

ORDINANCE NO. 1004

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF WICKENBURG, COUNTY OF MARICOPA, STATE ARIZONA AMENDING THE TOWN OF WICKENBURG CODE BY AMENDING CHAPTER 8 BUILDING, ARTICLE 8-3 STREET IMPROVEMENTS, BY AMENDING SECTION 8-3-3 APPROVAL OF STREET IMPROVEMENT PLANS, RELATED TO THE REGULATION OF PUBLIC RIGHTS-OF-WAY AND EASEMENTS IN THE TOWN, RELOCATION OF FACILITIES, UNDERGROUNDING OF FACILITIES, PERMITS AND FEES; PROVIDING FOR PENALTIES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR SEVERABILITY

BE IT ORDAINED by the Mayor and Common Council of the Town of Wickenburg, County of Maricopa, State of Arizona as follows:

Section 1. In General.

The Code of Wickenburg, Chapter 8 Building, Article 8-3 Street Improvements, is amended by amending Section 8-3-3 Approval of Street Improvement Plans, to read as follows (deleted text appears in ~~strikeout~~; new text in ALL CAPS):

~~Sec. 8-3-3 Approval of Street Improvement Plans~~ CONSTRUCTION IN PUBLIC RIGHTS-OF-WAY; LOCATION AND RELOCATION OF FACILITIES IN PUBLIC RIGHTS-OF-WAY

~~The owner or proprietor of property intended to be developed shall submit the street improvement plans to the town for approval. No building permit shall be issued until the street improvement plans have been approved by the town engineer. Street improvements shall be constructed in accordance with the plans approved by the town engineer and in accordance with the town's design principles and standards set forth in Article 11-4 of this code. No certificate of occupancy shall be issued until street improvements are constructed in accordance with the approved plan and Article 11-4 of this code.~~

A. PERMIT REQUIRED; CONTENTS OF APPLICATION

IT SHALL BE UNLAWFUL FOR ANY PERMITTEE TO CONSTRUCT, RECONSTRUCT, REPAIR, ALTER, OR GRADE WITHIN THE PUBLIC RIGHTS-OF-WAY WITHOUT FIRST OBTAINING A PERMIT FROM THE PUBLIC WORKS DEPARTMENT AS PROVIDED IN THIS SECTION AND COMPLYING WITH THE ZONING AND SUBDIVISION CODES OF THE TOWN. AN APPLICANT FOR A PERMIT SHALL FILE WITH THE TOWN AN APPLICATION SHOWING:

1. NAME, ADDRESS AND LICENSE NUMBER OF THE PARTY DOING THE WORK.
2. LOCATION OF THE WORK AREA.
3. PLANS ATTACHED TO THE APPLICATION SHOWING DETAILS OF THE PROPOSED CONSTRUCTION. SUCH PLANS SHALL BE PREPARED AND SEALED BY AN ENGINEER REGISTERED AND LICENSED IN THE STATE, UNLESS THE PERMITTEE DEMONSTRATES TO THE SATISFACTION OF THE TOWN THAT THE WORK DOES NOT WARRANT IMPOSING THIS REQUIREMENT.
4. A TRAFFIC CONTROL PLAN IN ACCORDANCE WITH SUBSECTION B.
5. ESTIMATED COST OF ALTERATION.
6. SUCH OTHER INFORMATION AS THE TOWN FINDS REASONABLY NECESSARY TO DETERMINE COMPLIANCE WITH TOWN CODES.

B. TRAFFIC CONTROL

1. TRAFFIC CONTROL PLANS. A PERMITTEE SHALL SUBMIT A TRAFFIC CONTROL PLAN APPLICATION TO THE TOWN AT LEAST TWO BUSINESS DAYS PRIOR TO THE PROPOSED START DATE OF CONSTRUCTION ACTIVITIES. THE TRAFFIC CONTROL PLAN APPLICATION MUST INCLUDE A TRAFFIC CONTROL PLAN. THE TRAFFIC CONTROL PLAN MUST BE DESIGNED AND SUBMITTED BY A CERTIFIED MEMBER OF THE AMERICAN TRAFFIC SAFETY SERVICES ASSOCIATION (ATSSA).
2. TRAFFIC CONTROL MANUAL. THE TOWN DESIGNATES THE PHOENIX BARRICADE MANUAL (1998 EDITION) AS A PUBLIC RECORD AND HEREBY ADOPTS THE PHOENIX BARRICADE MANUAL (1998 EDITION) THREE COPIES OF WHICH ARE ON FILE IN THE TOWN CLERK'S OFFICE AS

THE TOWN'S OFFICIAL TRAFFIC CONTROL MANUAL FOR CONSTRUCTION WORK ZONES WITH THE FOLLOWING CHANGES:

- (a) ARROWBOARDS ARE REQUIRED FOR ALL LANE CLOSURES ON ARTERIAL STREETS.
- (b) LANE CLOSURES ON ARTERIAL STREETS ARE NOT PERMITTED BETWEEN 5:30 A.M. AND 8:30 A.M. OR BETWEEN 3:30 P.M. AND 7:00 P.M. UNLESS PREVIOUSLY APPROVED BY THE TRAFFIC ENGINEER OR PUBLIC WORKS DIRECTOR.
- (c) A PERMITTEE SHALL HIRE A UNIFORMED OFF-DUTY POLICE OFFICER TO BE PRESENT WHEN CONSTRUCTION ACTIVITIES TAKE PLACE WITHIN 300 FEET OF A SIGNALIZED INTERSECTION OR IF REQUIRED BY THE ENGINEER. PERMITTEE'S MUST ARRANGE FOR A POLICE OFFICER FIVE (5) CALENDAR DAYS IN ADVANCE OF PLANNED CONSTRUCTION ACTIVITIES.

C. FEES

PLAN CHECKING FEES AND INSPECTION FEES AS ESTABLISHED BY THE COUNCIL BY RESOLUTION SHALL BE PAID PRIOR TO ISSUANCE OF A PERMIT. SUCH FEES SHALL BE REASONABLY RELATED TO COSTS DIRECTLY INCURRED IN PROVIDING SERVICES RELATING TO THE ADMINISTRATION OF THE PERMITS.

D. LOCATION AND RELOCATION OF FACILITIES IN PUBLIC RIGHTS-OF-WAY

1. GENERAL. IF THE WORK TO BE PERFORMED IN A PUBLIC RIGHT-OF-WAY INVOLVES THE INSTALLATION, CONSTRUCTION, ERECTION, REPLACEMENT OR RELOCATION OF ANY FACILITIES, A PERMIT MUST BE OBTAINED FROM THE BUILDING DEPARTMENT/PUBLIC WORKS DEPARTMENT. SUCH PERMIT SHALL BE ISSUED ON SUCH CONDITIONS AS ARE REASONABLE AND NECESSARY TO ENSURE COMPLIANCE WITH THE TERMS AND CONDITIONS OF TOWN CODES. THE APPLICATION SHALL INCLUDE ALL INFORMATION REQUIRED IN SUBSECTION B. EACH PERMITTEE IS RESPONSIBLE FOR ENSURING THAT ITS FACILITIES ARE INSTALLED, CONSTRUCTED AND MAINTAINED IN STRICT ACCORDANCE WITH TOWN CODES; THAT ALL REQUIRED LICENSES, FRANCHISES AND OTHER PERMITS ARE APPLIED FOR AND OBTAINED BEFORE ANY WORK COMMENCES; AND THAT THE TERMS AND CONDITIONS THEREOF ARE STRICTLY FOLLOWED. WHERE A FACILITY IS USED BY MORE THAN ONE PERMITTEE, EACH PERMITTEE IS FULLY RESPONSIBLE FOR ENSURING THAT ALL REQUIREMENTS ARE SATISFIED. FACILITIES SHALL BE INSTALLED, CONSTRUCTED AND MAINTAINED SO THAT NO ADDITIONAL PROVISION OF THIS CODE, THE ZONING CODE OR THE SUBDIVISION CODE, OR THE PROVISIONS OF ANY LICENSE, PERMIT, OR FRANCHISE ISSUED BY TOWN, THIS SHALL REQUIRE, AT A MINIMUM, COMPLIANCE WITH THE PROVISIONS OF THIS SUBSECTION.

2. JOINT USE OF TRENCHES. IN ORDER TO MINIMIZE DEGRADATION OF STREETS, TRAFFIC IMPACTS AND OTHER INTERFERENCE WITH THE USE OF PUBLIC RIGHTS-OF-WAY, WORK SHALL BE COORDINATED SO THAT TO THE GREATEST EXTENT POSSIBLE, CONSISTENT WITH ECONOMIC FEASIBILITY, JOINT TRENCHING IS UTILIZED. THE PUBLIC WORKS DEPARTMENT SHALL ADOPT RULES TO FACILITATE JOINT TRENCHING IN THE PUBLIC RIGHTS-OF-WAY.

3. TRAFFIC SAFETY. THE FACILITIES TO BE CONSTRUCTED, INSTALLED, OPERATED, AND MAINTAINED BY THE PERMITTEE SHALL BE SO LOCATED OR RELOCATED AS TO INTERFERE AS LITTLE AS POSSIBLE WITH TRAFFIC OR OTHER AUTHORIZED USES OVER, UNDER, OR THROUGH THE PUBLIC RIGHTS-OF-WAY. THOSE PHASES OF CONSTRUCTION RELATING TO TRAFFIC CONTROL, BACKFILLING, COMPACTION, AND PAVING, AS WELL AS THE LOCATION OR RELOCATION OF SAID FACILITIES SHALL BE SUBJECT TO REGULATION BY THE TOWN COUNCIL.

4. RECORDS. THE PERMITTEE SHALL KEEP ACCURATE RECORDS OF THE LOCATION OF ALL FACILITIES IN THE PUBLIC RIGHTS-OF-WAY AND FURNISH THEM TO THE TOWN UPON REQUEST OR AT SUCH PERIODIC INTERVALS AS THE TOWN MAY REQUIRE. IN ORDER FOR THE TOWN TO REGULATE USERS IN THE PUBLIC RIGHTS-OF-WAY, UPON COMPLETION OF NEW OR RELOCATION CONSTRUCTION OF UNDERGROUND FACILITIES IN THE PUBLIC RIGHTS-OF-WAY, THE PERMITTEE SHALL PROVIDE THE TOWN WITH THE LOCATION OF THE UNDERGROUND AND ABOVE GROUND FACILITIES IN A FORMAT COMPATIBLE WITH THE CURRENT TOWN MAPPING FORMAT.

5. RESTORATION. WHENEVER THE PERMITTEE SHALL CAUSE ANY OPENING OR ALTERATION TO BE MADE FOR ANY PURPOSE IN ANY PUBLIC RIGHTS-OF-WAY, THE WORK SHALL

BE COMPLETED WITHIN A REASONABLE TIME, AND THE PERMITTEE SHALL, WITHOUT EXPENSE TO THE TOWN AND UPON COMPLETION OF SUCH WORK, RESTORE THE PROPERTY DISTURBED IN A MANNER CONSISTENT WITH THE TOWN'S ADOPTED STANDARDS, OR AS REQUIRED BY ITS PERMIT, LICENSE, OR FRANCHISE WHICH MAY INCORPORATE SPECIAL STANDARDS WHEN REQUIRED FOR TOWN PURPOSES. LANDSCAPING, WHETHER IN THE PUBLIC RIGHTS-OF-WAY OR ON PRIVATE PROPERTY, WHICH IS DAMAGED BY A PERMITTEE SHALL BE RESTORED TO ITS CONDITION AS IT EXISTED PRIOR TO THE WORK. A PERMITTEE SHALL EXERCISE SPECIAL CARE WHEN WORKING NEAR ESTABLISHED TREES OR SHRUBS. IF ESTABLISHED TREES OR SHRUBS DIE WITHIN SIX MONTHS OF COMPLETION OF WORK BY A PERMITTEE, IT IS PRESUMED THAT THE PERMITTEE CAUSED SUCH DAMAGE IF THE WORK PERFORMED WAS IN THE LOCATION OF THE ROOTS OF SUCH TREE OR SHRUB.

6. TOWN'S FACILITIES. THE INSTALLATION, USE AND MAINTENANCE OF THE PERMITTEE'S FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY AUTHORIZED HEREIN SHALL BE IN SUCH A MANNER AS NOT TO INTERFERE WITH PLACEMENT, CONSTRUCTION, USE, AND MAINTENANCE OF PUBLIC RIGHTS-OF-WAY, STREET LIGHTING, WATER PIPES, DRAINS, SEWERS, TRAFFIC SIGNAL SYSTEMS, OR OTHER UTILITY SYSTEMS THAT HAVE BEEN, OR MAY BE, INSTALLED, MAINTAINED, USED OR AUTHORIZED BY THE TOWN. UPON THE TOWN'S REQUEST, THE PERMITTEE'S FACILITIES WILL BE RELOCATED AT PERMITTEE'S EXPENSE (UNLESS STATE LAW EXPRESSLY REQUIRES OTHERWISE). UPON THE TOWN'S REQUEST, BY A TIME SPECIFIED BY THE TOWN, IF THE PERMITTEE FAILS TO MOVE ITS FACILITIES, THE TOWN MAY DO SO AND WILL BILL THE PERMITTEE THE COSTS OF RELOCATION AND THE PERMITTEE SHALL PAY THOSE COSTS WITHIN THIRTY (30) DAYS AFTER ITS RECEIPT OF THE INVOICE. FURTHER, THE PERMITTEE SHALL REIMBURSE THE TOWN ANY ADDITIONAL COST THE TOWN INCURS DUE TO THE DELAY IN LOCATION OR RELOCATION OF THE PERMITTEE'S FACILITIES, INCLUDING ALL DESIGN AND CONSTRUCTION COSTS.

7. INTERFERENCE. THE PERMITTEE SHALL NOT INSTALL, MAINTAIN, OR USE ANY OF ITS FACILITIES IN SUCH A MANNER AS TO DAMAGE OR INTERFERE WITH FACILITIES OF ANOTHER LOCATED WITHIN THE PUBLIC RIGHTS-OF-WAY.

8. LOCATION AND MAINTENANCE OF ABOVE-GROUND FACILITIES. THE TOWN SHALL APPROVE THE LOCATION OF ABOVEGROUND FACILITIES, SUCH AS BOXES, CABINETS AND SIMILAR EQUIPMENT OR APPURTENANCES. THE PERMIT SHALL SET FORTH THE LOCATION OF SUCH ABOVEGROUND FACILITIES. IF THE PUBLIC WORKS DIRECTOR DETERMINES THAT A PROPOSED LOCATION WOULD IMPAIR TRAFFIC VISIBILITY OR VISIBILITY OF EXISTING SIGNAGE OR WOULD SUBSTANTIALLY HARM EXISTING LANDSCAPING, OR THAT SIMILAR CONDITIONS EXIST WHICH WOULD JUSTIFY A DENIAL OF A PERMIT IN THAT LOCATION, THE PERMIT SHALL BE DENIED. ABOVEGROUND FACILITIES SHALL BE MAINTAINED IN GOOD CONDITION. IF THE TOWN FINDS ANY OF PERMITTEE'S ABOVE-GROUND FACILITIES ARE NOT MAINTAINED IN GOOD CONDITION, PERMITTEE SHALL CORRECT SUCH CONDITION WITHIN THREE (3) BUSINESS DAYS OF RECEIVING NOTICE FROM THE TOWN.

9. UNDERGROUNDING OF NEW UTILITIES.

NO NEW POLES AND WIRES SHALL BE ERECTED IN THE TOWN ABOVE THE SURFACE OF THE GROUND UNLESS A PERMIT IS FIRST SECURED FROM THE PUBLIC WORKS DEPARTMENT, EXCEPT THAT THE FOLLOWING CONSTRUCTION MAY BE INSTALLED WITHOUT SUCH A PERMIT:

(a) TEMPORARY SERVICE FACILITIES, SUCH AS FACILITIES TO FURNISH EMERGENCY SERVICE DURING AN OUTAGE, FACILITIES TO PROVIDE SERVICE TO CONSTRUCTION SITES, OR OTHER SERVICE OF A LIMITED DURATION, SUCH AS TO A FAIR, CARNIVAL, OUTDOOR EXHIBIT OR OTHER FUNCTION WHERE THE FACILITIES WILL BE INSTALLED FOR A TEMPORARY PERIOD ONLY;

(b) PAD-MOUNTED TRANSFORMERS OR PULL BOXES, SERVICE TERMINALS, PEDESTAL-TYPE TELEPHONE TERMINALS, TELEPHONE SPLICE CLOSURES, OR SIMILAR ON-THE-GROUND FACILITIES NORMALLY USED WITH AND AS PART OF AN UNDERGROUND ELECTRIC DISTRIBUTION, TELEPHONE, DATA, TELEGRAPH OR TELEVISION SYSTEM, OR ON-THE-GROUND FACILITIES ATTACHED TO EXISTING OVERHEAD FACILITIES WHICH ARE USED FOR THE PURPOSE OF CONNECTING AN UNDERGROUND SYSTEM WITH THE EXISTING FACILITIES;

(c) TRANSMISSION LINES AND ~~DISTRIBUTION FEEDER LINES~~, TOGETHER WITH RELATED SWITCH YARDS, SUBSTATIONS AND RELATED EQUIPMENT. ~~SERVICE DROPS~~

~~FROM EXISTING OVERHEAD LINES TO NEW SINGLE FAMILY RESIDENTIAL CUSTOMERS, EXCEPT WHEN UNDERGROUND SERVICE IS REQUIRED BY THE TOWN'S SUBDIVISION ORDINANCE.~~

10. PLANS. ALL FACILITIES SHALL BE INSTALLED PER PLANS PREPARED BY A REGISTERED PROFESSIONAL ENGINEER. THE TOWN SHALL APPROVE ALL PLANS BEFORE THE WORK COMMENCES. A PERMITTEE MAY INSTALL FACILITIES ON EXISTING UTILITY POLES OR IN EXISTING CONDUIT WHERE PERMISSION IS GRANTED BY OWNER OF THE UTILITY POLE OR CONDUIT, AND SUCH PERMISSION IS VERIFIED BY THE TOWN EXCEPT WHERE THOSE SAME POLES ARE SCHEDULED TO BE REPLACED WITH BURIED FACILITIES. THE TOWN MAY REQUIRE THE PERMITTEE TO PROVE THAT IT HAS SUCH PERMISSION FROM THE OWNER TO USE THE OWNER'S FACILITIES. NO NEW POLES, OR LONGER POLES, WILL BE PERMITTED IN THE PUBLIC RIGHTS-OF-WAY FOR ANY NEW FACILITIES. IF PERMITTEE INSTALLS FACILITIES ON EXISTING POLES AS PROVIDED HEREIN, THE PERMITTEE SHALL BURY ITS FACILITIES IF SUCH POLES ARE REMOVED AND NOT REPLACED IN KIND FOR ANY REASON. IF THE PERMITTEE MAKES USE OF EXISTING CONDUIT OF ANOTHER PERSON, THE PERMITTEE SHALL BE SUBJECT TO THE PROVISIONS OF THIS SECTION IN THE USE OF SUCH CONDUIT IN THE PUBLIC RIGHTS-OF WAY. AS USED HEREIN, A POLE INSTALLED TO REPLACE A DAMAGED POLE ~~OR TO REMEDY A SAFETY HAZARD AND WHICH IS SUBSTANTIALLY THE SAME SIZE AS THE POLE BEING REPLACED~~ SHALL NOT BE CONSIDERED TO BE A NEW POLE.

11. INSURANCE, BONDING. EACH PERMITTEE MUST OBTAIN AND MAINTAIN SUCH INSURANCE, BONDING, AND SECURITY FUND REQUIREMENTS AS SPECIFIED BY THE TOWN, OR IF NO SPECIFIC REQUIREMENTS ARE SPECIFIED, AS ARE REQUIRED BY THE TOWN FOR SIMILAR FACILITIES. NO WORK SHALL COMMENCE UNLESS THESE REQUIREMENTS HAVE BEEN SATISFIED, AND THE TOWN MAY REQUIRE THE PERMITTEE TO REMOVE OR STOP WORK ON FACILITIES OR REQUIRE A PERMITTEE TO CEASE USING THE FACILITY, WHEN ANY INSURANCE, BONDING AND SECURITY FUND REQUIREMENTS ARE NOT SATISFIED.

12. REPAIRS. A PERMIT SHALL BE OBTAINED FROM THE PUBLIC WORKS DEPARTMENT PRIOR TO A PERSON REMOVING, RELOCATING, OR RECONSTRUCTING, IF NECESSARY, ANY PORTION OF A PERSON'S FACILITIES. NOTWITHSTANDING THE FOREGOING, THE TOWN UNDERSTANDS AND ACKNOWLEDGES THERE MAY INSTANCES WHEN A PERSON IS REQUIRED TO MAKE REPAIRS, IN COMPLIANCE WITH FEDERAL OR STATE LAWS, THAT ARE OF AN EMERGENCY NATURE. THE PERMITTEE WILL NOTIFY THE TOWN PRIOR TO SUCH REPAIRS, IF PRACTICABLE, AND WILL OBTAIN THE NECESSARY PERMITS IN A REASONABLE TIME AFTER NOTIFICATION.

13. CONFLICT WITH TOWN PROJECTS.

(a) IDENTIFICATION OF CONFLICT. IF, DURING THE DESIGN PROCESS OF PUBLIC IMPROVEMENTS, THE TOWN DISCOVERS A POTENTIAL CONFLICT WITH PROPOSED CONSTRUCTION, THE PERMITTEE SHALL EITHER:

- (1) LOCATE AND, IF NECESSARY, EXPOSE ITS FACILITIES IN CONFLICT; OR
- (2) USE THE ONE-CALL NOTIFICATION CENTER ("BLUE STAKE") TO LOCATE OR EXPOSE ITS FACILITIES. THE PERMITTEE SHALL REIMBURSE THE TOWN FOR THE COST RESULTING FROM THE USE OF SUCH LOCATION SERVICE. THE TOWN SHALL MAKE REASONABLE EFFORTS TO DESIGN AND CONSTRUCT PROJECTS PURSUANT TO THIS SECTION SO AS TO AVOID RELOCATION EXPENSE TO THE PERMITTEE. PERMITTEE SHALL FURNISH THE LOCATION INFORMATION IN A TIMELY MANNER, BUT IN NO CASE LONGER THAN TEN (10) CALENDAR DAYS FROM THE TOWN'S REQUEST.

(b) PRIORITY RIGHT. THE TOWN RESERVES THE PRIOR AND SUPERIOR RIGHT TO LAY, CONSTRUCT, ERECT, INSTALL, USE, OPERATE, REPAIR, REPLACE, REMOVE, RELOCATE, RE-GRADE, WIDEN, REALIGN, OR MAINTAIN ANY PUBLIC RIGHTS-OF-WAY, AERIAL, SURFACE, OR SUBSURFACE IMPROVEMENTS, INCLUDING, BUT NOT LIMITED TO, TRAFFIC CONTROL CONDUITS, STORM SEWERS, SUBWAYS, TUNNELS, BRIDGES, VIADUCTS, OR ANY OTHER PUBLIC CONSTRUCTION WITHIN THE PUBLIC RIGHTS-OF-WAY.

(c) RELOCATION. WHEN THE TOWN INVOKES ITS PRIOR SUPERIOR RIGHT TO THE PUBLIC RIGHTS-OF-WAY, THE PERMITTEE SHALL MOVE ITS FACILITIES LOCATED IN THE PUBLIC RIGHTS-OF-WAY, AT ITS OWN COST, TO SUCH A LOCATION AS THE TOWN DIRECTS.

(d) PROCEDURES. IF, DURING THE COURSE OF THE PROJECT, THE TOWN DETERMINES PERMITTEE'S FACILITIES ARE IN CONFLICT, THE FOLLOWING SHALL APPLY.

(1) PRIOR TO THE TOWN NOTICE TO PROCEED TO CONTRACTOR: THE PERMITTEE SHALL, WITHIN A REASONABLE TIME, BUT IN NO EVENT EXCEEDING ONE (1) MONTH, REMOVE OR RELOCATE THE CONFLICTING FACILITY. THIS TIME PRIOR SHALL BEGIN RUNNING UPON RECEIPT BY THE PERMITTEE OF WRITTEN NOTICE FROM THE TOWN. HOWEVER, IF BOTH THE TOWN AND PERMITTEE AGREE, THE TIME FRAME MAY BE EXTENDED BASED ON THE REQUIREMENTS OF THE PROJECT.

(2) SUBSEQUENT TO TOWN NOTICE TO PROCEED TO CONTRACTOR: THE TOWN AND THE PERMITTEE WILL IMMEDIATELY BEGIN THE COORDINATION NECESSARY TO REMOVE OR RELOCATE THE FACILITY. ACTUAL CONSTRUCTION OF SUCH REMOVAL OR RELOCATION IS TO BEGIN NO LATER THAN SEVENTY-TWO (72) HOURS, IF PRACTICABLE, AFTER WRITTEN NOTIFICATION FROM THE TOWN TO PROCEED.

14. DAMAGE TO TOWN RIGHTS-OF-WAY AND FACILITIES.

(a) IF, IN THE INSTALLATION, USE, OR MAINTENANCE OF ITS FACILITIES, THE PERMITTEE DAMAGES OR DISTURBS THE SURFACE OR SUBSURFACE OF ANY PUBLIC RIGHTS-OF-WAY OR ADJOINING PUBLIC PROPERTY, OR THE PUBLIC IMPROVEMENT LOCATED THEREON, THEREIN, OR THEREUNDER, THE PERMITTEE SHALL PROMPTLY, AT ITS OWN EXPENSE, AND IN A MANNER ACCEPTABLE TO THE TOWN, RESTORE THE SURFACE OR SUBSURFACE OF THE PUBLIC RIGHTS-OF-WAY OR PUBLIC PROPERTY, OR REPAIR OR REPLACE THE PUBLIC IMPROVEMENT THEREON, THEREIN, OR THEREUNDER, IN AS GOOD A CONDITION AS BEFORE SUCH DAMAGE OR DISTURBANCE. IF SUCH RESTORATION, REPAIR OR REPLACEMENT OF THE SURFACE, SUBSURFACE, OR ANY STRUCTURE LOCATED THEREON, THEREIN, OR THEREUNDER IS NOT COMPLETED WITHIN A REASONABLE TIME, OR SUCH REPAIR OR REPLACEMENT DOES NOT MEET TOWN STANDARDS, THE TOWN SHALL HAVE THE RIGHT TO PERFORM THE NECESSARY RESTORATION, REPAIR, OR REPLACEMENT, EITHER THROUGH ITS OWN FORCES, OR THROUGH A HIRED CONTRACTOR, AND THE OCCUPANT AGREES TO REIMBURSE THE TOWN FOR ITS EXPENSE IN SO DOING WITHIN THIRTY DAYS AFTER RECEIPT OF THE INVOICE THEREFORE.

(b) THE PERMITTEE SHALL REIMBURSE THE TOWN FOR ALL REASONABLE COSTS ARISING FROM THE REDUCTION IN THE SERVICE LIFE OF ANY PUBLIC ROAD OR PAVEMENT DAMAGE, IF REQUIRED BY ANY OTHER TOWN ORDINANCES, RESULTING FROM PAVEMENT CUTS OF PERMITTEE. PERMITTEE AGREES TO PAY SUCH COSTS WITHIN THIRTY (30) DAYS FROM THE DATE OF ISSUANCE OF AN INVOICE FROM TOWN.

15. RELOCATION OF FACILITIES.

(a) GENERAL. THE TOWN SHALL NOT BEAR ANY COST OF RELOCATION OF EXISTING FACILITIES, IRRESPECTIVE OF THE FUNCTION SERVED, WHERE THE TOWN FACILITIES OR OTHER FACILITIES OCCUPYING THE PUBLIC RIGHTS-OF-WAY UNDER AUTHORITY OF A TOWN PERMIT, LICENSE, OR FRANCHISE WHICH MUST BE RELOCATED, ARE ALREADY LOCATED IN THE PUBLIC RIGHTS-OF-WAY AND THE CONFLICT BETWEEN THE PERMITTEE'S POTENTIAL FACILITIES AND EXISTING FACILITIES CAN ONLY BE RESOLVED EXPEDITIOUSLY AS DETERMINED BY THE TOWN BY THE MOVEMENT OF THE EXISTING TOWN OR OTHER APPROVED FACILITIES.

(b) DELAY. IF PERMITTEE'S FAILURE TO KEEP OR PROVIDE ACCURATE RECORDS TO TOWN OR IF PERMITTEE'S RELOCATION EFFORT SO DELAYS CONSTRUCTION OF A PUBLIC PROJECT CAUSING THE TOWN TO BE LIABLE FOR DAMAGES, THE PERMITTEE SHALL REIMBURSE THE TOWN FOR THOSE DAMAGES ATTRIBUTABLE TO THE DELAY CREATED BY THE PERMITTEE.

(c) TOWN COSTS. EXCEPT AS OTHERWISE PROVIDED IN A LICENSE, FRANCHISE, OR PERMIT, OR BY OTHER PROVISION OF LAW, THE ENTIRE COST OF RELOCATION SHALL BE BORNE BY THE TOWN IF THE PERMITTEE IS REQUIRED BY THE TOWN TO RELOCATE FACILITIES WHICH ARE LOCATED IN PRIVATE EASEMENTS OBTAINED BY THE PERMITTEE PRIOR TO THE DEDICATION OF THE PUBLIC RIGHTS-OF-WAY FROM WHICH FACILITIES MUST BE RELOCATED. THESE PRIOR RIGHTS OF THE PERMITTEE WOULD ALSO BE

UNAFFECTED BY ANY SUBSEQUENT RELOCATION. "PRIOR RIGHTS" AS USED IN THIS SUBSECTION MEANS PRIVATE EASEMENT OR OTHER LEGALLY SUFFICIENT RIGHTS OBTAINED BY THE PERMITTEE PRIOR TO THE DEDICATION OF THE PUBLIC RIGHTS-OF-WAY FROM WHICH THE FACILITIES ARE REQUESTED BY THE TOWN TO BE RELOCATED.

16. RIGHTS RESERVED TO TOWN.

WITHOUT LIMITING THE RIGHTS THAT THE TOWN MIGHT OTHERWISE HAVE, THE TOWN HEREBY EXPRESSLY RESERVES THE FOLLOWING RIGHTS, POWERS AND AUTHORITIES:

(a) TO EXERCISE ITS GOVERNMENTAL POWERS NOW OR HEREAFTER TO THE FULL EXTENT THAT SUCH POSERS MAY BE VESTED IN OR GRANTED TO THE TOWN.

(b) TO DETERMINE ANY QUESTION OF FACT RELATING TO THE MEANING, TERMS, OBLIGATIONS, OR OTHER ASPECTS OF THIS SECTION AND THE INSTRUMENTS ISSUED UNDER THIS SECTION.

(c) TO GRANT MULTIPLE, NON-EXCLUSIVE LICENSES, FRANCHISES, OR PERMITS WITHIN THE TOWN TO OTHER PERSONS.

17. TOWN POLICE POWER; CONTINUING JURISDICTION.

(a) POLICE POWER. THE PERMITTEE SHALL AT ALL TIMES BE SUBJECT TO ALL LAWFUL EXERCISE OF THE POLICE POWER BY THE TOWN, INCLUDING ANY AND ALL ORDINANCES, RULES OR REGULATIONS WHICH THE TOWN HAS ADOPTED OR MAY ADOPT, AND ALL LAWS, RULES, REGULATIONS, ORDER, AND POLICIES OF THE STATE AND THE UNITED STATES GOVERNMENT. ANY CONFLICT BETWEEN THE PROVISIONS OF THIS SECTION AND OTHER PROVISIONS OF THE TOWN CODE, THE STRICTER REQUIREMENT SHALL APPLY.

(b) CONTINUING JURISDICTION. THE TOWN SHALL HAVE CONTINUING JURISDICTION AND SUPERVISION OVER ANY FACILITIES LOCATED WITHIN OR ON PUBLIC RIGHTS-OF-WAY. HOWEVER, IT IS RECOGNIZED THAT THE DAILY ADMINISTRATIVE, SUPERVISORY, AND ENFORCEMENT RESPONSIBILITIES OF THE PROVISIONS OF THIS ARTICLE AND ANY LICENSE OR FRANCHISE SHALL BE DELEGATED AND ENTRUSTED TO THE TOWN MANAGER OR DIRECTOR OF PUBLIC WORKS TO INTERPRET, ADMINISTER, AND ENFORCE THE PROVISIONS OF THIS SECTION, AND TO PROMULGATE STANDARDS REGARDING THE CONSTRUCTION, RECONSTRUCTION, RELOCATION, MAINTENANCE, DISMANTLING, ABANDONMENT, OR USE OF THE FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY.

18. VIOLATION

FROM AND AFTER THE EFFECTIVE DATE OF THIS ORDINANCE, IT SHALL BE UNLAWFUL FOR ANY PERSON TO OCCUPY THE PUBLIC RIGHTS-OF-WAY UNLESS THE PERSON IS IN COMPLIANCE WITH THE PROVISIONS OF THIS SECTION AND ANY OTHER APPLICABLE ORDINANCE, LICENSE, FRANCHISE OR REQUIREMENT.

Section II. Repeal of Conflicting Ordinance.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed.

Section III. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section IV. Providing for Penalties.

Any person found guilty of violating any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500) or by imprisonment for a period not to exceed six (6) months, or both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as herein described.

PASSED AND ADOPTED by the Town Council of the Town of Wickenburg, Arizona, this 19 day of

May, 2008.

By: R. R. Badowski
R. R. BADOWSKI, MAYOR

Date Signed: 6/2/08

ATTEST:

By: Donna Riffel
Donna Riffel, Town Clerk

Date Signed: 6-3-08

APPROVED AS TO FORM:

By: Susan D. Goodwin
Susan D. Goodwin, Town Attorney
Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C.

Number of Councilmembers Present: 5
Number of Votes For: 5
Number of Votes Against: 0
Number of Abstentions: 0

CERTIFICATION

I, Donna Riffel, Town Clerk, HEREBY CERTIFY that the foregoing Ordinance Number 1004 was duly passed and adopted by the Common Council of the Town of Wickenburg, Arizona, at a regular meeting held on the 19th day of May 2008, and that a quorum was present at the meeting.

Donna Riffel
Donna Riffel, Town Clerk