

CHAPTER 8 BUILDING

ARTICLE 8-1 BUILDING CODE

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Section 8-1-1 Adoption Of Codes *Ord. 897/7-3-03

A. ADOPTION OF INTERNATIONAL BUILDING CODE, 2006 EDITION *Ord. 1000:

1. That certain document, three (3) copies of which are on file in the office of the Town Clerk of the Town of Wickenburg, being marked and designated as the International Building Code, 2006 Edition, including Appendix Chapters (A, B, C, D, E, F, G H, I, J, K,) (SEE IBC CODE SECTION 101.2.1, 2006 EDITION), as published by the International Code Council, be and is hereby adopted as the Building Code of the Town of Wickenburg for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said building code on file in the office of the Town of Wickenburg are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in SUBPARAGRAPH 2.

2. The following Sections of the International Building Code, 2006 Edition, are hereby revised: *Ord. 1140
 - Section 101.1 Insert: TOWN OF WICKENBURG
 - Section 108.2 Fee Schedule as adopted by Council Resolution.
 - Section 1612.3 Insert: TOWN OF WICKENBURG
 - Section 1612.3. Insert Town of Wickenburg and Flood Insurance Study dated July-19-2001
 - Section 3410.2. Adopted May 5, 2007; Effective June 6, 2008

3. Insurance work will be evaluated from actual damage to the structure only as determined by the insurer or the Fire Department.
4. Whenever a Building Permit is issued and a building inspection is performed, such building must conform to the provisions of the Zoning Ordinance of the Town in addition to the provisions of this Chapter.
5. The Town's grading fees shall be established by Council Resolution. *Ord. 1140

B. ADOPTION OF INTERNATIONAL RESIDENTIAL CODE, 2006 EDITION: ~~§~~Ord. 1000 *Ord. 1140

- I. That a certain document, three (3) copies of which are on file in the office of the Town Clerk of the Town of Wickenburg, being marked and designated as the International Residential Code, 2006 Edition, including Appendix Chapters A, B, C, D, E, F, G H, I, J, K, L, M, N, O, P, Q) (See IRC Code Section R102.5, 2006 Edition), as published by the International Code Council, be and is hereby adopted as the Residential Code of the Town of Wickenburg for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one and two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provision, penalties, conditions and terms of said Residential Code on file in the office of the Town of Wickenburg Clerk are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Subparagraphs 2 through 5.

2. The following Sections are hereby revised:

SECTION R101.1 : INSERT TOWN OF WICKENBURG

TABLE R301.2(1): INSERT EXHIBIT A – SEE PAGE 65

SECTION P2603.6.1: INSERT Twelve Inches (12") and Twelve Inches (12")

SECTION P3103.1: INSERT Six Inches (6") and Six Inches (6")

3. Insurance work will be evaluated from actual damage to the structure only as determined by the insurer or the Fire Department.
4. Whenever a Building Permit is issued and a building inspection is performed, such building must conform to the provisions of the Zoning Ordinance of the Town in addition to the provisions of this Chapter.
5. Section R102.7 existing structures shall be deleted and replaced with the following: the legal occupancy of any structure existing on the effective date of this Code shall be permitted to continue without change except as specifically permitted in this Code or the International Fire Code or as is deemed necessary by the Building Official for the general safety and welfare of the occupants and the public.

C. ADOPTION OF INTERNATIONAL MECHANICAL CODE, 2006 EDITION: ~~§~~Ord. 1000

- I. That certain Code entitled, International Mechanical Code", 2006 Edition, together with all appendices thereto, is hereby adopted as the International Mechanical Code of the Town of Wickenburg and made a part of this Chapter the same as though said Code was specifically set forth in full herein. At least three (3) copies of said Code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.

D. ADOPTION OF INTERNATIONAL FIRE CODE, 2003 EDITION. □

That certain Code entitled, "International Fire Code", 2003 Edition, together with all appendices thereto, published by the International Conference of Building Officials and Western Fire Chiefs Association, is hereby adopted as the "International Fire Code 2003 of the Town of Wickenburg" and made a part of this Chapter the same as though said Code was specifically set forth in full herein. At least three (3) copies of said Code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.

E. ADOPTION OF INTERNATIONAL PLUMBING CODE, 2006 EDITION: ✕Ord. 1000

1. That certain Code entitled, "International Plumbing Code", 2006 Edition, together with all appendices thereto, as amended in paragraph 2 below, is hereby adopted as the "International Plumbing Code of the Town of Wickenburg" and made a part of this Chapter the same as though said Code was specifically set forth in full herein. At least three (3) copies of said Code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.
2. Evaporative Cooling Systems: All shall be equipped with a re-circulating water pump and shall be installed as part of all new or replacement evaporative cooler units.

F. ADOPTION OF INTERNATIONAL EXISTING BUILDING CODE, 2006 EDITION:

That certain code entitled, "International Existing Building Code", 2006 Edition, together with all appendices thereto, is hereby adopted as the "International Existing Building Code of the Town of Wickenburg" and made a part of this Chapter the same as though said Code was specifically set forth in full herein. At least three (3) copies of said code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.

G. ADOPTION OF NATIONAL ELECTRIC CODE, 2005 EDITION:

1. That certain Code entitled, "National Electric Code", 2005 Edition, together with all appendices thereto, published by the National Fire Protection Association, NFPA No. 701990, is hereby adopted as the "Electrical Code of the Town of Wickenburg" and is made a part of this Chapter the same as though said Code was specifically set forth in full herein; and at least three (3) copies of said Code shall be filed in the office of the Town Clerk and kept available for public use and inspection.

H. ADOPTION OF INTERNATIONAL FUEL GAS CODE, 2006 EDITION: ✕Ord. 1000/5-08

That certain code entitled, "International Fuel Gas Code", 2006 Edition, together with all appendices thereto, is hereby adopted as the "International Fuel Gas Code of the Town of Wickenburg" and made a part of this Chapter the same as though said Code was specifically set forth in full herein. At least three (3) copies of said Code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.

I. ADOPTION OF INTERNATIONAL ENERGY CONSERVATION CODE, 2006 EDITION: ✓

That certain code entitled, "International Energy Conservation Code", 2006 Edition, is hereby adopted as the "International Energy Conservation Code of the Town of Wickenburg" and made a part of this Chapter the same as though said Code was specifically set forth in full herein. At least three (3) copies of said Code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.

J. ADOPTION OF UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS, 1997 EDITION



Ord. 1035/3-09

That certain Code entitled, "Uniform Code for the Abatement of Dangerous Buildings", 1997 Edition, is hereby adopted as the "Uniform Code for the Abatement of Dangerous Buildings of the Town of Wickenburg" and made a part of this Chapter the same as though said Code was specifically set forth in full herein. At least three (3) copies of said Code shall be on file in the office of the Town Clerk and shall be kept available for public use and inspection.

K. ADOPTION OF THE 2007 MARICOPA ASSOCIATION OF GOVERNMENTS (MAG) UNIFORM STANDARD SPECIFICATIONS AND DETAILS FOR PUBLIC WORKS CONSTRUCTION: ▽ Ord.983/June 07

That certain Code entitled, "The 2007 MARICOPA ASSOCIATION OF GOVERNMENTS (MAG) UNIFORM STANDARD SPECIFICATIONS AND DETAILS FOR PUBLIC WORKS CONSTRUCTION", Edition, together with all appendices thereto, is hereby adopted as the standard specifications and details for public works construction in the Town of Wickenburg and made a part of this Chapter the same as though said Code as specifically set forth in full herein. At least three (3) copies of said Code shall be on file in the Office of the Town Clerk and shall be kept available for public use and inspection.

Section 8-1-2 Rules and Definitions

- A. The term "International Building Codes" as used hereinafter shall mean the Codes referred to in Section 8-1-1.
- B. The terms used in this Article shall be defined as provided in the Codes adopted in Section 8-1-1, except as herein otherwise provided.
- C. Whenever the terms "governing body" or "city" or "Town" or "municipality" are used in the International Building Codes, they shall mean the Town of Wickenburg.
- D. Whenever the terms "Mayor", "appointing authority", "Commission" or "City or Town Council" are used, they shall mean the Common Council of the Town of Wickenburg.
- E. Whenever the terms "administrative authority", "Building Official" or "administrator" are used in the International Building Codes, it shall mean the Building Inspector of the Town of Wickenburg.
- F. Whenever the terms "other Codes" or "other Code" are used in the International Building Codes, they shall mean the other Code or other Codes adopted by the County of Maricopa and the State of Arizona.
- G. Reference to Chapters, Articles, Sections and Subsections or paragraphs and to tables thereof are to the International Building Codes.
- H. Administrative Provisions. Part I of the International Building Code in Section 8-1-1 shall be used as the administrative rules for administering this Article, except as otherwise hereinafter provided.

Section 8-1-3 Board of Adjustment Ord. 1000/5-08

- A. In order to determine the suitability of alternative materials and methods of construction and to provide for reasonable interpretations of the provisions of this Chapter, there shall be a Board of Adjustment, which shall be that same body established in Section 14-18-1, et seq. of the Code of the Town of Wickenburg. The building official shall be an ex-officio member of the Board, for matters pertaining to the International Building Code and its interpretation. The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing. The Board of Adjustment shall sit at regular or special meetings and may consider at one and the same meeting matters pursuant to this Chapter, as well as matters pursuant to Chapter 14.
- B. All appeals under this Chapter must be submitted at least seven (7) days prior to any regular or special meeting. Upon filing an appeal from a decision of the Building Department, the appellant shall pay a filing fee of twenty-five dollars (\$25.00) to the Town Clerk. No part of any such fee shall be returnable after an application is filed and such fee paid.

Section 8-1-4 Continuity

The International Code Council and other publishers identified in Section 8-1-1 issues each edition of the International Building Codes periodically which is maintained by annual supplements. In order that this Article maintains its continuity, it shall be the responsibility of the Town Administration to review and present all such necessary supplements to the Common Council for appropriate action.

Section 8-1-5 Rules and Regulations

Town administration shall propose to the Common Council for adoption rules and regulations in the interest of public safety, health and general welfare to implement the provisions of this Article and to secure the intent thereof; but no such rules shall have the effect of waiving technical provisions specifically provided in the International Building Codes or of violating accepted engineering practices involving public safety.

Section 8-1-6 Permits

- A. Applications shall be made and permits issued at the discretion of the Town administration for the following items:
 - I. Construction, erection, demolition, alteration or repair of any building or structure.

2. Installation or replacement of any plumbing fixtures which require changing or alteration of the rough plumbing servicing such fixture as well as the alteration or installation of rough plumbing for the service of future fixtures.
 3. The installation, replacement or alteration of any electrical fixtures appliance, outlet or service, which shall require a change, alteration, or replacement of any rough wiring.
 4. The installation or alteration of any heating, cooling, refrigeration or ventilating equipment which shall involve the installation or alteration of duct work or the alteration of fuel lines or electric wiring to the equipment.
 5. Masonry or other retaining walls which are retaining earth more than eighteen (18) inches in depth, detached accessory buildings more than one hundred forty-four (144) square feet in area, tool sheds, storage buildings and other accessory buildings with more than one hundred forty-four (144) square feet projection roof area. II /  (Ord. 1075/8-10)
- B. In addition to the requirements of Section 105 IBC and Section R105 IRC of the International Building Codes for the application of a permit, the applicant shall also file a signed statement that the applicant is currently licensed to perform the work applied for in the permit under the provisions of A.R.S §32-1101, et. seq., with his license number. If the applicant is exempt from the provisions of that law, the statement shall contain the basis of the asserted exemption and the name and license number of any general, mechanical, electrical or plumbing contractor who will be employed on the work. ✕Ord. 1000/5-08

Section 8-1-7 Fees

- A. For purposes of determining Building Permit Fees for Codes adopted by Section 8-1-1, valuation shall be determined in accordance with International Code Council Building Valuation data table and construction cost table released in august of each year. *Ord. 1140
- B. The following shall require the issuance of a permit but shall be exempt from the requirement of collection of fees:
1. Curbs, retaining walls, planter walls, fences and free standing masonry walls up to thirty-six (36) inches in height and not retaining earth more than eighteen (18) inches in depth.
 2. Patio covers accessory to Group H, I and J occupancies up to one hundred (100) square feet provided other requirements are complied with.
 3. One story tool and storage sheds and other accessory buildings not used for human occupancy in the rear yard with not more than, one hundred forty-four (144) square feet of projected roof area provided all other requirements are complied with.  (Ord. 1075/8-10)
- C. The following shall not require permit or fee:
1. Residential television and radio antennas supported on roofs.
 2. Awnings projecting up to six (6) feet and attached to the exterior walls of buildings in Group I and J occupancy.
 3. Repairs or maintenance which involve only the replacement of component parts of existing work with similar materials for the purpose of maintenance, and which do not aggregate over one thousand dollars (\$1,000.00) in valuation in any twelve (12) month period. Repairs exempt from permit requirements shall not include any addition, change or modification in construction, exit facilities or permanent fixtures or equipment.
 4. Paved driveways or sidewalks provided drainage is controlled to a public right-of-way.
 5. Painting, decorating and installation of floor covering.

Section 8-1-8 Enforcement

It shall be the duty of the Town Planner or Town Manager to certify that all requisite Zoning clearances and approvals have been issued and are in order prior to the issuance of any permit for any activity for which a permit is required. Notwithstanding the foregoing, the Town Planner or Town Manager may authorize the issuance of an emergency permit if the work covered by the permit is intended to mitigate conditions, which may pose a hazard or threat to the health or safety of persons or property. (Ord. 838: 6/99)

Section 8-1-9 Violations

It is unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure in the Town, cause the same to be done, contrary to or in violation of any of the provisions of this Article.

Section 8-1-10 Permit Requirements

- A. Except for Plan Review fees, all fees due pursuant to this Article shall be paid prior to Building Permit issuance. Plan Review fees shall be paid at the time of filing an application. If additional Plan Review fees become due after the filing of an application, such fees shall be paid prior to the issuance of a Building Permit. All fees shall be in conformance with current fee schedules set forth in this Article.  Ord. 1040/4-09
- B. Nothing in this Chapter shall be construed to require changes in the plans, construction or designated use of the building for which a lawful permit has been heretofore issued or otherwise lawfully authorized.

Section 8-1-11 Amendments to Building Code  Ord. 1000/5-08,  Ord. 1046/7-09

- A. The International Building Code of the Town of Wickenburg, 2006 Edition, Section 2109.8, Adobe Construction, shall be amended to read as follows:
1. General: The use of un-reinforced masonry of unburned clay units shall be limited to buildings of Group R Division 3 and Group M occupancies of no more than one (1) story in height, unless a registered architect or engineer submits design and structural calculations and approved by the Building Official.
 2. Walls: The height of every laterally unsupported wall of unburned clay units shall be not more than ten (10) times the thickness of such walls. Exterior walls, which are laterally supported with those supports located no more than twenty-four feet (24') apart, are allowed a minimum thickness of sixteen inches (16"). Interior walls are allowed a minimum thickness of twelve inches (12"). Designed walls may be a minimum thickness of ten inches (10") provided the h/t ratio of ten (10) is maintained.
 3. Compressive Strength: The unit(s) shall have an average compressive strength of three hundred (300) pounds per square inch when tested in accordance with ASTM C67. One (1) sample out of five (5) may have a compressive strength of not less than two hundred fifty (250) pounds per square inch.
 4. Modulus of Rupture: The unit shall average fifty (50) pounds per square inch in modulus of rupture when tested according to the following procedure:
 - a. A cured unit shall be laid over (cylindrical) supports two inches (2") in diameter, located two inches (1") from each ends and extending across the full width of the unit.
 - b. A cylinder two inches (2") in diameter shall be laid midway between and parallel to the supports.
 - c. Load shall be applied to the cylinder at the rate of five hundred (500) pounds per minute until rupture occurs.
 - d. The modulus of rupture is equal to $\frac{3WL}{2Bd^2}$

$$W = \text{Load of rupture}$$

$$L = \text{Distance between supports}$$

$$B = \text{Width of brick}$$

$$d = \text{Thickness of brick}$$



5. Soil: The soil used shall contain not less than twenty-five percent (25%) and not more than forty-five percent (45%) of material passing a No. 200-mesh sieve. The soil shall contain sufficient clay to bind the particles together and shall not contain more than 0.2 percent of water-soluble salts.
6. Classes of Adobe:
 - a. Treated Adobes. The term "treated" is defined to mean adobes made of soil to which certain admixtures are added in the manufacturing process in order to limit the adobe's water absorption in order for it to comply with paragraph 10 below. Exterior walls constructed of treated adobe require no additional protection. Stucco is not required.
 - b. Untreated Adobes. Untreated adobes are adobes that do not meet the water absorption specifications of paragraph 10 below. This shall hold even if some water absorption protective agent has been added. The determination as to whether an adobe is treated or untreated is to test for compliance with paragraph 10 below. Exterior walls of untreated adobe are allowed but must comply with paragraph 15 requiring Portland cement plaster applied to the outside. Use of untreated adobes is prohibited within four inches (4") above finished floor grade, unless an approved vapor barrier is used between wall and stem. Treated adobes may be used for the first four inches (4") above finished floor grade, without a vapor barrier.
 - c. Other types of Adobe. This chapter applies to construction with all types of adobe including rammed earth and poured earth adobe. The types of adobe shall meet the specifications in this Chapter or similar specifications that are approved by the Building Official.
7. Mortar: Where treated adobe is required, mortar shall be treated or may be Type M or S. Where adobes are allowed to be untreated, any adobe mortar may be used and/or Type M, S or N. Mortar "bedding" joints shall be full SLUSH type, with partially open "head" joints allowable if surface is to be plastered. All joints shall be bonded "overlapped) a minimum of four inches (4").
8. Sampling: Each of the tests prescribed in this Section shall be applied to five (5) sample units selected at random from each 5~000 bricks to be used.
9. Moisture Content. The moisture content of the unit shall be not more than four percent (4~) by weight.
10. Absorption: A dried four inch (4") cube cut from a sample unit shall absorb not more than two and one-half percent (2-1/2~) moisture by weight when placed upon a constantly water saturated porous surface for seven (7) days.
11. Shrinkage Cracks: No units shall contain more than three (3) shrinkage cracks, and no shrinkage crack shall exceed two inches (2") in length or one-eighth inch (1/8") in width.
12. Use: No adobe shall be laid in the wall for at least three (3) weeks after making, dependent on weather conditions.
13. Foundations: Adobes shall not be used for foundation or basement walls. All adobe walls, except as noted under Group M Buildings, shall have a continuous concrete footing at least eight inches (8") thick and not less than two inches (2") wider on each side than the foundation stem walls above. All foundation walls, which support adobe units, shall extend to an elevation not less than eight inches (8") above the finished grades. Foundation walls shall be at least as thick as the exterior wall as specified in Section 24G5 (1). Where stem wall insulation is used, a variance is allowed for the stem wall width to be two inches (2") smaller than the width of the adobe wall it supports.
14. Bond Beam: All exterior adobe walls shall have a continuous concrete bond beam with a minimum width of ten inches (10") and a minimum depth of ten inches (10"). All concrete bond beams shall be reinforced with a minimum of two (2) No. 4 reinforcing rods.

15. Plastering: All untreated adobe shall have all exterior walls plastered on the outside with Portland cement plaster, minimum thickness of three fourth inches (3/4") in accordance with Chapter 47. Protective coatings other than plaster are allowed, provided such coating is equivalent to Portland cement in protecting the untreated adobes against deterioration and/or loss of strength due to water. Metal wire mesh minimum 20 gauge by one inch (1") opening shall be securely attached to the exterior adobe wall surface by nails or staples with minimum penetration of one and one-half inches (1-1/2"). Such mesh fasteners shall have a maximum spacing of sixteen inches (16") from each other. All exposed wood surfaces in adobe walls shall be treated with an approved wood preservative before the application of wire mesh.
16. Piers: A minimum twenty-eight inch (28") wall Section shall be required between openings and openings shall not be placed within twenty-eight inches (28") of exterior corners.
17. Partitions of Wood: Shall be constructed as specified in Chapter 25, wood partitions shall be nailed to nailing blocks laid up in the adobe wall or bolted through the adobe wall the height of the partition, with one-half inch (1/2") diameter bolts at twenty-four inches (24") on center with large washers or plates, or other approved methods.
18. Wood Lintels: Wood lintels designed to support all imposed loads are permitted up to a maximum span of six feet (6') and shall have a minimum twelve inch (12") bearing.
19. Alternate methods to those provided in this Section (Section 2109.8) may be approved pursuant to Section 104.11 of the International Building Code. ✕Ord. 1000/5-08
20. Stresses: All masonry of unburned clay units shall be so constructed that the unit stresses do not exceed those set forth in Section 2109.8.3. Bolt values shall not exceed those set forth in 2109.8.3.1. ✕Ord. 1000/5-08

B. New residential construction in areas not feasibly served by the Town of Wickenburg water system and/or greater than one thousand feet (1000') from the nearest Town approved fire hydrant, shall comply with the 2006 International Residential Code Appendix "P" as adopted by the Town of Wickenburg, fire sprinkler requirements prior to approval of the residential dwelling building permit.

C. The Town of Wickenburg, through Ordinance No. 1049 amended 2006 International Residential Code Appendix "P" to read as follows: API01 Fire Sprinklers: An approved automatic fire sprinkler system may be installed in new one (1) and two (2) family dwellings and townhouses, in accordance with Section 903.3.1. of the International Building Code. 

D. When an application for approval of a masonry fence wall is filed with the Town, the applicant shall be provided a copy of the *Arizona Masonry Guild Engineering Standards* for masonry fence walls. Plan Review Fees shall be waived for applicants who use these standards. The *Arizona Masonry Guild Standards* may be modified from time to time. Updated Standards shall be kept on file with the Office of the Building Official. 

EXHIBIT A -- TABLE R301.2(1) ✕Ord. 1000/5-08

CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA

Ground Snow Load	Wind Speed (mph)	Seismic Design Category	SUBJECT TO DAMAGE FROM			Winter Design Temp.	Ice Barrier Underlayment Required	Flood Hazards	Air Freezing Index	Mean Annual Temp.
			Weathering	Frost Line Depth	Termite					
0	90	B	Negligible	12"	Moderate to Heavy	32°F	0	Jurisdiction Specific	0	66.7°F

ARTICLE 8-2 ADOPTION OF STATE STANDARDS

- A. The standards for curb ramps specified in A.R.S § 9-499.02 shall be observed in the construction of new curbs and replacement curbs in the same manner and to the same extent as provided in the above referenced State Statute.
- B. The provisions of Title 34, Chapter 4, Article 1, Arizona Revised Statutes, are hereby incorporated in the Town Building Code in the same manner and to the same extent as required by the above referenced Statute.

ARTICLE 8-3 STREET IMPROVEMENTS

- 8-3-1 Definitions
- 8-3-2 Street Improvements Required
- ~~8-3-3~~ Construction In Public Rights-Of-Way; Location & Relocation Of Facilities In Public Rights-Of-Way
- 8-3-5 Assessment Procedure
- 8-3-6 Manner of Collecting Unpaid Assessments
- 8-3-7 Exemptions
- 8-3-8 Fees
- 8-3-9 Dedication and Acceptance of Private Roads ✓

Section 8-3-1 Definitions

In this Article, unless the context otherwise requires:

- A. "Cost" means the actual cost of:
 - 1. Construction of the public street improvements as determined by the construction contract price.
 - 2. Inspection and permit fees.
 - 3. Engineering fees required for the preparation of plans and specifications.
 - 4. Other incidental fees required to complete the improvements.
- B. "Development" means the construction of residential, commercial or industrial buildings or structures or major additions or alterations to existing residential, commercial or industrial buildings or structures, not including subdivisions, and includes new buildings or structures on property having existing buildings or structures situated on such property. When such property is zoned for agricultural use or single-family residential use at the time of assessment, development shall also require a change of use or purpose. Nothing herein shall be construed to affect, eliminate or modify the requirements of the Town's Subdivision Code, which shall in all cases remain in effect.
- C. "Major addition or alteration" means any addition or alteration to an existing building hereafter made where the value of such addition or alteration, as determined by the Building Official for the purpose of establishing the applicable permit fee due under the Town Code, is twenty-five percent (25%) or more of the value of the building before such addition or alteration is started.
- D. "Owner" means the individual, corporation, partnership, trust or other legal entity that owns property adjacent to the street right-of-way.
- E. "Right-of-Way" means land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved or dedicated to the general public for street, highway, alley, public utility, pedestrian walkway, bikeway or drainage purposes.
- F. "Street improvements" include, but are not limited to, asphaltic concrete surfacing, aggregate base, Portland cement concrete, curb and gutters, sidewalks, valley gutters, storm drainage facilities and irrigation tilling.
- G. "Street" means the full width of the right-of-way of any road, street, highway, alley, land or pedestrian walkway whether or not said road, street, highway, alley, land or pedestrian walkway has been improved or accepted for maintenance by the Town.

Section 8-3-2 Street Improvements Required Ord. 1028/2-09 (A)

- A. At the time of development of property within the Town, the proprietor or owner of the property shall dedicate rights-of-way and easements and construct street improvements within and adjacent to such property in accordance with Town requirements. Dedications and street improvements shall not be considered complete until the Town Council, upon recommendation of the Town Engineer and Public Works Director accepts such dedications and improvements into the Town's Street System. If accepted, the Town Clerk shall then record such dedications and improvements in the Maricopa County Recorder's Office.
- B. If the Council determines that street improvements within or adjacent to the property are necessary before the development of the property, the Council may order street improvements to be constructed by the Town as provided in Section 8-3-4 of this Article.
- C. If, in the opinion of the Town Engineer, the installation of street improvements would not be feasible from an engineering standpoint at the time of development, the installation of such improvements may be temporarily deferred provided a cash bond, irrevocable letter of credit or similar instrument as approved by the Town Attorney is deposited with the Town for the cost of such improvements. Estimated costs of the street improvement shall be established by the owner/developer's engineer and reviewed and approved by the Town Engineer.
- D. Notwithstanding the provisions of Subsections A and B of this Section, an owner may apply to the Council for partial or total waiver of the requirements set forth in Subsections A and B of this Section. Upon such application, the Town Council may waive a part or all of the street improvements and/or the posting of bonds or furnishing of security, if the Council reasonably determines that all or a portion of the improvements normally required under this Section will be constructed by the Town or some other owner, developer or subdivider within a reasonable time in the future.
- E. This Section shall not apply to subdivisions, which in all cases shall be governed by the Town's Subdivision Code.

Section 8-3-3 Construction In Public Rights-Of-Way; Location & Relocation Of Facilities In Public Rights-Of-Way Ord. 1004-6/08

A. Permit Required; Contents of Application

It shall be unlawful for any permittee to construct, reconstruct, repair, alter, or grade within the public rights-of-way without first obtaining a permit from the Public Works Department as provided in this Section and complying with the Zoning and Subdivision Codes of the Town. An applicant for a permit shall file with the Town an application showing:

1. Name, address and license number of the party doing the work.
2. Location of the work area.
3. Plans attached to the application showing details of the proposed construction. Such plans shall be prepared and sealed by an engineer registered and licensed in the State, unless the permittee demonstrates to the satisfaction of the Town that the work does not warrant imposing this requirement.
4. A traffic control plan in accordance with Subsection b.
5. Estimated cost of alteration.
6. Such other information as the town finds reasonably necessary to determine compliance with Town Codes.

B. Traffic control

1. Traffic Control Plans. A permittee shall submit a traffic control plan application to the Town at least two (2) business days prior to the proposed start date of construction activities. The traffic control plan application must include a traffic control plan. The traffic control plan must be designed and submitted by a certified member of the American Traffic Safety Services Association (ATSSA).

2. Traffic control manual. The Town designates the Phoenix Barricade manual (1998 edition) as a public record and hereby adopts the Phoenix Barricade manual (1998 edition) three copies of which are on file in the Town Clerk's office as the Town's Official Traffic Control manual for Construction Work Zones with the following changes:

- (a) Arrowboards are required for all lane closures on arterial streets.
- (b) Lane closures on arterial streets are not permitted between 5:30 a.m. and 8:30 a.m. or between 3:30 p.m. and 7:00 p.m. unless previously approved by the Traffic Engineer or Public Works Director.
- (c) A permittee shall hire a uniformed off-duty police officer to be present when construction activities take place within three hundred (300) feet of a signalized intersection or if required by the engineer. Permittee's must arrange for a police officer five (5) calendar days in advance of planned construction activities.

C. Fees

Plan checking fees and inspection fees as established by the Council by resolution shall be paid prior to issuance of a permit. Such fees shall be reasonably related to costs directly incurred in providing services relating to the administration of the permits.

D. Location and Relocation of Facilities in Public Rights-Of-Way

1. General. If the work to be performed in a public right-of-way involves the installation, construction, erection, replacement or relocation of any facilities, a permit must be obtained from the Building Department/Public Works Department. Such permit shall be issued on such conditions as are reasonable and necessary to ensure compliance with the terms and conditions of Town Codes. The application shall include all information required in Subsection B. Each permittee is responsible for ensuring that its facilities are installed, constructed and maintained in strict accordance with Town Codes; that all required licenses, franchises and other permits are applied for and obtained before any work commences; and that the terms and conditions thereof are strictly followed. Where a facility is used by more than one permittee, each permittee is fully responsible for ensuring that all requirements are satisfied. Facilities shall be installed, constructed and maintained so that no additional provision of this Code, the Zoning Code or the Subdivision Code, or the provisions of any license, permit, or franchise issued by Town, this shall require, at a minimum, compliance with the provisions of this Subsection.

2. Joint use of trenches. In order to minimize degradation of streets, traffic impacts and other interference with the use of public rights-of-way, work shall be coordinated so that to the greatest extent possible, consistent with economic feasibility, joint trenching is utilized. The Public Works Department shall adopt rules to facilitate joint trenching in the public rights-or-way.

3. Traffic safety. The facilities to be constructed, installed, operated, and maintained by the permittee shall be so located or relocated as to interfere as little as possible with traffic or other authorized uses over, under, or through the public rights-of-way. Those phases of construction relating to traffic control, backfilling, compaction, and paving, as well as the location or relocation of said facilities shall be subject to regulation by the Town Council.

4. Records. The permittee shall keep accurate records of the location of all facilities in the public rights-of-way and furnish them to the town upon request or at such periodic intervals as the Town may require. In order for the Town to regulate users in the public rights-of-way, upon completion of new or relocation construction of underground facilities in the public rights-of-way, the permittee shall provide the Town with the location of the underground and above ground facilities in a format compatible with the current Town mapping format.

5. Restoration. Whenever the permittee shall cause any opening or alteration to be made for any purpose in any public rights-of-way, the work shall be completed within a reasonable time, and the permittee shall, without expense to the Town and upon completion of such work, restore the property disturbed in a manner consistent with the Town's adopted standards, or as required by its permit, license, or franchise which may incorporate special standards when required for Town purposes. Landscaping, whether in the public rights-of-way or on private

property, which is damaged by a permittee shall be restored to its condition as it existed prior to the work. A permittee shall exercise special care when working near established trees or shrubs. If established trees or shrubs die within six (6) months of completion of work by a permittee, it is presumed that the permittee caused such damage if the work performed was in the location of the roots of such tree or shrub.

6. Town's facilities. The installation, use and maintenance of the permittee's facilities within the public rights-of-way authorized herein shall be in such a manner as not to interfere with placement, construction, use, and maintenance of public rights-of-way, street lighting, water pipes, drains, sewers, traffic signal systems, or other utility systems that have been, or may be, installed, maintained, used or authorized by the town. Upon the Town's request, the permittee's facilities will be relocated at permittee's expense (unless state law expressly requires otherwise). Upon the Town's request, by a time specified by the Town, if the permittee fails to move its facilities, the Town may do so and will bill the permittee the costs of relocation and the permittee shall pay those costs within thirty (30) days after its receipt of the invoice. Further, the permittee shall reimburse the Town any additional cost the Town incurs due to the delay in location or relocation of the permittee's facilities, including all design and construction costs.

7. Interference. The permittee shall not install, maintain, or use any of its facilities in such a manner as to damage or interfere with facilities of another located within the public rights-of-way.

8. Location and maintenance of above-ground facilities. The Town shall approve the location of aboveground facilities, such as boxes, cabinets and similar equipment or appurtenances. The permit shall set forth the location of such aboveground facilities. If the Public Works Director determines that a proposed location would impair traffic visibility or visibility of existing signage or would substantially harm existing landscaping, or that similar conditions exist which would justify a denial of a permit in that location, the permit shall be denied. Aboveground facilities shall be maintained in good condition. If the Town finds any of permittee's above-ground facilities are not maintained in good condition, permittee shall correct such condition within three (3) business days of receiving notice from the Town.

9. Undergrounding of new utilities.

No new poles and wires shall be erected in the Town above the surface of the ground unless a permit is first secured from the Public Works Department, except that the following construction may be installed without such a permit:

- (a) Temporary service facilities, such as facilities to furnish emergency service during an outage, facilities to provide service to construction sites, or other service of a limited duration, such as to a fair, carnival, outdoor exhibit or other function where the facilities will be installed for a temporary period only;
- (b) Pad-mounted transformers or pull boxes, service terminals, pedestal-type telephone terminals, telephone splice closures, or similar on-the-ground facilities normally used with and as part of an underground electric distribution, telephone, data, telegraph or television system, or on-the-ground facilities attached to existing overhead facilities which are used for the purpose of connecting an underground system with the existing facilities;
- (c) Transmission lines, together with related switch yards, substations and related equipment.

10. Plans. All facilities shall be installed per plans prepared by a registered professional engineer. The Town shall approve all plans before the work commences. A permittee may install facilities on existing utility poles or in existing conduit where permission is granted by owner of the utility pole or conduit, and such permission is verified by the Town except where those same poles are scheduled to be replaced with buried facilities. The Town may require the permittee to prove that it has such permission from the owner to use the owner's facilities. No new poles, or longer poles, will be permitted in the public rights-of-way for any new facilities. If permittee installs facilities on existing poles as provided herein, the permittee shall bury its facilities if such poles are removed and not replaced in kind for any reason. If the permittee makes use of existing conduit of another person, the permittee shall be subject to the provisions of this Section in the use of such conduit in the public rights-of way. As used herein, a pole installed to replace a damaged pole shall not be considered to be a new pole.

11. Insurance, bonding. Each permittee must obtain and maintain such insurance, bonding, and security fund requirements as specified by the Town, or if no specific requirements are specified, as are required by the Town for similar facilities. No work shall commence unless these requirements have been satisfied, and the Town may require the permittee to remove or stop work on facilities or require a permittee to cease using the facility, when any insurance, bonding and security fund requirements are not satisfied.

12. Repairs. A permit shall be obtained from the Public Works Department prior to a person removing, relocating, or reconstructing, if necessary, any portion of a person's facilities. Notwithstanding the foregoing, the Town understands and acknowledges there may instances when a person is required to make repairs, in compliance with federal or state laws, that are of an emergency nature. The permittee will notify the Town prior to such repairs, if practicable, and will obtain the necessary permits in a reasonable time after notification.

13. Conflict with Town projects.

(a) Identification of conflict. If, during the design process of public improvements, the Town discovers a potential conflict with proposed construction, the permittee shall either:

(1) Locate and, if necessary, expose its facilities in conflict; or

(2) Use the one-call notification center ("blue stake") to locate or expose its facilities. The permittee shall reimburse the Town for the cost resulting from the use of such location service. The Town shall make reasonable efforts to design and construct projects pursuant to this Section so as to avoid relocation expense to the permittee. Permittee shall furnish the location information in a timely manner, but in no case longer than ten (10) calendar days from the Town's request.

(b) Priority Right. The Town reserves the prior and superior right to lay, construct, erect, install, use, operate, repair, replace, remove, relocate, re-grade, widen, realign, or maintain any public rights-of-way, Aerial, surface, or subsurface improvements, including, but not limited to, traffic control conduits, storm sewers, subways, tunnels, bridges, viaducts, or any other public construction within the public rights-of-way.

(c) Relocation. When the Town invokes its prior superior right to the public rights-of-way, the permittee shall move its facilities located in the public rights-of-way, at its own cost, to such a location as the Town directs.

(d) Procedures. If, during the course of the project, the Town determines permittee's facilities are in conflict, the following shall apply.

(1) Prior to the Town notice to proceed to contractor: the permittee shall, within a reasonable time, but in no event exceeding one (1) month, remove or relocate the conflicting facility. This time prior shall begin running upon receipt by the permittee of written notice from the Town. However, if both the Town and permittee agree, the time frame may be extended based on the requirements of the project.

(2) Subsequent to Town notice to proceed to contractor: the Town and the permittee will immediately begin the coordination necessary to remove or relocate the facility. Actual construction of such removal or relocation is to begin no later than seventy-two (72) hours, if practicable, after written notification from the Town to proceed.

14. Damage to Town rights-of-way and facilities.

(a) If, in the installation, use, or maintenance of its facilities, the permittee damages or disturbs the surface or subsurface of any public rights-of-way or adjoining public property, or the public improvement located thereon, therein, or thereunder, the permittee shall promptly, at its own expense, and in a manner acceptable to the Town, restore the surface or subsurface of the public rights-of-way or public property, or repair or replace the public improvement thereon, therein, or thereunder, in as good a condition as before such damage or disturbance. If such restoration, repair or replacement of the surface, subsurface, or any structure located thereon, therein, or thereunder is not completed within a reasonable time, or such repair

or replacement does not meet Town standards, the Town shall have the right to perform the necessary restoration, repair, or replacement, either through its own forces, or through a hired contractor, and the occupant agrees to reimburse the town for its expense in so doing within thirty (30) days after receipt of the invoice therefore.

(b) The permittee shall reimburse the town for all reasonable costs arising from the reduction in the service life of any public road or pavement damage, if required by any other Town ordinances or resolutions, resulting from pavement cuts of permittee. Permittee agrees to pay such costs within thirty (30) days from the date of issuance of an invoice from Town. *Ord. 1140/6-14

15. Relocation of facilities.

(a) General. The Town shall not bear any cost of relocation of existing facilities, irrespective of the function served, where the Town facilities or other facilities occupying the public rights-of-way under authority of a Town permit, license, or franchise which must be relocated, are already located in the public rights-of-way and the conflict between the permittee's potential facilities and existing facilities can only be resolved expeditiously as determined by the town by the movement of the existing Town or other approved facilities.

(b) Delay. If permittee's failure to keep or provide accurate records to Town or if permittee's relocation effort so delays construction of a public project causing the Town to be liable for damages, the permittee shall reimburse the Town for those damages attributable to the delay created by the permittee.

(c) Town Costs. Except as otherwise provided in a license, franchise, or permit, or by other provision of law, the entire cost of relocation shall be borne by the Town if the permittee is required by the Town to relocate facilities which are located in private easements obtained by the permittee prior to the dedication of the public rights-of-way from which facilities must be relocated. These prior rights of the permittee would also be unaffected by any subsequent relocation. "prior rights" as used in this Subsection means private easement or other legally sufficient rights obtained by the permittee prior to the dedication of the public rights-of-way from which the facilities are requested by the Town to be relocated.

16. Rights reserved to Town.

Without limiting the rights that the Town might otherwise have, the Town hereby expressly reserves the following rights, powers and authorities:

- (a) To exercise its governmental powers now or hereafter to the full extent that such powers may be vested in or granted to the Town.
- (b) To determine any question of fact relating to the meaning, terms, obligations, or other aspects of this section and the instruments issued under this section.
- (c) To grant multiple, non-exclusive licenses, franchises, or permits within the Town to other persons.

17. Town police power; continuing jurisdiction.

(a) Police power. The permittee shall at all times be subject to all lawful exercise of the Police power by the Town, including any and all ordinances, rules or regulations which the Town has adopted or may adopt, and all laws, rules, regulations, order, and policies of the State and the United States Government. Any conflict between the provisions of this Section and other provisions of the Town Code, the stricter requirement shall apply.

(b) Continuing jurisdiction. The Town shall have continuing jurisdiction and supervision over any facilities located within or on public rights-of-way. However, it is recognized that the daily administrative, supervisory, and enforcement responsibilities of the provisions of this Article and any license or franchise shall be delegated and entrusted to the Town Manager or Director of Public Works to interpret, administer, and enforce the provisions of this Section, and to promulgate standards regarding the construction, reconstruction, relocation, maintenance, dismantling, abandonment, or use of the facilities within the public rights-of-way.

18. Violation

From and after the effective date of this ordinance, it shall be unlawful for any person to occupy the public rights-of-way unless the person is in compliance with the provisions of this Section and any other applicable ordinance, license, franchise or requirement.

Section 8-3-4 Street Improvements Constructed Prior to Development; Assessment Policy

When the Council has determined that streets within the Town are necessary before development of the property, the Council may order street improvements to be constructed by the Town at the Town's expense. Such expense shall be assessed against the adjacent property subject to the following:

- A. The assessment of property, if adjacent arterial streets are involved, shall not exceed the cost of improving more than one-half (½) of the width or more than one thousand (1,000) lineal feet of such adjacent arterial street.
- B. The assessment of property shall not exceed the actual costs incurred by the Town at the time of construction.

Section 8-3-5 Assessment Procedure

The Council, at a public hearing, shall determine the necessity of street improvements if the cost thereof is to be assessed against the adjacent property. Notice of said hearing shall be given to the owners, and other affected persons who would be assessed for the cost of improvements, by regular mail no less than ten (10) days prior to the date of the hearing. Notice of hearing shall contain:

- A. A description of the proposed street improvement.
- B. The estimated cost of assessment for each affected parcel.
- C. The date, time and place that the Council intends to consider the necessity of street improvements and adoption of a resolution of intention. Notice shall also be published in accordance with the provisions of A.R.S § 39-204 and shall also be conspicuously posted along the line of the proposed improvement at least ten (10) days prior to the hearing on necessity of the improvements.
- D. The property owners and any other persons directly interested in proposed street improvements or the assessment may, prior to the time fixed for the hearing, file in the office of the Town Clerk, a written objection briefly specifying the grounds for objection.
- E. At the time of public hearing, the governing body shall hear and pass upon any objections to the proposed improvements, and its decision shall be final and conclusive. It may modify the extent of the proposed improvements and proceed without the necessity for republishing, reposting and re-mailing new notices.
- F. At the conclusion of the hearings, the Council may pass its resolution of intention directing that plans, specifications and estimates of the cost and expenses of the proposed improvements be prepared by the Town Engineer and filed with the Town Clerk in order that a call for sealed bids be made.
- G. Upon completion of the improvements, the Council shall by resolution, at a public hearing, determine the cost of the improvements and assess against the properties adjacent to the street improvement, the total amount of the costs and expenses of the work in accordance with Section 8-3-4 of this Article. Notice of this public hearing shall be given to the property owner, and other affected persons who would be assessed for the cost of improvements, by regular mail at least ten (10) days prior to the date of the hearing. This notice shall contain:
 - 1. A description of the street Improvement; and
 - 2. The amount of the proposed assessment for each affected parcel of property.

- H. The property owners and any other persons, directly interested in the street improvements or in the assessment, who have any objection to the legality of the assessment or to any of the previous proceedings connected therewith or who claim that the work has not been performed according to the contract, may, prior to the time fixed for the hearing, file in the office of the Town Clerk, a written notice briefly specifying the grounds for objection. At the time fixed for hearing, or at any time thereafter to which the hearing may be postponed, the Council shall hear and rule upon the objections. The decision of the Council shall be final and conclusive as to all errors, informalities and irregularities which the Council might have remedied or avoided at any time during the progress of the proceedings.
- I. The Council's resolution shall provide that any assessments remaining unpaid shall be paid prior to or at the time of the development of the assessed property.
- J. A resolution declaring the assessment and describing the properties against which the assessments are imposed shall be recorded in the Office of the County Recorder. When so recorded, the amount so assessed shall be a lien upon the properties assessed for ten (10) years thereafter, or until such assessments are paid, whichever first occurs, and such recordings shall be notice to all persons interested in the contents of the record.
- K. Any assessment made under this Section shall abate if the property has not been developed within ten (10) years of the assessment.
- L. When it is necessary to improve a full street and sufficient right-of-way is not available, the Town Engineer may obtain the right-of-way upon terms that are just to the property owner and the Town, including assumption by the Town of all or part of the cost of street improvements.

Section 8-3-6 Manner of Collecting Unpaid Assessments

At the time of development of the property adjacent and abutting such improvements, the Council shall fix, levy and assess the amount to be repaid upon such property and collect the amounts of such improvements as County taxes are collected. All Statutes providing for the levy and collection of State and County taxes, including collection of delinquent taxes and sale of property for nonpayment of taxes, are applicable to the assessments provided for in this Article.

Section 8-3-7 Exemptions

Street improvements otherwise required by this Article shall not be required as follows:

- A. The street improvements required in Section 8-3-2 shall not be required where the property is zoned R1-35 (single-family residential), R1-12 (single-family residential) or R1-6 (single-family residential), except that if the property is a subdivision the Town's Subdivision Code shall apply.
- B. Street improvements shall not be required where the construction alteration or addition consists solely of installation or replacement of mechanical equipment.
- C. Street improvements shall not be required where additions or alterations to a building are less than twenty-five percent (25%) of the value of the building before the addition or alteration is started. The first time a value determination is made after March 5, 1984, for the issuance of a permit to add or alter a building, that value from that time henceforth shall be used. Whenever the subtotal of all alterations and additions from that time exceeds twenty-five percent (25%) of the determined value, street improvements shall be required. Each and every addition or alteration shall be added to the other to determine the applicable percentage.

Section 8-3-8 Fees

- A. There shall be a plan review fee of fifty dollars (\$50.00) per page for all plans submitted by an owner for street improvements under this Article.
- B. All street improvements shall be inspected. Owner shall pay the actual costs of all inspections required by the Town. Prior to issuance of a Building Permit, owner shall deposit with the Town an amount of money, as determined by the Building Official, equal to the estimated cost of making the inspections. If the actual cost of

making the inspections is less than the amount deposited by owner, the balance shall be returned to owner. If the actual cost of making the inspections is greater than the estimated cost of making the inspections, the owner shall pay to the Town the difference.

Section 8-3-9 **Dedication and Acceptance of Private Roads**  Ord. 979-5/07

This Section sets forth Town requirements for acceptance of private roadways into the Town's street and road system as follows:

1. A written request shall be filed with the Public Works Director identifying the private roadway proposed to be accepted into the Town's street and road system. The Public Works Director shall review the request and determine whether the private roadway shall be accepted.
2. If the Director of Public Works determines that the private roadway should be accepted into the Town's street and road system, the Town will pay the cost of hiring a surveyor to prepare the legal description for the proposed public right-of-way and the cost of any required title search to establish ownership of said right-of-way.
3. All owners of property adjacent to the proposed right-of-way shall dedicate the right-of-way to the Town at no cost to the Town. The right-of-way dedication shall be in fee simple and shall include any utility easements required by the Town.
4. Upon completion of Steps 2 and 3 above, the Town will begin road grading to upgrade the condition of the road.
5. Any phases of additional roadway improvements including, but not limited to chip seal, double chip seal, or hot mix asphalt surfacing shall be reviewed by the Public Works Director and final determination shall be made by the Wickenburg Common Council.
6. Any additional phases of roadway improvements shall require a written agreement between the Town and adjacent property owners who will be responsible for paying the cost of said additional improvements setting forth the terms and conditions of payment for design and construction of the improvements. Design and construction shall not begin until 100% of the estimated cost of design and construction of the roadway is deposited with the Town as determined by the Public Works Director. The deposit for the design and construction of the roadway shall be placed in a special account and used only for such purposes. If the actual cost of design and construction is greater than the estimated cost, the property owners who are parties to the agreement shall pay such additional cost. If the actual costs of design and construction is less than the estimated cost, the Town shall refund the balance of the deposit to the property owners in proportion to the amount they deposited.
7. Any and all utility improvements will be considered at a future date; however, the proposed right-of-way shall allow for future utility needs as set forth in paragraph 3.

