015
684 Ordinance #684 - 06/11/2015
685 Ordinance #685 - 06/11/2015
686 Ordinance #686 - 06/11/2015
Ordinance 2016-05 - 09/22/2016
Ordinance 2016-16 - 12/15/2016
Ordinance 2017-05 - 08/08/2017
Ordinance 2018-01 - 02/08/2018
Ordinance 2018-07 - 03/22/2018
Ordinance 2018-09 - 06/14/2018
Ordinance 2018-20 - 11/15/2018
Ordinance 2019-08 - 06/13/2019
Ordinance 2019-09 - 08/19/2019