

BUILDING AND CONSTRUCTION

Article 5-10

DEVELOPMENT

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Section 5-10-1 Right-of-way Permits and Encroachments

A. Permits Required^{132 452 462}

1. Unless otherwise provided by this Code or applicable law, it is unlawful for any person, political subdivision or utility without first having obtained a permit from the Town to perform any work on, over or under the right-of-way of any public road, street or alley. Right-of-way includes, but is not limited to, the air space above the surface and the area below the surface of any public roads, streets, sidewalks or recreation paths and public ways.

Each permit shall be limited to a specific site and duration. Public utilities may be granted annual permits.

2. Continuing or permanent use, work or encroachment in a right of way, road, street or alley, drainageway or easement shall be unlawful without an encroachment permit issued by the Town Engineer after compliance with the provisions of this Article and Town Code.
3. Any public service corporation or public utility which desires to occupy or use the rights of way within the town for facilities or system shall first obtain a permit from the Town.
4. Permits and permittees shall conform to this Code and rules, regulations and procedures adopted by the Town Engineer, subject to review and approval by the Town Council. A permit shall become automatically void if the work authorized by the permit is not begun within ninety (90) days from the date of issuance of the

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permit unless a different period is stated in the permit. No permit may be sold, transferred, assigned or exchanged in any manner without prior approval of the Town. A permit may be revocable or conditional.⁴⁶²

B. Fees^{132 144 452}

All permit fees and plan checking fees shall be those prescribed in the Town of Paradise Valley Fee Schedule. These fees shall reimburse the Town for its permit and inspection activities and for costs reasonably related to the costs or damages incurred by or accruing to the Town in connection with the grant and administration of the permit and activities pursuant to the permit.

C. Standards for Construction, Installation and Maintenance^{132 452 518}

1. Any person, political subdivision, or utility who excavates, bores, or removes pavement, sidewalk, bicycle or recreation path, curb or gutter in a right-of-way must comply with the provisions of Section 5-10-2 and any amendments thereto. When completed all construction and installation must be called in to the Public Works Department within twenty-four hours for inspection.
2. All installation of facilities shall be per plans approved by the Town. No facilities shall be installed, maintained or used in such a manner as to damage or unreasonably interfere with traffic, other authorized uses over, under or through the rights of way, or the Town's placement, construction, use or maintenance of its rights of way. The Town reserves the prior right to construct, operate and maintain its rights of way. Facilities will be relocated as requested by the Town in the exercise of its police powers at the expense of the owner of the utility unless expressly required otherwise by law.
3. To maximize public and worker safety, to minimize visual clutter, to minimize the amount of disturbance in and along the rights of way, and to the extent authorized by law, permittees shall utilize joint trenches and otherwise coordinate activities to minimize disruption of traffic and damage to the right of way.
4. To prevent unnecessary disruption and damage to streets and rights-of way the Council may designate, by resolution, certain streets to prohibit excavation within the right-of- way, from edge of pavement to edge of pavement, for a period determined to be appropriate but for no more than five (5) years.
5. Exception: Emergency excavations made pursuant to Section 5-10-1 E of this Code.

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6. ⁵²¹ Any person, utility, political subdivision, or other entity (“Entity”) permitted to perform any excavation pursuant to this Article shall be responsible for the maintenance of such excavation’s street repair and patches. Such responsibility shall include, but not be limited to, any sinking, fraying, unraveling, or deterioration of the repair or patch for a period of five years. The five-year maintenance period shall commence upon final inspection by the Town. Upon notification by the Town of the failure of such a repair or patch, the required maintenance shall be repaired within a reasonable time limit as determined by the Town. Failure of the entity to complete the required repairs within the time allotted may result in the Town making the repair and billing said entity for all costs and expenses incurred while restoring the repair or patch; said entity agreeing to pay such loss or liability by virtue of its application for a right-of-way permit. Any applicant for a right-of-way-permit who has defaulted on the maintenance of a prior repair or patch shall not be issued a new right-of-way permit until the prior patch is restored or repaired, or the Town reimbursed for costs and expensed incurred to restore or repair the patch.

D. Assurances ^{132 452}

A permit must not be granted unless the Town has received and approved a form of financial assurance satisfactory to the Town which places the Town in a position to restore the right-of-way under the standards of Section 5-10-2. A permittee shall provide evidence of insurance satisfactory to the Town to protect against loss or damage arising out of or related to work performed, or failure to perform, under the permit. No work shall commence unless the requirements of this Article have been satisfied.

E. Special Procedures ^{132 438 524}

1. Compliance with the responsibilities contained within Section 5-10-1 A shall be required whenever excavation or construction is necessary in response to an emergency situation. The requirements set forth in Section 5-10-1 A shall become effective at the hour of 9:00 A.M. on the first business day after the emergency work is started. In addition, the Paradise Valley Police Department shall be notified immediately after it is determined that it will be necessary to perform emergency work in the right or way. Furthermore, the Paradise Valley Police Department shall be notified whenever any portion of the emergency work is to be performed outside the hours of sunrise to sunset.
2. Each person, political subdivision, or utility excavating or constructing under the terms of Section 5-10-1 A must use safety and traffic procedures by complying with the traffic control manual for highway construction and maintenance published by the Arizona Department of Transportation or other guideline established by the Town, and comply with all conditions, stipulations and requests

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for inspection, information, plans or other matters related to the application, the permit or work.

3. The permit may be suspended or revoked by the Town Engineer in accordance with procedures which afford due process and for any of the following related to the permitted work or property(ies) which may connect therewith:
 - a. Noncompliance with this Article, the Town Code or applicable law, regulations, or instructions from the Town;
 - b. Noncompliance with the terms of the permit, conditions or stipulations, application, or representations by the permittee;
 - c. Construction, operation, use, condition or effect which may cause or constitute a detrimental impact on persons, property or the community, or adversely affect public safety, health or welfare, or the best interests of the Town.
4. A permittee may appeal the decision of the Town Engineer to the Town Council by filing a Notice of Appeal within ten (10) days of the date of the Engineer's decision. The decision of the Council is final.

F. Placement of Facilities ^{142 167 203 438 452 462}

1. All utilities and facilities except cable television lines must be buried at least twenty-four inches below finished grade. Cable television lines must be buried at least eighteen inches below finished grade. Except as permitted by the Zoning Ordinance no new, different or additional above ground poles or facilities, and no taller poles or facilities, will be permitted in the rights of way. New poles used only to replace existing damaged, broken, or unsafe poles will be allowed. This paragraph shall apply to private and public rights of way.
2. ^{167 192 203 462} All utilities, except water and sewer, must be located between the back-of-curb and the nearest right-of-way line. However, utilities may be located in an adjoining public utility easement. Whenever the pavement in a right-of-way is improved, all utility poles shall be moved at least ten feet (10') away from the back-of-curb or pavement edge, to reduce the hazard; if the right-of-way line is less than ten feet (10') from the street, then the poles must be removed.
3. If extreme difficulty is encountered in complying with the terms of paragraph A or paragraph B, or both A and B, the Town Engineer may issue a waiver of either paragraph, or both paragraphs.
4. The Town Engineer shall establish standard zones for each utility in compliance with paragraphs A and B. All utility entities must conform to the provisions of this

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Section for new construction and whenever right-of-way improvements require relocation of utilities.

5. ^{438 452} No permit may be granted if the proposed work or property(ies) which may connect therewith are or would be in violation of the Town Code when connected or operated. No permit may be granted if any permit required by the Town Code or Zoning Ordinance for the proposed work or property(ies) connecting therewith have not been issued, unless such permit requirements have otherwise been waived or stipulated to by the Town Council or its designee.

G. Landscaping in the Public Rights-of-Way ^{448 462}

1. The purpose of this Section is to protect the public safety and welfare and to preserve and encourage landscaping native to the Sonoran desert in the right-of-way. "Right-of-way", for the purpose of this Section, means the area between the roadway surface and the adjoining property line. For the purpose of this Section, "landscaping" means any tree, shrub, plant or vegetation, or any combination thereof, and ground cover. For the purpose of this Section, "Town Engineer" means the Town Engineer or designee.
2. Planting, moving, removing or replacing any landscaping in the right-of-way is subject to approval by the Town Engineer upon such conditions as are deemed necessary and desirable and in accordance with Town Code and regulations. This requirement shall not apply to landscaping having a potential growth of less than two (2) feet in height, however such landscaping shall comply with all other applicable provisions of the Town Code.
3. The Town Engineer shall have general technical and supervisory control of the planting, setting out, location, placement, removal, trimming, maintenance and care of all landscaping in the rights-of-way.
4. The Town Engineer may grant to the holder of a right-of-way franchise, license or permit, upon written application and approval, continuing permit(s) to plant, move, remove, or replace landscaping, and maintenance thereof, in the rights-of-way without securing separate permits for each project, job or day. Such continuing permit shall be conditioned on such stipulations as may be determined by the Town Engineer, including but not limited to, advance notification to the Town Engineer and Police Department prior to performing the work, and continuing compliance with applicable Town Codes and regulations.
5. The property owner shall be responsible for maintenance and watering of any landscaping in the rights-of-way abutting the owner's property.

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6. Any violation of this Section, and any landscaping which constitutes a hazard to life, health or safety in the determination of the Town Engineer, is a public nuisance. Such nuisance under the control of the abutting property or other person may be abated in accordance with Section 8-5-2 of this Code. However the Town Engineer may summarily abate or remove any hazard to life, health or safety.

Section 5-10-2 Uniform Standard Specifications and Details

A. Uniform Standard Specifications³²

That certain document entitled "Uniform Standard Specifications for Public Works Constructions," sponsored and distributed by the Maricopa Association of Governments and all amendments and addendums thereto, is hereby adopted by the Town of Paradise Valley and made a part of this chapter the same as though said document were set forth in full herein; and at least three copies of said document shall be filed in the office of the Clerk and kept available for public use and inspection.

B. Uniform Standard Details^{32 33}

That certain document entitled "Uniform Standard Details for Public Works Construction," sponsored and distributed by the Maricopa Association of Governments and all amendments and addendums thereto, is hereby adopted by the Town of Paradise Valley and made a part of this chapter the same as if said document were set forth in full herein; and at least three copies of said document shall be filed in the office of the Clerk and kept available for public use and inspection.

Section 5-10-3 Storm Drain Design^{143 146 2018-14}

That certain document, known as the Storm Drainage Design Manual, Town of Paradise Valley, three copies of which are on file in the office of the Town Clerk of Paradise Valley, Arizona, which document was made a public record by Resolution No. 2018-16 of the Town of Paradise Valley, is adopted as a part of this chapter as if fully set forth in this section.

Article 5-10-4 Blasting Operations^{354 483 2018-13}

A. Scope

This Ordinance applies to the possession, storage, and use of explosive materials used in conjunction with permitted blasting operations conducted within the Town of Paradise Valley.

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B. Definitions

Approved as applied to a material device, or mode of construction, means approved by the Town Engineer.

1. "Approved" as applied to a material device, or mode of construction, means approved by the Town Engineer.
2. "Attended" shall mean an unobstructed view of the on-site explosive material storage.
3. "Artificial Barricade" refers to an artificial mound or revetted wall of earth of a minimum thickness of one (1) foot, or any other approved barricade that offers equivalent protection.
4. "Certification of Fitness" shall mean the documentation and results of any examinations to prove the applicant has been found satisfactory to use or transport explosives.
5. "Explosive Materials" shall mean Class A, Class B, and Class C explosives, including detonators, detonating cord, and blasting agents, used in conjunction with blasting operations.

C. Blasting Contractor Requirements

Prior to applying for a permit to conduct blasting operations within the Town limits, the blasting contractor shall submit the following documentation to the Town Engineer.

1. A copy of the blasting contractor's valid Federal Explosives User's Permit or Federal Explosives License.
2. A copy of the license issued by the State of Arizona Registrar of Contractors for the type of blasting operations proposed to be conducted by the contractor as follows:
 - a. A, General Engineering. Construction in connection with fixed works requiring specialized engineering knowledge and skill, including streets and roads, power and utilities plants, dams and hydroelectric plants, sewage and waste disposal plants, bridges, tunnels, and over-passes. Also included are the scopes of work allowed by all other engineering classifications.
 - b. A-3, Blasting. The use of explosive and explosive devices for the purposes of excavation, demolition, geological exploration, mining, or any related blasting. Included is any drilling, boring, or earthwork required for the placement of

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explosive charges, the erection of temporary shelters, artificial barricades and associated protective devices, equipment, and enclosures.

- c. AE. (As restricted by Registrar.)
- d. C-15, Blasting. Use of explosives for movement of earthen materials or for demolition (residential in accordance with State of Arizona Registrar of Contractor definition.)

D. Licensing

The applicant shall be a minimum of 21 years of age and shall require a minimum of two (2) years' experience in the conduct of blasting operations. Experience shall include the understanding of blasting designs, drilling of holes, loading of holes, decking stemming, and wiring methods.

E. Certification of Fitness

Any person requesting permission to conduct blasting operations within the Town shall first present a current and valid Certificate of Fitness Card issued by the City of Phoenix.

F. Blasting Site Permit

A blasting site permit shall be applied for with the Town Engineer to conduct a blasting operation at a specific site. The permit shall be valid for a period not to exceed 90 calendar days, and shall be applied for a minimum of fifteen (15) work days prior to the proposed blasting date. Permit fees for blasting site permits shall be in accordance with the Paradise Valley Fee Schedule.

G. Certificate of Insurance

The applicant shall furnish the Town of Paradise Valley with a valid Certificate of Insurance on a standard insurance industry ACORD form, subject to approval by the Town Attorney as to form and limits of coverage. The Certificate shall be issued by an insurance company authorized to transact business in the State of Arizona, or be named on the listed Unauthorized Insurers maintained by the Arizona Department of Insurance. The following information shall be identified:

1. The contractor and property owner shall be named as the insured. If the insurance is provided by an individual, company, or partnership other than the contractor, the contractor shall be named as an additional insured.
2. The Town of Paradise Valley, a municipal corporation, shall be named as an additional insured and Certificate Holder.

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3. General liability limits, including contractual liability, in the amount of \$5,000,000 combined single limit.

Note: Greater amounts than that stated above, may be required in certain cases as deemed necessary by the Town Engineer or his authorized representative.

3. A description of the operations covered under the insurance, relating to the blasting operations and storage of explosive materials if applicable.

H. Hold Harmless

The contractor shall submit a Hold Harmless Agreement in a form approved by the Town Attorney in favor of the Town for each blasting site location or permit applied for.

I. Documentation

The contractor shall submit a blasting schedule. The blasting schedule must identify the site's phased location (if applicable), the proposed number of holes, the date and time for the loading of shots, and a time for the blast. The contractor shall also submit to the Town Engineer an accurately scaled drawing (1" = 100 feet) of the proposed blasting area identifying:

1. Property lines.
2. Proposed blasting location.
3. Structures within a 500-foot radius of the proposed blasting site and the structure(s)' owner and street address, if applicable. Greater distances may be required in certain areas or under certain circumstances, as determined by the Town Engineer or his authorized representative.
 - a. Location of all aboveground and underground utilities, i.e., natural gas piping and lines, electric lines, phone lines, water lines.
 - b. At the time of application for a blasting site permit, the contractor shall submit proof that a pre-blast survey has been conducted of any and all structures within a 500-foot radius of the proposed blasting area. Pre-blast surveys of the structures located at distances greater than a 500-foot radius may be required in certain areas or under certain circumstances, as determined by the Town Engineer or his authorized representative.
 - c. The blasting contractor or his authorized representative shall document whether there are structures within a 500-foot radius of the blasting area, in what form

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the pre-blast survey was conducted, and where a copy of the preblast survey can be located.

- d. The contractor shall make a minimum of four (4) attempts to contact the owner/occupant of a structure in the pre-blast survey area. At least two (2) of the contacts shall be made during the day and two (2) of the contacts shall be made between 6 p.m. and 9 p.m. If unsuccessful, a notarized statement detailing the address, dates, times, and the name of the person making the contacts shall be submitted to the Town Engineer as part of the permit application package. Upon successful contact with the owner/occupant and with the written consent of the owner/occupant, the applicant shall submit a video record of the exterior of the owner/occupant's structure within the pre-blast area and provide a copy of the video to the Town and the owner/occupant prior to commencement of blasting.
- e. The pre-blast survey shall identify all existing damage, including cracks in walls, floors, and ceiling, cracks in and around windows, loose brick, and other defects found inside of and outside of buildings.
- f. In addition to the information specified above, the applicant may be required to furnish, at his own expense, such additional information as may be required to evaluate the permit application. This may include, but is not limited to, the submission of a report prepared by a geological or geophysical engineer registered in the State of Arizona if the proposed blasting is to occur in a geologically sensitive area.
- g. Failure to provide the required information at the time of permit application may cause the application to be returned to the contractor for resubmittal.

J. Blasting Site Permit Renewal

The contractor shall apply for blasting site permit renewal a minimum of two (2) work days prior to current permit expiration, and shall follow the requirements specified under "Blasting Site Permit," above. Permit fees for blasting permit renewal shall be in accordance with the Paradise Valley Fee Schedule.

K. Conducting Blasting Operations ^{483 2018-13}

1. Any and all utility companies servicing the blasting area shall be advised of the blasting operation a minimum of five (5) work days prior to conducting the blasting operation.
2. Prior to conducting any blasting operations, the contractor shall request that the blasting area be blue-staked when buildings or structures are located within a 500-foot radius of the proposed blast site.

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3. Blasting operations shall be conducted on weekdays, between the hours of 8:00 a.m. and 5:00 p.m. No blasting operations shall be conducted at any time on Saturday, Sunday, or legal holidays, except by special written permission of the Town Engineer or his authorized representative. The special written permission shall be obtained by the contractor a minimum of two (2) working days prior to the proposed blasting date.
4. Explosive materials shall not be loaded into the ground until a valid blasting operations permit, issued by the Town Engineer is on site. This does not, however, prohibit the drilling of holes.
5. The contractor shall provide and install signs reading "BLASTING ZONE 1000 FEET" and "TURN OFF 2-WAY RADIOS AND CELLULAR TELEPHONES" on all roads within 1,000 feet of blasting operations.
6. The Certificate of Fitness Cardholder shall be in attendance at the blast area when the explosive material are loaded into the ground and shall remain in attendance until the blasting operation is completed.
7. Type II magazines, as defined by Article 77 Section 203 of the Uniform Fire Code, shall be used for transporting explosive materials, except blasting agents, from storage magazines to the blasting area.
8. The blasting contractor shall be required to provide written notification to the owner/occupant of each building or structure within a 500-foot radius of the blast site. The notification shall be required a minimum of (5) work days prior to a blasting operation.
9. Seismic and/or air blast monitoring shall be conducted when buildings are located within a 500-foot radius of the blasting site. Prior to blasting, contractor personnel monitoring seismic and/or air blasts, shall be submit a letter to the Town Engineer or his authorized representative documenting the individuals who have received formal training on the equipment proposed to be used, the company name who provided the training, and the specific machine and model number the personnel where trained on.
10. An accurate blasting log shall be maintained by the individual holding the Certificate of Fitness to conduct blasting operations. The log shall contain the Town Engineer permit number, the location of the blasting operation, date and time of each blasting occurrence, the seismic and/or air blast readings received, if applicable, and the name of the individual who conducted the monitoring, if applicable, and any other pertinent information required by the Town Engineer.

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11. A current copy of the blasting log shall be available at the blast site, and at the contractor's office. A copy of the blasting log shall be submitted to the Town Engineer within seven (7) calendar days after the expiration of the blasting permit or when requested by the Town Engineer or his authorized representative.
12. Failure to submit the blasting log within the required time frame may cause the Town Engineer or his authorized representative to discontinue permit issuance.
13. Explosives materials shall not be left lying around or in unlocked magazines where they may be accessible to children or unauthorized persons.
14. Empty containers which held explosive materials shall be removed from the site at the end of each work day and disposed of properly. Empty containers shall not be reused.
15. No explosive materials shall be left in the ground overnight.
16. After a blast, all wires shall be carefully traced and a search made for any unexploded explosive materials.
17. After waiting one (1) hour, all misfires shall be investigated by the Certificate of Fitness Cardholder who shall determine the safe method of disposal.
18. Blasting wires and any items or devices marked EXPLOSIVE or BLASTING CAP shall be removed from the site at the end of each blasting day and disposed of according to the manufacturers recommendations.
19. The mixing of blasting agent components is not permitted.
20. No person under the influence of intoxicants, narcotics, or controlled substances shall handle or use explosive materials in any manner.
21. Prior to the disposal of any explosive material, the manufacturer of the product shall be consulted for most current product information and the recommended method of disposal and/or destruction.
22. No explosive material shall be disposed of within the Paradise Valley Town limits.
23. Blasting mats or other means of protection shall be used to prevent fragments from being thrown and control dust when blasting operations occur within 500 feet of any structures or roadways.
24. The Town Engineer, or a designated inspector, shall be on site at the time of all blasting.

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25. A video recording of the blasting shall be created and provided to the Town and maintained consistent with Town's record retention schedule.
26. Prior to conducting blasting operations, the Town or a third-party inspector shall verify the documentation provided in 5-10-4 (I).

L. One-Day Supply of Explosive Materials On-Site

1. One-day supply of explosive materials shall be the quantity required to conduct one (1) day blasting operations only.
2. No explosive materials shall be stored overnight and not more than a one-day supply shall be brought into the Town at anytime.
3. A one-day supply of explosive material shall be transported to the blasting site in Type II magazine(s) as defined by Article 77 Section 203 of the Uniform Fire Code.
4. Detonators shall not be stored with high explosives.
5. Explosive material storage shall be located a minimum of a 300-foot radius from the blasting site.
6. At no time shall the explosive be left unattended.

Section 5-10-5 Grading And Dust Control Regulations 360 454 552 577 594 2018-14 2020-08

A. Purpose

The Town Council has adopted a General Plan which encourages preservation of natural features. The Town Council also desires to reduce air pollution by limiting fugitive dust, and further seeks to minimize the possible impact of property flooding due to storm water drainage.

These goals have in common that they are all furthered by maintaining the surface of the earth in an undisturbed natural state. Disturbance of the earth's surface should occur only when necessary, and should be done in a manner which reflects an understanding of the unique local environment.

B. Grading Permits Required for Land Disturbance 454 552 2018-14 2020-08

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1. For the purpose of this Article, the following terms shall have the meanings respectively ascribed to them in this Section:
 - a. Grading means any excavating or filling or otherwise changing the gradient of land.
 - b. Excavating means the removal of earthen material resulting in a lowering of the grade at that location.
 - c. Filling means dumping or depositing earthen material resulting in raising of the grade at that location.
 - d. Earthen material means any rock, natural soil or any combination thereof.
 - e. Land disturbance or disturb the land or similar words means clearing, grading, grubbing, scraping, excavating, filling, uncovering, destabilizing, moving or otherwise modifying the earth's surface.
 - f. Vacant lot shall mean developed land upon which no person or persons reside or use for the purpose for which the land was developed.

2. No land disturbance may occur on any lot or parcel in the Town without a grading permit being first obtained from the Town Engineer, and, if necessary, a hauling permit and payment of the hauling permit fees, as prescribed in the "Town of Paradise Valley Fee Schedule," except as otherwise provided herein. No grading permit may be issued without the following submittals, each in a form approved by the Town Engineer:
 - a. A grading plan prepared by a Civil Engineer.
 - a) Where excavation is to occur the top four (4) inches of excavated native soil shall remain on the site and shall be reused in a manner that takes advantage of the natural soil seed bank it contains.
 - b) The grading plan shall contain the preparing engineer's certification of the 100 year water surface elevation and finished floor elevation.
 - c) The building pad shall not exceed two (2) feet in height except where required to protect the building against flooding, in which case the pad shall be one (1) foot above the water surface elevation of the 100 year event.
 - d) A stabilization plan describing how areas potentially prone to erosion will be protected.
 - e) A drainage plan showing washes in an undisturbed state except for modifications approved by the Town Engineer that are required to accommodate storm water. Washes shall not be realigned except as approved by the Town Engineer and Community Development Director when necessary to accommodate storm water or to restore a disturbed wash

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to a more natural state. Realignment and modifications of washes shall be consistent with the Storm Drainage Design Manual.

- b. Dust control plan meeting the requirements of Rule 310 of the Maricopa County Air Pollution Control Regulations, as amended.
 - c. A native plant inventory, native plant salvage plan, and revegetation plan using plants from the Town's approved plant palette in accordance with Article 5-8-4 of the Town Code.
 - d. A fencing plan showing the location and means of temporary fencing that separates the construction area from the portions of the site which will not be disturbed.
 - e. Such other information as may be required by the Town Engineer.
3. The following activities are exempt from the requirements of a grading permit:
- a. Percolation or test borings or similar soil tests (100 square feet maximum in size) prior to issuance of a building or grading permit;
 - b. Landscaping alterations or improvements made by a person in residence on the affected premises, provided that there will be no land disturbance which affects any storm water drainageway or storm water storage area.

C. Dust Control

Prior to the issuance of grading, building, or demolition permits or recording of a final subdivision plat or lot split, the owner or contractor causing or performing any grading, landscaping, building or demolition must furnish a written plan specifying the method or means of controlling dust. For the purpose of this Section, dust means all fugitive particulate matter as defined by applicable Maricopa County Fugitive Dust Regulations.

If, after grading, a person causes or allows any vacant lot or parcel to remain unused, vacant, or undeveloped for more than fifteen (15) days the person shall first implement reasonably available control measures to effectively prevent or minimize fugitive dust.

D. Parking Sites

All unpaved areas used to park vehicles or construction equipment must be paved, vegetated, or chemically stabilized to prevent fugitive particulate matter.

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E. Enforcement, Revegetation/Stabilization Plan ^{577 594}

Any person who has disturbed land and not complied with this Article is required to submit a Stabilization/Revegetation Plan for approval to the Town within fifteen (15) days of receipt or service of a Notice of Violation or citation under this Section. All permits for the development of the property are suspended until the revegetation has been completed and approved. The Stabilization/Revegetation Plan is in addition to the Native Plant Preservation Plan required in Section 5-8-4.

Section 5-10-6 Drilling Permits, Restrictions And Penalties

A. Drilling Permits Required; Restrictions and Revocation

1. Permits required. Unless otherwise provided by this Code or applicable law, it is unlawful for any person, political subdivision, or utility, without first having obtained a permit from the Town Engineer, to drill on, under or into the surface of the earth on any private property, streets or roads. Each permit shall be limited to a specific site and duration. Drilling shall mean to make or cause to make a circular hole in the ground where the depth exceeds fifteen feet with a diameter of forty (40) inches or less.
2. Restrictions on Drilling Operations
 - a. Hours of drilling shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Friday, and shall be prohibited on all legal holidays recognized by the Town, except by special written permission of the Town Engineer or his authorized representative. The special written permission shall be obtained by the contractor a minimum of two (2) working days prior to the proposed blasting date.
 - b. All gasoline or diesel powered motors shall be properly muffled and use sound screening to deflect noise. Nothing in this section shall be construed as a waiver of Article 10-7 of the Paradise Valley Municipal Code.
 - c. Prior to the issuance of the permit a written plan specifying the method or means of controlling dust shall be submitted pursuant to Section 5-10-5 C of this code.
 - d. Written notification shall be provided to all immediate property owners a minimum of forty eight (48) hours before drilling begins.
3. Revocation of Permit. The Town Engineer or his designee shall have the authority to revoke a permit, via a Cease and Desist order, upon violation of the terms of the permit or other Town of Paradise Valley Code provisions by the permittee or by

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persons under the control of the permittee. Issuance of a Cease and Desist Order does not limit the Town's ability to issue penalties pursuant to Section 5-10-6 B.

B. Penalty

Any person who shall violate any of the provisions of this Ordinance shall be guilty of a Class 1 Misdemeanor and upon conviction thereof shall be punished by a fine not to exceed two thousand five hundred dollars (\$2,500.00) or by imprisonment for a period not to exceed six months or by both fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as described. In the alternative to the criminal penalty, civil prosecution may proceed pursuant to this Article by citation for civil sanction(s). The procedure for civil actions shall be as outlined in Section 8-6-5 of this Code.

Section 5-10-7 Dedication of Public Right-of-Way; Drainage Easements, and other Requirements⁵⁷¹

A. General

No permit shall be issued, no structure shall be erected or enlarged, and no certificates of occupancy shall be issued for buildings or structures not completed as of the effective date of this section, if the property upon which such permit is to be issued or the structure is to be erected, enlarged or occupied abuts on a public right-of-way, or contains a watercourse as herein defined, unless and until the following requirements are met and in compliance with applicable law:

B. Dedication of Right-of-Way.

One-half of the public right-of-way located adjacent to such property shall be dedicated as a public right-of-way in conformance with the Town General Plan, as it may be amended from time to time. If such dedication would render the subject property in violation of Town zoning laws, the Town may, in lieu of dedication, accept an easement for public right-of-way over the same amount of land as would be required by dedication. For the purpose of this paragraph, "permit" includes:

1. A Special Use Permit or Major Amendment to a Special Use Permit as designated in Section 1101 et seq. of the Zoning Ordinance;
2. A subdivision, lot split, or other land division subject to Chapter 6, Sections 6-1-1 et seq. of the Town Code on Subdivisions.

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3. A building permit for any new residence or reconstruction or alteration to an existing residence, the cost of which construction, reconstruction, or alteration exceeds \$500,000. Cost shall be computed on the basis of accumulated costs during any 730 consecutive day period.

C. Drainage Easements. ^{513 601}

1. For the purposes of this section, "watercourse" means any creek, stream, wash, arroyo, channel or other body of water having historical banks and a bed at least two (2) feet deep and five (5) feet wide through which waters flow on a recurrent basis.
2. Whenever any watercourse is located in an area being developed, provision shall be made for an adequate drainage easement along the main channel and each side of the watercourse for the purpose of widening, deepening, relocating, improving, or protecting the watercourse for drainage purposes. The drainage easement is for the purposes stated above, but the maintenance responsibility for the watercourse, as required by Town Code, shall remain the responsibility of the property owner.
3. In addition to the drainage easement requirement, drainage easement maintenance agreements shall be required for any watercourse located on the property. Said agreements shall:
 - a. Be in a form acceptable to the Town Engineer,
 - b. Grant easement rights and a right of entry in, over, and across the drainage easement area,
 - c. Specify that the maintenance responsibility for the drainage easement area remains private, and
 - d. Be recorded in the Maricopa County Recorder's office.
4. The property owner shall clean, repair and maintain the watercourse within the drainage easement area in a safe, clean, and properly operating condition and in compliance with all applicable town codes.

D. Other Requirements.

Approval of a Special Use Permit or Major Amendment to a Special Use Permit as designated in Section 1101 et seq. of the Town's Zoning Ordinance, or a subdivision, lot split or other land division subject to Chapter 6, Sections 6-1-1 et seq. of the Town Code on Subdivisions, shall also require the following, and maintenance thereof, unless otherwise specified and subject to rules and regulations of the Town: ⁴⁴⁸

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1. Landscaping. The right-of-way between the roadway surface and the abutting property line shall be preserved with existing native vegetation as follows, or landscaped with an average of the following every one hundred (100) linear feet unless otherwise approved by the Town where there is existing right-of-way landscaping or where other special circumstances occur:⁴⁴⁸
 - a. A minimum of four (4) fifteen gallon trees native to the Sonoran Desert; and⁴⁴⁸
 - b. A minimum of five (5) one-gallon shrubs native to the Sonoran Desert.
2. Recreation Path. A minimum six-foot wide meandering recreation path shall be constructed, and right-of-way granted therefore as may be necessary, abutting the entire property in accordance with the Town's General Plan and the determination of the Town Engineer.⁴⁴⁸

Section 5-10-8 Required Improvements^{183 380 571}

A. Definitions. As used in this Section.

"Development" includes construction of any new residences or reconstructions or alterations to existing residences, the cost of which construction, reconstruction or alteration exceeds \$500,000. Cost shall be computed on the basis of accumulated costs during any 730 consecutive day period.

B. Drainage

1. No development shall be permitted to occur within the Town which causes an increased flow of surface water discharged from the subject site. On-site storm water retention areas shall be adequate to contain the volume of water required by the Town's Storm Drain Design Manual, current edition. The tributary area used in the computation shall be the area of the site.
2. Exception: The requirements for on-site retention may be waived or modified by the Town Engineer if he determines that said retention is impractical because of, but not limited to, steep terrain, poor percolation, or incompatibility with existing or surrounding improvements. The Town Engineer may require of the developer or owner additional drainage studies or reports in such cases to determine if a critical drainage problem will be created on adjacent or downstream properties.
3. If the Town Engineer decides after review of the studies or reports in paragraph B that construction of drainage facilities would best be made off-site, he may require

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the developer to furnish the Town financial assurance in an amount and form satisfactory to the Town to accomplish the construction of drainage facilities.

C. Sewers^{459 478}

1. No development of property shall take place unless or until the developer or owner constructs either before, or simultaneously with development, sanitary sewer lines and a connection to private wastewater treatment or Town sanitary sewer in accordance with Town and Maricopa County Health Department standards. At the discretion of the Town Manager, the Town may accept cash or other guarantee in lieu of construction at the time of development.
2. The requirement of paragraph A of this Section may be waived, in whole or in part, if, prior to commencing development, the owner demonstrates to the Town Manager one or more of the following:
 - a. All sewers required under paragraph A have been completed.
 - b. All sewers required under Paragraph A are within a sewer improvement district over which the Town has passed a resolution of intention pursuant to A.R.S. Title 48, Chapter 4.
 - c. The cost of complying with paragraph A would be more than ten percent (10%) of the cost of development.
3. The Town Manager may consider the extent of the Town's participation as a factor in his decision.

D. Fire Hydrants

1. No development of property shall take place unless or until the developer or owner constructs a fire hydrant in accordance with Town and Fire Department standards.
2. The requirement of paragraph A of this Section may be waived, in whole or in part, if, prior to commencing development, the owner demonstrates to the Town Manager one or more of the following:
 - a. All fire hydrants required under paragraph A have been completed.
 - b. All fire hydrants required under Paragraph A are within a fire hydrant improvement district over which the Town has passed a resolution of intention pursuant to A.R.S. 48, Chapter 4.

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- c. The cost of complying with paragraph A would be more than ten percent (10%) of the cost of development.
3. The Town Manager may consider the extent of the Town's participation as a factor in his decision.

E. Electrical and Electronic Services⁵⁷¹

No development shall take place unless or until the developer or owner undergrounds all electrical and electronic wires and cables from the property line to the electrical service panel. Remodels and building additions shall be required to remove all overhead utility services and place them underground from the property line to the electrical service panel as directed by the building official.

F. Street Improvements⁵⁷¹

No of development shall take place unless or until the developer or owner constructs street improvements, necessary for safe vehicular and pedestrian travel (not to exceed the requirements of the general plan). Such improvements may be required as a condition of a building permit.

Section 5-10-9. Hillside Safety Improvement Measures and Process²⁰¹⁸⁻⁰⁹

That a certain document, known as the Hillside Safety Improvement Measures and Process Manual, Town of Paradise Valley (three copies of which are on file in the office of the Town Clerk of Paradise Valley, Arizona and also available to the public online at the Town of Paradise Valley website) is adopted as a part of this chapter as if fully set forth in this section.

5-10-10 Assessments For Streets, Sidewalks and Other Public Places²⁰¹⁹⁻¹³

5-10-1 Definitions

The following words, terms and phrases, when used in sections 5-10-1 through 5-10-8, shall have the meanings set forth below, unless the context clearly indicates a different meaning:

“Benefited party” means the owner of property creating a demand for or otherwise utilizing special public improvements resulting in a special benefit for which the owner of such property has not specifically contributed to the Costs in providing such special public improvements.

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“Costs” means the actual Town approved cost of:

- (1) Right-of-way or easement acquisition.
- (2) Construction of the special public improvements as determined by the actual costs.
- (3) Inspection, testing and permit fees.
- (4) Engineering and design fees, including any staking required for preparation of plans and specifications.
- (5) Incidental fees, expenses and charges, including but not limited to capitalized interest required to complete the improvements.
- (6) Financing costs to Town, where applicable.

“Developer” means the party that incurs the Costs and installs the special public improvements.

“Development Agreement” means an agreement between one or more parties and the Town pursuant to A.R.S. § 9-500.05.

“General public benefit” means that portion of the special public improvement that benefits the property owner in the same way or amount as the public at large. This is in contrast to a special benefit that is necessary for development of the property being assessed.

“Public improvement” means any water line, reclaim water line, sewer line, storm sewer line and system, drainage facility, asphaltic and concrete paving, curb, gutter and sidewalks, street lights, traffic signals, landscaping, or any other improvement intended to be dedicated to the Town for public use, including the land upon which the public improvement is constructed.

“Reimbursement amount” means the portion of the Costs that may be fixed, levied, and assessed by the Town, pursuant to A.R.S. § 9-500.05 and this chapter, against real property where the benefited party or its predecessors in interest did not construct or pay for any of the Costs of a special public improvements providing benefit to such property.

“Reimbursement share” means a benefited party's share of the reimbursement amount based on one of the following:

- (1) Costs apportioned by traffic volume generated as the result of the special public improvement;
- (2) Costs apportioned per frontage foot of the special public improvement;
- (3) Costs apportioned per acre of all properties that utilize a special public improvement;
- (4) Costs apportioned by demand of the special public improvements; or

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- (5) Costs apportioned based on the assessed valuation of all properties that receive a special benefit from the special public improvement.

“Repayment agreement” means a Development Agreement between a Developer and the Town pursuant to A.R.S. § 9-500.05 that addresses the repayment of the reimbursement amount by the benefited parties.

“Special public improvement” means any public improvement within a specified benefiting area that the Town Council has determined is eligible for repayment because the public improvement is either: 1) in excess of those normal and customary public improvements necessary to develop and support the project for which they are being constructed; or 2) deemed necessary by the Town for the orderly development of public improvements in the Town.

“Town” means Town of Paradise Valley, Arizona.

5-10-2 Policy

Sections 5-10-1 through 5-10-8 intend to provide for the completion and extension of special public improvements within developed areas and into undeveloped areas of the Town by encouraging the completion or extension of such special public improvements and providing for the reimbursement of the Costs other than those costs which are for general public benefit by the benefiting parties.

5-10-3 Construction of special public improvements

(a) Before the Town will issue a permit to construct a special public improvement for which repayment of a reimbursement amount is being requested, or for which the Town Council determines to be necessary as a matter of convenience and for the orderly development of public improvements in the Town, the following requirements shall be met:

- (1) A diagram describing all property which will be benefited by the special public improvement shall be provided to the Town Engineer or designee.
- (2) The engineering plans and specifications required for the special public improvement shall be prepared by the Developer or the Town. If prepared by the Developer, they must be approved by the Town Engineer or designee prior to beginning construction.

(b) The construction of a special public improvement shall be bid in accordance with the provisions pertaining to public works projects contained in A.R.S. title 34 and Town Code. The construction portion of the Costs shall be determined prior to the commencement of construction and shall be approved by the Town. In the event the approved construction portion of the Costs increase, the repayment agreement may be amended by the Town manager, provided the amount of the increase does not exceed

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\$50,000.00 individually or cumulatively with other previous amendments, and the increase has been approved by the Town Engineer. Any request to increase the construction portion of the Costs in an amount exceeding \$50,000.00 must be approved by Town Council.

(c) The Town will perform the review, approval of plans and inspections during the design and construction and shall, if applicable, charge the Developer for the plan review and inspections of the special public improvements.

(d) The ownership of all special public improvements upon completion, inspection, and acceptance by the Town shall be vested in the Town.

5-10-4 Authorization of repayment agreements

(a) Upon development of any property within the Town, or outside of the Town limits that may be subsequently annexed into the Town, for which a special public improvement will be constructed, the Developer of the special public improvement may request the Town Manager or his/her designee on behalf of the Town to enter into a repayment agreement to collect a reimbursement amount from the benefited parties located within the Town or outside the Town limits that may be subsequently annexed into the Town.

(b) The Town Manager shall be authorized to enter into amendments to repayment agreements for the limited purposes set forth in Section 5-10-3.

(c) Repayment agreements shall be recorded in the office of the Maricopa County Recorder.

5-10-5 Repayment agreements; terms; collections; and costs

(a) The repayment agreement shall designate the parcels, the benefited parties, the reimbursement amount and the reimbursement share. The repayment agreement shall include a diagram of the benefited parties' parcels and the method for calculating reimbursement shares.

(b) The repayment agreement shall set forth the total of the reimbursement amount which shall not exceed approved Costs of the special public improvements, less Developer's share of the Costs.

(c) The repayment agreement shall become effective upon signature of all parties and recordation of the agreement. The term of the repayment agreement shall be twenty years from the date the first reimbursement share is paid by a benefited party, or when the reimbursement amount has been repaid, whichever is earlier.

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- (d) The Town shall have sole and exclusive control of connections to the special public improvement. Connections to or use of the special public improvement may only be made upon issuance of a written permit from the Town. It shall be unlawful to make a connection to or use a special public improvement without a permit. A connection to a special public improvement made without a permit may be removed by the Town and the costs of removal may be assessed to the party making the connection.
- (e) Prior to allowing a benefited party to connect to or use of a special public improvement, or at an earlier time as identified in the repayment agreement (e.g., prior to approving a final plat), Town shall verify that the benefited party has paid its reimbursement share to the Developer.
- (f) The Developer shall administer the repayment agreement and collect the reimbursement amount from the benefited parties. Developer shall also promptly notify the Town, in writing, each time a benefited party pays its reimbursement share.
- (g) The Developer may assign the benefits arising out of a repayment agreement with the Town to a person or entity that has purchased some or all of Developer's property. An assignment shall not relieve the Developer from its duties and obligations under the repayment agreement unless the assignor executes a written acceptance of the rights and duties of Developer under the repayment agreement. Any assignment shall require written approval of the Town.
- (h) Those portions of special public improvements that are for the benefit of a Developer shall not be subject to repayment under the provisions of this chapter.

5-10-6 Town Reimbursement

- (a) When the Costs of a special public improvement are paid for by the Town, using general funds, special funds or any other funding source of the Town, the Town may require the benefited party to reimburse the Town such benefited party's reimbursement share prior to (i) such benefited party connecting to or using the special public improvement, or (ii) prior to the Town Council approval of a rezoning, special use permit, major or intermediate amendment to a special use permit, or final plat within such benefited party's property.
- (b) It shall be unlawful for any benefited party to utilize or extend service from a special public improvement without first paying its reimbursement share and obtaining a permit issued by the Town Engineer.

5-10-7 Notice of intention to approve special public improvements

- (a) Upon the determination of the Town Engineer that the public health, safety, welfare and/or convenience requires the construction of a special public improvement,

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a map depicting the boundaries of the benefited parties' properties and indicating each benefited party's reimbursement share of the Costs shall be prepared by the Town Engineer and filed in the office of the Town Clerk. The map for the special public improvement shall contain:

- (1) A description of the special public improvement.
 - (2) A general description of the estimated Costs and the Reimbursement Amount.
 - (3) A description of the special public improvement project area and a map and list of the benefited properties.
 - (4) A determination of that a portion of the Costs shall be allocated to the general public benefit, if any.
 - (5) A preliminary estimate of the portion, if any, of the special public improvement which will be financed with general obligation bonds, development fees, special assessments, improvement district assessments or other public funding sources, and the portion which will be financed with repayments for special public improvements.
- (b) Each benefited party shall receive notice in writing of the proposed reimbursement amount and such benefited party's reimbursement share of the Costs for a special public improvement.
- (c) The map described in 5-10-7(a)(3) shall be recorded with the Maricopa County Recorder.

Sec. 5-10-8 Assessment districts, improvement districts; general obligation bond projects; cost apportionment

- (a) Upon collection by the Town of a reimbursement share such funds shall be deposited with the finance department. The funds shall be applied against the outstanding indebtedness for which bonds or assessments were issued.
- (b) Reimbursements for special public improvements pursuant to Section 5-10-6 may be used in combination with a general obligation bond issue, provided that the general obligation bond issue question submitted to the qualified electors indicates that such reimbursements may be required of benefited parties. All amounts collected from such reimbursements shall be deposited in the general obligation bond fund from which the special public improvement project is financed.
- (c) In the event the Town uses improvement district bonds, assessment district bonds, or general obligation bonds to fund the Costs of a special public improvement, an owner who has paid all or part of the debt service upon any such bonds shall have no claim to the reimbursement amounts repaid to the Town under this chapter.