

MARANA RESOLUTION NO. 2022-027

RELATING TO DEVELOPMENT; DECLARING AS A PUBLIC RECORD FILED WITH THE TOWN CLERK THE AMENDMENTS ADOPTED BY ORDINANCE NO. 2022.006, REVISIONS TO TITLE 17 "LAND DEVELOPMENT" OF THE MARANA TOWN CODE, INCLUDING MISCELLANEOUS REVISIONS TO SECTION 17-3-1 (AMENDMENT AND REZONING), CHAPTER 17-4 "ZONING," SECTION 17-11-7 (LANDSCAPE REQUIREMENTS), CHAPTER 17-15 "FLOODPLAIN AND EROSION HAZARD MANAGEMENT CODE", AND CHAPTER 17-16 "STORMWATER MANAGEMENT"; REVISING CHAPTER 17-6 "GENERAL DEVELOPMENT REGULATIONS" TO ADD NEW SECTION 17-6-10 (HEIGHT OF BUILDINGS AND STRUCTURES); REVISING CHAPTER 17-14 "HILLSIDE DEVELOPMENT" TO ADD NEW SECTION 17-14-5 (AVERAGE CROSS SLOPE CALCULATIONS); AND MAKING OTHER VARIOUS REVISIONS TO TITLE 17 OF THE MARANA TOWN CODE

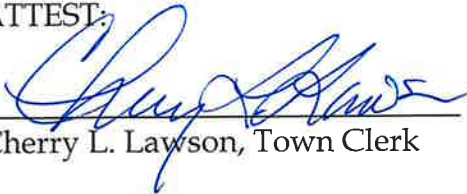
BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, that the revisions to Title 17 "Land Development" of the Marana Town Code, including miscellaneous revisions to Section 17-3-1 (Amendment and rezoning), Chapter 17-4 "Zoning," Section 17-11-7 (Landscape requirements), Chapter 17-15 "Floodplain and Erosion Hazard Management Code", and Chapter 17-16 "Stormwater Management"; revisions to Chapter 17-6 "General Development Regulations" to add new section 17-6-10 (Height of buildings and structures); revisions to Chapter 17-14 "Hillside Development" to add new section 17-14-5 (Average cross slope calculations); and other various revisions to Title 17 of the Marana Town Code, a copy of which is attached to and incorporated in this resolution as Exhibit A and one paper copy and one electronic copy of which are on file in the office of the Town Clerk, are hereby declared to be a public record and ordered to remain on file with the Town Clerk.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 15th day of March, 2022.



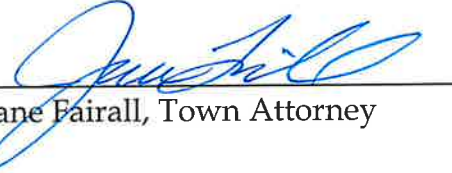
Mayor Ed Honea

ATTEST:



Cherry L. Lawson, Town Clerk

APPROVED AS TO FORM:



Jane Fairall, Town Attorney

EXHIBIT A TO MARANA RESOLUTION NO. 2022-027
Amendments to Marana Town Code, Title 17 "Land Development" pursuant to Marana
Ordinance No. 2022.006

SECTION 1. Section 17-3-1 (Amendment and rezoning) of the Marana Town Code is hereby revised as follows (with additions shown with double underlining and deletions shown with ~~strikeouts~~):

17-3-1 Amendment and rezoning

[No revisions to paragraph A]

B. Rezoning. The town has three broad rezoning categories:

1. Translational or non-site analysis rezoning: A simplified rezoning with flexible application requirements for any a rezoning that does not require a site analysis as described in subparagraph 2 below; ~~primarily used to rezone properties zoned in one of the legacy zones described in sections 17-4-16 through 17-4-26.~~
2. Site analysis rezoning: A rezoning used in all of the following circumstances:
 - a. When property is to be developed for more than one non-residential use or on multiple lots ~~Property greater than one acre in size to be developed for nonresidential uses.~~
 - b. When property is to be developed with more than three lots for single-family residential use ~~Property greater than one acre in size to be developed at a residential density of two or more residences per acre.~~
 - c. When property is to be developed for multi-family residential use ~~Property greater than five acres in size.~~
3. Specific plan: A specific plan, as defined in section 17-1-6(A), contains unique development and design standards specific to a rezoning site on a parcel of five acres or more, with either single-or multi-phased development. See section 17-4-15 for further requirements regarding specific plans.

[No revisions to paragraph C]

D. Approval criteria. The planning commission and town council shall consider the following ~~questions~~, at a minimum, in reviewing an application for a rezoning:

[No revisions to subparagraphs 1 through 5]

6. ~~That~~ Whether the existing and proposed transportation infrastructure is suitable and adequate to serve the traffic anticipated to be generated by the proposed development.

[No revisions to subparagraphs 7 through 11]

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SECTION 2. Chapter 17-4 "Zoning" of the Marana Town Code is hereby revised as follows (with additions shown with double underlining and deletions shown with ~~strikeouts~~):

[No revisions to section 17-4-1]

17-4-2 Use matrix

[No revisions to paragraphs A through C]

Table 2. Use Matrix (only amendments to Table 2 are shown; the remainder of Table 2 is unchanged)

Uses	AG	RA	ER	NR	GR	MR	RR	NC	VC	LI	HI
Retail establishment, under 30,000 sq. ft., no open storage <u>(except stock-in-trade per 17-8-6)</u>	X	X	X	X	X	A	A	P	P	P	P
Retail establishment, 30,000 sq. ft. and larger, no open storage <u>(except stock-in-trade per 17-8-6)</u>	X	X	X	X	X	X	X	X	P	P	P

[No revisions to sections 17-4-3 through 17-4-16]

17-4-17 Zone A - small lot zone

- A. Permitted uses. Within zone A, residential, commercial, industrial, and quasi-public land uses shall be permitted so long as each such land use is conducted on a lot no larger than 2.5 acres. Agricultural uses, as listed in section 17-4-2, table 2 (Use matrix), shall be permitted in zone A in the same circumstances as they are permitted in the AG zone per section 17-4-2, table 2, and subject to the same conditions per use as in the AG zone per section 17-4-3, table 3 (Conditions per use). Rezoning is not required to establish a use permitted in the neighborhood commercial (NC) zone, within an existing building or suite in a designated commercial area if the use can be accommodated within the existing building or suite without requiring a new retail commercial building permit. This is not, however, to be construed to permit any land use that may be specifically prohibited within the town by this or any other ordinance of the town or by state or federal law.

[No revisions to paragraphs B through E]

17-4-18 Zone B - medium lot zone

- A. Permitted uses. Within zone B, any residential, commercial, industrial, or quasi-public land use is permitted so long as each separate land use is conducted on a lot larger than 2.5 acres but no larger than 25 acres.

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Agricultural uses, as listed in section 17-4-2, table 2 (Use matrix), shall be permitted in zone B in the same circumstances as they are permitted in the AG zone per section 17-4-2, table 2, and subject to the same conditions per use as in the AG zone per section 17-4-3, table 3 (Conditions per use). This is not to be construed, however, to permit any land use that may be expressly prohibited within the town by other ordinances of the town, by other provisions of this code, or by state or federal law.

[No revisions to paragraphs B through D]

17-4-19 Zone C - large lot zone

A. Permitted uses. Within zone C, any residential, commercial, industrial, or quasi-public land use shall be permitted, so long as each separate activity is conducted on a lot no smaller than 25 acres. Agricultural uses, as listed in section 17-4-2, table 2 (Use matrix), shall be permitted in zone C in the same circumstances as they are permitted in the AG zone per section 17-4-2, table 2, and subject to the same conditions per use as in the AG zone per section 17-4-3, table 3 (Conditions per use). This is not to be construed, however, to permit any land use that may be expressly prohibited within the town by other sections of this code other ordinances of the town, or state or federal law.

[No revisions to paragraphs B through D]

[No revisions to sections 17-4-20 through 17-4-26]

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SECTION 3. Section 17-5-3 (Subdivision requirements) of the Marana Town Code is hereby revised as follows (with additions shown with double underlining and deletions shown with ~~strikeouts~~):

17-5-3 Subdivision requirements

[No revisions to paragraphs A and B]

C. General requirements

[No revisions to subparagraphs 1 through 5]

6. Lot widths and depths. All lots shall conform to the lot standards for each zone district as set forth in chapter 17-4 ~~section 17-4-4 (lot standards)~~.

[No revisions to subparagraphs 7 through 18]

[No revisions to paragraph D]

SECTION 4. Section 17-6-7 (Animal-keeping) of the Marana Town Code is hereby revised as follows (with additions shown with double underlining and deletions shown with ~~strikeouts~~):

17-6-7 Animal-keeping

[No revisions to paragraph A]

B. Location of animal-keeping structures. See section 17-4-3 (use conditions matrix), table 3 4 (conditions per use).

[No revisions to paragraph C]

SECTION 5. Chapter 17-6 "General Development Regulations" of the Marana Town Code is hereby revised by adding new section 17-6-10 (Height of buildings and structures) as follows:

17-6-10 Height of buildings and structures

A. Additional height is allowed for ornamental elements of buildings and structures such as belfries, clock towers, cupolas, domes, spires, and steeples, subject to the following provisions:

1. The element is an integral part of the building's architecture.
2. The element is not for human occupancy.
3. The element is not used for signage.
4. The element shall be set back at least one foot from all property lines for every foot of height above finished grade. Where the zoning setback exceeds the height of the element, the zoning setback shall apply.

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5. Elements higher than 50% above the zoning height limit, or that do not conform to the increased setbacks specified in section 17-6-10 A. 4, shall:
 - a. require a conditional use permit
 - b. require a viewshed and shadow analysis showing the impact on nearby properties
 - c. have a combined footprint not exceeding 25% of the roof area of the principal building
6. Lighting or direct illumination of any part of the element above the zoning height limit shall require a conditional use permit.

B. Multiple architectural elements may be considered separately when determining setbacks and the applicability of section 17-6-10 A. 5.

SECTION 6. Chapter 17-8 "Multi-Family, Commercial, and Industrial Design Standards" of the Marana Town Code is hereby revised as follows, (with additions shown with double underlining and deletions shown with ~~strikeouts~~):

[No revisions to sections 17-8-1 through 17-8-4]

17-8-5 Off-street loading

A. Stores must have a rear or side entrance that is accessible to a loading area ~~and~~ or a service driveway.

[No revisions to paragraphs B through E]

17-8-6 Storage

Open storage of equipment and materials is prohibited. Open storage of stock-in-trade is permitted. For purposes of this section, "stock-in-trade" is defined as the goods kept on hand by a business for the purposes of its trade.

[No revisions to sections 17-8-7 through 17-8-16]

SECTION 7. Section 17-10-3 (Definitions and sign types) of the Marana Town Code is hereby revised as follows (with additions shown with double underlining):

17-10-3 Definitions and sign types

A. The following definitions supplement those found elsewhere in the town code and land development code. In the event of conflicting definitions related to signs, the definitions in this section prevail.

[No revisions to subparagraphs 1 through 28]

29. Portable directional sign: A portable sign directing the traveling public to a real estate open house or to an event or a portable sign with any particular non-commercial message.

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[No revisions to subparagraphs 30 through 50]

SECTION 8. Chapter 17-11 "Environmental Resource Preservation, Native Plant Protection, and Landscape Requirements" of the Marana Town Code is hereby revised as follows (with additions shown with double underlining and deletions shown with ~~strikeouts~~):

[No revisions to sections 17-11-1 through 17-11-6]

17-11-7 Landscape requirements

[No revisions to paragraphs A through E]

F. Landscape buffer standards.

1. Purpose.
 - a. Landscape buffers provide the following four distinct functions:
 - i. Serve as landscape screens to mitigate visual impacts;
 - ii. Provide a landscape setback to reduce noise;
 - iii. Physically separate incompatible adjacent land uses; and
 - iv. Provide an aesthetic transition between adjacent compatible land uses.
 - b. In addition, landscape buffers function to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, and signs. They also visually soften and screen unsightly buildings or parking areas. Landscape buffers are also designed to ensure a desired character along public streets and roads.
2. A landscape buffer may be used for passive recreation. It may contain pedestrian, bike and equestrian trails. Where appropriate, linkages shall be encouraged within or along a landscape buffer as long as the total width of the buffer is maintained, and all other regulations of the code are met. Swimming pools, tennis courts, sports fields, golf courses, parking lots, or other uses requiring structures or removal of vegetation shall not be permitted within a landscape buffer.
3. Landscape buffers shall be located on the outer perimeter of a lot or parcel, extending to the property or boundary lines and shall be determined in accordance with the landscape buffers ~~matrix~~ matrices set forth in subparagraph 5 below.
4. ~~Landscape buffers matrix~~. Landscape buffer plant requirements shall be determined by application of a comparison of zone and/or existing land use (whichever is most restrictive). ~~Once the zones are determined, the appropriate formula to determine plant requirements must be applied per~~

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the following landscape buffers ~~matrix~~ matrices set forth in subparagraph 5 below.

5. Landscape buffers matrices. The numbers in table 1 (Landscape buffers matrix - between zoning districts) and table 2 (Landscape buffers matrix - street frontage) refer to the codes in table 3 (Landscape buffers matrix codes).

Table 1. <u>Landscape buffers matrix - between zoning districts</u>									
Subject zone or zoning group	Adjacent zone or zoning group								
	AG	RA	ER	NR	GR	MR	RR	C	I
AG	n/a	<u>1</u>	<u>1</u>	<u>1</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>3</u>	<u>4</u>
RA	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>3</u>	<u>4</u>
ER	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>3</u>	<u>4</u>
NR	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>3</u>	<u>4</u>
GR	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1*</u>	<u>1[√]</u>
MR	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1*</u>	<u>1[√]</u>
RR	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1*</u>	<u>1[√]</u>
C (NC or VC)	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>2</u>	<u>2</u>	<u>2</u>	n/a	<u>2[√]</u>
I (LI or HI)	<u>4</u>	<u>4</u>	<u>4</u>	<u>4</u>	<u>4</u>	<u>4</u>	<u>4</u>	<u>3</u>	n/a

* Use code 2 if adjacent parcel was developed prior to adoption of these landscape buffer requirements.

√ Use code 3 if adjacent parcel was developed prior to adoption of these landscape buffer requirements.

Table 2. <u>Landscape buffers matrix - street frontage</u>		
Subject zone or zoning group	Street frontage	
	Front	Side or Rear
AG	<u>5</u>	<u>3</u>
RA	<u>5</u>	<u>3</u>
ER	<u>5</u>	<u>3</u>
NR	<u>5</u>	<u>3</u>
GR	<u>5</u>	<u>3</u>
MR	<u>5</u>	<u>3</u>
RR	<u>5</u>	<u>3</u>
C (NC or VC)	<u>5</u>	<u>3</u>
I (LI or HI)	<u>4</u>	<u>4</u>

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Table 3. Landscape buffers matrix codes		
Code	Depth of buffer	Plant count
<u>1</u>	<u>6' minimum</u>	<u>1.5 per 100 sq. ft.</u>
<u>2</u>	<u>10' minimum</u>	<u>1.5 per 100 sq. ft.</u>
<u>3</u>	<u>15' minimum</u>	<u>2.0 per 100 sq. ft.</u>
<u>4</u>	<u>25' minimum</u>	<u>1.5 per 100 sq. ft.</u>
<u>5</u>	<u>10' minimum</u>	<u>1.0 per 100 sq. ft.</u>

Symbol	Proposed development	Existing zoning/ development				Street frontage		
		A	B	C	D	Front	Side or Rear	Street
A	AG, RA, ER, NR	1	2	3	4	5	3	3
B	GR, MR, RR	2	1	½+	⅓+	5	3	3
C	NC, VC	3	2	1	⅔+	5	3	3
D	LI, HI	4	4	3	2+	4	4	4

+ Use this code if existing development occurred previous to buffer requirements.

Code	Depth of buffer	Plant count
1	6' minimum	1.5 per 100 sq. ft.
2	10' minimum*	1.5 per 100 sq. ft.
3	15' minimum*	2.0 per 100 sq. ft.
4	25' minimum**	1.5 per 100 sq. ft.
5	10' minimum	1.0 per 100 sq. ft.
	15'	0.8 per 100 sq. ft.
	20'	0.6 per 100 sq. ft.

Notes:

- a. For every three shrubs planted, one 15 gallon tree shall be planted. Example: using code 1: a 1000 square foot landscape buffer area would need 15 plants: 12 one gallon shrubs and four 15 gallon trees. Earth berms of a minimum size of two cubic yards (approximately 8'W x 4.5'L x 1.5'H) may be used in lieu of three shrubs not to exceed 25% of shrubs.

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- b. Ground cover plants are required in addition to above plants. Ground cover equal to 20% of the total number of trees and shrubs will be located in the landscape buffer area.

[No revisions to paragraphs G and H]

17-11-8 Landscaping standards for off street parking areas

All off-street parking areas are required to comply with the following regulations:

- A. Minimum requirements. A minimum of 15% of the gross parking area (includes all paved access and parking areas) shall be devoted to amenity landscaping as follows:

[No revisions to subparagraph 1]

- 2. Any off-street parking area for five or more vehicles shall include a ten foot minimum width landscape buffer between the parking area and the public right-of-way. This area shall include screening as required by section 17-9-2 ~~a minimum three foot tall decorative masonry wall and/or a three foot tall landscaped berm adjacent to parking stalls to screen the parked cars from the public right of way.~~

[No revisions to subparagraphs 3 through 12]

[No revisions to section 17-11-9]

17-11-10 Maintenance

- A. Continuous maintenance provisions shall be provided on the landscape plan. Maintenance shall include a plan, which accommodates the following:

[No revisions to subparagraphs 1 through 4]

- 5. Any plant material in areas of required landscaping that does not survive shall be replaced with an equivalent size and species within 30 days on an ongoing basis. Failure to replace dead plant material within the specified time period shall constitute a zoning violation.

- 6. Irrigation shall be routinely tested and shall be repaired and replaced as necessary to prevent excess spray or water to planted areas, curbs and pavement, clogged emitters at each plant, and flooding of low lying areas. Improper irrigation system maintenance which results in pooling or runoff of excess water shall result in a warning. Failure to resolve the problem within 30 days shall constitute a zoning violation.

[No revisions to subparagraph 7]

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[No revisions to sections 17-11-11 and 17-11-12]

17-11-13 Assurances

A. Native plant assurances. ~~The town may require that~~ implementation and compliance with ~~the~~ an approved native plant preservation plan ~~shall~~ be guaranteed by assurances, such as performance bonds, a letter of credit from a financial institution, or a third party trust acceptable to the town, as determined by town policy and regulation.

B. Landscape maintenance assurances. An approved ~~site plan, development plan, or final plat~~ shall require covenants or assurances which:

1. Ensure the continued maintenance of required landscaping, buffering and associated irrigation systems;
2. Assign responsibility of maintenance to the property owner, lessee, heirs, assigns, agent, a homeowner's association or other liable entity; and
3. ~~Require future building pads within a phased development to be maintained in a dust free condition by paving or applying mulch or native groundcover materials; and~~
4. Ensure that any plant materials included in an approved landscape plan that do not survive after installation are replaced with plant materials of the same or like species of equal size within 30 days of the plant's demise. ~~Failure to replace dead plant material within the specified time period shall constitute a zoning violation.~~
5. ~~Improper irrigation system maintenance which results in pooling or runoff of excess water shall result in a warning. Failure to resolve the problem within 30 days shall constitute a zoning violation.~~

SECTION 9. Chapter 17-14 "Hillside Development" of the Marana Town Code is hereby revised by adding new section 17-14-5 (Average cross slope calculations) as follows:

17-14-5 Average cross slope calculations

A. Average cross slope of a lot or parcel will be determined by using the following equation:

$$\frac{I \times L \times 0.0023}{A}$$

B. For purposes of the equation set forth in paragraph A above, the following values are assigned:

1. I = Contour interval (maximum 10') in feet

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2. L = Combined length in feet of all contour lines measured on the lot or parcel
 3. 0.0023 = Conversion of square feet into acres × 100
 4. A = Lot or parcel area in acres
- C. The average cross slope shall be rounded off to the nearest whole number. When .5 or higher is computed, the number shall be rounded off to the next highest whole number.
- D. The average cross slope of a lot or parcel proposed for residential purposes only may be reduced by establishing a natural area on the lot or parcel and revising the average cross slope calculation to delete the natural area from the equation.
- E. Natural areas set aside in any division of land shall not be included in the average cross slope calculation, neither in the combined length of contour (L) nor in the lot or parcel area (A). The total acreage of the lot or parcel may be used to calculate the number of dwelling units based on allowable density, provided that all other applicable provisions of this section are met.
- F. The average cross slope is used for determining slope density requirements for residential development only.

SECTION 10. Chapter 17-15 "Floodplain and Erosion Hazard Management Code" of the Marana Town Code is hereby revised as follows (with deletions shown with ~~strikeouts~~ and additions shown with double underlining):

17-15-1 General information

[No changes to paragraph A]

B. Findings of fact.

[No changes to subparagraph 1]

2. Flood losses may be exacerbated by the cumulative effects of obstructions ~~to flow, inadequate anchoring of structures and encroachment into the floodplain in special flood hazard areas, which increase flood depths and velocities and, when inadequately anchored, cause damage in other areas.~~ Uses that are inadequately flood-proofed, elevated, or otherwise protected from flood damage, also contribute to the flood

C. Statement of purpose. It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

[No changes to subparagraphs 1 through 4]

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5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in ~~areas of~~ special flood hazard areas;

[No changes to subparagraph 6]

7. To ensure that potential buyers are notified that property is in ~~an area of~~ a special flood hazard area;

8. To ensure that those who occupy the ~~areas of~~ special flood hazard areas assume responsibility for their actions; and

9. To participate in and maintain eligibility for flood insurance and disaster relief.

[No changes to paragraph D]

17-15-2 Abbreviations and definitions

A. Abbreviations. The following common abbreviations are used throughout this chapter:

[No changes to subparagraphs 1 through 7]

~~8.~~ FIA: Federal insurance administration

~~9.~~ FIS: Flood insurance study

~~10.~~ 9. FIRM: Flood insurance rate map

10. LOMA: Letter of map amendment

11. LOMR: Letter of map revision

12. LOMR-F: Letter of map revision based on fill

~~12.~~ 13. NGVD: National geodetic vertical datum of 1929

~~13.~~ 14. NAVD: North American vertical datum of 1988

15. NFIP: National flood insurance program

~~14.~~ 16. SFHA: Special flood hazard area

B. Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. Accessory Structure. A structure on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For floodplain management purposes, the term includes only accessory structures used for parking and storage.

[No changes to existing subparagraphs 1 through 4 which are hereby renumbered as subparagraphs 2 through 5]

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~~5.6. Base flood elevation (BFE). The water surface elevation associated with the base flood. The computed elevation to which floodwater is anticipated to rise during the base flood.~~

[No changes to existing subparagraphs 6 through 11 which are hereby renumbered as subparagraphs 7 through 12]

~~12. 13. Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of materials and equipment located within the area of special flood hazard area.~~

~~14. Elevation certificate. An administrative tool of the NFIP that is used to provide elevation information necessary to ensure compliance with community floodplain management ordinance, to determine the proper insurance premium rate, and to support a request for a LOMA or LOMR-F.~~

[No changes to existing subparagraphs 13 through 15 which are hereby renumbered as subparagraphs 15 through 17]

~~16. 18. Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, construction of streets and either final site grading or the pouring of concrete slabs) is completed before the effective date of the floodplain management regulations adopted by the community July 9, 1984, the date of the town's first floodplain management ordinance.~~

[No changes to existing subparagraphs 17 through 19 which are hereby renumbered as subparagraphs 19 through 21]

~~20. Flood boundary and floodway map (FBFM). The official map on which FEMA or FIA has delineated the areas of special flood hazards and the floodway.~~

~~21. Flood hazard boundary map (FHBM). The official map on which FEMA or FIA has delineated the areas of flood hazards.~~

22. Flood insurance rate map (FIRM). The official map on which FEMA or FIA has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

23. Flood insurance study (FIS). The official report provided by FIA ~~FEMA~~ that includes flood profiles, FIRM, ~~FBFM~~ and the water surface elevation of the base flood.

24. Flood zones (FEMA defined):

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a. Zone X. ~~Area free from a base flood~~ Area determined to be outside the 0.2% annual chance floodplain.

[No changes to subparagraphs b through g]

[No changes to subparagraphs 25 through 27]

28. Floodplain management. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing where possible natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

29. Floodplain management regulations. This chapter and other chapters (zoning, grading, stormwater, etc.), subdivision regulations, subdivision street standards, building codes, health regulations, special purpose ordinances, and other application of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

~~29.~~ 30. Floodplain variance. A grant of relief from the requirements of this chapter ~~that permits construction which permits construction or other uses of property~~ in a manner that would otherwise be prohibited by this chapter.

~~30.~~ 31. Flood-proofing. Any combination of structural and non-structural additions, changes or adjustments to non-residential structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents by means other than elevating.

[No changes to existing subparagraphs 31 through 34 which are hereby renumbered as subparagraphs 32 through 35]

36. Governing body. The council of the town of Marana, Arizona.

~~35.~~ 37. Hardship. Related to section 17-15-11 (floodplain variances procedure) of this chapter, means the exceptional hardship which would result from a failure to grant the requested floodplain variance. The floodplain board requires that the floodplain variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a floodplain variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

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[No changes to existing subparagraphs 36 through 40 which are hereby renumbered as subparagraphs 38 through 42]

43. Manufactured home. See definition in section 17-1-6(A)(116).

[No changes to existing subparagraphs 41 through 53 which are hereby renumbered as subparagraphs 44 through 56]

57. Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

[No changes to existing subparagraphs 54 through 59 which are hereby renumbered as subparagraphs 58 through 63]

64. Variance. See "Floodplain variance."

[No changes to existing subparagraph 60 which is hereby renumbered as subparagraph 65]

~~61. 66.~~ 66. Water surface elevation. The height, in relation to the NGVD, or NAVD, or other datum of floods of various magnitudes and frequencies in the floodplains of riverine and ponding areas. See also base flood elevation.

[No changes to existing subparagraph 62 which is hereby renumbered as subparagraph 67]

17-15-3 General provisions

~~A. Lands to which this chapter applies. This chapter shall apply to the following lands within the corporate limits of the town~~ This chapter shall apply to all special flood hazard areas within the corporate limits of the town. In addition, this chapter shall also apply to the following areas:

~~1. All special flood hazard areas as defined by FEMA.~~

~~1. 2. FEMA zone X-500, also known as shaded zone X, as it pertains to the tortolita mountain alluvial fan or sheet flooding.~~

[No changes to existing subparagraphs 3 through 6 which are hereby renumbered as subparagraphs 2 through 5]

~~B. Basis for establishing the areas of special flood hazard areas.~~

1. The regulated areas of this chapter as outlined in subsection A of this section are derived from a variety of sources, whose hydrologic and hydraulic data and maps of delineation are kept on file by the town at 11555 West Civic Center Drive, Marana, AZ 85653, Marana municipal complex, public works department. This information includes or will include:

a. ~~The area of special flood hazard areas~~ identified by FEMA in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for Pima County Arizona and incorporated areas, revised February 8, 1999 June 16, 2011," with accompanying FIRMs dated February 8, 1999 and

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all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this chapter. The FIS, FIRMS FBFM and amendments and corrections to the maps are all kept on file.

[No changes to subparagraphs b through e]

[No changes to paragraphs C and D]

E. Interpretation. In the interpretation and application of this chapter, all provisions shall be:

2. Considered as minimum requirements;
3. Liberally construed in favor of the ~~town~~ governing body; and
4. Deemed neither to limit nor repeal any other powers granted under state statutes.

[No changes to paragraph F]

17-15-4 Statutory exemptions

A. In accordance with A.R.S. § 48-3609(~~H~~), unless expressly provided otherwise, this and any regulation adopted pursuant to this chapter do not affect:

[No changes to subparagraphs 1 through 4]

B. ~~Before any authorized construction begins for the exceptions listed below, the responsible person shall submit plans for the construction to the floodplain board for review and comment. In accordance with A.R.S. § 48-3613, written authorization shall not be required, nor shall the floodplain board prohibit~~ Before the following types of construction authorized by A.R.S. § 48-3613(B) begin, the responsible person must submit plans for the construction to the floodplain board for review and comment pursuant to A.R.S. § 48-3613(C):

[No changes to subparagraphs 1 through 7]

C. In accordance with A.R.S. § 48-3613(D), in in addition to other penalties or remedies otherwise provided by law, this state, a political subdivision or a person who may be damaged or has been damaged as a result of the unauthorized diversion, retardation or obstruction of a watercourse has the right to commence, maintain and prosecute any appropriate action or pursue any remedy to enjoin, abate or otherwise prevent any person from violating or continuing to violate this section or regulations adopted pursuant to A.R.S. § 48-3613 ~~this article~~. If a person is found to be in violation of this section, the court shall require the violator to either comply with this section if authorized by the floodplain board or remove the obstruction and restore the watercourse to its original state. The court may also award such monetary damages as are appropriate to the injured parties resulting from the violation including reasonable costs and attorney fees.

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[No changes to section 17-15-5]

17-15-6 Declaration of public nuisance

~~Every new structure, building, fill, excavation or~~ All development located or maintained within any special flood hazard area after August 8, 1973, in violation of this chapter, and without written authorization from the floodplain board, is a public nuisance per se and may be abated, prevented or restrained by action of the town.

17-15-7 Abatement of violations

A. Within 30 days of discovery of a violation of this chapter, the floodplain administrator shall submit a report to the floodplain board which shall include all information available to the floodplain administrator which is pertinent to the violation. Within 30 days of receipt of this report, the floodplain board shall do one of the following:

[No changes to subparagraphs 1 through 3]

4. For FEMA regulated special flood hazard areas, submit to ~~the administrator of FIA~~ FEMA a declaration for denial of insurance, stating that the property is in violation of a cited state or local law, regulation or ordinance, pursuant to section 1316 of the ~~FIA~~ national flood insurance act of 1968 as amended.

B. The town may withhold the issuance of permits, including building permits, native plant permits and grading permits, for the development or improvement on the parcel or a any contiguous parcel of land under the same ownership.

[No changes to section 17-15-8]

17-15-9 Administration

[No changes to paragraph A]

B. Responsibilities of floodplain administrator. The floodplain administrator shall:

[No changes to subparagraph 1]

2. Use of other base flood data. When base flood elevation data has not been provided in accordance with paragraph 17-15-3B, the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state, or other source, in order to administer section 17-15-10. Any such information shall be consistent with the requirements of FEMA and the director of the Arizona department of water resources and shall be submitted to the floodplain board for adoption.

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3. Obtain and maintain for public inspection and make available the following:

[No changes to subparagraphs a through c]

d. The certified regulatory flood elevation required in subsection 17-15-10B.3.d;

~~d.~~ e. The certified opening elevation required in section 17-15-10B.3.f; and

f. The certified regulatory flood elevation required in subsection 17-15-10F.2.a.

4. e. Whenever a watercourse is to be altered or relocated:

a. i. Notify adjacent communities and ADWR prior to such alteration or relocation of a watercourse, and submit evidence of such notification to FIA FEMA through appropriate notification means; and

b. ii. Require that the flood carrying capacity of the altered or relocated portion of said watercourse be maintained.

[No changes to existing subparagraphs 4 and 5 which are hereby renumbered as subparagraphs 5 and 6]

~~6.~~ 7. Make interpretations, where needed, as to the exact location of the boundaries of the ~~areas of~~ special flood hazards areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 17-15-11.

[No changes to existing subparagraphs 7 and 8 which are hereby renumbered as subparagraphs 8 and 9]

C. Within 120 days after completion of construction of any flood control protective works which changes the rate of flow during the base flood or the configuration of the floodplain upstream or downstream from or adjacent to the project, the person or agency responsible for installation of the project shall provide to the governing bodies of all jurisdictions affected by the project a new delineation of all floodplains affected by the project. The new delineation shall be done according to the criteria adopted by the ~~D~~director of ~~W~~water ~~R~~resources.

D. A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, ~~a community~~ the floodplain administrator shall notify ~~the~~ FEMA ~~administrator~~ of the changes by submitting technical or scientific data in accordance with volume 44 code of federal regulations, section 65.3 ~~this part.~~

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Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

[No changes to paragraph E]

17-15-10 Provisions for flood hazard reduction

[No changes to paragraph A]

B. Standards of construction in floodprone areas

[No changes to subparagraph 1]

2. Construction ~~M~~materials and ~~M~~methods

[No changes to subparagraphs a and b]

c. All new construction, substantial improvement and other proposed new development shall be constructed with electrical, heating, ventilation, plumbing, ~~and~~ air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

[No changes to subparagraphs d through f]

3. Elevation and flood-proofing

[No changes to subparagraph a]

b. New construction and substantial improvement of any residential structure in zone AO shall have the lowest floor, including basement, elevated at least one foot higher than the depth number shown on the FIRM measured from the highest ~~existing~~ adjacent natural grade or one foot higher than the BFE from a town approved drainage study, whichever is greater.

[No changes to subparagraphs c through i]

[No changes to paragraph C]

D. Standards for water supply, waste disposal, and other utilities

[No changes to subparagraphs 1 and 2]

3. Waste disposal systems shall not be installed wholly or partially in a regulatory floodway. Crossings are allowed if buried at least ~~one~~ two feet below the calculated scour depth as determined in a study/analysis prepared by an Arizona registered professional civil engineer.

[No changes to subparagraph 4]

[No changes to paragraphs E through M]

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17-15-11 Floodplain variance procedure

[No changes to paragraph A]

B. Appeal board

[No changes to subparagraphs 1 through 4]

5. Any applicant to whom a floodplain variance is granted shall be given written notice over the signature of a community official that:

[No changes to subparagraphs a and b]

c. The land upon which the floodplain variance is granted shall be ineligible for exchange of state land pursuant to the flood relocation and land exchange program provided for by A.R.S. § 37-610 ~~A.R.S. title 26, chapter 2, article 2~~. A copy of the notice shall be recorded in the office of the Pima County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

6. The floodplain administrator shall maintain a record of all floodplain variance actions, including justification for their issuance ~~and report such floodplain variances issued in its biennial report submitted to FEMA.~~

C. Conditions for floodplain variances:

[No changes to subparagraph 1]

2. Floodplain variances may be issued for accessory structures used solely for limited storage that have a size of less than 150 square feet, provided that the following requirements are met:

[No changes to subparagraphs a through c]

d. Any mechanical, utility or electrical equipment is elevated or flood-proofed ~~floodproofed~~ above the BFE; and

[No changes to subparagraph e]

3. Floodplain variances may be issued for agricultural structures whose use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock, such as pole and pre-fabricated metal structures, grain bins and corn cribs provided that the following requirements are met:

[No changes to subparagraphs a through c]

d. Any mechanical, utility or electrical equipment is elevated or flood-proofed ~~floodproofed~~ above the BFE; and

[No changes to subparagraph e]

[No changes to subparagraphs 4 through 6]

[No changes to Appendix 1]

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SECTION 11. Chapter 17-16 "Stormwater Management" of the Marana Town Code is hereby revised as follows (with deletions shown with ~~strikeouts~~ and additions shown with double underlining):

17-16-1 General provisions

[No changes to paragraph A]

B. Definitions. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings set forth in this paragraph. Where noted, the definitions shall correspond with the applicable section of the Arizona revised statutes as amended.

[No changes to subparagraph 1 through 8]

9. Discharge: Any pollutant that leaves the site ~~addition of any pollutant to waters of the United States from any point source.~~ A.R.S. § 49-255 (2).

[No changes to subparagraphs 10 through 16]

~~17. Operator: In the context of stormwater associated with construction activity, means any person associated with a construction project that meets either of the following two criteria:~~

~~— a. The person has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or~~

~~— b. The person has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions). This definition is provided to inform operators of how the regulatory definitions of "owner or operator" and "facility or activity" are applied to discharges of stormwater associated with construction activity.~~

~~17.18.~~ Owner or operator: The owner or operator of any "facility or activity" subject to regulation under this code ~~the AZPDES program.~~

[No changes to existing subparagraph 19, which is hereby renumbered as subparagraph 18]

19.20. Point source: Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft from which pollutants are or may be discharged to an MS4 navigable waters. Point source does not include return flows from irrigated agriculture. ~~A.R.S. § 49-201 (27).~~

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~~21. Pollutant: Fluids, contaminants, toxic wastes, toxic pollutants, dredged spoil, solid waste, substances and chemicals, pesticides, herbicides, fertilizers and other agricultural chemicals, incinerator residue, sewage, garbage, sewage sludge, munitions, petroleum products, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and mining, industrial, municipal and agricultural wastes or any other liquid, solid, gaseous or hazardous substances. A.R.S. § 49-201 (28).~~

20. Pollute: To alter the physical, thermal, chemical, or biological quality of, or the contamination of, any water of the state or water of the United States.

~~22. — Pollution: The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water of the state or water of the United States, that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose as determined by the town engineer.~~

21. Pollution: Contaminants introduced into the natural environment that cause adverse change, including but not limited to, mechanical fluids, toxic wastes, toxic pollutants, dredged spoil, solid waste, household chemicals, pesticides, herbicides, fertilizers and other agricultural chemicals, incinerator residue, sewage, garbage, sewage sludge, munitions and munitions casings, petroleum products, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, yard waste, rock, sand, cellar dirt and mining, industrial, municipal and agricultural wastes or any other liquid, solid, gaseous, or hazardous substances.

[No changes to existing subparagraphs 23 and 24, which are hereby renumbered as subparagraphs 22 and 23, respectively]

24,25. SWPPP, stormwater pollution prevention plan: A plan that shows and describes the best management practices that will be used to control the discharge of pollutants from a site includes site map(s), an identification of owner/operator activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants.

~~26. — Waters of the state: All waters within the jurisdiction of this state including all perennial or intermittent streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, aquifers, springs, irrigation systems, drainage systems and other bodies or accumulations of surface, underground, natural, artificial, public or private water situated wholly or partly in or bordering on the state. A.R.S. § 49-201 (41).~~

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[No changes to existing subparagraph 27, which is hereby renumbered as subparagraph 25]

[No changes to paragraphs C through F]

17-16-2 Prohibitions and controls to reduce the discharge of pollutants in stormwater

A. General Requirements

1. Any person engaged in activities which will or may result in pollutants entering a storm sewer system shall undertake appropriate measures to reduce the potential to discharge such pollutants. ~~Examples of such activities include, but are not limited to, reduction of use and proper disposal of household chemicals, such as cleaners, disinfectants, pesticides, fertilizers, carpet cleaning waste water and other pollutants associated from the ownership and use of facilities which may be a source of pollutants such as parking lots, gasoline stations, industrial facilities, construction sites, residential properties, and retail establishments.~~
1. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any pollutant that may enter the MS4 refuse, rubbish, garbage, vegetation trimmings or other discarded or abandoned objects, articles, and accumulations, in or upon any street, alley, sidewalk, storm drain inlet, catch basin, conduit or other drainage structures, parking area, or upon any public or private plot of land so that the same might be or become a pollutant, except where such pollutant is being temporarily stored in properly contained waste receptacles or is part of a well-defined compost system or pursuant to another recycling system.

[No changes to subparagraph 3]

F. Prohibition of non-stormwater discharge to the municipal storm sewer system; exemptions

[No changes to subparagraphs 1 or 2]

3. Exemptions. The following discharges are exempt from the prohibitions set forth in subsections 1 and 2 of this subsection:

[No changes to subparagraphs a through j]

~~k. — Water used to rinse vehicles and equipment, provided that reclaimed water or process waters are not used and that no soaps, solvents, detergents, oils, grease, or glues are present in the rinsate;~~

~~l. — Hydrostatic testing of new pipes, tanks or vessels using potable water, surface water or uncontaminated groundwater;~~

[No changes to existing subparagraphs m through p which are hereby renumbered as subparagraphs k through n, respectively]

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~~o.g.~~ Water used for drilling and coring for evaluation of foundation materials where flows are not contaminated with additives; ~~and~~

~~p.r.~~ Discharges from emergency firefighting activities;

q. Diverted stream flows;

r. Water from crawl space pumps; and

s. Discharges from riparian habitats and wetlands.

4. No person shall discharge to ~~a publicly owned right of way or~~ the municipal storm sewer system any exempted discharge under subsection 3 if the town engineer or assigned designee identifies and provides written notice to the person that the discharge has the potential to be a source of pollutants to receiving waters, waterways, or groundwater.

5. No person shall discharge to the municipal storm sewer system where such discharge would result in or contribute to a violation of the AZPDES stormwater permit issued to the town, either separately considered or when combined with other discharges. Liability for any such discharge shall be the responsibility of the person causing or responsible for the discharge and will be addressed as outline in the enforcement response plan (ERP).

G. Operating facilities or activities

1. All persons owning or operating premises or engaged in activities who are required by federal or state law to submit to EPA and/or ADEQ a notice of intent (NOI) to comply with an AZPDES stormwater permit shall provide a copy of the authorization certificate to the town upon request. Facilities required to apply for a stormwater permit are identified in 40 CFR 122.23(B) (14).

2. All persons engaged in activities which will or may reasonably be expected to result in pollutants entering the municipal storm sewer system shall submit a SWPPP for review and acceptance by the town, shall provide protection from accidental discharge of pollutants to the municipal storm sewer system, shall comply with the spill notification requirements of this chapter, and shall undertake best management (BMPs) to minimize such pollutants, shall provide protection from accidental discharge of pollutants to the municipal storm sewer system and further comply with the cleanup and notification requirements of this chapter. Such measures shall include any additional requirements imposed by federal, state, county, or local authorities.

[No changes to subparagraphs 3 and 4]

5. If, during the course of activity, a deficiency in the accepted SWPPP is identified, the owner/operator must modify the SWPPP to include additional or modified BMPs designed to correct problems identified.

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Requirements for corrections to the SWPPP are outlined in the town's enforcement response plan.

6. Operations or activities that have been granted a waiver from developing a SWPPP by ADEQ may still need to submit a SWPPP to the town for review and acceptance.

7. Basins with a retention component may be used as temporary sediment basins during construction provided the following conditions are met:

- a. Prior to acceptance, the basin shall be retested for percolation; and
- b. Additional measures must be put in place to collect sediment prior to entry into the basin, i.e. the basin must be part of a cascading sediment trapping system.

D. Construction sites

~~1. All persons engaged in construction activities who are required by federal or state law to submit to EPA and/or ADEQ a notice of intent (NOI) to comply with an AZPDES stormwater permit, shall provide the town with copies of the approved NOI, the site specific stormwater pollution prevention plan (SWPPP), and the AZPDES individual stormwater permit, if applicable, issued by ADEQ.~~

~~2. Any person performing construction that has submitted a copy of an approved NOI to the town shall not cause or contribute to a violation of the AZPDES stormwater permit issued to the town. Liability for any such discharge shall remain the responsibility of the person causing or responsible for the discharge. Any person performing construction activity shall undertake best management practices to minimize or eliminate pollutants (including the discharge of sediments) from leaving the construction site, shall provide protection from accidental discharge of other pollutants to the municipal storm sewer system, and comply with the cleanup and notification requirements of this chapter. Site operator shall ensure effective erosion, sediment and waste control and properly dispose of wastes, such as discarded building materials, concrete truck washout material, chemicals, litter, sanitary waste and other pollutants at the construction site that may cause adverse impacts to water quality. Such measures shall include the requirements imposed by federal, state, county and/or local authorities.~~

~~3. Stormwater pollution prevention plans shall be prepared and reviewed in accordance with the Arizona pollutant discharge elimination system construction general permit issued by the Arizona department of environmental quality. A SWPPP accepted by the town is required prior to the issuance of a grading permit. The town shall not certify or defend that the applicant has met the requirements of the federal Clean Water Act.~~

~~4. In the case that a specific best management practice is required by the town to prevent a pollutant from entering the municipal storm sewer system, the~~

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~~person receiving the notice of such a requirement may petition the town to reconsider the application of the BMP to the premises or activity. The written petition must be received within ten calendar days setting forth any reasons and proposed alternatives. The town will act within fourteen calendar days of the petition.~~

~~5. Basins with a retention component may be used as temporary sediment basins during construction provided the following conditions are met:~~

~~— a. Prior to acceptance, the basin shall be retested for percolation; and~~

~~— b. Additional measures must be put in place to collect sediment prior to entry into the basin, i.e. the basin must be part of a cascading sediment trapping system.~~

~~6. No waivers allowable under the AZPDES construction general permit shall be accepted by the town for any development over one acre in size or that is part of a larger common plan of development or sale.~~

~~[No changes to existing paragraph E, which is hereby renumbered as paragraph D]~~

E.F. Cleanup and notification requirements

1. In the event of a spill or release in reportable quantities as defined in 40 CFR 302, 40 CFR 110 and 40 CFR 117, the owner, operator, or the person who has control of the source or location of any spill or release, which may result in a discharge that is not in compliance with this chapter, shall immediately take all reasonable safety precautions including, if appropriate, calling 911. Within five calendar days, a written notification will be submitted to the town engineer indicating the type, volume, and cause of the discharge along with details of the corrective actions taken to clean up the spill. and completing the following steps:

a. ~~Proceed with containment and clean up in accordance with:~~

~~i. The orders of an involved health and safety agency, or if no such orders have been issued, then:~~

~~ii. The orders of an authorized representative, or if no such orders have been issued, then~~

~~iii. The stormwater pollution prevention plan or approved corrective action plan utilizing best management practices for the involved facility.~~

~~b. Report any violations of the northwest fire department fire code or other such applicable safety or health codes in the manner required by such code;~~

~~c. Notify the town development services department of the release by telephone within 24 hours of knowledge of the release;~~

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~~d. Provide written notification within five calendar days to the town development services department of the type, volume, cause of the discharge, corrective actions taken, and measures to be taken to prevent future occurrences.~~

2. Compliance with the requirement in subsection 17-16-2 ~~E~~ G. 1 shall not relieve the discharger from the reporting requirements of 40 CFR 110, 40 CFR 117, and 40 CFR 302.

17-16-3 Compliance monitoring

A. Inspections

1. Authority to inspect. Upon presentation of credentials and at all reasonable or necessary hours, all authorized employees of the town shall have access to all premises and to all records pertaining to those premises for purposes of ensuring compliance with this chapter. Inspection, interviewing, copying, sampling, photographing, and other activities conducted on the premises shall be limited to those which are reasonably needed by the town in determining compliance with the requirements of this chapter. All persons shall allow such activities under safe and non-hazardous conditions with a minimum of delay. Inspections of active construction sites will follow the guidelines and schedules of the AZPDES Phase II MS4 permit issued to the town.

2. Monitoring activities. The town may order any person engaged in any activity or owning or operating on any premises which is causing or contributing to discharges of pollutants to the municipal storm sewer system in violation of this chapter or ~~any applicable AZPDES stormwater permit condition~~ or that is posing a risk to public health, safety, and welfare to undertake such monitoring activities and analyses and furnish such reports as the town reasonably may specify. The costs of such activities, analyses, and reports shall be borne in the recipient of the order.

~~3. When inspections by town staff reveal deficiencies in the implementation of the best management practices, a written inspection report will be provided to the owner and operator within 30 days of the inspection.~~

[No changes to existing subparagraph 4, which is hereby renumbered as subparagraph 3]

B. Enforcement and penalties

1. When inspections by town staff reveal deficiencies in the implementation of the SWPPP, a written inspection report will be provided to the owner and operator within 30 days of the inspection.

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2. Charges or penalties levied pursuant to this chapter shall be collected and utilized for public education and outreach in compliance with the town's MS4 permit.

3.1. Operator and/or owner of record. The operator performing activities and/or owner of record of the property upon which a violation of this chapter occurs shall be presumed to be a person having lawful control over the activity or premises unless it is demonstrated and documented that another person has knowingly and in good faith accepted responsibility for the activity at issue. If more than one person is identified as the owner, such persons shall be presumed to be jointly and severally in lawful possession and control of the activity or premises.

4.2. Notice to correct. The town may issue a written notice to correct to any person who has violated or is in violation of this chapter. Failure to comply with any act required in the notice to correct may result in a notice of violation and/or stop work order ~~as described in subsections 3 and 5 of this section.~~

5.3. Notice of violation. The town may issue a written notice of violation to any person who has violated or is in violation of this chapter. Failure to comply with any act required in the notice of violation shall be a separate violation for each day beyond the ~~thirtieth~~ third calendar day following the notice of violation. Nothing in this section shall limit the authority of the town to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation. In appropriate situations the town may notify the person orally either in person or by telephone prior to written notification.

[No changes to existing subparagraphs 4 and 5, which are hereby renumbered as subparagraphs 6 and 7, respectively]

8.6. Civil penalties. A person who violates any requirement of this chapter ~~or any applicable stormwater permit condition~~ shall be civilly liable to the town for a sum not to exceed \$2,500 per day for each violation.

9.7. Criminal penalties. A person who willfully or negligently violates any provision of this chapter, or any related laws or regulations shall, upon conviction, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$2,500 per day for each violation and/or by imprisonment for a period not to exceed six months.

10.8. Criminal prosecution. Some intentional violations may constitute criminal violations of federal, state, and town law, and that under such circumstances, the town may seek the assistance of the EPA, the state, or the town prosecutor to commence civil and/or criminal action against any person who violates any requirement of this chapter ~~or any applicable stormwater permit condition.~~

EXHIBIT A TO MARANA RESOLUTION NO. 2022-027
Amendments to Marana Town Code, Title 17 "Land Development" pursuant to
Marana Ordinance No. 2022.006

11.9. The town may withhold the issuance of permits including but not limited to building permits, native plant permits and grading permits, for the development or improvement on the parcel or any contiguous parcel of land under the ownership of a person or persons in violation of any requirement of this chapter ~~or any applicable AZPDES stormwater permit condition.~~

[No changes to existing subparagraph 10, which is hereby renumbered as subparagraph 12]

C. Enforcement response plan adopted

The Marana stormwater management enforcement response plan (ERP) attached as exhibit A to ordinance no. 2022.006 and approved and adopted by that ordinance, as it may be amended from time to time, is hereby adopted by reference as if fully set out herein.

SECTION 12. Chapter 17-18 "Wireless Communication Facilities" of the Marana Town Code is hereby revised by replacing the reference to 47 CFR § 1.40001 in all instances, with a reference to 47 CFR § 1.6100 in the following Town Code sections: 17-18-2 (E), (F), (H), (I), (J), (U), (V), (X), (Y), and (Z). All margin notes in Chapter 17-18 shall also be updated to reflect current Code of Federal Regulations (CFR) provisions.

SECTION 13. Section 17-18-4 (Permits required; approval authority) of the Marana Town Code is hereby revised as follows (with additions shown with double underlining and deletions shown with ~~strikeouts~~):

17-18-4 Permits required; approval authority

[No revisions to paragraphs A and B]

C. Administrative wireless facilities permit. A new facility, collocation or modification to an existing facility is subject to the planning manager's approval of an administrative wireless facilities permit, and not subject to a conditional use permit, when all the following criteria are met:

[No revisions to subparagraph 1]

2. The proposed project qualifies as a design listed in section 17-18-6 A. 2 through 17-18-6 A. 3 below; specifically,
 - a. A collocation on an existing base station outside the right-of-way,
 - b. A collocation on a tower outside the right-of-way, or
 - c. A collocation on an eligible support structure or utility pole in the right-of-way that is not exempt from zoning (see paragraph 17-18-4 B above).

[No revisions to subparagraph 3]

[No revisions to paragraph D]