

WATER CONSERVATION AND SUSTAINABILITY CONCEPT

The Town of Chino Valley has limited and finite water resources. Water is not only the crux of life but is also essential to a vital and sound local economy. The Town is located within the boundaries of the Prescott Active Management Area (PRAMA) as delineated and defined by the State of Arizona. The State has required that the PRAMA reach “safe yield” by the year 2025. While that date seems to belong to the distant future it is not far off considering the work that needs to be completed to achieve the mandated goal. Safe yield is essentially a steady state that withdraws no more water than can be recharged through natural replenishment (precipitation) or methods devised by man such as systematic recharge and cleansing of used water and captured runoff.

The Town has been in the process of acquiring water rights in the Big Chino Groundwater Sub-basin by purchasing Historically Irrigated Acres (HIA's) and converting them to a water right that can eventually be used by the Town and its residents for domestic purposes.

The Town has no interest in regulating the use of individually owned exempt wells. The Town believes that for the most part the owners of exempt wells use their water in a judicious manner that helps to conserve the resource.

The Town does have an interest in promoting conservation efforts regarding water that is extracted through wells and distributed to residents and businesses within the Town limits.

HIA water that is imported from the Big Chino Sub-basin will of necessity be subject to requirements that will cause that water to be used and reused in a systematically sustainable manner.

In order to become a “Water Smart” community, contribute to the goal of Safe Yield in the PRAMA, and create a sustainable water supply that will support anticipated growth and economic vitality in Chino Valley, the Town has prepared the following water conservation and reuse or sustainability concepts for consideration by the residents and the Town Council. Not all of the concepts are intended to apply to all sources of water. As indicated above, the use of water withdrawn through exempt wells is not regulated and would only be addressed by

the Town should supply line or irrigation line leaks be severe enough to be noted. Generally accepted conservation techniques would be applied to water that is withdrawn by Town wells within Town limits. More restrictive conservation concepts would be applied to imported HIA waters. This water supply that has been purchased with public funds needs to be used judiciously and recycled to ensure that the water so purchased is not wasted and can be effectively and efficiently utilized by the future residents of the Town of Chino Valley.

The Town is anxious to begin the review process and cordially invites all citizens with an interest in the future of Chino Valley to participate in the process that will hopefully result in a rational and sustainable approach to the Town's water resources.

The first meeting is scheduled for Tuesday the 16th of February at 6:00 P.M. at the Senior Center.

See you there.

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TITLE VI: WATER RESOURCES

Chapter 60. Water Sustainability and Conservation Code

Section

- 60.01 Application of Ordinance
- 60.02 Water Conservation Compliance
- 60.03 Definitions
- 60.04 Conservation Signage and Literature Distribution
- 60.05 Indoor Conservation
- 60.06 Water Conservation Plumbing Standards
- 60.07 Outdoor Conservation
- 60.08 Outdoor Recharge Program
- 60.09 Development Drainage Report Plan
- 60.10 Water Waste
- 60.11 Restrictions During Water Shortage
- 60.12 Restrictions on Imported Water
- 60.13 Access to Town Assured Water Supply
- 60.14 Certificates of Assured Water Supply
- 60.15 Enforcement

§ 60.01 GENERAL APPLICATION OF ORDINANCE.

This Chapter shall apply to all water whether potable or effluent and may apply to all citizens, businesses, industry and governmental entities within the corporate limits of the Town of Chino Valley and all water customers of the Utilities Division wherever situated. All provisions of this Chapter related to water surcharges shall apply to all persons, customers, and property served by the municipal water system wherever situated. Commercial agricultural enterprises with Irrigation Grandfathered Rights that are served exclusively by private groundwater wells are exempt from the provisions of this Chapter, except the provisions of Section § 60.10 relating to water waste and fugitive water.

§ 60.02 GENERAL WATER CONSERVATION COMPLIANCE

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Any person or entity within the corporate limits of the Town of Chino Valley or any water utility customer of the Town, wherever situated, to make, cause, use, or permit the use of water for residential, commercial, industrial, agricultural, or any other purpose in a manner contrary to the provisions of this Chapter, or in an amount in excess of that use permitted under any law, ordinance, or water conservation level declared in accordance with this Chapter is prohibited.

§ 60.03 DEFINITIONS.

The following terms shall have the following meanings for purposes of this Chapter:

AMA means Prescott Active Management Area

A.R.S. means the Arizona Revised Statutes

ADEQ means the Arizona Department of Environmental Quality

ADWR means the Arizona Department of Water Resources

ARTIFICIAL WATER FEATURE means any form of an exterior basin, sink or water holding container with a capacity of less than 150 gallons of potable water, which is constructed in such a fashion that it can be disassembled or moved, or moved without draining, as part of an aesthetic, recreation, or property improvement.

COMMERCIAL BUSINESS means the activity of providing goods and/or services for financial or capital gains.

DAYS means calendar days unless otherwise stated in this Chapter

DETENTION SYSTEM relating to stormwater collection means a basin and/or a large confined open space that intentionally slows the movement of stormwater down to an engineered prescribed time, that meets the standards pre versus post development stormwater flows that could affect down-gradient landowners.

EFFLUENT means treated wastewater recognized by the State of Arizona as a classification of effluent, whether publicly or privately owned.

EXEMPT WELL means a well having a pump with a maximum capacity of not more than thirty-five gallons per minute which is used to withdraw groundwater pursuant to Arizona Revised Statutes §45-454.

FUGITIVE WATER means the pumping, flow, release, escape, or leakage of any potable water from any pipe, valve, faucet, irrigation system or facility onto any impervious surface such that water accumulates as to either create individual puddles in excess of ten square feet in size or cause flow along or off of the impervious surface or onto adjacent property or the public right-of-way, or other water course, natural or

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manmade. Fugitive water also means, during the irrigation of landscaping, the escape or flow of water away from the landscaping plants being irrigated even if such flow is not onto an impervious surface. Excluded from this definition is incidental runoff caused by vehicle washing (provided that a positive shut-off nozzle is used), the periodic draining of swimming pools and spas, and the intentional washing of impervious surfaces for an explicit public health, safety, or sanitation purpose as approved by the Water Resource Director.

GRAY WATER

Is defined as wastewater, collected separately from your sewage flow, that originates from a clothes washer, bathtub, shower or sink, but **not** from a kitchen sink, dishwasher or toilet per ADEQ R18-9-705.

HISTORICALLY IRRIGATED ACRES (HIA) has the same meaning as in A.R.S. §45-555 and as interpreted by the Arizona Department of Water Resources.

IMPORTED WATER means any water, potable or effluent that is transported from outside the boundaries of the Prescott Active Management Area (AMA) into the Prescott AMA for use within the corporate limits of the Town of Chino Valley or within the water service area of the Town of Chino Valley Utilities Division.

INDUSTRIAL ENTERPRISE means the organized action for the making of goods and/or services for sale.

INTERIOR USE means the use of water within the walled footprint of a residence, commercial business, or industrial enterprise and not exposed directly to the atmosphere.

IRRIGATION means the application of water to the lands of which plants, or parts of plants are grown, that are not in movable containers. Exempt are greenhouses utilizing pallets, pots, or trays that separate soils from the lands or nurseries that have stock plants in movable containers.

Also, irrigation may be referring to the use of water for exterior aesthetic landscape watering requirements as it pertains to the context of that particular reference. Therefore, it is key to know the context of the particular use of the word irrigation to truly understand which definition it is referring to.

LOW WATER USE PUBLICATION means the “Low Water Use Drought Tolerant Plant List”: Official Regulatory List for the Arizona Department of Water Resources, Prescott Active Management Area.

MODEL HOME means a dwelling unit temporarily used to display, advertise, promote or sell or rent substantially identical homes or lots to the public in a particular residential subdivision.

MUNICIPAL COURT means the Town of Chino Valley Municipal Court.

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PERMANENT ARTIFICIAL WATER FEATURE means any form of an exterior basin, sink or water holding container with a capacity of greater than 150 gallons of potable water, which is permanently constructed in such a fashion that it cannot be disassembled or moved, or moved without draining, as part of an aesthetic, recreation, or property improvement.

PRIVATE EATING ESTABLISHMENT means any establishment which admits a limited or restricted portion of the public and which serves food and washes dishes.

PUBLIC EATING ESTABLISHMENT means any establishment which admits the public generally with no limitations or restrictions and which serves food and washes dishes.

PUBLIC WORKS DIRECTOR means the Town of Chino Valley Public Works Director or his/her Designee.

RAIN WATER HARVESTING SYSTEM means a system that is either part of the entire developments stormwater collection and recharge systems or a rain water capture systems associated with a rooftop, rain gutter, and storage tank that is able to provide renewable alternative water supplies for exterior landscape or other uses.

REMODELED means any improvements or retrofits to a residential, commercial, or industrial building that cause new building or plumbing code standards to be implemented

RETENTION SYSTEM relating to stormwater collection means an approved basin or land depression that will permanently hold a specific quantity of stormwater to either quickly be recharged back into the groundwater aquifer and later recovered and used for landscape or other uses or continue to be held as an artificial water feature and be directly used as an alternative water supply for landscape or other exterior uses. All retention systems require an engineering report certifying these systems.

SCHOOL means an institution for the instruction of children or adults including pre-school levels through all levels of college

SUBDIVISION means in real estate law (A.R.S. § 32-2101) as land divided into six or more parcels with at least one parcel (or lot) having an area of less than 36 acres.

TOWN means the Town of Chino Valley.

TOWN MANAGER means the Town of Chino Valley Town Manager or his/her Designee.

TURF means the surface layer of ground containing a mat of grass and grass roots that is maintained for decorative or recreational use.

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TURF-RELATED FACILITY means any facility with 10 or more acres of water-intensive landscaped area, except for commercial agricultural enterprises growing crops for human or animal consumption.

UTILITIES DIVISION means the Town of Chino Valley Utilities Division.

WASTE means any non-beneficial use of water including that caused by the pumping of wells. Waste includes, but is not limited to, the following: Leaks in an indoor or outdoor plumbing system (faucets, hose bibs, showerheads, toilets, etc.) in excess of 0.10 gallons per minute.

WASTEWATER for purposes of this chapter means the liquid and water carried waste or sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions whether treated or untreated.

WATER INTENSIVE LANDSCAPING means an area of land that is watered with a permanent water application system and planted primarily with plants not listed in the Low Water Use Publication or modifications to the list, or plants that are not listed in the Low Water Use Publication but industry accepted as low water use and drought tolerant.

WATER RESOURCE DEPARTMENT means the Town of Chino Valley Water Resource Department.

WATER RESOURCE DIRECTOR means the Town of Chino Valley Water Resources Director or his/her Designee.

§ 60.04 CONSERVATION SIGNAGE AND LITERATURE DISTRIBUTION

(A) *Guest Rooms.* Hotels, motels, and other lodging facilities shall provide a water conservation informational card or brochure in a visible location in each guest room. Such facilities may use a Town-provided format and text or develop their own format using Town-provided text. At the Town's discretion, the Town may provide this text and format to the facility in a digital or paper format. If the Town chooses to provide this information in a digital format, printing costs will be at the facility's expense. Lodging facilities shall not provide daily linen and towel changing for those guests staying multiple nights unless a guest, through that hotel, motel, or lodging facilities approved request method, wishes that each day the linen and towels be changed.

****Note: Similar ordinances have been adopted in Payson, Arizona, Flagstaff, Arizona, Santa Fe, New Mexico, Denver, Colorado, Southwest Florida Water Management District and Orange County, California.***

(B) *Nurseries.* Retail plant nurseries shall provide their end-use customers (the person(s) who will ultimately own the plant material) with Town-provided low water use landscape literature and water efficient irrigation guidelines at the time of sale of any

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outdoor perennial plants. An “end-use customer” is the person or persons who will ultimately own the plant material. At the Town’s discretion, the Town may provide this literature to the nursery in a digital or paper format; however, end-use customers must be offered a paper copy. The Town shall not be obligated to pay printing costs. A landscape contractor or architect is not an end-use customer. In order to facilitate the purchasing of low water use plants, nurseries are required to tag or sign their low water use plants that are listed in the Low Water Use Publication, modified list, or industry accepted low water use drought tolerant. Plants not on this official list, or part of a modified list, or not industry recognized as low water use and drought tolerant must be visibly identified as water-intensive for the region and requiring supplemental irrigation.

The Town at its discretion may develop and revise a master list of all plants recognized as low-water use and drought tolerant and include those species of plants considered medium to high water use, and identify those high water use plant’s water budgets as an educational tool of what is not recommended for this water scarce region. Until a master list is available, the Low Water Use Publication, or modified list, or industry recognized as low-water use and drought tolerant shall be the standard used.

****Note: Similar ordinances have been adopted in Payson, Arizona, Aztec, New Mexico, Las Vegas, New Mexico, and Santa Fe County, New Mexico.***

(C) Landscape contractors, maintenance companies, and architects. Landscape contractors, maintenance companies, and architects shall provide their prospective clients with Town-provided low water use landscape literature and water efficient irrigation guidelines at the time of presenting a service contract to the prospective client. At the Town’s discretion, the Town may provide this literature in a digital or paper format; however, end-use customers (the person(s) for whom the service was supplied by said companies) must be offered a paper copy. The Town shall not be obligated to pay printing costs. Landscape professionals are strongly encouraged to educate their customers regarding the operation of their timed irrigation systems.

**** Note: A similar ordinance has been adopted in Payson, Arizona.***

(D) *Real Estate Transactions.* Escrow companies and other organizations which close real estate transactions (“Escrow Companies”) shall offer Town-provided indoor and outdoor water conservation literature to the purchaser at or before the time of closing. At the Town’s discretion, the Town may provide this literature to the title company or other organization in a digital or paper format; however, property purchasers must be offered a paper copy. The Town shall not be obligated to pay printing costs.

**** Note: A similar ordinance has been adopted in Payson, Arizona.***

(E) *Model Homes.* All model homes shall have a visible display of Town-provided indoor and outdoor water conservation brochures. At the Town’s discretion, the Town may provide this literature to the developer in a digital or paper format;

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however, paper copies must be available at every model home. The Town shall not be obligated to pay printing costs.

(F) *Permits*. Town Departments shall provide indoor and outdoor conservation literature to:

- (1) All persons applying for a building permit.
- (2) All customers initiating new water service from the Utilities Division.
- (3) All persons applying for an irrigation permit.

§ 60.05 INDOOR CONSERVATION

(A) *Leaks*. Water system leaks from private water lines creating waste shall be repaired by the owner within fifteen (15) days of a repair notification by the Utilities Division. Proof of repair shall be provided to the Utilities Division upon completion of the repair on a Town-provided form (**Exhibit 1**).

** Note: A similar ordinance has been adopted in Payson, Arizona.*

(B) *Restaurants*. All public or private eating establishments shall be prohibited from serving drinking water, except upon request.

** Note: Similar ordinances have been adopted in Flagstaff, Arizona, Tucson, Arizona. Santa Fe, New Mexico, Raleigh, North Carolina, Denver, Colorado and Santa Cruz, California.*

§ 60.06 WATER CONSERVATION PLUMBING STANDARDS.

For all new commercial, industrial, and residential construction, remodeling, and all replacements of existing plumbing fixtures, the water conservation plumbing standards set out in this Section § 60.06 shall be met. Where in conflict with the current Plumbing Code used by the Town, these provisions shall supersede the Plumbing Code.

(A) *Toilets; Water Closets*. Water closets, either flush tank, flushometer tank, or flushometer valve operated, shall be either a High Efficiency Toilet or have a dual-flush system. High Efficiency Toilets shall have an average consumption of not more than 1.3 gallons (4.9 liters) of water per flush. For dual-flush toilets, the high volume flush shall have an average consumption of not more than 1.6 gallons (6.1 liters) of water per flush, and the low volume flush shall have an average consumption of not more than 0.9 gallons (3.4 liters).

**Note: Toilets use an average of 30% of all indoor water use (EPA, 2007). Dual-flush or HET toilets can save an average of 20-30% of this use. Dual-flush toilets have been mandated in*

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Sebastopol, California and throughout Australia, Israel and Japan. Dual flush toilets are very common throughout Europe and other parts of the world. A recently introduced bill in the Arizona State Legislature (HB 2126) would provide a 25% tax credit up to \$100 for the purchase of dual-flush toilets in Arizona.

Based on an average of 6 flushes per toilet per day, and an average of 2.5 toilets per home, the installation of HET or dual-flush toilets (as opposed to 1.6 gpf toilets) in 1000 homes would save approximately 6 acre-feet of water per year. Over the 20 year average life-span of these toilets, that would equal 120 acre-feet of water. Assuming that HET or dual-flush toilets are an average of \$50 more expensive than traditional toilets (not necessarily true, Home Depot carries an HET model that retails for \$99), the additional cost of 2500 toilets would be \$125,000. At \$3.94 / 1000 gallons, consumer savings on water bills will be \$154,000. At \$4.93/1000 gallons, consumer savings will be \$192,000. Over twenty years, with an initial investment of \$125, the HET or dual-flush toilets will save the average household between \$150 and \$200 on water bills.

For a developer, the installation of 2500 HET or dual-flush toilets makes even greater economic sense. The 6 acre-foot reduction in annual demand from the installation of 2500 toilets will save between \$150,000 and \$270,000 in reduced water portfolio access fees (based on \$25,000 to \$45,000 per acre-foot) for an immediate savings of between \$25,000 and \$145,000.

This does not include substantial cost-savings to the Town due to reduced need to acquire additional water supplies, as well as reduced costs for pumping, distribution and treatment.

(B) Urinals. Urinals installed in all new public, commercial, multi-family residential common-use, commercial and industrial building restrooms after the effective date of this Chapter shall have an average consumption of not more than 0.125 gallons (one pint) of water per flush. Retrofits or remodels shall convert existing urinals to conform to this standard. Waterless urinals are specifically allowed and encouraged. Retrofits may utilize existing fixtures if such fixtures are adapted to prevent flushing by the general public, such as by removal of the flush valve. Such retrofitted urinals may be flushed for daily maintenance purposes if necessary for maintenance of a microbial-based waterless cleaning system.

**Note: Waterless urinals have been mandated in Payson, Arizona and Sebastopol, California. All new State of Arizona public buildings are required to install waterless urinals. The Flagstaff School District has installed waterless urinals throughout most of the school district. The Town of Chino Valley Public Works Building has retrofitted its existing urinal to a waterless system.*

(C) Requirements for commercial, industrial, and residential water-service receiving systems. New construction or remodeling or retrofit of existing equipment shall be equipped with recycling or reuse systems for the following water-service receiving equipment: evaporative cooling systems, car washes, and commercial or industrial clothes washers. Cooling towers are allowed by permit only for commercial or industrial uses to demonstrate that an amount greater than the lost water from the cooling towers is being recharged per § 60.08 or a water conservation fee will be assessed due to property recharge limitations.

**Note: Recirculating equipment is required in Payson, Arizona, Tucson, Arizona and Sebastopol, California.*

(D) Hot Water Performance. All new commercial, industrial, single-family and multi-family residential units shall utilize a hot water recirculation device or other device

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or design to provide hot water to kitchen and bathroom faucets and showers within fifteen (15) seconds after the faucet or shower valve is fully opened.

***Note: A similar performance measure has been adopted by the City of Oceanside, California.**

(E) *Installation.*

(1) Water-conserving fixtures shall be installed in strict accordance with the manufacturer's instructions to maintain their rated performance.

(2) Certificate of Compliance. For all new commercial, industrial, residential and remodeling construction, all the requirements regarding water conserving devices mentioned in this Section shall be certified by a licensed mechanical contractor or plumbing permittee before or at the time of the final plumbing inspection. Certification of compliance must be provided on a Town-provided form (**Exhibit 2**).

(F) For all new commercial and industrial construction, remodeling and all replacements of existing plumbing, the use of reverse osmosis water treatment equipment in conjunction with drinking water vending machines and commercial ice making equipment is prohibited. Reverse-osmosis water treatment devices are prohibited for single and multi-family residential units, however, exceptions will be allowed for health, safety, and welfare considerations through a Town simple permit process (**Exhibit 3**).

*** Note: A similar ordinance has been adopted in Payson and Clarkdale, Arizona.**

(G) *Individual meters.* All new multi-family residential developments, either rental apartments, mobile home parks or condominiums, shall be equipped with separate meters for each individual residential unit. All new commercial and industrial developments, either rental or condominium, shall be equipped with separate meters for each individual unit. The installation of meters shall be at the expense of the developer, in accordance with the established Town fee schedule. Individual tenants will be required to establish individual water and sewer service accounts with the Utilities Division.

***Note. A large nationwide survey indicated that sub-metering reduced water use in apartment complexes by approximately 15% or 22 gal/day/unit (AquaCraft, Inc. 2004).**

(H) Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable to ensure water conservation measures, health, safety, and welfare standards for the Town of Chino Valley. The Water Resource Director will have final approval to enforce the code provisions for such purposes, when such conflicts arise. Property Owners, developers and businesses who wish to appeal the determination of a required water conservation code have the right to do so.

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§ 60.07 OUTDOOR CONSERVATION

(A) *Outdoor Irrigating Periods.* The following requirements for outdoor spray irrigation of landscaping shall be in effect from May 1 through October 1 of each and every year. Outdoor irrigation is prohibited between 8:00 a.m. and 8:00 p.m. This restriction applies regardless of water source or type.

*** Note: Time of day watering restrictions exist throughout the country including Prescott, Arizona Aurora, Colorado, Payson, Arizona, Flagstaff, Arizona, Albuquerque, New Mexico, Las Vegas, Nevada, Santa Fe, New Mexico, Southwest Florida Water Management District, Raleigh, North Carolina, Hillsborough County, Florida and Summerland, California.**

(B) Prohibitions.

(1) *New Spray Irrigation Systems.* No new spray irrigation systems may be installed after the effective date of this Chapter. This includes all types of sprinkler systems, both in-ground and aboveground. At the discretion of the Water Resources Director, exemptions to this provision may be made for turf areas utilizing water harvested from precipitation or other alternative water supplies. Petitions to install spray irrigation systems shall be made as part of the Application for an Irrigation System Permit as referenced in sub-paragraph (I) of this Section. Below ground (subsurface) or above ground drip irrigations systems are encouraged as defined in Section (I) below.

***Note: New spray irrigation systems are limited or prohibited in Payson, Arizona and Cary, North Carolina. A ban on spray irrigation is currently under consideration in Orange County, California.**

(2) *Misters.* The use of misters for outdoor cooling is prohibited.

***Note: Misters have been banned or restricted in Payson, Arizona, Tucson, Arizona and Henderson, Nevada.**

(3) *New Turf Areas.* No water-intensive turf areas may be planted, established, or expanded after the effective date of this Chapter, except as otherwise set forth in this section. The planting or establishment of new water-intensive turf areas and the expansion of existing water-intensive turf areas is allowed only if water harvested from precipitation or other alternative water supply is utilized as the sole-source of irrigation. Low-water use, drought-tolerant grasses, and/or native grasses established as part of xeriscape are permitted and encouraged.

*** Note: New turf is limited or prohibited by statute in Payson, Arizona, Albuquerque, New Mexico, Tucson, Arizona, Las Vegas, Nevada, Santa Fe, New Mexico, Cary, North Carolina, Santa Cruz, California, Marin, California and Henderson, Nevada.**

(4) *Covenants that Require Water-Intensive Landscaping.* Subdivisions approved or constructed after the effective date of this Chapter are prohibited from adopting covenants, conditions or restrictions that (i) prohibit low water use landscaping (ii) require the use of water-intensive landscaping with plants that are not listed in the Low Water Use Publication, or modified list, or accepted by the industry as low-water

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use and drought tolerant or (iii) prohibit the installation of artificial turf in residential and common-use areas.

(5) *Use of Potable Water for Irrigation at New Multi-Family Residential Development.* Multi-family residential developments approved or constructed after the effective date of this Chapter are prohibited from (i) utilizing Town-provided potable water for outdoor irrigation (ii) drilling an exempt well within the water service area of the Town Utilities Division and (iii) utilizing water obtained from an exempt well. Such multi-family residential developments are encouraged to construct and maintain rainwater harvesting catchments and distribution systems to provide water for landscaping.

****Note: Rainwater harvesting systems are required in all new development in Santa Fe County, New Mexico, the U.S. Virgin Islands, Bermuda and Australia. Rainwater harvesting provides the primary source of water supply (including drinking water) for much of Australia, the South Pacific, and parts of South Asia. Arizona and California offer a tax credit for rainwater harvesting systems and financial incentives are offered in cities in Germany and Japan. In 2004, approximately 1.3 million homes or 17% of all homes in Australia had a rainwater harvesting system (Standards Australia, 2006). In South Australia, 48% of all homes had a rainwater harvesting system.***

****Note. A 5,000 square foot roof is capable of capturing over 20,000 gallons of water per year in a drought. This is enough water to irrigate 25 trees or 80 shrubs.***

(6) *Use of Potable Water for Irrigation at New Commercial and Industrial Developments.* Commercial and industrial facilities approved or constructed after the effective date of this Chapter are prohibited from (i) utilizing Town-provided potable water for outdoor irrigation. (ii) drilling an exempt well within the water service area of the Town Utilities Division and (iii) utilizing water obtained from an exempt well. These facilities are encouraged to construct and maintain rainwater harvesting catchment and distribution systems to provide water for landscaping. Some exceptions to this provision are allowed (i.e. outdoor nurseries) through a permit process that ensures best irrigation management practices, water efficiency, and water recycling and recirculating is accomplished where feasible (Exhibit 4).

(7) *Use of Gray Water for Irrigation Purposes.* Residential, commercial and industrial developments that are connected to the Town sewer system after the effective date of this Chapter are prohibited from utilizing gray water for irrigation purposes. Existing homes and businesses that are connected to the Town sewer system are prohibited from utilizing gray water for landscape irrigation purposes unless such gray water system is operational as of the effective date of adoption of this Chapter and shall be registered with the Town.

****Note. Gray water use for exterior purposes reduces the amount of effluent available for aquifer recharge purposes. Gray water restrictions are specifically allowed by R18-9-711.C of the Arizona Administrative Code.***

(C) *All Non Residential Properties Served Water from a Well.* Per Chap. 51 of the Town Code § 51.075 (A) where commercial, industrial and other non-residential property is located on a street in which a water main is laid and not part of a subdivision using HIA water for their assured water supply, shall connect to the Town's water

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system. As a condition of Town water service no new wells may be drilled upon the property being served. Any existing well(s) that were providing water supplies prior to the connection shall be allowed in accordance with ADWR well usage rules.

The Town encourages and recommends that an existing well(s) be abandoned in accordance with ADWR well abandonment rules. The Town may offer financial incentives, if available, to assist with abandonment of existing well(s) within the first six months after a new water main is laid adjacent to the property. Unused wells that remain open are a direct conduit of potential contamination to our drinking water aquifer. Also, it is more cost effective to immediately abandon a well(s) as abandonment costs only increase in the future.

(D) Residential Properties Served Water from a Well.

(1) *New Residential Property.* Per Chap 51 of the Town Code § 51.075 (B) where a “New Residential Property” (defined in Chapter 51 as a home built after September 2004) on residential property located upon a street where a Town water main is located or has been recently laid, and is not part of a subdivision using HIA water for their assured water supply, shall connect with the Town’s water system. As a condition of Town water service no new wells may be drilled upon the property being served. Any existing well(s) upon the property, drilled before the adoption of this ordinance, that were either providing water supplies, prior to the “New Home” connecting to the Town’s water main or well(s) that were not providing water but having the capability to provide water shall be allowed in accordance with ADWR well usage rules as a condition of new water service.

Any future desired modifications to the existing well(s) that required a permit by the ADWR shall not be allowed unless an exception letter, issued by the Town, is obtained and accompanies the ADWR notice of intent to modify a well or a well pump application form. Exception letters will be issued by the Town’s Water Resource Department. (**Exhibit 5**)

The Town encourages and recommends that an existing well(s) be abandoned in accordance with ADWR well abandonment rules. The Town may offer financial incentives, if available, to assist with abandonment of existing well(s) within the first six months only after a new water main is laid adjacent to the property. Unused wells that remain open are a direct conduit of potential contamination to our drinking water aquifer. Also, it is more cost effective to immediately abandon a well(s) as abandonment costs only increase in the future.

(2) *Existing Residential Property.* Per Chap. 51 of the Town Code § 51.075 (C); where an “Existing Residential Property” (defined in that Chapter as a home built before September 2004), may elect to continue use of their well in lieu of connecting to the Town system. As a condition of Town water service no new wells may be drilled upon the property being served. In the event that a property does connect to the Town system any existing well(s) upon the property, drilled before the adoption of this ordinance, that were either providing water supplies, prior to the “Existing Residential

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Property” connecting to the Town’s water main or well(s) that were not providing water but having the capability to provide water shall be allowed in accordance with ADWR well usage rules as a condition of new water service.

Any future desired modifications to the existing well(s) that required a permit by the ADWR shall not be allowed unless an exception letter, issued by the Town, is obtained and accompanies the ADWR notice of intent to modify a well or a well pump application form. Exception letters will be issued by the Town’s Water Resource Department.

The Town encourages and recommends that an existing well(s) be abandoned in accordance with ADWR well abandonment rules. The Town may offer financial incentives, if available, to assist with abandonment of existing well(s) within the first six months only after a new water main is laid adjacent to the property. Unused wells that remain open are a direct conduit of potential contamination to our drinking water aquifer. Also, it is more cost effective to immediately connect to the Town’s water system as water buy-in fees only increase with time, and well abandonment costs will only increase in the future.

(E) *Commercial Car Washes*. Commercial car washes approved or constructed after the effective date of this Chapter shall utilize best-available water-recycling technology to recycle a minimum of 50% of water used for auto washing and rinsing purposes. Self serve car washes shall also utilize high pressure nozzles that utilize highest efficiency standards. Upon inspection, the Town will certify commercial car washes as meeting Town water conservation standards. Certified car washes will have the right to display and advertise this certification. Existing commercial car washes may apply for and receive this certification upon inspection by the Water Resource Department (**Exhibit 6**).

****Similar ordinances have been adopted by Aurora, Colorado, San Antonio, Texas, El Paso, Texas, and Durham, North Carolina.***

(F) *Automatic Shutoff Nozzles*. Automatic shutoff nozzles are required for all hoses used for hand watering, car washing, or other outdoor uses.

****This type of restriction is included in conservation ordinances across the country.***

(G) *Artificial Water Features*. Artificial water features with a total water capacity of less than 150 gallons, including fountains, ponds, lakes, water courses, wading pools, swimming pools and other types of water features, installed, or otherwise constructed after the effective date of this Chapter are required to utilize recirculating pump technology where feasible, and shall be restricted from utilizing aerial spray components. Alternative water supplies are recommended and encouraged where feasible. Artificial water features exteriorly installed or constructed within subdivisions utilizing HIA assured water supplies must provide 100% of that water from alternative water supplies i.e. harvested water through the provisions of this Chapter and are prohibited from using any HIA water for these exterior features.

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(H) *Permanent Artificial Water Features.* Permanent artificial water features that are approved, installed, or otherwise constructed after the effective date of this Chapter with a total water capacity of greater than 150 gallons must receive a Town “Permanent Artificial Water Feature Permit” prior to installation. This process will ensure that new artificial water features are an essential component of the property or development, utilize alternative water supplies where feasible, and utilize best available recirculating technology. The Permanent Artificial Water Feature Permit will be required for water features with an individual capacity of greater than 150 gallons, or if the water feature is a part of a series of multiple water features with a total capacity of greater than 150 gallons. Filling of both small (<150 gallon capacity) or large (> than 150 gallons) water features must be in accordance with the current drought guidelines identified in § 60.11 of the Town Code. Artificial water features exteriorly installed or constructed within subdivisions utilizing HIA assured water supplies must provide 100% of that water from alternative water supplies i.e. harvested water through the provisions of this Chapter and are prohibited from using any HIA water for these exterior features.

****Note: Similar ordinances have been adopted in Payson, Arizona, Las Vegas, Nevada, Atlanta, Georgia, San Antonio, Texas and Hillsborough County, Florida. In Chino Valley, surface water evaporates at a rate of greater than five feet per year. Therefore, for a small pond of ten feet by ten feet, over 3,700 gallons of water is lost each year due to evaporation alone. Fountains or other spray features lose an even greater amount of water due to evaporation.***

(I) *Model Home Landscaping.* “Single Family Residential Model Homes” approved or constructed after the effective date of this Chapter will be required to adhere to strict water conservation standards. Water-intensive turf or other water intensive landscaping is prohibited. Only plants from the Low Water Use Publication or modified list, or accepted by industry standards as low water use and drought tolerant are allowed. Artificial turf and non-irrigated native grasses or low-water drought tolerant grasses are recommended. Artificial or permanent water features including, but not limited to, swimming pools, fountains, ponds or watercourses are prohibited in both front and back yards. Rainwater harvesting systems, either through the development’s stormwater retention and recharge plan or a single rainwater capture system that is part of the unit’s roof, rain gutter, and water storage system that is onsite must provide the sole water source for irrigation of landscaped areas for all single family residential model homes. These systems must meet the minimum storage and watering requirements for the watering needs of the landscape. Exceptions will be allowed only with written authorization from the Water Resource Department.

****Note: Similar ordinances have been adopted by Lakewood, Colorado, Monona, Wisconsin, Santa-Paula, California, Santa Fe, New Mexico.***

(J) *Irrigation System Equipment.* Irrigation systems approved, installed or otherwise constructed after the effective date of this chapter shall meet the following requirements.

(1) *Permits.* Prior to installation, all new irrigation systems must have an approved Town “Irrigation System Permit.”

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***Note: Irrigation system permits are required in Aurora, Colorado, Flowermound, Texas, Cary, North Carolina, St. Johns, Florida, Keller, Texas, Peoria, Arizona, Chandler, Arizona and Santa Fe, New Mexico.**

(2) *Micro irrigation.* All irrigation systems shall employ micro irrigation, defined as surface or subsurface low volume systems that apply water in gallons per hour (GPH) through either calibrated pressure compensating emitters, bubblers, soaker hoses, micro-spray and/or micro-spray pop-ups directly to a plant's root system or to a planted area. Micro irrigation shall be zoned for varying plant needs, slopes and exposures. Turf-related facilities that utilize water harvested from precipitation or other alternative water are exempt from this provision.

(3) *Future irrigation technologies.* It is understood that irrigation technology will evolve and become more efficient, user friendly, and better control the use of precious water supplies. As these systems become the new industry standards, the Town will accept these new technologies after review, and begin to support these newer more efficient technologies.

***Note: Micro irrigation has been shown to reduce landscape watering use by 20 -50% when compared to spray irrigation (EPA, Southwest Farm Press, U of A WRRRC).**

<http://southwestfarmpress.com/news/062006-Irrigation-timing/> 30% Southwest Farm Press)

(4) *Automatic Rain Shut-Off Devices.* All irrigation systems shall be equipped with an automatic rain shut-off device.

***Note: These devices are widely available and inexpensive (~\$20 - \$30) and eliminate one of the most obvious water-wasting activities – landscape watering in the rain.**

(5) *Automatic Controllers.* All irrigation systems shall utilize an automatic controller with the following features:

- (a) Multiple programs/start times
- (b) Water budgeting feature
- (c) Memory retention
- (d) Battery backup
- (e) Flexible day programming for any interval
- (f) Adaptable for soil moisture sensor(s)

(6) *Backflow Prevention Device.* All irrigation systems shall be equipped with an appropriate backflow prevention device if the irrigation plumbing is connected to the unit's potable water supply, as defined in Chapter 51 of the Town Code. Exceptions are allowed if the entire irrigations system is separately plumbed as part of an onsite rainwater capture system. However, all irrigations systems must have a Town issued permit (See Section (1) above) before the system is installed and used.

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(7) *Inspection Required.* All new irrigation systems must be inspected prior to the establishment of any landscaping. All parts of the system, including below ground components, must be visible and available for inspection. The Town will inspect the following:

- (a) Equipment Type
- (b) Proper Installation of Equipment
- (c) Control Program Watering Schedule

(K) *Authority to Permit Exceptions.* The Water Resources Director has the authority to permit exceptions to the requirements of this Section § 60.07 provided the water conservation objective is not compromised.

§ 60.08 OUTDOOR RECHARGE PROGRAM (STORM WATER RETENTION)

(A) *Pre Versus Post Development Stormwater Drainage.* The entire drainage runoff, retention, and recharge conveyance system shall be designed to eliminate or minimize stormwater runoff effects and convey the runoff through the development with minimum detrimental effects to the development or to any other property. No system shall be approved if the effect may cause an increase in the peak discharge, volume or velocity of runoff or change the point of entry of drainage onto other property during the runoff event. No system shall be approved that does not conform to Best Engineering Standards in controlling erosion and reducing sediment load.

(B) All new subdivisions shall conform to appropriate engineering standards and Town standards for the drainage design.

(1) Retention of Storm Drainage.

(a) The retention system shall be designed to receive and retain the volume generated from either (i) or (ii)

(i) the 2-hour, 2-year runoff event falling over the entire development including all rights-of-way, excluding off-site flows **or**

(ii) 10 percent (10%) of the entire development's annual assured water supply budget whichever is smaller. For example, if the certificate of the 100-yr assured water supply has a total water budget of 9,000 acre-feet, then divide by 100 which would be the annual allotment of 90 acre-feet and ten percent (10%) of 90 acre-feet would be 9 acre-feet required for annual retention

(iii) In addition to options (i) or (ii) above, a development that will create their required alternative water supply, meeting the water budget of the entire development's exterior landscape requirements, by a development-wide retention

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system must have this volume of water included within the engineered design. See 60.12 regarding all requirements.

(b) Drywell volume shall not be used as part of the retention volume. Drywells may be used as storage for exterior water demands i.e. landscape watering.

(c) On-site retention facilities may include natural depressions, man-made basins, or other methods which do not result in water being ponded longer than 36 hours. Public or private parking areas shall not be used for runoff retention.

(d) Individual lot retention shall not be permitted in single family residential developments.

(e) Retention basins shall not be located within 25 feet of septic system facilities.

(f) Utility lines and structures shall not be located within drainage facilities unless approved by the Town Engineer

(g) If reasonable alternatives are not available, detention or retention in the County right-of-way may be acceptable provided Yavapai County approves the design.

(h) A right-of-way or public utility easement shall not be designated for drainage or retention without prior written approval of the Town Engineer.

(i) In the development's drainage and retention areas, landscaping and maintenance provisions shall be made for an annual maintenance plan and certification.

On-site (within the development boundaries) drainage shall be either to the street or to a designated drainage easement/tract or approved drainage way with adequate outfall.

(3) *Stormwater Disposal.* On-site (within the development boundaries) runoff that has been retained shall be disposed of within 36 hours through the requirements of percolation § 60.08(B)(1)(C), and additional retained water may be disposed of through drywells or draining into an approved drainage way. Flows from basins shall not exceed pre-development flows and shall be in the location and direction of the historic flows. If runoff is to be conveyed by an underground system, complete detailed plans shall be submitted and approved by the Town Engineer.

(4) Drywell Design.

(a) Any drywell utilized for stormwater disposal must be certified by ADEQ

(b) Drywells shall be used only for stormwater disposal and reuse and not for disposal or deposit of wastes or other contaminants.

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(c) Proof of drywell registration with the ADEQ shall be required prior to approval of any plans or issuance of any drainage clearance.

(d) Certification that the drywell meets requirements of this Chapter shall be submitted at the time of installation.

(5) Road Design.

(a) Adequate drainage ways shall be constructed to convey the street design flow if that flow is designed to leave the public right-of-way. Such drainage ways shall be platted as drainage easements or as separate tracts with maintenance provisions designated.

(b) The Town Engineer may require construction of a culvert or bridge where a road crosses a natural drainage way. The size of the culvert or bridge shall conform to Town Standards.

(c) If roads are designed as a low water crossing, the amount conveyed shall not exceed a depth of 8 inches. Additional flow shall be conveyed in drainage ways, culverts, or other designed infrastructure for the 100-year storm event

(d) To prevent erosion, dip sections and culvert crossings of rights-of-way shall have adequate headwalls and/or aprons constructed of non-erodible material.

§ 60.09 DEVELOPMENT DRAINAGE REPORT / PLAN

(A) A development drainage report/plan shall be required and shall be in accordance with the master drainage report/plan. Where sufficient information has been shown on a master report/plan it shall also be submitted as the required development drainage report/plan. A revised drainage report may be required for any undeveloped or partially developed portions of an approved plan when no development or improvements have occurred for two or more years. The revised report shall address existing drainage conditions as compared to drainage conditions at the time of plan approval. Based upon conclusions of the report, reasonable modifications to the approved plan may be required by the Town Engineer. The development drainage report/plan shall be prepared by an Arizona Registered Professional Civil Engineer and shall include but not be limited to the following information:

(1) Location, size and capacity of all existing and proposed drainage system elements including drywells, underground systems, basins, drainage ways, culverts, pipes, easements and roadways;

(2) Provisions for conveyance of runoff through the site and the discharge of runoff at the lower boundary and at the same location and as near as possible to the same conditions as before development;

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(3) Lot and street layout including designation and use of all land to be used for public or semi-public purposes;

(4) A description of methods used to convey water around structures to prevent flooding.

(5) *Finished Floor Elevation.* Finished floors of a building shall be elevated a minimum of one foot above the average grade point within ten feet of the foundation of the building. A finished floor elevation lower than the minimum may be permitted provided it is determined by technical data and certified by an Arizona Registered Professional Civil Engineer meeting the minimum requirements to be safe from inundation by the 100-year peak runoff event. Finished floor elevations may be required to be referenced to a known benchmark.

(6) Retention facilities may include natural depressions, man-made basins, or other methods which do not result in water being ponded longer than 36 hours. Public or private parking areas shall not be used for runoff retention.

§ 60.10 WATER WASTE

(A) *Water Waste Prohibited.* No water user shall cause or permit to occur any water waste.

(B) *Unforeseeable Events.* For unforeseeable or unpreventable failure or malfunction of plumbing or irrigation hardware, the Town shall generally issue a formal or informal warning notice prior to taking enforcement action. Prior to taking formal enforcement action, the Town may instruct the water user to not operate the faulty system until it is appropriately repaired. If operating the system is integral to the operation of the facility, the Town may, in its discretion, provide a period of time in which to remedy the malfunction prior to commencing formal enforcement action. Once a warning notice or an initial citation has been issued for an outdoor occurrence, subsequent water waste events may be subject to strict enforcement. Strict enforcement may include the issuance of orders to repair, citations, and such other actions as the Town deems necessary to bring the user into compliance. For indoor water waste events and for those water waste events outdoors caused by a faulty system, which is integral to the operation of the facility, the waste must be abated within fifteen (15) calendar days of the issuance of a warning notice. Enforcement action may be commenced if the water waste continues to occur beyond the 15-day period.

(C) *Fugitive Water Flow Prohibited.* Water users shall not cause or permit the occurrence of fugitive water.

***Note:** *Similar ordinances have been adopted by Albuquerque and Rio Rancho New Mexico, Tucson, Plano, Texas, and numerous Southwest US cities and counties.*

(D) Exemptions.

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(1) Even though “Water Waste” shall not include items (a-h); every effort shall be made to minimize water waste by deploying water into a sewer system where it can be recharged back to the aquifer, other reuse opportunities, or beneficial uses for said water:

(a) Flow resulting from fire fighting or routine inspection of fire hydrants or from fire training activities.

(b) Water applied to abate spills of flammable or otherwise hazardous materials.

(c) Water applied to prevent or abate health, safety, or accident hazards when alternate methods are not available.

(d) Water which reaches or flows onto adjacent property or public or private right-of-way when caused by vandalism, wind, emergencies, or forces of nature.

(e) Flow resulting from a routine inspection or maintenance of the Town water utility system.

(f) Water used by the Town in the installation, maintenance, repair, or replacement of public facilities and structures including, but not limited to, traffic control devices, storm and sanitary sewer structures, and road or street improvements.

(g) Water used by contractors or utilities including, but not limited to, cutting pavement, compaction, or other use required under terms of their contract.

(h) Scheduled or routine maintenance of irrigation systems including but not limited to artificial water features

(2) “Fugitive Water” shall not include:

(a) Storm run-off, including snowmelt run-off,

(b) Flow resulting from temporary water utility system failures or malfunctions.

(c) Water applied, such as in the cleaning of hard surfaces, to prevent or abate public health, safety, or accident hazards when alternate methods are not available. The washing of outdoor eating areas and sidewalks is not included in this exemption.

(d) Flow resulting from vandalism, high winds, emergencies, and forces of nature.

(e) The occurrence of an unforeseeable or unpreventable failure or malfunction of plumbing or irrigation system hardware prior to the issuance of a formal warning notice issued to the water user. Once a formal warning notice has been issued,

the water user is instructed not to operate the malfunctioning system until it is appropriately repaired, unless operating the system is integral to the operation. Once a warning notice has been issued, subsequent fugitive water events at the same location will be subject to issuance of citations.

§ 60.11 RESTRICTIONS DURING WATER SHORTAGES.

(A) The Town Manager, upon the recommendation of the Water Resource Director, is hereby authorized to declare or rescind Water Conservation Levels in conformity with and based upon the Drought Status Levels set forth below. The Water Resources Director / Designee shall assess regional drought status, local groundwater levels, and the relationship between water demand and municipal safe production capability in determining the appropriate Drought Status for the Town. Safe production capability is defined as ninety percent (90%) of the total available deliverable water resources, based upon distribution components, storage reserves, weather conditions and historic data. Safe production capability will be determined by the Public Works Director / Designee, and will necessarily change as the water system of the Town expands and develops. The Water Resource Department shall work to develop an index of quantitative drought trigger indicators; however, the declaration of Drought Status Levels shall be at the discretion of the Water Resource Director / Designee and Town Manager / Designee.

(B) The following Water Availability Levels are hereby prescribed:

(1) Water Availability Level 0: NORMAL. Water Availability Level 0 shall be declared when the Water Resource Director / Designee and the Town Manager / Designee determine that drought and or water availability conditions are not considered to be a significant threat to the water resources of the Town. Water Availability Level 0 shall correspond with Water Conservation Level 0. When Water Availability Level 0 is reached, Water Conservation Level 0 shall be declared.

(2) Water Availability Level 1: PRECAUTIONARY. Water Availability Level 1 will be declared when the Water Resource Director / Designee and the Town Manager / designee determine that drought or water availability conditions warrant caution and that additional conservation measures are necessary to ensure the Town's water supply is not stressed. Water Availability Level 1 shall correspond with Water Conservation Level 1. When Water Availability Level 1 is reached, Water Conservation Level 1 shall be declared.

(3) Water Availability Level 2: "INTERMEDIATE". Water Availability Level 2 will be declared when the Water Resource Director / Designee and the Town Manager / Designee determine that drought or water availability conditions are considered to be an intermediate threat to the water resources of the Town and that additional conservation measures are necessary to ensure the sustainability of the Town's long-term water supply. Water Availability level 2 will also be declared if the Water Resource Director /

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Designee, Public Works Director / Designee and the Town Manager / Designee determine water demand has exceeded safe production capability.

(4) Water Availability Level 3: “ADVANCED”. Water Availability Level 3 will be declared when the Water Resource Director / Designee and the Town Manager / Designee determine that drought or water availability conditions are considered to be an advanced threat to the water resources of the Town and that additional conservation measures are necessary to ensure the sustainability of the Town’s long-term water supply. Water Availability Level 3 will also be declared when Water Resource Director Designee, Public Works Director / Designee and the Town Manager / Designee determine water demand has exceeded total production capability.

****Note: Most US States have adopted drought level conditions and appropriate conservation responses. Numerous cities have adopted conservation ordinances in response to drought conditions.***

(C) The following Water Conservation Levels shall govern the use of water by customers of the Utilities Division, and may apply to other water users within the Town as prescribed below:

(1) Water Conservation Level 0: “NORMAL” Water conditions. The following additional water use conditions shall apply in addition to Outdoor Conservation Section 60.07, under water conservation level 0:

(a) Provide conservation education and outreach to all water users (pamphlets, workshops, etc).

(b) Within the Town water service area meter water use at the source and all connections, ensure meters are working properly, and perform water use audits.

(c) Within the Town water service area limit lost and unaccounted for water (i.e., implement leak detection and repair programs, control evaporation from storage tanks, and eliminate illegal connections.

(d) Encourage low water use landscaping and encourage efficient irrigation systems for all water users.

(e) Evaluate population trends and projected growth to determine future water needs.

(f) Within the Town water service area develop water rate structures that encourage efficient water use.

(g) Develop arrangements for alternative / back-up water supplies should they become necessary.

(h) *Nursery Stock*. Commercial plant nurseries shall submit a water conservation plan to the Water Resource Department that will describe the nursery’s watering schedule and all conservation measures and best management practices

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being employed to minimize water use at the facility. Approval of the water conservation plan by the Water Resources Department will allow for exemption from the restrictions imposed. The plan shall be reviewed, updated, and submitted to the Water Resources Department every two years.

(2) Water Conservation Level 1: “PRECAUTIONARY” Water Restrictions. The following additional water use conditions and prohibitions shall apply, in addition to Section 60.07 and Section (1) above, under Water Conservation Level 1:

(a) Communicate water conservation condition to all water users and increase public outreach

(b) Encourage further reductions or changes related to landscaping (i.e. promote turf removal, and discourage winter over-seeding)

(c) Promote use of commercial car washing facilities where water is recycled

(d) Within the Town water service area increase system-wide leak detection efforts and expedite repairs

(e) Within the Town water service area monitor water levels of wells, and reservoirs more frequently

(f) Promote rain water harvesting and alternative water supplies to all water users

(g) Within the Town water service area update arrangements for alternative / back-up water supplies should they become necessary

(h) *Nursery Stock*. Commercial plant nurseries shall submit a water conservation plan to the Water Resource Department that will describe the nursery’s watering schedule and all conservation measures and best management practices being employed to minimize water use at the facility. Approval of the water conservation plan by the Water Resources Department will allow for exemption from the restrictions imposed. The plan shall be reviewed, updated, and submitted to the Water Resources Department every two years.

(i) No person shall irrigate turf-related facilities except before 8:00 A.M. and after 8:00 P.M.

(j) *Water Sources and Irrigation Methods*. The following sources of water and types of irrigation methods and applications are exempt from outdoor irrigation restrictions above.

(i) Water harvested from precipitation; and

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(ii) The application of water to outdoor plants by the landscape and nursery industry that are in movable containers.

(k) Continue actions from previous stages, if applicable

(3) Water Conservation Level 2: “INTERMEDIATE” Water Reductions. In addition to the restrictions set forth in Sections 60.07 and Sections (1) and (2) above, the following water uses are further restricted or prohibited:

(a) *Twice per week maximum watering restrictions.* Outdoor irrigation shall be limited to a maximum of 2 days per week according to the following schedule. Odd-numbered addresses may irrigate only on Tuesdays, and Saturdays. Even-numbered addresses may irrigate only on Thursdays and Sundays. No outdoor irrigation is allowed on Mondays, Wednesdays and Fridays. It is emphasized that most landscaping can remain healthy and attractive with less frequent irrigating than the two (2) days per week allowance. For a location lacking an identifiable odd- or even-numbered address, the owner or managing agent shall select an odd-even schedule to which it chooses to adhere provided the Water Resources Department is so notified. A large irrigation user may designate a portion of its landscape area as “odd” and a portion as “even” if active use of the landscaping and/or water pressure limitations constrains the user’s ability to irrigate the entire landscaped area in either an odd or even day, provided the Water Resource Department is so notified.

Exempt are watering systems that use water from rain capture systems of any type.

(b) No person shall fill or refill ornamental fountains except those that utilize harvested rainwater.

(c) No person shall fill or refill personal pools, spas, or wading pools. Regardless of whether a pool is inside or outside of the premise, public or semi-public pools, spas or wading pools including pools accessible by all residents of an apartment complex or guests of a hotel may be filled or refilled. Covers are required to be placed over these water features when not in use to reduce evaporation.

Exempt are personal spas or jacuzzi type water features used strictly for medical purposes

(d) No person shall use water from a fire hydrant except for emergencies or upon the written approval of the Public Works Director / Designee; and except for such use associated with firefighting activities, public health, safety or welfare.

(e) No person shall wash vehicles. Vehicles that must be washed for public health, safety or welfare may be washed if reasonable care is taken to maximize water use efficiency and minimize water waste.

Vehicle washing is exempt from this provision if the water supply is from a rain capture system.

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(f) Continue actions from previous stages, if applicable

(4) Water Conservation Level 3: “ADVANCED” Water Curtailments. In addition to the restrictions set forth in Sections 60.07, (1), (2) and (3) above, the following water uses are restricted or prohibited:

(a) Implement alternative / back-up water supply strategies (temporary pumping, water hauling, emergency interconnects, and water right transfers

(b) *No person shall irrigate or water outdoors.* Neither Town-provided water, nor water from private water companies or privately owned wells shall be used for irrigation unless water is provided through harvested rainwater.

(c) No person shall fill or refill pools, spas, fountains or other water features unless approved by the Town Manager. This includes private, commercial, and municipal facilities. Facilities that utilize harvested rainwater or other alternative water supply are exempt from this provision.

(d) No person shall use potable water for dust control on public or private streets or capital improvement projects unless deemed by the Town Engineer as a health and safety issue and if approved only during off-peak periods.

(e) No person shall use potable water in violation of any other restriction deemed necessary by the Town Manger / Designee for the purpose of protecting the welfare of the citizens of the Town of Chino Valley.

(f) *Water Sources and Irrigation Methods.* The following sources of water and types of irrigation methods and applications are exempt from the irrigation prohibition

(1) Water harvested from precipitation;

(g) Continue actions from previous stages, if applicable

(5) The Town Manager / Designee may, from time to time, change the established water conservation level or enact additional water conservation or water use reduction measures as may be necessary or appropriate to achieve a desired reduction in water use.

(D) In addition to the restrictions set forth above, the Town of Chino Valley shall establish yearly water conservation goals and implement such water conservation measures as may be appropriate. On or before May 1 of each year, the Water Resource Department shall report to the Town Council the current Water Availability Status for the Town and make such recommendations as may be appropriate regarding water restrictions based upon the information presented. The Town Council shall review annual information as is presented by the Water Resource Department and may take such action as is necessary or appropriate to implement water restrictions or modify water restrictions then in effect at such time.

**Note: Numerous County and municipalities have adopted drought and conservation goals and plans.*

§ 60.12 RESTRICTIONS ON IMPORTED WATER

Due to the high cost and very limited supplies of imported water supplies, the Town special restrictions shall apply to the use of all imported water and all lands acquired or leased for the purposes of water importation. Water use restrictions shall apply within the corporate limits of the Town of Chino Valley as well as the service area of the municipal water system wherever situated.

(A) In accordance with Resolution 07-842, adopted May 10, 2007 by the Mayor and Council of the Town of Chino Valley, the Town may make available imported water solely to growth that utilize low water use landscaping and that rely entirely on alternative water supplies such as harvested rainwater, or other alternative water for all exterior water uses. The use of imported water for all outdoor uses including, but not limited to; landscape watering, water features and/or the non-commercial washing of automobiles is prohibited. Evaporative coolers are allowed by permit only for residential uses that demonstrate that an amount greater than the lost water from the evaporative cooler is being recharge per § 60.08 or a water conservation fee will be assessed due to property recharge limitations. Also, evaporative coolers shall have automatic bleed-off valves that are connected to the Town sewer line. Evaporative coolers must be inspected every three years by an authorized technician.

(B) Gray water, derived from any imported water supplies, for any exterior use is prohibited. Gray water may be used within the interior (see definition) of developments for reuse prior to discharging such gray water into the Town's collection, treatment and recharge system subject to compliance with all applicable Federal, State, and Town plumbing standards and permits which have been successfully completed.

(C) Subdivisions that utilize imported water for the purpose of obtaining a Certificate of Assured Water Supply are required to demonstrate an alternative water supply for all exterior uses and monitor outdoor water use on all common areas and private residential properties as a provision within the covenants, conditions, and restrictions (CC&R), and report all violations of this Code to the Town Water Resource Department.

(D) Water-intensive activities are prohibited on all HIA lands owned or leased by the Town for the purposes of water importation. All irrigation or landscape watering after retirement is strictly prohibited unless harvested rainwater or other alternative water supplies are used. HIA lands shall only be utilized for recreation, conservation, open-space with native vegetation or water resource enhancement projects. Consumptive water use on HIA lands shall be limited to preservation of public health, safety and welfare and only with the permission of the Town Manager.

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(E) The Town may serve imported water to a property served by a well if all wells located within the property served by imported water are abandoned and sealed prior to connection with the Town water system unless the well(s) will be utilized by the Town as part of the Town's service area. If the wells are abandoned, they must be done so in accordance with ADWR standards and specifications. An official abandonment completion report must be provided to the Town Water Resource Department before any connection with the Town water system can be made. Also an alternative water supply must be implemented for all exterior uses prior to any Town water connection.

(F) The Town shall not subdivide for sale any HIA lands purchased by the Town for water importation purposes. Lands not owned by the Town, but have contractual HIA water obligations may subdivide their lands. The Town may have to consider the amount of water that is used regarding any subdivisions, against the total quantity of HIA water the Town can import.

(G) The Town shall work independently and with appropriate partners to develop and implement a continued groundwater monitoring and mitigation program to address protection of Upper Verde River base flows and the potential effects, if any, of groundwater pumping for the purposes of water importation.

§ 60.13 ACCESS TO TOWN ASSURED WATER SUPPLY

(A) At its discretion, the Town may make available to developers Assured Water Supply Credits at the current price established by resolution for a one hundred (100) year supply. Such credits shall not be used for the purposes of obtaining a Certificate of Assured Water Supply for any development located outside the corporate limits of the Town of Chino Valley. Upon delivery, applicable water service buy-in, impact, and monthly service fees will apply.

§ 60.14 CERTIFICATES OF ASSURED WATER SUPPLY

(A) All new subdivisions located within the Town of Chino Valley and within the water service area of the Town Utilities Division must meet the water use limits of their Certificate of Assured Water Supply.

(B) To ensure that Subdivisions meet this obligation, water service to each development with a Certificate of Assured Water Supply must be metered. Developers must pay all appropriate fees established by the Town. New subdivisions are also required to pay all appropriate fees for the establishment, maintenance and monitoring of master effluent meters in accordance with Town Standards. These fees will be determined by the mutual agreement between the Town and the developer.

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(C) Subdivisions that use water in exceedance of their Certificate of Assured Water Supply may be guilty of a civil violation and shall face monetary penalties as outlined below.

(1) Any subdivision that is served water or sewer by the Town shall have an active “Home Owners Association (HOA)” or similar functioning entity for the particular type of development that is permanent and cannot be dissolved. This permanent entity will record Covenants, Conditions, and Restrictions, (hereinafter “CC&Rs” that run with the land. The CC&Rs at a minimum shall mandate compliance with the certificate of assured water supplies for 100 years within that subdivision. The HOA or similar entity shall have the authority to issue notices of violation, impose monetary fines and other penalties and collect fees for violations. The HOA or other similar entity shall also authorize the Town as the water and/or sewer service provider, to impose monetary fines and enforce the CC&Rs.

(2) For the first annual exceedance of a Certificate of Assured Water Supply, the developer, HOA, or similar functioning entity will be served a Notice of Violation that describes the relevant State Statute and Town Code and the nature of the violation. The Water Resource Department will provide Water Conservation educational materials with the Notice of Violation. Said notice will state that monetary penalties may be attached to any subsequent violations, which are described below.

(a) At this time the Town will conduct a development water audit

(3) If the second annual exceedance of an allotment by a subdivision is less than 10 acre-feet, the developer, HOA, or similar functioning entity shall pay a penalty of \$1,000 per acre-foot of exceeded allotment.

(a) At this time the Town will conduct a development water audit

(4) If a second annual exceedance of an allotment by a development is greater than 10 acre-feet, the developer, HOA, or similar functioning entity shall pay a penalty of \$2,000 per acre-foot of exceedance.

(a) At this time the Town will conduct a development water audit

(5) If the third annual exceedance of an allotment by a subdivision is less than 10 acre-feet, the developer, HOA, or similar functioning entity shall pay a penalty of \$2,000 per acre-foot of exceeded allotment.

(a) At this time the Town will mandate an engineering or equivalent certify official, development water audit and report to be delivered to the Water Resources Department within 120 days

(6) If the third annual exceedance of an allotment by a subdivision is more than 10 acre-feet, the developer, HOA, or similar functioning entity shall pay a penalty of \$4,000 per acre-foot of exceeded allotment.

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(a) At this time the Town will mandate an engineering or equivalent certify official, development water audit and report to be delivered to the Water Resources Department within 120 days

(7) If the annual quantity of water served to the subdivision meets the certificates of assured water supply quantity, than any future violations will begin a new annual cycle of compliance monitoring. Any future violations will begin at Sub-section (2) of this Section.

(8) These penalties shall be assessed in addition to any penalties assessed by the ADWR. These penalties shall not limit the Town of Chino Valley from pursuing any other legal remedies to address violations.

(9) Water customers within developments will be notified of whether their development is in compliance or has a violation associated with their allocation of assured water supply certificate and will be notified within the Town’s annual Consumer Confidence Report.

(10) If there is a fourth (4) consecutive year exceedance with a development’s allocation of assured water supply certificate, the Town at that time may pursue civil action that will ensure the development becomes compliant and there after.

§ 60.15 ENFORCEMENT

The provisions in this Chapter 60 shall be enforceable in four ways: (A) payment of administrative fees, (B) termination of service, (C) emergency termination of service, and (D) enforcement as a civil violation or criminal misdemeanor in the Town Municipal Court. These are in addition to all other legal remedies that may be pursued by the Town to address violations of this Chapter. The use of this Chapter neither limits nor precludes the Town from pursuing any other type of enforcement allowed by law. Nothing in this Chapter shall preclude the Public Works Director/Designee from seeking voluntary compliance with the provisions of this Chapter, or from enforcing this Chapter proactively or reactively, through warnings, notices to comply, or other such devices designed to achieve compliance in the most efficient and effective manner under the circumstances.

(A) *Administrative Fees.* In the event of an initial violation at a single address the water user will be served with a “Notice of Violation”. Such notice shall describe the nature of the violation and corrective action required for compliance of this Chapter. Subsequent violations of any section of this Chapter shall be considered violations subject to enforcement. If there is no penalty specified for a violation in this Chapter, violations will be assessed administrative fees according to the following schedule:

(1) *Amount of Administrative Fees.* The administrative fees which may be assessed pursuant to this Chapter shall be as follows:

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(a) Zero dollars (\$0.00) for the first violation at a single address of a water user;

(b) One Hundred Dollars (\$100.00) for a second violation to the same water user;

(c) Two Hundred Fifty Dollars (\$250.00) for a third violation to the same water user and each additional violation to the same water user. Additional violations may be enforced as civil violations or criminal misdemeanors.

(d) Fines assessed by the Town Municipal Court will supersede these administrative fees.

****Note: Most Southwest States with limited water resources have adopted water resource administrative fees for violations.***

(2) *Right to Appeal.* Any water user assessed an administrative fee as provided in this Chapter shall have the right to appeal such assessment by filing a written notice of appeal with the Town Utilities Division within ten (10) calendar days of receiving a notice of violation and/or containing an administrative fee. Within ten (10) calendar days following the Town's receipt of such notice of appeal, the Public Works Director / Designee shall set a date for hearing the appeal, which shall occur not later than thirty (30) days after receipt of the written notice of appeal. The appealing party shall be notified in writing of the time and place of such hearing. The appeal shall be formal and shall be heard by the Public Works Director / Designee, and others that may be present.

(a) The appeal must be recorded

(b) A Councilmember must be present

(c) The water user has a right to present evidence, even witnesses in defense of their violation and notice.

(d) The Councilmember will make the final decision

(B) *Termination of Service.* In addition to any other legal or equitable remedy to enforce the provisions of this Chapter, the Town may terminate or suspend water service to property owned or served by the Town. The Town Manager or the Public Works Director/Designee may cause a Notice of Water Termination to be served upon the violating party stating that service will be terminated or suspended in five (5) calendar days from the date of service unless a hearing is requested. The notice of termination shall set forth any alleged violation of this Chapter. A hearing will be requested by delivery of a request in writing to the Town Manager, which shall be received by the Town Manager, within five (5) calendar days from the date of service of Notice of Water Termination. If a hearing is requested, the Town Manager shall convene a hearing within three (3) business days of the written request. The requesting party may appear before the Town Manager and may present such evidence and

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reasons such party may have for not effectuating a termination or suspension of water service and may bring to the hearing such other persons or evidence as such party may desire. After hearing, and upon finding that such a violation has occurred, the Town Manager may order that water service be terminated or suspended pending compliance with the provisions in this Chapter.

(C) *Emergency Termination of Service.* When a violation of this Chapter occurs, and the Public Works Director/Designee determines that the specific circumstances of the violation are of such a serious nature as to require immediate measures and abatement, the Public Works Director/Designee may take steps to temporarily shut off the water source or discontinue the water service to the property where the violation is occurring. In such cases, the Public Works Director/Designee shall cause a notice of water termination to be served upon the violating party at the time of emergency termination of services. The violating party, upon service of such notice of emergency termination, shall have the right to request hearings concerning such action as provided in Section 60.15(A)(2) above. The Town may correct emergency measures by entry upon private premises if the water service or Town meter is located thereupon. Any violation of this Chapter which depletes the Town water system during a period that Water Conservation Level 2 or 3 is in effect shall be deemed to deplete water essential to maintain fire flows and shall be cause for immediate emergency termination of water service pursuant to this Chapter. Persons who violate any provision in this Chapter who are not Town municipal water users shall be subject to prosecution as set forth in §60.15 (D) and (E) of this Chapter.

(D) *Enforcement as a Civil Violation.* Any person who violates this Chapter after previously having been found responsible for committing a single (1) violation of this Chapter within any sixty (60) month period whether by admission, by payment of the administrative fees, judgment by default, or judgment after hearing, shall be deemed responsible for a civil violation punishable as set forth in this Section. The Town Prosecutor is authorized to file a civil complaint in the Town Municipal Court against. For purposes of calculating the sixty (60) month period under this paragraph, the dates of the commission of the offenses are the determining factor. A repeat civil offender shall be subject to a civil penalty of not less than Five Hundred Dollars (\$500.00) and not to exceed two thousand five hundred dollars (\$2,500) for each day that the violation continues. The imposition of a civil penalty shall not be suspended. The Town as set forth in this Chapter may abate any continuing violation of this Chapter. Imposition of a civil monetary penalty shall not relieve civil offender from abatement of any violations or liability for any and all costs incurred by the Town for abatement.

(E) *Prosecution as Criminal Misdemeanor.* Any person who violates this Chapter after having been found responsible for committing three (3) or more civil infractions of this Chapter within any sixty (60) month period, (hereinafter “Repeat Civil Offender”), whether by admission, by payment of the fine, judgment by default, or judgment after hearing, shall be guilty of a class 1 misdemeanor punishable as set forth in Arizona Revised Statutes §13-707, §13-802, §13-902. The Town Prosecutor is authorized to file a criminal misdemeanor complaint in the Town Municipal Court against such repeat civil offenders who violate this Chapter. For purposes of calculating the

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sixty (60) month period under this paragraph, the dates of the commission of the offenses are the determining factor. The Town as set forth in this Chapter may abate any continuing violation of this Chapter. Imposition of a fine or penalty assessment shall not relieve the defendant from abatement of any violation(s) or liability for any and all costs incurred by the Town for abatement.

(F) A bond schedule/civil penalty schedule may be recommended from time to time by the Public Works Director/Designee and may be adopted by the Town Council in such amounts and form as it determines.

(G) *Right of Entry.* The Public Works Director/Designee may enter in and upon any premises within the Town at all reasonable times to inspect premises or to perform any duty imposed upon the Public Works Director or Designee regarding the enforcement of this Chapter, provided that if such premises be occupied or enclosed in such a manner that there is an expectation of privacy within such enclosure, he or she shall first present proper credentials and request entry. If entry is denied or cannot be obtained, the Public Works Director/Designee shall not enter in or upon such premises without the proper execution of an inspection warrant issued by a court of competent jurisdiction pursuant to A.R.S. §13-3912.

(H) *Enforcement Officers.* The Town Manager or Public Works Director shall designate those Town employees who may issue civil citations under this Chapter.

(I) Civil Citations, Rules, Contents and Records.

(1) *Procedure.* Except as otherwise specifically provided herein, the Rules of Procedure in Civil Traffic Cases shall apply to civil citations, subject to violations hereunder being titled as Civil Water Conservation Chapter violations, including said title being deemed substituted where appropriate except where inconsistent with the provisions of this Chapter or as modified or established for use by the Town Municipal Court or the Arizona Supreme Court.

(2) The Civil Water Conservation Ordinance citation shall include the following to the extent applicable:

(a) The date of the violation or, if the date of the violation is unknown, then the date the violation is identified;

(b) The address or a definite description of where the violation occurred;

(c) A written description or Chapter/Section designation of the violation;

(d) The action required to correct the violation, if applicable;

(e) The name and signature of the enforcement officer;

(f) The phone number of the Town Municipal Court to contact for questions concerning the hearing process;

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(g) Direct the Defendant to correct the violation to the satisfaction of the Public Works Director or Designee and/or to appear in Town Municipal Court, at the appearance time and date specified in the citation (court appearance date);

(h) Notify the defendant that if the defendant fails to correct the violation to the satisfaction of the Public Works Director/Designee or appear on the date specified in the citation, the Town Municipal Court shall enter a judgment against the Defendant, enforce prior orders and sanctions against defendant and/or impose a civil penalty as set forth in this Chapter;

(i) The Defendant shall provide all information as required in accordance to the Office of Court Administrator's policies and procedures.

(j) If applicable and available, the signature of the cited Defendant acknowledging receipt of a copy of the citation.

(3) *Record of Citations.* All citations shall bear sequential serial number and/or codes (including letters as a citation issuing department may determine to include) to provide for tracking the citation. The issuing department shall maintain a record of civil citations issued for a period of not to exceed 5 years unless a longer period is required by law.

(4) Reserved for future use – water education school option for violators

(J) *Civil Citations/Service.* The Public Works Director/Designee may serve a civil citation by hand delivering the civil citation to the person accused of violating this Chapter. The citation may also be served in the same manner as the summons in a civil action by any means allowed by the Arizona Rules of Civil Procedure. In addition a citation may be served by certified or registered mail, return receipt requested. The citation is deemed served on the date it is hand delivered or, if mailed, on the date it is deposited in the United States mail.

(K) *Civil Citations: Disposition Without Hearing.* If the Defendant corrects the violation to the satisfaction of Public Works Director/Designee on or before the court appearance date, no hearing shall be held and the citation shall be dismissed without prejudice. If the Defendant fails to correct the violation to the satisfaction of the Public Works Director/Designee on or before the court appearance date, and fails to appear in Town Municipal Court on the date and time set the Town Municipal Court may enter a judgment by default against the Defendant, impose a civil penalty as set forth in this Chapter and may include, if applicable, an order of abatement. The Town Municipal Court shall mail a copy of the default decision and notice of the right to set aside the default decision to the Defendant. If a bond or civil penalty for non-appearance and admission of responsibility has been provided in the citation, the civil penalty will be that amount.

(L) *Civil Citations: Hearings.* A Municipal Court judge or hearing officer shall hear and dispose of civil violations, and make such orders as may be necessary and proper to dispose of such cases. Cases shall be heard without a jury. The Municipal

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Court may not grant variances nor modify the provisions of this Chapter, the Town Code, or the Unified Development Ordinance. The Town Municipal Court may continue the date set for the hearing and may continue any hearing, for cause. If the Defendant appears before the Town Municipal Court and admits the allegations, the Town Municipal Court shall enter judgment against the Defendant, and may impose a civil penalty and may issue an abatement order. If the Defendant appears and denies the allegation, the Town Municipal Court shall set the matter for hearing as soon as possible as the interests of justice will allow, but not more than thirty (30) days from said appearance and denial. The Public Works Director/Designee who issued the citation may appear in Town Municipal Court and be the Town's representative. No person may be examined except by the Court, an attorney for a party, or the Defendant.

(M) *Municipal Court Decision.* The Municipal Court shall find the Defendant responsible, not responsible or may dismiss the civil citation. If the Defendant is found responsible, the order may include:

- (1) The amount of any civil penalty imposed;
- (2) The compliance date to correct the violation (if applicable), and shall not be less than thirty (30) days after the order. The Court, in its discretion, may reduce/suspend all or part of the civil penalty upon timely proof of correction of the violation, which shall include an inspection letter/report from a person responsible for Code Enforcement for the Town;
- (3) Notice that if the Defendant fails to pay the civil penalty or correct the violation within the time period ordered by the court, the Town may take any lawful action to collect the civil penalty, including imposing a lien on the Defendant's land;
- (4) Notice that if the Defendant fails to correct the violation within the time period ordered by the Court, the Defendant may be cited for the same violation again after the corrective period has expired;
- (5) A party aggrieved by the Municipal Court's decision with regards to any civil penalty may appeal to Superior Court pursuant to A.R.S. 12-124. An appeal shall be taken within time set forth in the Rules of Procedure for Civil Traffic Cases;

(N) *Collection of Civil Penalties.* Civil penalties may be collected in any manner provided by law.

(O) *Abatement of Hazards to Public Health and Safety and Civil Sanctions Pursuant to A.R.S. § 9-499.*

(1) *Court Ordered and Administrative Abatement Authorized.* Abatement as defined in this (N) may proceed via order of the Town Municipal Court or determination of the Town's enforcement designee as below defined.

(2) *Judicial Abatement.* If a properly filed and noticed pleading alleges that an order of abatement is sought; provides with reasonable specificity the hazard to be

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abated; and provides the estimated cost of removal/abatement of the hazard then, if the Town Municipal Court determines by an entry of an order that a violation of this Chapter constitutes a hazard to public health and safety from buildings, grounds, lots, contiguous sidewalks, streets and alleys, the owner, lessee or occupant of the same shall be required to remove or abate the hazard such that it is no longer a hazard. Such an order entered by the Court shall include an applicable determination and provide notice as set forth in Section N (1) and instruct regarding the defendant's appeal rights under Subsection 60.15 (N)(4)(b) below. In event a Defendant fails to appear, then, among other relief as may be provided in this code, the Court shall order the abatement as sought in the above referenced pleading.

(3) *Administrative Abatement.* If the Public Works Director, Town Manager or Enforcement Officer determines that a violation of this Chapter constitutes a hazard to public health and safety from buildings, grounds, lots, contiguous sidewalks, streets and alleys, the owner, lessee or occupant of the same shall be required to remove or abate the hazard such that it is no longer a hazard upon notice as provided in Section N (6).

(4) Notice Assessment and Appeal.

(a) The Municipal Court via its order or the Town via its administrative employees shall provide written notice to the owner, the owner's authorized agent or the owner's statutory agent and to the occupant or lessee. The notice shall describe the hazard to be abated. The notice shall be served either by hand delivery or by certified mail return receipt requested. If notice is served by certified mail, the notice shall be mailed to the last known address of the owner, the owner's authorized agent or the (i) last known address of the owner, the owner's authorized agent or the owner's statutory agent and (ii) to the address to which the tax bill for the property was last mailed. Service by mail is complete upon mailing. The notice shall be given not less than thirty (30) days before the day set for compliance and shall include the legal description of the property and the estimate cost of such removal if performed by the Town if the owner, occupant or lessee does not comply. The owner shall have until the latter of thirty (30) days from the date notice is given or such longer period is specified in the notice in which to comply. The Town may record the notice in the Office of the County Recorder where the property is located. If the notice is recorded and compliance with the notice is subsequently satisfied, the Town shall record a release of the notice.

(b) Any person aggrieved by the notice may appeal either or both the notice and the assessment as follows:

(i) If the notice was a determination and order of the Municipal Court, the appeal shall be to the Superior Court of Yavapai County, Arizona and shall be made pursuant to the Rules of Civil Traffic Procedure, by filing a notice of appeal with the Municipal Court within 14 calendar days of the courts entry of an appealable order or final judgment pursuant to the Rules of Civil Traffic Procedures.

(ii) If the notice was issued administratively, any person aggrieved by the notice may appeal to the Town Council, except that where the Council has

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delegated the duty of hearing such appeals to an existing board or a new board appointed by the Council, such appeal will be made to such appointed board. The appeal shall be made by filing a notice of appeal with the Town Clerk within 15 calendar days from the date that the administrative notice was given by the Town, which notice of appeal shall identify the notice being appealed, the name and mailing address of the appealing party and the interest of the appealing party in the property. The Town Clerk shall provide written notice to the appealing party of the date and time of the hearing before the Town Council or the appointed board at least 10 calendar days prior to the date of the hearing by certified mail to the address the appealing party provides in the notice of appeal.

(5) Any person, firm or corporation that is determined to be guilty of a violation of this Chapter and, in addition to any fine or penalty which may be imposed for a violation of any provision of this section, is liable for all costs which may be assessed pursuant to this section for removing, abating, or enjoining the hazard.

(6) If any person with an interest in the property, including an owner, lien holder, lessee or occupant, after notice as required by this Chapter does not abate the condition which constitutes a hazard to public health and safety, the Town may remove, abate, enjoin or cause the removal. The Town may utilize Town employees, contractors or other parties allowed by law to abate the hazard and the costs will be those incurred by the Town for payment of contractors or third parties or the actual costs to the Town for utilizing Town employees, plus the additional actual costs of inspection and incidental costs, including the costs of preparing and recording an assessment as provided below.

(7) If the Town determines to assess property for the cost of hazard abatement from any lot or tract of land, and associated legal costs for abatement or injunctions, then the costs shall be assessed on the property from which the hazard was originally present. The Town may record the assessment in the Yavapai County Recorder's Office, including the date and amount of the assessment, the legal description of the property and the name of the Town. A sale of the property to satisfy an assessment obtained under the provisions of this section (N) shall be made upon judgment of foreclosure and order of sale. The Town shall have the right to bring an action to enforce the assessment in the Superior Court in the County in which the property is located at any time after the recording of the assessment, but failure to enforce the assessment by such action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited in the assessment and of the regularity of all proceedings prior to the recording of the assessment.

(8) Assessments imposed against the property are subject to the terms of A.R.S. § 9-499 (E)

(9) For purpose of this section:

(a) "Property" includes buildings, grounds, lots and tracts of land.

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(b) “Structures” includes buildings, improvements and other structures that are constructed or placed on land.