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## **Public Works Code for:**

### **OFF-SITE CONSTRUCTION IMPROVEMENT REQUIREMENTS FOR PROPERTY DEVELOPMENT**

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#### **1. Definitions.**

*Department* means the Public Works Department, typically acting through the Public Works Director or his designee, and persons seeking permits pursuant to this chapter may obtain necessary forms and information from the permit counter in the Public Works Department.

*Developer*: A developer shall be the individual, firm, corporation, association, syndicate, trust, or other legal entity that files the application and initiates proceedings for the development of land including but not limited to a subdivision, minor division of land, site development plan and/or a zone change in accordance with this Code. The developer need not be the owner of record of the land.

*Median*: A raised or flush area designed to separate and control vehicular movement.

*Off-site construction*: Construction, erection or installation or any change or addition to lands, structures, equipment, facilities or materials located above or below ground within any public place, right-of-way or

other public surface or subsurface drainage facility in the Town. Off-site construction includes construction of improvements on private property which will later be dedicated to the Town or which will serve as community infrastructure even though remaining private property.

*Off-site improvements:* Those improvements, infrastructure or facilities a developer is required to or does construct or install in conjunction with the development or redevelopment of any parcel or property and any off-site construction, including common infrastructure, adjacent to or related to property for which a Town permit is being sought for purposes of development, redevelopment or construction. Off-site retention basins and other drainage facilities, overhead utility lines, water lines, effluent lines, sewer lines, together with all other water, effluent and sewer services facilities and appurtenances thereto, and all other off-site improvements required to provide service to and develop the property shall be deemed off-site improvements as regulated by this Code.

*Overhead utility lines* are defined as those historically conveyed by a series of conductors mounted on poles or other aboveground structures. Included are electric service lines, electric distribution lines (under sixty-nine (69) kilovolts), telephone cables and lines, and lines for other communications systems such as cable-transmitted television.

*Private street:* A street not owned or maintained by the Town or other public entity.

*Right-of-way* means land, whether or not improved or accepted for maintenance, which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for the public and occupied or intended to be occupied by a street, highway, alley, public utility, pedestrian walkway, bikeway, drainage, curb, gutter, driveway, railroad, electric transmission line, oil or gas pipeline, water lines and facilities, sanitary or storm sewer lines and facilities, effluent lines and facilities, or for another public use. The usage of the term "right-of-way" for land platting purposes means that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way, and are not included within the dimensions or areas of such lots or parcels.

*Underground or undergrounding* is the placement of utilities below ground with the attendant removal of above-ground poles, conductors and appurtenances as applicable.

## **2. Design requirements.**

All off-site improvements shall be designed, engineered, constructed and installed in accordance with all other applicable regulations adopted by the Town, State or Federal Government: "Right-of-way" width and street cross sections shall be as specified in the Town Code and Planning and Zoning Ordinance. The Department, in consultation with the Development Services Director, shall determine street classifications.

Landscaping within public and private rights-of-way shall meet all requirements for on-site landscaping as prescribed by the Planning and Zoning Ordinance and all other applicable Town regulations, and will be subject to approval of the Development Services Director and the Department.

## **3. Required improvements.**

As a condition of approval of any subdivision, minor division of land or site development plan, the developer shall be required to design, engineer, construct and install all off-site improvements on and adjacent to the site to be developed, in accordance with the requirements set forth in the Town Code and Planning and Zoning Ordinance and regulations, and this chapter. This requirement applies to all land developed or redeveloped under the provisions of the any of the above listed chapters.

**3-1.** Off-site improvements shall, as a minimum, extend to the center of abutting streets or rights-of-way and may extend beyond the center by two feet or when median islands and two-way traffic requirements necessitate such extension. When the property to be developed abuts a canal, drain, wash, irrigation ditch or similar facility, the off-site construction shall include improvements to said facility.

**3-2.** Off-site improvements shall also include tapers or transitional areas on either side of the project site necessary to provide a safe, smooth traffic flow between existing and newly constructed street sections. Acquisition of any and all additional right-of-way necessary for such construction, including applicable legal fees, shall be the responsibility of the developer and at the developer's sole expense.

#### **4. Undergrounding of overhead utility lines.**

- A. The developer shall place underground all overhead utility lines, either within a proposed development or redevelopment project or within public places, rights-of-way or other public surface or subsurface drainage facilities adjacent to the project, prior to issuance of a certificate of occupancy. This requirement shall apply to all projects submitted for approval or reapproval under the provisions of the site development in the Planning and Zoning Ordinance. Utility poles and lines are defined herein as the poles, structures, wire, aerial cables and related facilities used in the distribution of electricity or in the transmission of telecommunications, telegraph, data, radio or television communications. This requirement includes both new and existing utility lines on and adjacent to the project, including lines which extend across public streets, alleys and/or easements adjacent to the property being developed or redeveloped. Existing utility lines adjacent to a project shall be undergrounded up to the first existing pole beyond the limits of the property. This requirement includes the undergrounding of all existing overhead service lines attached to the lines to be removed along with necessary conduit, supports, restoration, etc., necessary to convert the service line from overhead to underground. The requirement shall apply regardless of the existence of easements for overhead lines. Adjacent high-voltage power lines less than 69 kv in capacity shall be placed underground.
- B. Equipment appurtenant to the underground facilities, such as surface-mounted transformers, pull boxes, pedestal cabinets, service terminals, telephone splice closures, concealed ducts, or other similar on-the-ground facilities normally used with or as design approved by the Department, may be maintained above ground with the written permission of the Public Works Director for the specific facility to be left above ground.
- C. The developer of a development or redevelopment project shall be responsible to make necessary arrangements with the affected utility companies for the installation of required underground facilities, including the payment of any cost therefore as a condition of plan approval. Nothing contained herein is intended to obligate a providing utility company to install such underground facilities without reimbursement.
- D. In those instances where poles to be removed include street lights, the street lights will be replaced with freestanding poles by the developer in accordance with current Town street light standards.
- E. Relief from undergrounding requirements may be considered under the following conditions:
1. Deferment of undergrounding may be requested from the Town by a developer in cases where the utility frontage is small. Deferment of undergrounding cannot be granted by the utility company, irrigation districts or any other entity other than the Town. When deferment is approved, the developer shall obtain an estimate of undergrounding costs from all affected utility companies. The developer shall then be required to provide a cash deposit, letter of

credit, certificate of deposit, or other security acceptable to the Town Attorney, in an amount equal to the estimated undergrounding costs, as provided by the utility company, associated with the utility frontage of the project. The developer shall also be required to install the ductwork (conduit) required by the utility companies for the future undergrounding prior to issuance of certificate of occupancy. Phasing of projects may be considered based on the particular situation. On projects for which plans are approved in phases, the developer may request delay in payment of estimated costs until approval of plans for the largest phase involving undergrounding, at which time payment for the entire project shall be required. The obligation to pay at the time of a subsequent phase shall be secured by an agreement which shall bind the owner and subsequent buyers for undergrounding costs along the entire applicable frontage. Monies received will be held in an account by the Town to be used at whatever time the applicable area is converted by the Town, utility companies, or other parties to underground utilities.

2. Exemption may be considered where the developer can show that undergrounding will be an unusual and material economic hardship and the costs of such undergrounding are materially disproportionate in terms of the utility frontage and the proportionate frontage of the project under consideration. Examples are cases where development occurs in an area where adjacent land on both sides is already developed (infill situation), and in cases involving additions or modifications to existing sites which represent a minor portion of the total site.

All requests for relief must be presented in writing to the Development Services Director prior to plan approval. Consideration for approval shall be in accordance with the purpose, intent and objective of this section. The Development Services Director and the Public Works Director shall each approve or disapprove all formal requests for relief. High-voltage lines which remain after the undergrounding are not considered as grounds for relief. Aesthetics is only one (1) of many reasons for undergrounding of which public safety is paramount. Completion of undergrounding and/or payment of costs shall be required prior to granting, of a certificate of occupancy. All new service lines installed shall be underground even though relief may be granted for adjacent existing lines.

- F. The requirements set forth above shall not apply to new utility poles and wires erected for purely temporary purposes such as providing temporary building construction power, emergency power, telephone service or the furnishing of power to temporary outdoor activities. A permit for such temporary use shall be obtained from the Public Works Director. The length of the temporary use shall be specified in the permit and may not exceed six (6) months. One additional six-month extension of the permit may be issued upon a finding of necessity by the Public Works Director.

#### **5. Off-site construction-Permits, plans and specifications.**

The developer must obtain an encroachment permit prior to commencing any work in, upon, or under the public places, rights-of-way or other public surface or subsurface drainage facilities. In addition plans and specifications for and construction of all off-site construction must be reviewed and approval obtained pursuant to this code.

Approval of off-site construction plans and specifications is required by the Department prior to issuance of an encroachment permit for off-site construction.

#### **5-1. Plan and specification contents; procedure for approval.**

- A. Plans and specifications shall be submitted indicating that off-site improvements are planned for the project in conformance with Town Code, standards, regulations and requirements. These off-site

improvement plans and specifications shall be submitted in triplicate with all other building plans and applications together with the plan review fee established by Council resolution. The developer must obtain written approval from the Department for all off-site improvement plans and specifications prior to issuance of a building permit, encroachment permit or other permit necessary to commence work.

- B. The off-site construction plans and specifications shall be prepared and signed by a professional engineer who is qualified and registered by the State of Arizona to practice in the particular field of competency required by the type of improvements.
- C. Engineering plans and specifications shall be in conformance with accepted engineering practice and shall conform to the Town Code, regulations and requirements and be prepared to the satisfaction of the Department. Vertical and horizontal control surveys shall be tied and referenced to two (2) existing Town-approved benchmarks and two (2) section corners or quarter corners. Incomplete or partial submittals will not be accepted.

#### **5-2. Subsequent plan review.**

Plans submitted three (3) or more times to gain acceptance shall pay, in addition to the initial plan review fee, a plan review fee for the third review and all reviews thereafter as established by Council resolution.

#### **5-3. Approval.**

- A. Approval of off-site construction plans and specifications shall be valid as basis to issue construction permits for a period not to exceed one (1) year after date of approval. Approval of off-site plans and specifications shall continue to be valid provided construction has commenced and that no suspension or abandonment of the work has occurred. Plans for which construction is not started within one (1) year shall be resubmitted and shall be deemed a new submittal and all fees and charges shall apply.
- B. Approval of plans and specifications by the Department does not relieve the design professional of responsibility for errors or omissions and for the correction of them and liability caused by their occurrence.

#### **6. Fee for review of off-site improvement plans and specifications.**

Plan review fees in an amount established by Council resolution shall be paid at the time plans are submitted. The plan review process shall be deemed started at the time first submission of preliminary or final subdivision or site plans are accepted for review by the Department and the plan review fee shall be paid before any review action is undertaken.

**6-1. Previously developed land.** Fees for lands previously developed or included in a previously approved development shall be in an amount established by Council resolution.

**6-2. Double fee.** Failure to secure a permit for off-site construction prior to commencing work will result in a charge of double the amount of the first review fees, as established by Council resolution.

#### **7. Inspection and testing of off-site construction.**

During off-site construction, the Town shall provide construction review and review of materials test results to assess conformity to current Town standard specifications and drawings.

- A. Inspection of the work by the Department shall not be considered as direct control of the individual

workman and the work. The direct control shall be solely the responsibility of the contractor.

- B. Any work done or materials used without inspection and testing or test results approved by an authorized representative of the Town may be ordered removed and replaced. Failure to reject any defective work or materials shall not in any way prevent later rejection when such defect is discovered nor obligate the Department to final acceptance.
- C. The Department, for the purpose of expediting and facilitating the progress of the work, may not inspect all materials, and each part or detail of the work. The Public Works Director shall be furnished at any time with such information and assistance by the contractor as is required to make a complete and detailed inspection.
- D. No work will be accepted which is installed prior to dedication of rights-of-way.

**7-1. Time limit.** Construction of off-site improvements in, upon or under public places, rights-of-way or other public surface or subsurface drainage facilities permit shall be continuously and diligently performed to completion, and completion thereof shall be accomplished within one (1) year after issuance of the permit unless a shorter or longer time period is otherwise specifically stated in the permit. This period may be extended if a hardship is acknowledged by the Public Works Director for strikes, unavailability of materials, unseasonable weather or other good and sufficient cause not caused by or within the developer's or contractor's control. If the construction of the improvements is not commenced or if an extension of time for completion is not granted, the plans shall be resubmitted for review and approval and a new permit covering the work or the remaining work to be completed shall be required. Fees required under such review and new permit shall be charged according to the fee schedule in effect at the time the new review is requested or new permit is issued.

**7-2. Fees for inspection and testing.** Fees for inspection shall be paid to the Town at the time a permit is issued for construction work. The fee shall be in the amount established by Council resolution.

Any repetition of testing or inspection required because of inferior materials or workmanship, as determined by the Town approved test, shall be performed at the developer's expense and shall be paid to the Town by developer when notified by the Public Works Director or his designee. This service does not relieve the developer or the contractor for the discovery of errors, and the correction of them, nor of the responsibility of properly performing the work.

**7-3. Street cleanup fee.** A refundable street cleanup fee will be charged to the developer at the time of plan submittal review. The fee will be in an amount established by Town Council resolution. It shall be the developer's responsibility to ensure that Town streets are maintained free of construction debris.

- A. Town inspectors will provide the developer or contractor with written notice when violations are observed. The developer or contractor shall have four (4) hours, from the time of written notice receipt, to remove the debris. Failure to respond shall result in the levying of an assessment against the fee against the developer in the amount of the Town's cost for street cleanup, including an initial administrative charge as set by resolution.
- B. Upon subdivision/site build-out and the filing of a notice of termination with the Town of Dewey-Humboldt Public Works Department, the cleanup fee will be refunded less any charges, including the administrative charge. If the fee was depleted and additional cleanup was required, the outstanding balance will be collected prior to final inspection.

## **8. Approval, acceptance, and assurances of construction.**

Upon completion of all off-site improvements in accordance with the Town standards, the Public Works Director or his designee shall acknowledge in writing acceptance of the off-site improvements and any on-site improvements in the right-of-way. Acceptance shall be conditioned upon a two-year warranty for workmanship, materials and equipment by the developer. After the lapse of the one-year period dated from the letter of acceptance, the off-site improvements shall be considered the maintenance responsibility of the Town.

If, during the two-year period, the developer is required to replace or repair any off-site improvements or any public on-site improvements, the developer shall secure a new encroachment permit without payment of fee to cover the necessary work. Plans and Specifications together with the plan review fee, for such replacement or repair shall be submitted for review and approval unless, waived by the Public Works Director or his designee.

**8-1. Partial acceptance.** If at any time during the construction of the off-site improvements, the contractor substantially completes a unit or portion of the off-site improvements, such as a structure, utility service, or a section of the road pavement, the developer may request the Department to make final inspection of that work. If the Department finds, upon inspection, that the work has been satisfactorily completed in compliance with plans and specifications, s/he may, in their sole discretion, conditionally accept the work as being completed. Acceptance in such cases is conditional on the remaining work being completed without damage and including any final grading adjustments or other minor work. Such partial acceptance shall in no way void or alter any plans and specifications.

**8-2. Final acceptance.** Upon due notice from the contractor of presumptive completion of the entire off-site improvements, the Department will make an inspection. If all construction provided for and contemplated by the plans and specifications is found completed to satisfaction of the Department, that inspection shall constitute the final inspection and the Department will make the final acceptance. The contractor will be notified in writing of this acceptance as of the day of the final inspection.

If, however, the inspection disclosed any work, in whole or in part, as being unsatisfactory, the Department will give the contractor the necessary instructions for correction of same, and the contractor shall immediately comply with and execute such instructions. Upon correction of the work, another inspection will be made which shall constitute the final inspection provided the work has been satisfactorily completed. In such event, the Department will make the final acceptance and notify the contractor in writing of the final acceptance as of the date of the last and final inspection.

## **9. Performance bond or cash deposit; off-site improvements.**

The Development Services Department, building inspection division, shall deny final approval and certificate of occupancy of any building until the required off-site improvements and any on-site public improvements are completed and have been inspected and approved by the Public Works Director, unless performance of the off-site improvements and any on-site public improvements is guaranteed by a performance bond, approved by the Town Attorney and the Public Works Director, or a cash deposit is made with the Town in an amount fixed by the Town. Under such circumstances, the Public Works Director will grant a conditional acceptance. Warranty period will not begin until the date of final (unconditional) acceptance.

The Town may require an occupancy clearance agreement to document the requirements of this section. Model homes may be occupied for sales purposes only subject to the occupancy clearance agreement and satisfactory off-sites to service the models as approved by the Town.

**9-1. Time to complete work.** The developer shall complete work required in the approved off-site

improvement plans promptly, but in no event more than the time period set forth in the approval of the plans or other documents, after issuance of the conditional acceptance by the Public Works Director.

**9-2. Bond return.** The performance bond or cash deposit or a portion thereof shall be retained by the Town to provide completion of the work should developer fail or refuse to do so as in section 8-1.

The performance bond or cash deposit or unused portion thereof shall be returned to the depositor upon the final approval of the Public Works Director after completion and acceptance of the off-site improvements. Acceptance in such cases is conditional upon the remaining work being completed without damage to the off-site improvement so accepted and including any final grade adjustments or other minor work.

#### **10. Validity of permit.**

The issuance or granting of a permit or approval of plans and specifications shall not be construed to be a permit for, or an approval of any violation of any of the provisions of this Code. No permit presuming to give authority to violate or cancel the provisions of this Code shall be valid, except insofar as the work or use which it authorizes is lawful.

The issuance of a permit based upon plans and specifications shall not prevent the Public Works Director from requiring correction of errors in said plans and specifications or from preventing construction operations being carried on there under when in violation of this Code or of any other ordinance of the Town.

#### **11. Deferral of off-site improvements.**

The Public Works Director may direct that construction of off-site improvements, or portions thereof, be deferred when such improvements are impractical or premature because of traffic conditions, unavailability of necessary right-of-way, the potential for creation of scalloped streets, or other conditions detrimental to orderly development, and/or because of the known and acknowledged formation or pending formation of an improvement district. Engineering plans for all off-site improvements shall be prepared, submitted and approved in accordance with section 5-1, whether or not construction is deferred. Infrastructure plans incorporating abutting, adjacent or other benefited property will not be required unless it is determined by the Public Works Director that improvements have a direct impact on the abutting off-sites, such as a bridge or railroad crossing on or adjacent to the parcel to be developed, in such case common infrastructure plans will be required. Plans will include an analysis of drainage and establishment of grades on both sides of the roadway for a minimum of five hundred (500) feet beyond the project limits in each direction unless waived or reduced by the Public Works Director. The developer of the property for which a deferral has been issued shall enter into an agreement with the Town which shall be recorded to run with the land, and shall post financial assurance as set forth below to guarantee the required off-site improvements will be constructed when directed by the Public Works Director.

**11-1. Notice to proceed.** The Public Works Director will give written notice to proceed with the construction of the off-site improvements previously deferred when necessitated by road condition, current or projected traffic, adjacent construction, or other conditions which require additional access. The developer shall start construction of such off-site improvements within ninety (90) calendar days from the date of such notice, shall continuously and diligently perform the construction and shall conclude such construction within the time period set forth in the approval, but in no event longer than one hundred eighty (180) days (or such shorter or longer period of time set forth by the Public Works Director in the notice to proceed) from the beginning of construction, in accordance with plans approved by the Town. If the developer fails to construction any of the off-site improvements when directed, or fails to timely complete construction of the off-site improvements, the Town may construct said off-site improvements, or may complete construction of said off-site improvements, and obtain payment therefore from the surety issuing the assurance. The

developer's obligation will be satisfied when all required off-site improvements have been constructed by the developer or another party, or when all required off-site improvements have been constructed by a community facilities district or assessment district formed at the discretion of the Town.

**11-2. Performance bond.** The Department shall require the posting of performance bonds, letters of credit, assurances or such other security as may be appropriate and necessary to assure the installation of all off-site improvements. Said security shall remain in full force and effect until such time as all required off-site improvements are constructed and accepted. In the case of projects which are divided into a number of large parcels subject to additional subdivision at a later time, only the major infrastructure necessary to serve all parcels and adjacent land shall be subject to these requirements. The form of the assurance must be acceptable to the Town Attorney and will be in an amount fixed by the Department. Receipt of an acceptable assurance will be required at the time of approval of improvement plans.

**11-3. Partial construction.** When it is impractical for the Town to accept a financial assurance because the schedule for Town off-site improvements is undetermined or unreasonably far into the future, or if for any other reason the off-site improvements are constructed by the developer, the Department will order the construction of one (1) or both sides of sufficient roadway necessary to ensure an orderly traffic flow. The cost of construction of improvements beyond the center of abutting streets or beyond the property limits (other than tapers, two foot wide paving on the opposite side of the center line and other transitional items) shall be applied toward the amount of the developer's total obligation set forth in the benefit study, or the developer may enter into a reimbursement agreement with the Town of recover costs from other developers as prescribed in section 11-7 below.

**11-4. Benefit study.** If requested by the developer, a benefit study, paid for by the developer seeking reimbursement or credit, shall be prepared by an engineer registered and qualified in the State of Arizona and selected by the Town and utilized as the basis of determining a developer's full off-site improvement obligation. Use of the benefit study is required to ensure that the costs of the infrastructure common to or directly serving other property are equitably borne by all property owners in the subject study area. The amount and the purpose of the obligation for each property owner shall be stated in the benefit study subject to adjustment for inflation based on the ENR Construction Cost Index published by McGraw-Hill, Inc., and actual construction costs or such other index selected by the Public Works Director. When development occurs in areas which have not been included in benefit studies, the obligations will be estimated by the Public Works Director or, at the developer's option, may be determined by a developer-funded benefit study.

**11-5. Credit.** When improvements are developer constructed, the developer will be credited for the off-site improvements they construct against the developer's obligation set forth in the benefit study. Off-site improvements for which credit is applied must be those set forth in the benefit study, but need not be those specific obligations set forth for any particular property. Where possible, the credit will be established with physical quantities such as lineal feet of curb and gutter, square feet of asphalt, etc. Where physical quantities cannot be established, such as portions of railroad crossings, portions of canal improvements, etc., the obligation to be met shall be the estimated current value for the item as set forth in the benefit study. The benefit study analysis and determination of credit for work performed will be accomplished by the Town's benefit study consultant at developer expense. If the off-site improvements to be installed by the developer do not satisfy the full obligation of the property as set forth in the benefit study, the developer may:

- A. Install additional off-site improvements approved by the Town, credited at values established by the benefit study as opposed to actual costs, up to the value of the developer's full obligation;
- B. Pay the cash differential which will be held in a trust account for use only for the designated improvements; or

- C. Provide an appropriate security, in such form approved by the Town Attorney, to guarantee construction of the remainder of the developer's obligation when determined necessary by the Public Works Director as set forth in B above.

**11-6. Town participation.** When development occurs prior to initiation of Town off-site improvements, the Town will not be obligated to participate in the off-site construction costs; however, when funds budgeted for Town participation in the off-site improvements are available, the Town Council may authorize the use of such funds to defray the off-site infrastructure costs. The amount of such defrayal shall not exceed the amount of Town participation set forth in the benefit study for the developer's property.

**11-7. Repayment agreement.** When the value of off-site improvements constructed exceeds the developer's obligation as determined by the benefit study, the developer may be entitled to enter into a repayment agreement with the Town to provide for recovery of costs from others who develop later on land adjacent to the off-site improvements constructed by such developer or otherwise directly utilize off-site improvements constructed by such developer. To be eligible for repayment, all such improvements must have been publicly bid in accordance with the provisions pertaining to public works projects under Title 34, Arizona Revised Statutes or a public bidding process approved by the Public Works Director in writing prior to advertising for bids, provided such bid process, at a minimum requires: (1) a minimum of 3 bids to be received on the project; (2) the sealed bids are opened in the presence of the Town Engineer; and (3) the level of repayment is based on the low bid submitted, regardless of whether that bidder is selected by the developer. In those cases where existing development will preclude property owner repayment, the Town Council may, in its sole discretion, authorize reimbursement from Town funds subject to availability of funds. The Department shall determine the amount of improvements eligible for repayment, and such determination shall be made a part of the agreement. Repayment shall be made on the basis of the benefit study. Procedures for establishing agreements and collection payments shall be as set forth in section 19 et seq.

## **12. Street financing policy.**

The cost of all improvements of streets located on or adjacent to new subdivision areas to be developed or redeveloped shall be the full responsibility of the developer, except that when improvements are constructed under assessment or community facilities district financing.

**12-1. Street improvement costs.** The allocation of cost of street improvements adjacent to already developed areas and within or adjacent to new subdivisions or developing areas, whether platted or unplatted, shall be as set forth below.

**12-2. Local.** The allocation of cost of improvements to local and sub-collector streets shall be the responsibility of the abutting property owners.

**12-3. Collectors and arterials.** The cost of improvements to collector and arterial streets shall be as follows:

- A. Where street improvements have not been previously constructed in accordance with Town standards, the abutting property owners shall be responsible for costs of all street improvements to Town standards to the street centerline adjacent to the property, including but not limited to curbs, gutters, sidewalks, cement or asphaltic pavement, tree removals, ditch removals, catch basins and retention basins, irrigation piping and structures. Where applicable, the property owner shall share with other property owners the cost of streetlights, traffic-control devices, striping; landscaping, intersection construction, temporary pavement, pavement transitions, and miscellaneous removals.

1. Where medians are required, the owner of the property first developing shall install the full median, including curbing, street lighting and landscaping. The developer required to install

a full median may request the Town to enter into an agreement providing for reimbursement of that portion of the costs which would have been the responsibility of subsequent developers. Reimbursement shall be made on the basis of front footage as determined by the Department at the rate of half the front foot current cost less the reimbursement transaction fee established by Council resolution which shall be retained by the Town to cover administrative costs.

2. Reimbursement shall be made by the Town upon receipt of payment from the adjacent or abutting property owners. Such agreements shall be requested of the Town by the developer within one (1) year from the date of acceptance of such improvements and shall run for a period not to exceed ten (10) years from the date of execution by the Department, who is hereby authorized to execute the agreements in accordance with the provisions of this section. The agreements shall automatically terminate at the end of the ten-year period. The Department shall establish in July, on an annual basis, the current cost of construction of medians, streetlight and landscaping installations to be used in determining reimbursement charges. Such current cost shall include engineering, construction and inspection costs.
  3. Buy-ins for medians shall be collected by the Town only when a valid reimbursement agreement is in force. They shall be paid at the time of plan or plat approval.
- B. Where the abutting property is an owner-occupied single-family residential use, the costs for the improvement shall be calculated on the basis of local street standards for that portion of the property frontage reasonably related to the single-family residential use. Such abutting property owners shall be responsible for the cost of one-half the width of the local street, nearest the right-of-way property line based upon local street standards together with the necessary curbs, gutters, sidewalks, and other miscellaneous work required to construct the street improvement.
- C. Where the street improvements have been constructed in accordance with Town standards in effect at the time of the construction, the street reconstruction shall be at no cost to the property owner if the construction or reconstruction is initiated by the Town or persons other than the property owner.
- D. If the construction or reconstruction is undertaken by the abutting property owner as an improvement to his or her property, the costs shall be borne by the property owner in accordance with this section.
- E. If the construction or reconstruction is initiated by a third party as part of an improvement to an adjacent or nearby property, the cost of construction or reconstruction shall be borne by the third party unless the property owner agrees to assume a share of the improvement costs.

### **13. Scalloped street assessments.**

Where the Town Council has determined that certain streets within the Town shall be constructed or improved prior to development of the property adjacent to such streets, the Council may order such streets to be constructed or improved at the Town's initial expense. Such expense shall be assessed against the adjoining property subject to the following:

- A. The assessment of property, if adjacent arterial streets are involved, shall not exceed the cost of improving more than one-half ( 1/2) of the width, not to exceed sixty-five (65) feet, nor more than one thousand (1,000) lineal feet of such adjacent arterial street.
- B. Any parcel of land which at the time of assessment is used for single-family residential use and the width of which does not exceed two hundred (200) lineal feet shall not be assessed greater than one-

half (1/2) the costs of a local street.

- C. The assessment of property shall not exceed the actual costs incurred by the Town at the time of construction.

**13-1. Hearing procedure; determination of necessity.**

A. The Town Council, at a public hearing, shall determine the necessity of street improvements if the cost thereof is to be assessed against adjacent property. Notice of the hearing shall be given to the property owners, and other affected persons, who would be assessed for the costs of improvements, by regular mail no less than ten (10) days prior to the date of the hearing. An affidavit of mailing of such notice shall be filed in the office of the Town Clerk. The notice of hearing shall contain:

1. The name, address, and tax parcel number of each property owner.
2. A description of the proposed street improvements.
3. The estimated cost of assessment for each affected parcel of property.
4. The date, time and place that the Town Council shall consider the necessity of improvement and possible adoption of a resolution of intention.

Notice shall also be published in a daily newspaper in five (5) successive issues and, in addition, shall also be conspicuously posted along the line of the proposed improvement at least ten (10) days prior to the hearing on necessity of the improvements.

- B. The property owners and any other persons directly interested in the work or in the assessment may, prior to the time fixed for the hearing, file in the office of the Town Clerk a written objection, briefly specifying the grounds for objection.
- C. At the time of public hearing, the Town Council shall hear and pass upon any objections to the proposed improvements; and its decision shall be final and conclusive. It may modify the extent of the proposed improvements and proceed without the necessity for republishing, reposting and remailing new notices.
- D. At the conclusion of the hearing, the Town Council may pass its resolution of intention directing that plans, specifications and estimates of the cost and expenses of the proposed improvements be prepared by the Department and filed with the Clerk and order that a call for sealed bids be made.

**13-2. Assessments.** Upon completion of the improvements, the Council shall by resolution, at a public hearing, determine the cost of the improvements and assess against the properties adjacent to the street improvement the total amount of the costs and expenses of the work. Notice of this public hearing shall be given to the property owner, and other affected persons who would be assessed for the costs of improvements, by regular mail at least ten (10) days prior to the date of the hearing. This notice shall contain:

1. The name, address, and tax parcel number of each property owner.
2. A description of the street improvements.
3. The amount of the assessment for each affected parcel of property.

- A. The property owners and any other persons directly interested in the work or in the assessment who have any objection to the legality of the assessment or to any of the previous proceedings connected therewith or who claim that the work has not been performed according to the contract may, prior to the time fixed for the hearing, file in the office of the Town Clerk a written notice briefly specifying the grounds for objection. At the time fixed for the hearing, or at any time thereafter to which the hearing may be postponed, the Town Council shall hear and rule upon the objections. The decision of the Town Council shall be final and conclusive as to all errors, informalities and irregularities which the Town Council might have remedied or avoided at any time during the progress of the proceedings. If the Town Council determines that an objection should be granted, the Public Works Director shall reissue the notice of assessment. If the Town Council determines that the objections shall be overruled, the Town Council shall adopt a resolution overruling all objections and confirming the assessments.
- B. The Council's resolution shall provide that any assessments remaining unpaid shall be paid prior to or at the time of the development of the assessed property as set forth in 3-4.
- C. The resolution declaring the assessment and describing the properties against which the assessments are imposed shall be recorded in the office of the county recorder, together with a specific written notice of the assessment containing (1) the amount of the assessment; (2) the legal description and the tax parcel number of the subject property, (3) the name of the property owner(s), (4) the conditions which requirement of the assessment. When so recorded, the amount so assessed shall be a lien upon the properties assessed for ten (10) years thereafter or until such assessments are paid, whichever first occurs, and such recording shall be notice to all persons interested in the contents of the record.
- D. Any assessment made under this section shall abate if the property has not been developed within ten (10) years of the assessment.

**13-3. Right-of-way.** When it is necessary to improve a full street and sufficient right-of-way is not available, the Department may obtain the right-of-way from the property owner. If right-of-way is not dedicated at time of construction, the cost to the Town to purchase the right-of-way shall be considered an expense attributable to the street improvements and shall be assessed against the property at time of development.

**13-4. Collecting unpaid assessments at time of development.** Prior to the issuance of a building permit for development of the property adjacent and abutting such improvements, the Town Council shall collect the entire amount of any unpaid assessment on the property. All statutes providing for the levy and collection of State and County taxes, including collection of delinquent taxes and sale of property for nonpayment of taxes, are applicable to the assessments provided for in this chapter. The Town Manager or his designee shall collect any unpaid assessments prior to any of the following: (A) the Town Council, Planning and Zoning Commission or Development Services Director approving any request for rezoning or site plan for development of any assessed property; (B) the Town Council's approval of any final subdivision plat which plat will result in a subdivision of property assessed under this chapter; (C) the issuance of any grading permit required by the Town Code for any assessed property. Upon payment of the assessment in full or in part, a full or partial satisfaction evidencing payment shall be recorded in the office of the Yavapai County Recorder.

#### **14. Private streets.**

Private streets are subject to all requirements of public streets except for street and right-of-way width but in no event shall such private streets be less than twenty-eight feet in width. They shall be reviewed, approved, inspected and tested in the same manner as public streets and shall include drainage facilities, curbs, sidewalks and streetlights built to Town standards. The minimum allowable width of the private streets will be determined by the Department, in consultation with the Development Services Director.

**14-1. Permits and inspection.** Any person constructing or installing private streets or any other privately owned off-site improvement must comply with all of the requirements of this chapter including but not limited to complete inspection and testing for private streets for paving, curb, gutter and drainage facilities. Parking lots and their associated access ways shall receive limited inspection to ensure plan requirements for drainage and thickness of asphalt and base course have been satisfied. Plan review fees and inspection fees for limited inspection will be the same as the permit fees and related fees established by council for public improvements. Other construction such as sidewalks, streetlights and signs will not require plan review but will be visually checked, by the off-site inspector for minimum requirements of approved plans; and such requirements must be satisfied prior to project acceptance. The distinction between private streets and parking lot access ways will be determined by the Department.

Street name signs and traffic-control devices shall be furnished and installed by the developer in accordance with approved plans prior to project acceptance.

### **15. Traffic signals and streetlights.**

#### **15-1. RESERVED.**

#### **15-2. RESERVED.**

#### **15-3. Traffic signal and streetlight reimbursement agreements.**

- A. When a developer is required to install a traffic signal as part of the development plan, the developer shall be entitled to enter into a reimbursement agreement with the Town to provide for recovery of costs from owners of other corners of the intersection which are undeveloped at the time the plans are approved. To be eligible for reimbursement, all such improvements must have been publicly bid in accordance with the provisions pertaining to public works projects under Title 34, Arizona Revised Statutes or a public bidding process approved by the Department in writing prior to advertising for bids, provided such bid process, at a minimum requires: (1) a minimum of 3 bids to be received on the project; (2) the sealed bids are opened in the presence of the Town Engineer; and (3) the level of reimbursement is based on the low bid submitted, regardless of whether that bidder is selected by the developer. The reimbursement costs shall be computed by the Department based on actual construction cost of the signal plus engineering and construction inspection costs. Such determination shall be made a part of the reimbursement agreement. The total of such reimbursement to the developer shall not exceed the total costs as determined by the Department less the proportion of the costs applicable to the developer's project. The developer shall furnish the Department a certified copy of the actual costs when s/he requests the reimbursement agreement. No reimbursement shall be received from others on corners already developed. The Department shall determine the applicability and the amount of buy-ins due when development occurs on the other corners of the intersection. As a general rule, one-quarter (1/4) of the total cost will be assessed to each corner. Exceptions may apply when the size of a parcel or the amount of traffic generated warrants a different assessment.
- B. When streetlights are installed by a developer on local or collector streets, s/he shall be entitled to enter into a reimbursement agreement with the Town to provide for recovery of cost from others who develop later on land adjacent to the streetlights installed by such developer. The developer must bid the installation of the street lighting in accordance with the provisions pertaining to public works projects contained in Title 34, Arizona Revised Statute, to be eligible for reimbursement. The Public Works Director shall determine the amount of street frontage eligible for reimbursement, and such determination shall be made a part of the agreement. Reimbursement shall be made on the basis of

street frontage at rates established by the Department. Such rates shall include current costs for engineering, construction and inspection and shall be reevaluated annually in July.

- C. All reimbursement agreements must be requested by the developer and shall run for a period not to exceed ten (10) years from the date of execution by the Public Works Director, who is hereby authorized to execute these agreements in accordance with the provisions of this section. The agreements shall automatically terminate at the end of the ten-year period. No agreement shall be approved and executed more than one (1) year after date of acceptance of the improvements, and no reimbursement shall be received from projects already developed.
- D. Reimbursement shall be made by the Town upon receipt of payment from adjacent property owners, less the fee established by Council resolution per reimbursement transaction which shall be retained by the Town to cover administrative costs. All agreements shall include the name and address of the recipient of reimbursement payments, and it shall be the developer's responsibility to keep such information current. Agreements may be assigned by the developer upon written notification to the Public Works Director and subsequent written acknowledgement.
- E. Buy-ins for traffic signals and streetlights shall be collected by the Town only when a valid reimbursement agreement is in force. They shall be paid before the earliest to occur; final plat, or site development plan, is approved, a building or grading permit is issued for work on the property, or a change in zoning is granted by the Council.

#### **16. Disposition of unnecessary rights-of-way.**

The Town Council may dispose of unnecessary public right-of-way either by sale, vacation or exchange of such right-of-way in accordance with the requirements of State law and pursuant to the adoption of an ordinance authorizing the disposition. The Town Council may extinguish unneeded easements by resolution.

**16-1. Reservation of easements.** In the event there are existing utility lines, pipes; canals, ditches or appurtenances in any unneeded right-of-way being sold, vacated or exchanged, or if in the sole discretion of the Town it is probable that there will be a need for a public utility easement in such right-of-way, the Town shall reserve an easement or easements for such purposes and of such size as the Town may determine.

**16-2. Application for disposition of right-of-way.** An applicant for disposition of unnecessary right-of-way or for extinguishment of an easement shall submit an application in such form and with such information as may be required by administrative regulation and shall pay such fees as are established by resolution approved by the Town Council.

**16-3. Decision to dispose of roadway or easement.** The decision to dispose of an unnecessary right-of-way or to extinguish an unneeded public easement lies solely with the Town Council and shall be made upon receipt of staff's recommendation.

Revesting of title to roadway vacated by the Town shall be, to the extent permitted by law, subject to consideration from the owner of the abutting property to the Town deemed by the Town Council, in its sole discretion, to be commensurate with the value of the abandoned roadway, giving due consideration to its degree of fragmentation and marketability and any other public benefit received by the Town in return for the abandoned roadway.

## 17. Enforcement and severability.

**17-1. Cease and desist orders.** Whenever any work is being done contrary to the provisions of this Code, the Department may order the unauthorized work stopped by notice in writing served on any person engaged in the doing or causing such unauthorized work to be done, and any such person shall forthwith stop such unauthorized work.

**17-2. Penalty.** Any person violating any of the provisions of this article shall severely, for each and every such violation and noncompliance, be punished as provided in the Town Code and amended from time to time.

**17-3. Appeal procedure.** Any developer who has been aggrieved by a decision of the Public Works Director or the Public Works Department, pursuant to action taken in the enforcement of this chapter, to include benefit study standards, criteria, limits, cost assignments, etc., may appeal said decision for consideration by the Town Council. Appeals shall be presented in writing to the Public Works Director, who shall prepare a report and recommendation to the Council and notify the appellant in writing of the time and place of the Council hearing. The Council may modify these provisions in such a manner and to such extent as it may deem appropriate to the public interest. The decision of the Council shall be final and conclusive.

## 18. Public Improvement Repayments; Definitions.

The following words, terms and phrases, when used in sections 18 through 26 shall have the meanings set forth below, unless the context clearly indicates a different meaning:

- A. *Benefited party* means the person or entity creating a demand for or otherwise directly utilizing public improvements resulting in a special benefit for which the benefited party has not specifically contributed to the costs in providing such public improvements.
- B. *Costs* means the actual cost of:
  - 1. Right-of-way acquisition, excluding the value attributable to all rights-of-way that would otherwise be required to be dedicated by the developer or owner upon development of their property;
  - 2. Construction of the public improvements as determined by the construction contract price or by the actual costs, such construction to include, but shall not be limited to construction and installation of drainage facilities, water pipes and lines, sanitary, irrigation, effluent and storm sewer pipes and lines and all other appurtenances thereto, asphaltic and concrete paving, curb, gutter and sidewalks, street lights, traffic signals and public landscaping.
  - 3. Engineering and design fees required for preparation of plans and specifications;
- C. *Development agreement* means an agreement between one or more parties and the Town pursuant to § 9-500.05, Arizona Revised Statutes.
- D. *General public benefit* means that portion of the expense of the public improvement that is for general public benefit and does not specially benefit or increase the value of the property subject to reimbursement for public improvements.
- E. *Public improvements* means any rights-of-way, any street, drainage, water, waste water or sewer improvements or facilities; or any other public improvements, include those financed by bonds,

general funds, water utility funds or sewer utility funds and are completed and accepted by the Town.

- F. *Repayment* amount means the charge which must be paid to the Town and imposed upon the owner of property which has or will receive the benefit of public improvements benefiting or increasing the value of their property.
- G. *Right-of-way* means land, whether or not improved or accepted for maintenance, which by deed, conveyance, agreement, payment, dedication, usage or process of law is reserved for the public and occupied or intended to be occupied by a street, highway, alley, public utility, pedestrian walkway, bikeway, drainage, curb, gutter, driveway, railroad, electric transmission line, oil or gas pipeline, water lines and facilities, sanitary or storm sewer lines and facilities, effluent lines and facilities, or for another public use. The usage of the term "right-of-way" for land platting purposes means that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way, and are not included within the dimensions or areas of such lots or parcels.
- H. Special benefit means a benefit to or increase in value of a specific parcel of real property from a public improvement.

#### **19. Public Improvement Repayments; Policy.**

Sections 18 through 26 intend to provide for the extension of public improvements into or adjacent to undeveloped areas of the Town by encouraging the extension of such improvements and providing for the repayment of the costs of such improvements, other than those costs which are for general public benefit, by the owners of parcels which specifically benefit from such improvements and which are not subject to any other special assessments or special charges or fees for the benefit which they receive from the public improvement.

#### **20. Public Improvement Repayments; Construction of public improvements.**

- A. Prior to a permit being issued for construction of public improvements for which repayment is being requested, the following requirements shall be met:
1. A benefit study, paid for by the developer or property owner seeking repayment, shall be prepared and utilized as the basis for determining the obligation of the developer or property owner, the additional public improvements to be installed that may benefit other property beyond the obligation of the developer or property owner, and the level of repayment to be paid for the additional public improvements constructed.
  2. A diagram or map describing all property which will be benefited by any public improvements to be installed shall be provided to the Department.
  3. The field engineering, plans and specifications required for the public improvement may be prepared by the owner or the Town. If prepared by the owner, they must be approved by the Department or designee prior to construction. The engineering costs for preparation of plans and staking of the public improvements only, which are incurred by the owner or developer, may be included as determined by the Department, or designee in the agreed construction costs as provided in this section.
  4. For any public improvements which are constructed, the owner or developer shall furnish and install to Town specifications all facilities within the boundary of the designated area of the

development.

5. Detailed plans and specifications for public improvements which are extensions to existing public facilities must be approved by the Department prior to construction.
  6. The project shall be bid in accordance with the provisions pertaining to public works projects contained in Title 34, Arizona Revised Statutes or a public bidding process approved by the Public Works Director in writing, provided such bid process, at a minimum, requires: (1) a minimum of 3 sealed bids to be received on the project; (2) the sealed bids are open in the presence of the Public Works Director or Town Engineer; and (3) the level of reimbursement is based on the low qualified bid submitted, regardless of whether that bidder is selected by the developer. The bids shall be opened by the Town on a pre-determined date agreeable to the owner or developer and the Town. The Town and the owner or developer reserves the right to reject any or all bids. The construction costs shall be determined prior to the commencement of construction and shall be approved by the Town. In the event that the agreed upon construction costs increase, the repayment agreement may be amended upon approval of the additional construction costs by the Town.
  7. The Town will perform the inspection during construction and shall charge the owner or developer for the inspection of the public improvements. The costs of such inspections may be included in any repayment agreement.
  8. The ownership of all public improvements upon inspection and acceptance as meeting Town standards shall be vested in the Town.
- B. The property owners and any other persons directly interested in the work or in the repayment obligation may, prior to the time fixed for the hearing, file in the office of the Town Clerk a written objection, briefly specifying the grounds for objection.
- C. At the time of public hearing, the Town Council shall hear and pass upon any objections to the proposed repayment agreement; and its decision shall be final and conclusive. It may modify the extent of the proposed improvements or methodology for allocating the total costs of the proposed improvements, and proceed without the necessity for republishing and remailing new notices.

## **21. Public Improvement Repayments; Authorization of repayment agreements.**

- A. Upon development of any property within the Town limits for which a public improvements will be constructed, the developer or owner paying the cost of the public improvements may request the Town Manager or his designee on behalf of the Town to enter into a repayment agreement to collect a portion of the total costs of such public improvements from the developers and owners of parcels specially benefited by or directly utilizing the public improvements located within or outside the Town.
- B. Upon construction of public improvements, the cost of which were financed by bonds issued by the Town or a community facilities district, as applicable, the Town or community facilities district, as applicable, may impose upon and collect repayment amounts.
- C. The Town or District Manager is authorized to enter into repayment agreements under this chapter. Such agreements shall be recorded in the office of the Yavapai County Recorder.
- D. Any improvements constructed pursuant to section 13 of this Code shall not be subject to repayment

agreements under this chapter in addition to assessments collected pursuant to section 13.

- E. Those portions of public improvements constructed under this chapter which are general public benefit shall not be subject to repayment under the provision of this chapter.

**22. Public Improvement Repayments; Repayment agreements; terms; collections; and costs.**

- A. The repayment agreement shall designate the parcels and property that is required to pay the repayment amounts and shall include a diagram or map of the properties and respective amounts from which repayment amounts may be collected. If the repayment bonds of the Town or community facilities district, as applicable, have been issued to finance the construction of the public improvements and related facilities, the Town shall receive all repayment amounts and apply such amounts to the debt service funds of the applicable bond issue.
- B. The repayment agreement shall set forth the total of the repayment amount to be paid to the Town or community facilities district, which the Town or community facilities district may agree, in the repayment agreement, to repay such amount to the owner or developer who paid the costs of construction. The total of such repayment amounts shall not exceed that portion of the agreed construction costs of the public improvement allotted to the benefiting parcels or property. The repayment agreement shall terminate no later than ten (10) years after it is fully executed and approved or when the total amount provided for by this chapter is repaid, whichever is earlier.
- C. The approved actual construction costs as described in section 20 will be used for calculation of all repayment amounts. The repayment amounts shall not bear interest.
- D. Upon payment of the applicable repayment amount to the Town or community facilities district, the owner or developer of the benefited parcels or property shall have the right to connect into the public improvement in order to serve such property.
- E. The field engineering, plans and specifications required for a public improvement shall be prepared by the owner or developer and approved by the Town prior to construction. The engineering costs for preparation of plans and staking of the public improvements on the property which are incurred by the owner or developer may be included as determined by the Town in the agreed construction costs under Section 20. The Town will perform the inspections during construction.
- F. The Town shall have sole and exclusive control of connections to the public improvement. Connections to the public improvement may only be made upon issuance of a written permit from the Town. It shall be unlawful to make a connection to a public improvement without a permit. Such connections may be removed by the Town and the costs of removal assessed to the party making the connection.
- G. Prior to the issuance of a final plat approval, grading permit, building permit, or an encroachment permit to access Town right-of-way for the purpose of connecting to the public improvement, all repayment amounts due by the owner or developer of the benefited parcel or property shall be paid to the Town.
- H. An annual charge will be assessed by the Town for the administration of each repayment agreement. The annual charge shall be calculated based on actual cost incurred by the Town for the administration of the agreement, however the annual charge shall not be less than five hundred dollars (\$500.00) per year.

- I. Any owner or developer may assign the benefits arising out of any reimbursement agreement with the Town. Such assignments shall not relieve the owner from their duties and obligations under the agreement. The assignment shall require written approval of the Town.

**23. Public Improvement Repayments; Notice of Intention to Approve Public Improvements.**

- A. The benefit study shall contain a map establishing the boundaries of the area benefited by the improvements for which repayment is sought and shall indicate the amount of charges for the public improvements each parcel shall have to contribute to the cost of those improvements. The benefit study shall contain:
- (1) A description of the public improvements.
  - (2) A general description of the estimated total cost and a methodology allocating the total cost to the benefited parcels and property, such as cost per frontage foot, cost per acre, or cost per equivalent dwelling unit of the proposed public improvement.
  - (3) A description of the public improvement project area and a map and list of all owners of real property who will be receiving a special benefit from the construction of the public improvement.
  - (4) A determination of that portion of the public improvement which is for general public benefit, if any, and that portion which is for special benefit of the owner.
  - (5) A preliminary estimate of the portion of the public improvement which will be financed with bonds, if any, by the developer or owner and with repayments for the public improvements from owners or developers of benefited parcels or property.
- B. Those owners of real property within the area subject to repayment for public improvements shall receive notice in writing of the proposed charges for public improvements.

**24. Hearing procedure.**

- A. The Town Council, at a public hearing, shall review and approve the benefit study and repayment methodology upon which repayment obligations will be assessed against benefited parcels or property. Notice of the hearing shall be given to the property owners, and other affected persons, who would be subject to the repayment for the costs of improvements under the agreement, by regular mail no less than ten (10) days prior to the date of the hearing. An affidavit of mailing of such notice shall be filed in the office of the Town Clerk. The notice of hearing shall contain:
1. The name, address, and tax parcel number of each property owner.
  2. A description of the proposed improvements.
  3. The estimated cost of the repayment obligation for each affected parcel of property.
  4. The date, time and place that the Town Council shall consider the repayment agreement and possible adoption of a resolution of approval.

Notice shall also be published in a daily newspaper of general circulation in the Town in five (5) successive issues.

**25. Public Improvement Repayments; Reimbursement amounts payable to Town.**

- A. The repayment amount shall be based on the benefited parcel's share of the benefit received as compared to the total cost of the public improvement as provided in the benefit study approved under 20-24. The repayment amount shall be paid to the Town or community facilities district, if applicable, prior to the issuance of either a final plat approval, grading permit, a building permit, or the issuance of an encroachment permit to access Town right-of-way for the purpose of connecting to the public improvement.
- B. It shall be unlawful for any person to extend service from a public improvement to their property for which a repayment amount has been imposed, without first paying the repayment amount and obtaining a permit issued by the Town.
- C. The repayment obligation under this section shall terminate in ten (10) years or when the total amount provided for by this chapter is repaid, whichever is sooner.
- D. The Town or community facilities district, if applicable, shall collect repayment amounts for any public improvements financed by bonds, water utility funds, sewer utility funds, or development fee funds, which were specifically designated as subject to reimbursement from public improvement repayments. Any owner who has paid all or part of the debt service upon any bonds, the proceeds of which were used to finance public improvements shall have no claim to the repayment amounts repaid to the Town or community facilities district, if applicable, under this chapter.
- E. Those portions of public improvements constructed under this chapter which are for general public benefit shall not be subject to repayment under the provisions of this chapter.

**26. Public Improvement Repayments; Assessment districts, improvement districts; general obligation bond projects; cost apportionment.**

- A. Upon collection of repayment amounts pursuant to any public improvement ordered under section 24, which is located in a Town or community facilities district, assessment district, and financed by assessments, such funds shall be deposited with the Town or District, as applicable, Finance Director. The funds shall be applied against the outstanding indebtedness for which bonds were issued.
- B. Repayments for public improvements pursuant to section 24 may be used in combination with a general obligation bond issue. All amounts collected from such repayments may be deposited in the general obligation bond fund from which the public improvement project is financed.

State Law Reference A.R.S. § 48-571.

State Law Reference A.R.S. § 34-201.2.