CHAPTER 10 HEALTH AND SANITATION

ARTICLE 10-1 PURPOSE, SCOPE AND ENFORCEMENT

10-1-1 Purpose
10-1-2 Jurisdiction

Section 10-1-1 Purpose

A. The purpose of this Chapter 10: Health and Sanitation and the regulations contained herein is to promote the health, safety and welfare of the Town of Queen Creek and its residents, and to protect neighborhoods against physical, visual and economic deterioration. To that end, it is a violation of this chapter to erect, maintain, use, place, deposit, cause, allow, leave or permit to remain on any property any conditions that:

1. Contribute to or cause injury or endangerment to the health, safety or welfare of others;
2. Are contrary to community standards of decency;
3. Are offensive to the senses of any reasonable person or normal sensitiveness;
4. Unlawfully interfere with, obstruct or tend to obstruct or render dangerous the free passage or use, in the customary manner, of any stream, public park, parkway, square, sidewalk, trail, path, street or highway in the Town;
5. Obstruct the free use of property so as to essentially interfere with the comfortable enjoyment of life and property by the public;
6. Damage or contribute to the deterioration of property or improvements in the community; or
7. Are nuisances as defined in this chapter, including but not limited to, Article 10-2 Nuisance Procedures and Removal of Rubbish, Trash, Weeds, Filth, Debris and Dilapidated Structures and/or Article 10-3 Litter; Nuisances;

Or that otherwise violate the provisions of this chapter.

B. Except as otherwise specifically provided, this chapter shall apply to all land within the Town of Queen Creek without regard to the use or occupancy or date of construction, improvement, acquisition or annexation.

Section 10-1-2 Jurisdiction

A. Unless otherwise specified, the Queen Creek Municipal Court, a Justice Court or other court of competent jurisdiction (hereinafter “court”) shall have jurisdiction of all proceedings to enforce this chapter.

B. Civil actions to enforce this chapter may be adjudicated by a judge or a Civil Hearing Officer.

C. The court shall have jurisdiction to issue orders permitting the town to abate conditions that constitute a violation of the provisions of this chapter. The court may retain jurisdiction over any matter to abate conditions that constitute a violation of this chapter until the violation is abated in full.

ARTICLE 10-2 NUISANCE PROCEDURES AND REMOVAL OF RUBBISH, TRASH, WEEDS, FILTH, DEBRIS AND DILAPIDATED STRUCTURES

10-2-1 Reserved
10-2-2 Authority to Enforce Nuisance Standards
10-2-3 Rules and Regulations
10-2-4 Recording a Notice of Violation
10-2-5 Inspections
10-2-6 Nuisance Enforcement Procedure
10-2-7 Denial, Suspension or Revocation of Business License
10-2-8 Withholding of Permits
10-2-9 Court-Ordered Nuisance Abatement and Injunction
10-2-10 Rubbish, Trash, Weeds, Filth, Debris and Dilapidated Structures on Property
10-2-11 Owner to Maintain Premises

Section 10-2-2 Authority to Enforce Nuisance Standards

A. The Town Manager or designee shall enforce the provisions of this article. The Town code enforcement officer, in coordination and cooperation with such other town officials as have been designated by the Town Manager or by code or regulation adopted by the Town, is hereby authorized and directed to enforce all provisions of this article.

B. In enforcing this article, the code enforcement officer, or other designated town official, may take one(1) or more of the following actions:

1. Informal intervention with the responsible party.
2. Where the violation is on public property, such as noncompliant posting of signs in a public right-of-way, take summary action to remove the violation and, may, serve notice of the action or written warning, issue a citation and/or prepare and serve a long-form complaint on the responsible party.
3. Issue a notice of violation to the responsible party in accordance with the procedures set forth in this article.
4. Issue a criminal or civil citation to the responsible party in accordance with the procedures set forth in this article.
5. File a long-form complaint for criminal or civil penalties with the Court in accordance with the procedures set forth in this article.
6. In the case of an imminent hazard or a building or structure which is unfit for human habitation, with the concurrence and approval of the Town Manager, or as otherwise specifically provided by law, take emergency remedial action or issue an order to vacate the property in accordance with the procedures set forth in the Queen Creek Town Code and/or applicable Building Codes.

C. No person shall, by threat or use of violence or physical force, or by threatening to do or doing any other act that can be reasonably anticipated to cause physical harm to any person including the perpetrator, intentionally obstruct, impede, or interfere with any officer, employee, contractor or authorized representative of the Town who is lawfully and constitutionally engaged in the enforcement or execution of the provisions of this article.

D. The code enforcement officer, or other designated town officer, may expand the scope of any inspection to include other Town Code violations noted during inspection.

E. All inspections shall be conducted in compliance with the Constitutions of the United States and the State of Arizona.

F. The authority of the code enforcement officer to enforce the provisions of this article is independent of and complementary to the authority of other town officials to enforce the provisions of any other statute, code or regulation. The remedies provided for in this article are cumulative and in addition to any other remedies established by law, and this chapter shall not be interpreted as limiting the penalties, actions or abatement procedures which may be taken by the Town or other officials under other laws, ordinances, or rules.

Section 10-2-3 Rules and Regulations

The Town Manager, or designee, is authorized to make reasonable and necessary administrative rules and regulations to carry out the provisions of this article.

Section 10-2-4 Recording a Notice of Violation

The town may record a Notice of Violation with the Office of the County Recorder. A recorded Notice of Violation shall run with the land and shall constitute notice, for all purposes of this article, to all persons or entities thereafter acquiring an interest in the property. Failure to record a Notice of Violation shall not affect the validity of the Notice as to persons who receive the Notice. When the property is brought into compliance, if a notice of violation was recorded, a satisfaction of notice of violation shall be recorded.

Section 10-2-5 Inspections

A. The code enforcement officer or other town official as designated by the Town Manager, or by code or regulation adopted by the town, is hereby authorized to make inspections for violations of this article in the normal course of the job duties or in response to a citizen complaint when there is reason to believe that a violation of this article has been or is being committed and where necessary to certify compliance with an enforcement action.

B. In order to investigate possible violations or to determine compliance with this article, private property may only be entered with the consent of the owner or occupant. If consent is denied or cannot be obtained, private property may be entered with an administrative warrant/order issued by a court.

Section 10-2-6 Nuisance Enforcement Procedure

A. Nuisance Enforcement –In General

As more fully described in this article and hereafter, and after appropriate or necessary investigation, documentation and inspection, the code enforcement officer, or other designated town official, may take one (1) or more of the following actions:

1. Informal mediation or intervention with the responsible party

2. Summary action to remove the violation, accompanied by appropriate notice, warning or enforcement action.

3. Issue a notice of violation.

4. Issue a criminal or civil citation.

5. File a long-form complaint for criminal or civil penalties.

6. Take action for abatement or vacation of premises.

B. Informal Mediation or Intervention and Summary Action

1. Informal mediation or intervention. Whenever in the judgment of the code enforcement officer, or other designated official, action short of formal citation or notice of violation is likely to achieve satisfactory and timely compliance, informal intervention, including written and verbal communication, may be used. The Town Manager and code enforcement officer shall promulgate criteria for informal intervention and procedures for documentation and recordkeeping.

2. Summary action. Where obvious and elemental violations occur and entry onto private property is not necessary for enforcement, e.g., in the case of illegal posting of advertising in public rights-of-way, the code enforcement officer, or other designated official, may remove or summarily abate the violation. In such cases, evidence of the violation shall be forwarded to the code enforcement officer, or other appropriate official for identification of the responsible party and additional enforcement.

C. Notice of Violation

1. Upon reasonable belief that a violation of this article has occurred, the code enforcement officer, or other designated official, shall notify the owner, owner's agent, or responsible party, through the issuance of a written notice, that a violation of this article has occurred and must be corrected and/or removed from the property.

2. The notice of violation shall set forth the following information:

a. Identification of property in violation. If the notice includes an abatement action, it shall include a legal description of the property and street address, if known, and if unknown, then by book, map and parcel number;

b. Statement of violation in sufficient detail to allow an owner or responsible party to identify and correct the problem along with legal citation(s) of applicable code, statutory or regulatory provision(s);

c. The period of time, not less than thirty (30) days from the mailing of the notice, the responsible party is given to comply;

d. Name, business address and business phone number of the code enforcement officer and/or other town official who issued the notice;

e. Proposed reinspection date, if any;

f. If the notice includes an abatement action, a cost estimate to correct the violations and legal description of the property;

g. A warning statement that if the violations are not corrected within the period stated, the town may abate the nuisance itself or by private contractor, assess the owner or responsible party for the cost of such abatement including an administrative charge of ten (10%) percent, and record a lien on the property for assessment; and

h. Notice of the right and procedure for appealing the action.

3. Any notice given for any purpose under this chapter shall be provided, in writing, to the owner, the owner's authorized or statutory agent, any lien holder, and to the occupant or lessee of the property. The notice given for any purpose under this article shall be deemed effective on the date when written notice is personally served in the same manner as provided by the Arizona Rules of Civil Procedure or mailed certified mail return receipt requested. If notice is served by certified mail, the notice shall be mailed to the last known address of the owner, the owner's authorized agent or the owner's statutory agent and to the address to which the tax bill for the property was last mailed. The notice shall be given not less than thirty (30) days before the day set for compliance and shall include the legal description of the property and the cost of such removal to the town if the owner, occupant or lessee does not comply. The owner shall be given not less than thirty (30) days to comply. Nothing herein shall preclude the town from giving additional verbal or written notice at its discretion and the Town Manager and code enforcement officer may promulgate criteria for informal intervention and procedures for documentation and recordkeeping.

4. Nothing in this section shall require the issuance of a notice of violation prior to commencement of other enforcement proceedings, including civil or criminal proceedings.

5. Thirty (30) calendar days after service of the notice as provided herein, the owner or responsible party shall be jointly and severally liable for any and all reasonable charges incurred by reason of the Fire Department being required to respond to the property not abated as required by the notice. When incurred, such charges shall be treated in the same manner and be subject to the same rights of appeal as charges incurred in bringing the property into compliance.

6. Nothing in this section shall be construed as to limit the code enforcement officer or other Town official from engaging in the informal mediation, intervention, or summary action set forth in Section 10-2-6(B).

D. Nuisance Abatement.

1. Civil Hearing Officer Authorized. When a person is served with a notice to abate in accordance with A.R.S. § 9-499 to comply with the provisions of this article concerning matters within the scope of A.R.S. § 9-499 and neglects, fails or refuses to abate a violation for more than thirty (30) days from the effective date of the notice, a Civil Hearing Officer may hold an administrative hearing pursuant to the notice regarding whether an order should be entered authorizing the Town Manager or designee to abate any condition that constitutes a violation. The Civil Hearing Officer, after the hearing (or time for hearing should the person fail to appear) shall enter such rulings and orders which it determines to be appropriate including an order authorizing the town to abate the condition, including the authorization of multiple abatements for a period not to exceed one hundred eighty (180) days from the previous abatement order. Decisions by the hearing officer shall be based upon a preponderance of the evidence. The hearing officer shall issue findings in writing, upholding, modifying or reversing the notice.

2. Order of Abatement. A copy of the order of abatement shall be posted upon the subject property. The order shall be sent by certified mail to the owner, lien holder, occupant or lessee at their last known address or most recent address to which a tax bill was mailed. If the owner does not reside on the property, a duplicate order shall also be sent to the owner at the owner's last known address.

3. Notice Appeal. Any person aggrieved by a decision of the Civil Hearing Officer regarding the notice may appeal to the Town of Queen Creek Board of Adjustment. The aggrieved person(s) may appeal by delivering a written statement of appeal to the Town Clerk within ten (10) business days, excluding weekends and legal holidays, after service of the notice and order to abate is complete. The town shall take no action to abate a nuisance while an appeal is pending. The appeal shall be heard and a determination made by the Board of Adjustment at its next regular meeting or within five (5) days, whichever time is greater. The Board may affirm, vacate, or modify the notice and order to abate. The decision of the Board is final and binding. If the notice and order to abate is affirmed and the Board does not modify the time for compliance, the time for compliance as set forth in the original notice shall run from the time service of the notice was first completed. If no timely statement of appeal is made, then the notice and order to abate becomes effective when the time for appeal lapses. The town is authorized to record the notice and order to abate with the appropriate County Recorder's Office and proceed with abatement. This appeal process does not apply if the removal or abatement is ordered by a court.

4. Abatement by the Town and Final Notice. When the time for compliance as set forth in the notice and order to abate, or as set by the Town Board of Adjustment on appeal, has lapsed, the town may abate the nuisance or cause it to be abated. A final notice giving the responsible party five (5) days to abate the nuisance shall be delivered in the same manner as set forth in this section. If the responsible party has not complied within five (5) days, the town may proceed with abatement. After five (5) days have elapsed from the date of issuance of the Order of Abatement, the town, its employees or contractors are authorized to enter upon the property and remove all rubbish, trash, weeds, filth, debris, blight or dilapidated structures or other violations under this chapter from any lot, parcel or tract.

5. Order of Assessment.

   a. Within thirty (30) days after the town, its employees or contractors have removed, enjoined or abated the rubbish, trash, weeds, filth, accumulations, debris, blight or dilapidated structures or other violations under this chapter from any lot, parcel or tract, the town shall issue a written order of assessment on the property. The order shall list the date, common address, legal description of the property, tax parcel number of the property and that the Town of Queen Creek is the authority issuing the assessment. The order shall also list the date and actual cost of assessment, an inspection fee levied by the Town at $300.00, any incidental connected costs, and the total cost of assessment, including the cost of removal, abatement or injunction and associated legal costs for abatement or injunctions. The order shall be signed by the Town Manager or her/his designee and shall be recorded in the office of the County Recorder in which the property is located.

   b. The order of assessment shall also contain the following notice in bold face print: NOTICE: THIS ORDER OF ASSESSMENT PURSUANT TO A.R.S.§ 9-499 SHALL CONSTITUTE A LIEN UPON THE PROPERTY DESCRIBED IN THIS ORDER IN FAVOR OF THE TOWN OF QUEEN CREEK, ARIZONA. THE TOWN MAY TAKE LEGAL ACTION TO FORECLOSE THE LIEN AND SELL THE PROPERTY DESCRIBED TO RECOVER THE COSTS INDICATED IN THE ORDER OF ASSESSMENT.

c. Assessment Appeal. The order of assessment shall indicate that the owner, lessee or occupant shall have ten (10) business days, excluding weekends and legal holidays, from the date of issuance to appeal the amount of the assessment levied by the town by delivering a written statement of appeal to the Town Clerk. The date of mailing the order shall be the date of issuance. All appeals of order of assessments shall be in writing and shall specify the grounds for appeal of the assessment. Only the amount of the assessment may be appealed. The appeal may be filed with the appeal fee provided in the Town Code, and failure to pay the required fee shall result in the appeal not being filed and deemed invalid. This appeal process does not apply if the removal or abatement is ordered by a court.

d. The Civil Hearing Officer shall hear the appeal within fifteen (15) days after receipt. Written notice of the hearing shall be provided to the appropriate town departments and to the owner, occupant or lessee. The Civil Hearing Officer, after the hearing (or time for hearing should the person fail to appear) shall enter such rulings and orders, which it determines to be appropriate upholding or modifying the amount of the assessment. The hearing officer's decision shall determine, based upon a preponderance of the evidence, whether the assessment was made in accordance with the provisions of this ordinance and whether the amount assessed actually covers the costs incurred by the town.

e. The owner, lessee or occupant may appeal a decision of the Civil Hearing Officer to the Town of Queen Creek Town Council pursuant to the same process of appeal for a notice and order to abate as set forth in this section above. The decision of the council, if a valid appeal is filed, is final and binding.

f. The order of assessment shall provide that any delinquent assessments shall bear interest in the same manner as delinquent utility bills at a rate prescribed by A.R.S. § 44-1201, as amended from time to time.

g. A prior assessment under this chapter is not a bar to subsequent assessments under this chapter and any number of liens imposed pursuant to this chapter may be enforced in the same action.

h. If no appeal is taken from the amount of the assessment, or if an appeal is taken and the assessment is affirmed, the original assessment or the assessment as so modified shall be recorded in the office of the county recorder and, from the date of its recording, shall be a lien on said lot or tract of land until paid. Such liens shall be prior and superior to all other liens, obligations, mortgages or other encumbrances, except liens for general taxes. A sale of the property to satisfy a lien obtained under the provisions of this chapter shall be made upon judgment of foreclosure or order of sale. The town shall have the right to bring an action to enforce the lien in the Superior Court at any time after the recording of the assessment, but failure to enforce the lien by such action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein and of the regularity of all proceedings prior to the recording thereof. A prior assessment for the purposes provided in this chapter shall not be a bar to a subsequent assessment or assessments for such purposes, and any number of liens on the same lot or tract of land may be enforced in the same action.

i. Assessments that are imposed as set forth herein run against the property until paid and are due and payable in equal annual installments as follows:

a) Assessments of less than five hundred dollars shall be paid within one year after the assessment is recorded.

b) Assessments of five hundred dollars or more but less than one thousand dollars shall be paid within two years after the assessment is recorded.

c) Assessments of one thousand dollars or more but less than five thousand dollars shall be paid within three years after the assessment is recorded.

d) Assessments of five thousand dollars or more but less than ten thousand dollar shall be paid within six years after the assessment is recorded.

e) Assessments of ten thousand dollars or more shall be paid within ten years after the assessment is recorded

E. Nuisance; abatements; assessments; lien enforcement. The Finance Division shall maintain a list of all delinquent assessments made pursuant to this ordinance.

1. All assessments sixty (60) days delinquent shall be forwarded to the Town Manager and Town Attorney for review. If the Town Manager and Town Attorney determine that the value of the assessment(s), surcharges and interest, together with the value of all other liens having priority over the assessment, does not exceed the value of the property, the Town Attorney may commence legal action to foreclose the lien and request the Superior Court to order the property sold and the proceeds used to pay off all liens having priority, the assessment, surcharges and interest.

2. If the Town Manager and Town Attorney determine that the value of the assessment, surcharge and interest, together with the value of all other liens having priority over the assessment, exceeds the value of the property, the Town Attorney need not commence legal action to foreclose the lien. The Town Manager may negotiate on the Town's behalf with parties holding liens on the property. Any agreement waiving part or all of an assessment, surcharge and interest shall be approved by the Town Council.

3. Upon payment in full of an assessment, surcharge and interest or upon waiving of an assessment, surcharge and interest in full by the Town Council, the town shall record a notice of satisfaction of assessment in the Office of the County Recorder in which the property is located. The notice shall contain the name of the owner of the property, the tax parcel number of the property, the common street address, and the legal description of the property. The notice shall refer to the date of the order of assessment and the docket and page number in the Office of the County Recorder where such order is recorded.

F. Collection of assessments. The Town Manager shall be authorized to collect assessments imposed pursuant to this chapter in the same manner and method as delinquent utility bills and license taxes. No utility service shall be commenced on any property having delinquent assessments, surcharges and interest from an assessment levied pursuant to this chapter until the assessment, surcharges and interest have been paid in full. No business license or sales tax license shall be issued for a business on any property having delinquent assessments, surcharges and interest from an

assessment levied pursuant to this chapter until the assessment, surcharges and interest have been paid in full.

G. Public services revolving account. The public services revolving account within the town's general fund is established, consisting of monies collected from payments on assessments levied under this chapter, surcharges on fines, and such other funds as the town council may appropriate. The finance director shall administer the account. All expenditures from the account shall comply with provisions of this code and any administrative regulations and policies governing expenditures of the town. The public services revolving account may be used to advance the costs for the removal of rubbish, trash, weeds, filth, accumulations, debris, blight or dilapidated structures, or other violations of this chapter, from any lot, parcel or tract pursuant to this chapter.

H. Nuisance; transfer of property after notice. The transfer of any and all property interest in any manner including but not limited to sale, trade, lease, gift or assignment of any real property against which a notice of violation has been issued shall not relieve the party(s) served unless the legal entity assuming an ownership interest in the property, in writing assumes responsibility for compliance with the notice of violation and a copy of such writing is provided to the town. If a violation of this chapter exists on the property at the time legal ownership has been transferred and the entity assuming an ownership interest in the property is provided with notice of the violation, such entity shall also be liable for violation as a successor owner of the property.

Section 10-2-7 Denial, Suspension or Revocation of Business License

A business license application shall be denied where it is determined that a nuisance exists on the property for which the application is made and the applicant fails to abate the nuisance within five (5) days after verbal or written notice thereof.

The Town Manager is authorized to suspend or revoke any business license issued pursuant to the Queen Creek Town Code if it is determined that the licensee causes, permits or maintains or allows the creation or maintenance of a nuisance under this chapter upon the licensed property. Suspension or revocation of the business license shall be in addition to any other remedy available to the town.

Section 10-2-8 Withholding of Permits

From the date a notice and order to abate expires without compliance by the responsible party until the nuisance is abated or the city's costs of abatement are reimbursed (whichever occurs later), the Town may withhold or suspend any permit or approval of any alteration, repair, or construction of any existing or new structure or sign on the property, as well as any permit or approval pertaining to the use or development of the property; provided, however, that no permit or approval necessary to correct the nuisance conditions shall be withheld.

Section 10-2-9 Court-Ordered Nuisance Abatement and Injunction

A. In addition to any other abatement procedure provided in this chapter, the Town Manager or designee, Town Attorney or Town Prosecutor, in the name of the Town of Queen Creek, may apply to the court for an order permitting the Town to abate any condition that constitutes a violation of this chapter. The Town may also seek injunctive relief.

B. After notice to the owner and any responsible party, the judge or court hearing officer shall conduct a hearing. The hearing shall be informal, open to the public, and the Rules

of Evidence shall not apply. Evidence may be taken from any interested party and considered in determining whether a condition in violation of this chapter exists and what, if any, abatement action should be permitted. Any person who fails to appear after notice of the hearing may be deemed to have waived any right to introduce evidence. The court shall order the requested relief if it finds by a preponderance of the evidence that a violation exists and that abatement is appropriate.

C. Upon finding that abatement and/or injunctive relief is appropriate, the court may order demolition, board-up, clean-up or any other action the court deems reasonably necessary to correct or enjoin the violation.

D. The reasonable costs of any abatement, including reasonable attorneys' fees and associated legal costs, permitted by the court's order shall be the responsibility of the owner and responsible party and may be collected by the Town.

Section 10-2-10 Rubbish, Trash, Weeds, Filth, Debris and Dilapidated Structures on Property

It is unlawful for any person to throw, deposit, maintain or allow to be maintained, any rubbish, trash, weeds, filth, debris or dilapidated structures on any occupied or unoccupied private or public property within the town, whether owned by such person or not. Notwithstanding the foregoing, the owner or person in control of private property may maintain authorized private receptacles for rubbish, trash, weeds, filth, and debris in such a manner that rubbish, trash, weeds, filth, and debris will be prevented from being carried or deposited by the elements upon any public place. In addition to any criminal penalty which may be imposed for violation of any provisions of this article, such person shall be liable for all costs which may be assessed pursuant to this article for the removal of said rubbish, trash, weeds, filth, debris and dilapidated structures.

A. Any person who violates this section on private property shall be guilty of a civil offense as defined in Section 10-11-2 unless that person immediately removes the rubbish, trash, filth, or debris from the property.

B. Any person who violates this Section on public property shall be guilty of a class 1 misdemeanor unless that person immediately removes the rubbish, trash, filth, or debris from the property.

Section 10-2-11 Owner to Maintain Premises

The owner or person in control of any private property shall at all times maintain the premises free of rubbish, trash, weeds, filth, debris and dilapidated structures; provided that this section shall not prohibit the storage of rubbish, trash, weeds, filth and debris in suitable containers.

Section 10-2-12 Abatement of Public Nuisances

Any public nuisance committed under this article may be abated in any manner provided by law including the method set forth in this Article 10-2.

ARTICLE 10-3 LITTER; NUISANCES

10-3-1 Definitions
10-3-2 Public Nuisances Defined
10-3-3 Litter in Public Places; Construction Debris

10-3-4 Depositing Litter in Gutters
10-3-5 Litter Thrown from Vehicles
10-3-6 Littering from Trucks
10-3-7 Littering in Parks
10-3-8 Deposit of Commercial Handbills on Public Property
10-3-9 Handbills: Commercial and Non-Commercial
10-3-10 Dropping Litter from Aircraft
10-3-11 Deposit of Litter on Occupied Private Property
10-3-12 Maintenance of Litter-Free Premises
10-3-13 Vacant Lots
10-3-14 Business Establishments - Receptacles
10-3-15 Unsightly Premises
10-3-16 Abatement of Nuisances
10-3-17 Penalties

Section 10-3-1 Definitions

In this Chapter, unless expressly noted or the context otherwise requires:

A. "Aircraft" means any contrivance now known or hereafter invented, used or designed for navigation or for flight in the air, and includes, but is not limited to, helicopters and lighter-than-air dirigibles and balloons.

B. "Abandoned Structure" means a vacant structure, characterized by blight, the ownership responsibilities of which have been surrendered or relinquished, whether intentionally or by failure to occupy and maintain such property.

C. "Animal" means any and all types of animals, domestic and wild, male and female, singular and plural.

D. "Authorized private receptacle" means a litter storage and collection receptacle as required and authorized in this article.

E. "Blight or Blighted" means unsightly conditions including accumulation of debris; fences characterized by holes, breaks, rot, crumbling, cracking, peeling or rusting; landscaping that is dead, characterized by uncontrolled growth, lack of maintenance or damage; buildings, structures, whether main or accessory characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay, neglect, excessive use or lack of maintenance; other similar conditions of disrepair and deterioration regardless of the condition of other properties in the neighborhood.

F. "Building" means any structure designed for occupancy including mobile homes, manufactured homes, factory-built buildings, and like property for which taxes may be assessed.

G. "Commercial handbill" means any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper, booklet or any other printed, or otherwise reproduced original or copies of any matter or literature:

1. Which is not defined as in this chapter as either a newspaper or a non-commercial handbill; and

2. Which advertises for sale any merchandise, product, commodity or thing; or

3. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interests thereof by sales; or

4. Which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind, for which an admission fee is charged for the purpose of private gain or profit. The terms of this paragraph shall not apply when an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition or event of any kind, when in either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order. Nothing contained in this paragraph shall be derived to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition or event of any kind without a license, where such license is or may be required by any law of this state, or under any ordinance of this town; or

5. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

H. “Debris” means junk, abandoned broken or neglected lumber, furniture, furniture parts, stoves, sinks, cabinets, household fixtures, refrigerators, vehicles, car parts, equipment or the remains of something of little or no apparent economic value.

I. “Deteriorated or deterioration” means a lowering in quality of the condition or appearance of a building, structure or premises, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay, neglect, damage or lack of maintenance.

J. “Dilapidated structure” means any unsightly and dangerous structure as defined by the Uniform Code for the Abatement of Dangerous Buildings, 1994 edition Section 302 or any unsafe building or structure defined by the Uniform Building Code, 1994 edition, Section 102, or any old, abandoned or partially destroyed structure, or any structure commenced and abandoned.

K. “Filth” means any accumulation of garbage, junk or litter, or any condition which constitutes a breeding place for flies, rodents, mosquitoes and other insects or animals which are capable of carrying and transmitting disease-causing organisms to any person or persons, any spoiled or contaminated food or drink intended for human consumption, or all sewage, human or animal excreta, wastewater, garbage or other organic wastes deposited, stored, discharged or exposed so as to be a potential instrument or medium in the transmission of disease to or between any person or persons.

L. “Fowl” means any and all fowl, domesticated and wild, male and female, singular and plural.

M. “Garbage” means the accumulation of spoiled or discarded animal or vegetable material resulting from the handling, preparation, cooking or consumption of food for humans or animals as well as other organic waste material subject to rapid decomposition.

N. **“**Graffiti” means initials, slogans, designs or drawings, written, spray-painted, etched, sketched or otherwise applied on a sidewalk, wall, building, fence, sign, or any other structure or surface without consent of the owner and visible from a public right-of-way.

O. “Grass” includes, but is not limited to, Barnyard grass, Bermuda grass, Bluegrass, Brome grasses, Crab grass, Foxtail, Johnson grass, Ragweed, Rye grass, wild oats, or hybrids thereof.

P. “Handbill” means any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copy of

any matter or literature which advertises for sale any business, product, commodity or thing; directs attention to any business or establishment for the purpose of either directly or indirectly promoting the interest thereof; or which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind.

Q. "Hazard" means any condition that presents a risk to the safety of any person or adversely affects or jeopardizes the health or well-being of any person or endangers property. Such conditions include, but are not limited to, occupancy without adequate water or sanitation facilities, accumulation of human or animal waste, presence of medical or biological waste, sharps, gaseous or combustible materials, radioactive waste, dangerous or corrosive chemicals or liquids, flammable or explosive materials, friable asbestos, offal or decay matter.

R. "Hazardous wastes" means any chemical, compound, mixture, substance or article which is identified or listed by the United States Environmental Protection Agency or appropriate agency of the State to be "hazardous waste" as defined in 40 Code of Federal Regulations Section 261.1 through 261.33, as and if amended, except that, for purposes of this ordinance hazardous waste shall include household waste as defined in 40 Code of Federal Regulations Section 261.4B.1.

S. "Junk" means items that in their present state are of little or no apparent economic value, that are not confined within an industrial area in compliance with the zoning ordinance, including, but not limited to an accumulation of the following materials: discarded or scrapped furniture; glass, metal, paper or machinery parts; inoperative machinery or appliances; building material wastes; litter or discarded or empty containers. Junk also includes all types of solid waste described in the Town of Queen Creek Town Code.

T. "Land" means all real property in the Town of Queen Creek, whether improved or unimproved.

U. "Litter" means any filth, debris and weeds which constitute a hazard to public health and safety and shall include, without limitation, any deposit, accumulation, pile or heap of brush, grass, debris, weeds, cans, cloth, paper, wood, rubbish, ashes, street cleanings or other unsightly and unsanitary matter of any kind whatsoever, any other matter defined as "refuse" in this chapter, and any growth of weeds higher than six inches.

V. "Major repair" means the removal from any vehicle of a major portion thereof, including, but not limited to, the differential, transmission, head, engine block or oil pan.

W. "Newspaper" means a publication regularly issued for dissemination of current news, matters of general interest and local happenings at stated short intervals of time whether such publication is distributed by paid subscription or for free. Such publication shall be from a known office of publication and shall bear the dates of issue and shall be numbered consecutively.

X. "Non-commercial handbill" means any printed or written matter, any sample or device, circular, leaflet, pamphlet, magazine paper booklet, or any other printed or otherwise reproduced original or copies of any matter or literature not included in the definitions of a commercial handbill or a newspaper.

Y. "Owner" means a person, persons or legal entity listed as current title holder as recorded in the official records of the County Recorder's Office.

Z. "Owner's agent" means a statutory agent designated pursuant to A.R.S.§ 33-1902 as and if amended.

AA. "Park" means a park, reservation, playground, recreation center or any other public area in the town owned or used by the town and devoted to public recreation.

BB. “Person” means a human being, enterprise, corporation, association, partnership, firm or society.

CC. “Pond” means an in-ground body of water that is at least eighteen inches deep and eight feet or greater in any dimension. This does not apply to Town-approved retention basins as a whole except for portions of retention basins creating, contributing to or causing injury or endangerment to the health, safety or welfare of the community.

DD. “Private property” or “private premises” means any dwelling, house, building or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes but is not limited to any yard, grounds, walk, driveway, porch, steps, vestibule or mail box belonging or appurtenant to such dwelling, house, building or other structure.

EE. “Property” means and includes buildings, grounds, lots and tracts of land.

FF. “Property used for agricultural purposes” means property of not less than ten contiguous acres which:

1. The primary use of the property is as agricultural land and the property has been in active production in conformance with generally accepted agricultural practices for at least two of the five prior years; and

2. There is a reasonable expectation of operating profit, exclusive of land cost, from the agricultural use of the property.

GG. “Public place” means any and all streets, sidewalks, boulevards, alleys, rights-of-ways or other public ways and any and all public parks, squares, spaces, grounds and buildings.

HH. “Refuse” means all putrescible and non-putrescible solid wastes, except body wastes, including garbage, rubbish, ashes, dead animals, abandoned, wrecked or junked vehicles or parts thereof and solid market and industrial wastes.

II. “Responsible Party” means any owner, occupant, lessor, lessee, manager, licensee, or other person having control over a structure or parcel of land; and in the case where the demolition of a structure is proposed as a means of abatement, any lienholder whose lien interest is recorded in the official records of the County Recorder’s Office.

JJ. “Rubbish” means non-putrescible solid wastes consisting of combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, metal cans, yard clippings, leaves, metal, wood, glass, bedding, crockery and similar materials.

KK. “Streets or road” means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel, and includes the whole right-of-way of the public entity maintaining said way, whether such right-of-way is paved or not.

LL. “Structure” means that which is built or constructed, an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner and includes buildings, improvements and other structures that are constructed or placed on land.

MM. “Trash” means any accumulation of refuse, rubbish, litter or garbage.

NN. “Unsecured structure” means any structure that is vacant with a damaged or open door, window, or other opening not secured in accordance with Town standards to prevent unauthorized entry.

OO. “Vacant structure” means any unoccupied or an illegally occupied structure or any occupied structure without adequate facilities/utilities which is empty or remains empty and is not continuously maintained for twenty-one (21) consecutive days or longer by

occupants having custody or legal right of entry to said property; or any structure which exhibits dilapidated walls, windows, roof or doors which will fail to prevent the entry of a trespasser.

PP. "Vehicle" means every device in, upon or by which, any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks, except for a device propelled solely by human power.

QQ. "Weeds" means a useless and troublesome plant generally accepted as having no value and frequently of uncontrolled growth. Any vegetation which is, or is likely to be, detrimental, destructive or unsightly and difficult to control or eradicate, including but not limited to bull thistle, cocklebur, foxtail, horseweed, lambsquarters, london rocket, mallow, milkweed, pigweed, mustards, prickly lettuce, ragweed, Russian thistle, shepardspurse, sow thistle, white horse nettle, willow weed and those types of plant growth defined as noxious weeds by A.R.S.§ 3-201 regardless of whether a particular property owner or occupant who is the subject of enforcement action under this Chapter regards the growth as desirable.

Section 10-3-2 Public Nuisances Defined

In combination with Article 10-2, acts, omissions, conditions and things in or upon any land, property, private lot, building, structure or premises, or in or upon any public right-of-way, wash, street, avenue, alley, park, parkway or other public or private place in the town which are injurious to the public health, safety and general welfare, which interfere with the comfortable enjoyment of life or property by any person, or which unlawfully obstruct the free passage or use of any public park, wash, square, alley, sidewalk, street or highway are hereby declared to be public nuisances, including, but not limited to the following:

A. Privies, vaults, cesspools, sumps, pits or like places which are not securely protected from insects or rodents, or which are foul or malodorous, or which are not securely closed and protected or, if necessary, illuminated so as to prevent persons or objects from falling therein. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."

B. Filthy, littered or trash-covered exterior areas, including all buildings and structures thereon and areas adjacent thereto.

C. Animal manure in any quantity which is not securely protected from insects and the elements, or which is kept or handled in violation of any ordinance of the town or Maricopa County. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."

D. Poison oak, poison ivy, or any noxious or toxic weeds or uncultivated plants (whether growing or otherwise), weeds, tall grass, uncultivated shrubs or growth higher than six inches or which present a fire hazard. All exterior property areas shall be kept free from dry vegetation, tumbleweeds, weeds, bushes and tall grass and trees which present a visual blight upon the area, which may harbor insect or rodent infestations and dry vegetation, or which may likely become a fire hazard, or result in a condition which may threaten the health and safety or the economic welfare of adjacent property owners or occupants.

E. Accumulations of bottles, glass, cans, ashes, scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster and all other

trash and abandoned material, unless the same be kept in covered bins or metal receptacles approved by this code or any town ordinance. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as “property used for agricultural purposes.”

F. Accumulations of trash, litter, rags, empty barrels, boxes, crates, packing cases, mattresses, bedding, packing straw, packing hay or other packing material, lumber, scrap iron, tin and other metal, or anything whatsoever in which insects may breed or multiply or which provides harborage for rodents or which may create a fire hazard. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as “property used for agricultural purposes.”

G. Any unsightly and dangerous building, billboard or other structure, or any old abandoned or partially destroyed building or structure, or any building or structure commenced and abandoned.

H. All places used or maintained as junk yards or dumping grounds, or for the wrecking, dissembling, repair or rebuilding of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn out, wrecked or abandoned automobiles, trucks, tractors or machinery of any kind or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to interfere with the comfortable enjoyment or the quality of life or property by and of others; provided, however, that nothing contained in this subsection shall be deemed to prohibit any automobile wrecking yard or other junk yard where the same is otherwise permitted by the town zoning ordinance and amendments thereto, which is operated in conformity therewith. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as “property used for agricultural purposes.”

I. Any putrid, unsound or unwholesome bones, meat, hides, skins, or the whole or any part of any dead animal, fish or fowl, butcher's trimmings and offal, or any waste vegetable or animal matter in any quantity, garbage, human or animal excreta, sewage or other offensive substances accumulated on private or public property; provided, however, nothing herein contained shall prevent the temporary retention of waste in receptacles in the manner provided by a county health officer, this code or ordinance of the town.

J. The erection, continuance or use of any building, room or other place in said town for the exercise of any trade, employment or manufacture which, by noxious exhalations, including, but not limited to, smoke, soot, dust, fumes or other gases, offensive odors or other annoyances, which is discomforting or offensive or detrimental to the health of individuals or of the public, except for normal exhalation or smoke produced by normal heating devices. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as “property used for agricultural purposes.”

K. Causing, allowing or permitting any artificial illumination of such intensity as to interfere substantially and unnecessarily with the use and enjoyment of public or private property by any considerable number of people, with the lawful use of any school, public place or public street, with any governmental or public function of the town, or as to constitute a hazard or threat to the public health, safety and welfare of the people of the town; provided, however, this subsection shall not apply where the person responsible for said artificial illumination is authorized by the town manager, any school within the town, this code or any ordinance of the town. Nothing in this subsection shall be deemed to

prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as “property used for agricultural purposes.”

L. Burning of refuse. No outside burning is allowed except when such burning is necessary and incidental to an agricultural use on land defined in this chapter as “property used for agricultural purposes.”

M. Any unguarded or abandoned excavation, pit, well or hole which is dangerous, injurious or harmful to life or property.

N. To leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under the control of any person and in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside, unless such icebox, refrigerator or other container is properly stored by first removing said door or lid, snap lock or other locking device from said icebox, refrigerator or container.

O. The doing of any act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or other thing either:

1. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous the free passage or use, in the customary manner, of any stream, public park, parkway, square, sidewalk, street or highway in the town and is no less a nuisance because the extent of the annoyance or damage inflicted is unequal.

2. Obstructs the free use of property so as to essentially interfere with the comfortable enjoyment of life and property by an entire community or neighborhood or by a considerable number of persons.

P. To leave or permit to remain overnight in the front yard of any private premises, construction equipment whether free standing or on one or more axles; or to store overnight in the front yard of any private premises, any building materials whether free standing or on pallets or skids, when such equipment or materials are not for use at the premises or stored pursuant to a valid and current building permit issued by the town for work at that premises. Equipment and materials may be stored in the side yard area of any private premises so long as they are screened from public view by an opaque wall, fence or other permitted screen. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as “property used for agricultural purposes.”

Q. Any dangerous, deteriorated, abandoned, partially destroyed or unfinished building, addition, appendage or other structure, or any building or structure in violation of the uniform building codes as adopted by the town, and any vacated or abandoned building not securely closed at all times; any abandoned structure, unsecured structure or vacant structure; any wood, metal or other material used for securing structures and buildings must be compatible with the color of the building or structure.

R. All land shall be maintained so as to prevent a pond or the accumulation of stagnant water when such pond or water causes a hazardous or unhealthy condition, becomes a breeding area for insects, or which is causing soil erosion or damage to foundation walls. This does not apply to Town-approved retention basins as a whole except for portions of retention basins creating, contributing to or causing injury or endangerment to the health, safety or welfare of the community.

S. Any condition defined or deemed to be a nuisance or hazard to the public health, safety, or welfare by any statute of the State of Arizona or any code or ordinance adopted by the Town of Queen Creek. These include but are not limited to the Queen Creek Town Code, the Queen Creek Zoning Ordinance, the Uniform Fire Code, International Building

Code, Uniform Housing Code, and similar codes or any provision of any State statute or code or ordinance adopted by the Town of Queen Creek and intended to protect the character, safety or attractiveness of a neighborhood or area.

T. Any landscaping, visible from public property, that is substantially dead, damaged, or characterized by uncontrolled growth, or presents a deteriorated or blighted appearance; uncultivated plants, weeds, tall grass, uncultivated shrubs or growth (whether growing or otherwise) higher than six (6) inches; or any dead trees, bushes, shrubs or portions thereof, including stumps; or any palm or similar type tree having dead or dry fronds descending downward from the base of the lowest living frond more than eight (8) feet or dry fronds longer than five (5) feet and closer than eight (8) feet to the ground.

U. Any wall or fence that is missing blocks, boards or other material, or is otherwise deteriorated so as to constitute a hazard to persons or property. This includes but is not limited to, leaning or damaged fences, fences missing slats or blocks or any other materials that are otherwise broken or damaged in such amounts as to present a deteriorated or blighted appearance. All replacement materials shall be uniform, compatible and consistent with the design thereof.

V. To leave or permit to remain on any property, areas infested with insects or rodents including, but not limited to: bees, wasps, hornets, yellow jackets, mice, rats, or roaches, in an amount that may become a hazard to public health or safety.

W. All exposed exterior surfaces, windows and doors shall be maintained so as to be free of deterioration that is a threat to health and safety, impervious to moisture and weather elements, or shall not otherwise present a deteriorated or blighted appearance. Windows, doors, locks on doors, and hinges must be present and installed properly. These items must be free from deterioration or blighting conditions. Any temporary boarding of structures and buildings must be done in accordance with Town specifications.

Examples of such deterioration and blight include but are not limited to:

1. Improperly anchored canopies, metal awnings, stairways, exhaust ducts and overhead extensions;
2. Chimneys that are structurally unsafe;
3. Exterior windows, doors, garage doors, door hardware and door frames that are not maintained in sound condition, that are not fitted securely in their frames and are not substantially weather tight or have inoperable locks, holes, breaks or cracks; Any exterior door incapable of functioning as intended by design;
4. Paint that is deteriorated, indicated by peeling, flaking, cracked, blistering or mildew, resulting in exposed bare unprotected surfaces;
5. Window screening, if present, shall be maintained in good condition;
6. Boarded window or door openings on an occupied structure;
7. Boarded window or door openings on an unoccupied or vacant structure for more than one hundred eighty days in any two-year period;
8. Broken, rotted, split, curled or missing roofing material in such amounts as to present a deteriorated or blighted appearance;
9. Exterior painted surfaces with loose, cracked, scaling, chipping or peeling paint, visible from a public area, in such amounts as to present a deteriorated or blighted appearance;

10. Any wood surfaces unprotected from the elements by paint or other protective treatment, except those naturally resistant to decay;

11. The existence of hazards, hazardous waste, junk or graffiti on Property.

X. All vacant, unsecured or abandoned buildings and structures shall be secured against unauthorized entry at all times.

1. Notice Posting.

a. The owner of record of a vacant, unsecured or abandoned structure or building is required to post a notice at the front of the structure or building, in a conspicuous location protected from the weather, that provides the current name, address, and phone number of the owner of record, if the owner of record resides locally, or the current name, address, and phone number for a local authorized agent.

b. If a notice of default or foreclosure has been recorded for the real property on which the vacant, unsecured or abandoned structure or building is constructed, the lender's name, address, and telephone number must also be provided on the notice posted.

c. The posted notice shall be no smaller than 8 ½ inches by 11 inches.

2. Security.

The owner of a vacant, unsecured or abandoned structure or building, or responsible party, is responsible for securing that building or structure and its property against unauthorized entry in accordance with the following provisions:

a. For the first ninety (90) consecutive days during which the structure or building remains vacant, unsecured or abandoned, any doors, including garage doors, windows, and other opening of the structure or building may be secured with painted plywood panels that match the exterior appearance of the structure or building.

b. After the expiration of ninety (90) consecutive days, the owner, or responsible party, shall restore and maintain the structure or building to an occupied appearance, with all doors, including garage doors, windows, and other openings of the structure or building in good repair. The owner, or responsible, shall also install and maintain a security fence around the structure or building and maintain a commercially-serviced, 24-hour burglar alarm system to prevent unauthorized entry into the structure or building or onto the property.

Y. Any condition which poses a substantial risk to the health or safety of any person or of the public, including, but not limited to, an unsafe, unsanitary or structurally unsound condition.

Z. Construction debris uncontained for more than twenty-four hours or not contained upon the premises under construction.

Section 10-3-3 Litter in Public Places

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the town except in public receptacles, or in authorized private receptacles for collection.

Section 10-3-4 Depositing Litter in Gutters

No person shall sweep into or deposit in any gutter, street or other public place within the town the accumulation of litter from any public or private sidewalk or driveway or any building or lot. Persons owning or occupying property or places of business shall keep the sidewalk and parkway in front of their premise free of litter.

Section 10-3-5 Litter Thrown from Vehicles

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the town or upon private property.

Section 10-3-6 Littering From Trucks

No person shall drive or move any truck or other vehicle within the town unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place.

Section 10-3-7 Littering in Parks

No person shall throw or deposit litter in any park within the town except in public receptacles and in such manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or public place. Where public receptacles are not provided, all litter shall be carried away from the park by the person responsible for its presence and properly disposed of.

Section 10-3-8 Deposit of Commercial Handbills on Public Property

No person shall throw or deposit any commercial or non-commercial handbill in or upon any sidewalk, street or other public place within the town, nor shall any person hand out or distribute or sell any commercial handbill in any public place, but nothing in this section shall be deemed to prohibit any person from handing out or distributing on any sidewalk, street or other place within the town, without charge to the receiver thereof, any non-commercial handbill to any person willing to accept it.

Section 10-3-9 Handbills: Commercial and Non-Commercial

A. No person shall throw or deposit any commercial or non-commercial handbill in or upon any vehicle, but it is not unlawful on any public place for a person to hand out or distribute without charge to the receiver thereof, a non-commercial handbill to any occupant of a vehicle who is willing to accept it.

B. No person shall throw or deposit any commercial or non-commercial handbill in or upon any private premises which are known, or should be known, to such person to be temporarily or continuously uninhabited or vacant.

C. No person shall throw, deposit or distribute any commercial or non-commercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on the premises in a conspicuous position near the entrance thereof, a sign bearing the words **"**No Transient Merchants," 'No Peddlers," "No Door-To-Door Salesmen," "No Trespassing", "No Advertisements," "No Fliers," "No Handbills", indicating that the occupants of said premises do not desire to be molested or have their right of privacy disturbed, or to have any handbill left upon such premises.

D. No person shall knowingly or recklessly throw, deposit or distribute any commercial or non-commercial handbill in or upon private premises which are inhabited unless the handbill is so placed or deposited as to secure or prevent the handbill from being blown or drifted about the premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulations. The provisions of this section shall not apply to the distribution of mail by the United States nor of newspapers as defined by this article.

Section 10-3-10 Dropping Litter from Aircraft

No person in any aircraft shall throw out, drop or deposit within the town any litter, handbill or any other object.

Section 10-3-11 Deposit of Litter on Occupied Private Property

No person shall throw or deposit litter on any occupied private property within the town, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

Section 10-3-12 Maintenance of Litter-Free Premises

The owner or person in control of any private property shall at all times maintain the premises free of litter; but this section shall not prohibit the storage of litter in authorized private receptacles for collection, or within any building when not in violation of any health, fire, building or any other regulation, ordinance, order or statute.

Section 10-3-13 Vacant Lots

No person shall throw or deposit litter on any open or vacant private property within the town whether owned by such person or not.

Section 10-3-14 Business Establishments - Receptacles

No person occupying or employed in any business establishment shall deposit any litter in any receptacle, unless such receptacle shall be provided with a lid of sufficient weight to prevent the escape of any litter from the receptacle. This provision shall not apply to boxes, either postboard or wooden, greater than six inches square in size, provided, however, that a receptacle shall be provided of sufficient size to prevent any such boxes from being carried or deposited by the elements upon any street, alley or other public place.

Section 10-3-15 Unsightly Premises

Every person owning, managing, controlling or occupying any real property in the town shall not allow any part of such property visible from the street or adjoining premises to become so unsightly or untidy as to substantially detract from the appearance of the immediate neighborhood or tend to threaten the safety and welfare of the immediate neighborhood.

Any public nuisance committed under this article may be abated in any manner provided by law including the method set forth in Article 10-2 of this chapter.

Section 10-3-17 Penalties

A. Any person, whether as principal, owner, agent, tenant, employee or otherwise who maintains a nuisance upon any property within the town, violates any provision of this article, or fails to comply with any provision of this article, shall be deemed guilty of a civil offense as defined in Section 10-11-2. The conviction of any person hereunder shall not relieve such person from the responsibility to correct such violation, nor prevent the enforcement, correction or removal thereof in any manner authorized by law. Every day that a nuisance is permitted to exist or caused to continue to exist under this article shall be deemed a separate violation.

B. Notwithstanding the foregoing, any person, whether as principal, owner, agent, tenant, employee or otherwise who maintains a nuisance on property owned or controlled by that person in violation of Sections 10-3-2(L) or 10-3-2(O) is guilty of a petty offense as defined in Section 10-11-4.

C. Notwithstanding any other provision of this chapter, any person that recklessly places or causes to be placed any rubbish, trash, filth or debris on any property not owned or under the control of that person in violation of Section 10-3-3, or 10-3-13 shall be guilty of a class one misdemeanor, unless that person immediately removes the rubbish, trash, filth or debris.

ARTICLE 10-4 METHODS OF GARBAGE AND TRASH REMOVAL

10-4-1 Hauling Refuse
10-4-2 Vehicles and Receptacles to be Spill Proof
10-4-3 Spilled Refuse
10-4-4 Dumping Refuse

Section 10-4-1 Hauling Refuse

It is unlawful for any person to haul or cause to be hauled any refuse on or along any public street, avenue or alley in the town, in violation of any of the provisions in this chapter.

Section 10-4-2 Vehicles and Receptacles to be Spill Proof

It is unlawful for any person to haul or cause to be hauled on or along any public street in the town any garbage, unless such garbage is contained in strong, watertight vehicles or vehicles with watertight receptacles, constructed to prevent any such garbage from falling, leaking or spilling and any odor from escaping.

Section 10-4-3 Spilled Refuse

Any person hauling any refuse along the streets of the town shall immediately replace in the conveyance used for such hauling any refuse which may fall upon any street.

Section 10-4-4 Dumping Refuse

It is unlawful for any person to place or cause to be placed any refuse upon any public or private property within the town, except in public dumping grounds designated by the council.

ARTICLE 10-5 ABANDONED VEHICLES

10-5-1 Definitions
10-5-2 Abandonment Prohibited
10-5-3 Exemption
10-5-4 Vehicle Removal
10-5-5 Presumption of Responsibility
10-5-6 Towed Vehicles; Notification; Violation; Classification
10-5-7 Towing and Storage Costs
10-5-8 Disposition of Abandoned and Junk Vehicles

Section 10-5-1 Definitions

In this chapter, unless the context otherwise requires:

A. "Abandoned vehicle" means a vehicle, trailer or semitrailer that is of a type subject to registration under A.R.S. Title 28, whether lost, stolen, abandoned or otherwise unclaimed and that has been abandoned on a public highway, public property or elsewhere in the town, including private property. Evidence that a vehicle was left unattended for a period of forty-eight hours within the right-of-way of any highway, road, street or other public thoroughfare or for a period of seventy-two hours on public or private property or elsewhere in the town is prima facie evidence of abandonment.

B. For the purposes of this article, "junk vehicle" means a vehicle that is in such a state of deterioration that it cannot be profitably dismantled or salvaged for parts and cannot be profitably restored.

C. "Officer" means any police officer or other law enforcement officer.

D. "Vehicle registration agency" means the agency or department of any state that has charge of the records of motor vehicle registration in that state.

Section 10-5-2 Abandonment Prohibited

A person shall not abandon a vehicle on any street, highway or private property within the town.

Section 10-5-3 Exemption

A motor vehicle eligible for licensing pursuant to Chapter 7, Article 14 of A.R.S. Title 28 or A.R.S. § 28-2411 is not an abandoned vehicle and shall not be seized pursuant to this article or any ordinance authorized by this article while the vehicle is stored or maintained on the vehicle owner's private property.

Section 10-5-4 Vehicle Removal

A. An officer who has reasonable grounds to believe that a vehicle has been lost, stolen, abandoned or otherwise unclaimed may remove or cause the removal of the vehicle from any street, highway or private property.

B. If a person removes or causes the removal of an abandoned vehicle from private property, the person shall both:

1. Obtain written authorization from the owner or lessee of the property on a form prescribed by the Maricopa County Sheriff's Office.

2. Submit the form and the vehicle identification form to the Maricopa County Sheriff's Office.

C. An officer who has removed an abandoned vehicle pursuant to this section shall inspect the vehicle and shall complete the vehicle identification form prescribed or approved by the Maricopa County Sheriff's Office. The Maricopa County Sheriff's Office shall make an inquiry to determine whether the abandoned vehicle is a stolen abandoned vehicle.

D. A person who has removed or caused to be removed an abandoned vehicle from private property shall have the vehicle inspected by an officer or agent of the Maricopa County Sheriff's Office. The officer or agent shall make an inquiry to determine whether the abandoned vehicle is a stolen abandoned vehicle.

Section 10-5-5 Presumption of Responsibility

The abandonment of a vehicle in a manner provided in this article is a presumption that the last registered owner of record is responsible for the abandonment and is subject to this article, unless either:

A. An affidavit has been filed that the vehicle was stolen pursuant to A.R.S. § 28-4844.

B. A stolen report has been accepted by a local law enforcement agency.

Section 10-5-6 Towed Vehicles; Notification; Violation; Classification

A. Except if acting under the direction of a peace officer, a person who moves or tows a vehicle into a public garage, parking lot, storage yard or automotive recycling yard or on private property without the consent of the vehicle owner or the owner's agent shall notify the Maricopa County Sheriff's Office by telephone within one hour of the time the vehicle is moved or towed.

B. A person who fails to comply with this section forfeits all claims for towing and storing the vehicle and is guilty of a class 1 misdemeanor.

Section 10-5-7 Towing and Storage Costs

A. Maricopa County shall not incur any liability for the cost of towing or storing a vehicle removed under this article when its officer has removed or caused the removal of the vehicle under color of the officer's lawful authority.

B. The owner of a vehicle that is removed or caused to be removed under this article is liable for any reasonable costs incurred in towing or storing the vehicle.

Section 10-5-8 Disposition of Abandoned and Junk Vehicles

Any abandoned or junk vehicle seized under this article shall be disposed of in accordance with A.R.S. § 28-4801 et seq.

ARTICLE 10-6 UNATTENDED CONTAINERS

No person shall place, display or maintain any unattended container for soliciting deposit of recyclable materials or donated items in any exterior location within the town limits, except in conformance with all of the following provisions:

A. Such unattended containers may be located only within the parking lot of private property lawfully zoned, developed and used for commercial or industrial purposes or at schools, churches or charitable organizations which have similar parking facilities.

B. Such unattended containers may be located only with the permission of the property owner, his agent or the person in possession of the property, and the container owner's name and current telephone number shall be displayed thereon in a conspicuous location.

C. No person shall leave any materials outside of a container. Each container owner shall provide adequate collection pickups and cleanup of the general area to prevent any materials from accumulating outside the containers. The owner of such unattended container and the property owner shall be jointly and severally responsible for maintaining all exterior areas within twenty-five feet of the container and shall keep such area free from litter at all times. Violation of this section shall constitute a civil violation by both the property owner and the owner of the unattended container.

ARTICLE 10-7 ON-SITE REST ROOM FACILITIES

All construction sites shall provide on-site rest room facilities for employees while construction is occurring in conformance with all of the following provisions:

A. There shall be a minimum of one toilet provided on-site for every single-family residential construction project. When the same general contractor has two single-family residential construction projects on adjoining lots with the same street frontage, one toilet located as close as possible to the common property line shall fulfill the requirements of this article for both sites.

B. When there is a non-single-family residential construction site, there shall be one toilet facility for every five thousand square feet of building area. Any fraction thereof shall be rounded up to require the additional toilet facility.

ARTICLE 10-8 AIR QUALITY AND FUGITIVE DUST

10-8-1 Purpose
10-8-2 Definitions
10-8-3 Enforcement, Violations, Notices and Penalties
10-8-4 Vehicle Parking and Use on Vacant Lots
10-8-5 Operation of Vehicles on Public and Private Property
10-8-6 Parking, Maneuvering, Ingress and Egress
10-8-7 Leaf Blower Restrictions
10-8-8 Compliance Monitoring
10-8-9 Violations Deemed a Public Nuisance
10-8-10 Remedies Not Exclusive
10-8-11 Compatibility with Other Regulations
10-8-12 Severability

Section 10-8-1 Purpose

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the Town of Queen Creek by improving air quality through the regulation of Fugitive Dust and PM-10 particles to the maximum extent practicable as required by federal and state law. The Town hereby finds and declares that this ordinance is not a land use law. The Town hereby finds and declares the objectives of this ordinance are:

A. To regulate the contribution of Fugitive Dust and PM-l0 from any Town resident, developer or visitor; and

B. To establish legal authority to implement all inspection, surveillance, monitoring, and enforcement procedures necessary for compliance with this ordinance; and

C. To meet requirements imposed by state and federal law; and

D. To limit or prohibit situations that could be recognized as public nuisances; and

E. To allow for the protection of the public's health and safety, including, transportation or traffic control, health and sanitation and pollution control.

Section 10-8-2 Definitions

For the purposes of this ordinance, the following shall mean:

A. **"Area A"-** means the part of the greater Phoenix metropolitan area where specific pollution control programs are in place for ozone, carbon monoxide, and particulate matter. As defined in Arizona Revised Statutes (ARS) §49-541(1).

B. **"County Dust Control Permit"** – means a permit issued by Maricopa County evidencing that a dust generating operation has a satisfactory dust control plan in place approved by the Maricopa County Air Quality Department.

C. **"Fugitive Dust"** – means the particulate matter not collected by a capture system that is entrained in the ambient air and is caused from human and/or natural activities, such as, but not limited to, movement of soil, vehicles, equipment, blasting, and wind. For the purpose of this ordinance, fugitive dust does not include particulate matter emitted directly from the exhaust of motor vehicles and other internal combustion engines, from portable brazing, soldering, or welding equipment, or from piledrivers.

D. **"Landscape Debris"** – means debris generated or accumulated as a result of, or moved in the course of, landscape operations. Landscape debris includes, but is not limited to, grass clippings, leaves, branches, vegetative matter, rubbish, soil and rock.

E. **"Leaf Blower"** – means any device that generates a stream of air that is designed, or used, to move landscape debris.

F. **"Off-Road Vehicle" –** means a self-propelled device and its appurtenances, including, but not limited to, off-road or all-terrain equipment, trucks, cars, motorcycles, motorbikes, or motor buggies and excluding devices moved by human power or used exclusively on stationary rails or tracks and excluding motorized wheelchairs.

G. **"PM-10"** – means the standard adopted by the Environmental Protection Agency that focuses on smaller particulates in the air that are likely responsible for adverse health effects because of their ability to reach the lower regions of the respiratory tract. The PM-10 standard includes particles with an aerodynamic diameter smaller than or equal to ten (10) microns (micrometers) as measured by the applicable state and federal reference test methods.

H. **"Person"** – means any individual, organization, public or private corporation or other entity recognized by law, company, partnership, firm, association or society of persons, the Federal Government and any of its departments or agencies, or the State and any of its departments or agencies, or political subdivisions.

I. **"Public Roadway"** –means any street, alley, road, highway or thoroughfare of any kind that is used by the public or that is open to the public as a matter of right, for the purpose of vehicular travel.

J. **"Town"** – means the Town of Queen Creek, Arizona.

K. **"Unstabilized" –** means a surface that has not been paved or stabilized with asphaltic concrete, cement concrete, hardscape, penetration treatment of bituminous material and seal coat of bituminous binder and a mineral aggregate, decomposed granite cover, crushed granite cover, aggregate cover, gravel cover, or grass or other continuous vegetative cover, or any combination of such paving or stabilizing.

L. **"Vacant Lot" –** means any of the following:

1. An unsubdivided or undeveloped tract of land.

2. A subdivided residential, industrial, institutional, governmental, or commercial lot that contains no approved or permitted buildings, structures, or uses of a temporary or permanent nature.

3. A partially developed residential, industrial, institutional, governmental, or commercial lot.

4. For the purpose of this ordinance, a vacant lot is not a public roadway.

M. **"Vehicle"** – means a self-propelled device and its appurtenances, excluding devices moved by human power or used exclusively on stationary rails or tracks.

Section 10-8-3 Enforcement, Violations, Notices and Penalties

A. Responsibility for Administration

1. The Enforcement Officer, acting through and designated by the Town Manager, shall administer, implement and enforce the provisions of this ordinance involving air quality and fugitive dust. The Enforcement Officer may enforce the provisions of this ordinance when reasonable cause exists to believe that any person has violated or is in violation of any provision of this ordinance.

2. The term "Enforcement Officer" means any person, who is either an employee, agent or independent contractor, authorized by the Town Manager to administer, implement and enforce the provisions of this ordinance and who has authority to enforce the Town of Queen Creek rules, regulations, resolutions and ordinances. The "Enforcement Officer" may include more than one person, including a civil hearing officer acting in compliance with A.R.S. §9-500.21.

B. Violations, Notices and Penalties of General Applicability for Ordinance

1. Unless an alternative process or penalty is expressly indicated within this ordinance or the Town Code, when the Enforcement Officer has reasonable cause to believe that any person has violated or is in violation of any provision of this ordinance, the Enforcement Officer shall issue, for the first violation of this ordinance, a warning notice stating which requirement of the ordinance was violated.

2. Unless an alternative process or penalty is expressly indicated within this ordinance or the Town Code, subsequent violations of this Article shall be considered Civil Violations subject to the procedures set forth in Section 10-11-2. Notwithstanding the fines set forth in Section 10-11-2 of this Code, for violations of this Article, the Enforcement Officer may impose a civil penalty of $50 for the second violation of this ordinance. Upon a third violation of this ordinance, the Enforcement Officer may impose a civil penalty of $100. After the fourth and subsequent violations of this ordinance, the Enforcement Officer may impose a civil penalty of $ 250.

C. This Ordinance shall not apply during a period of public emergency as declared by the Town, state authorities or federal authorities or if the operation is directed by a peace officer or other public authority.

D. Pursuant to A.R.S. §9-500.04(H), the requirements of Sections 10-8-4, 10-8-6 and 10-8-7 of this ordinance do not apply to any site that has a permit issued by a control officer as defined in A.R.S. §49-471 for the control of fugitive dust from dust generating operations.

Section 10-8-4 Vehicle Parking and Use on Vacant Lots

A person shall not park or use a vehicle on an unstabilized vacant lot within the Town. This section does not apply to sites that have been issued a County Dust Control Permit for the control of fugitive dust from dust generating operations.

Section 10-8-5 Operation of Vehicles on Public and Private Property

A. A person shall not operate any vehicle, including off-road vehicles, on unpaved public property that is not a public roadway or lawful easement, without lawful authority. Lawful authority shall consist of rules, regulations, or orders of a federal agency, this state, a county or municipality, which shall be made available to the public by any one of the following methods:

1. A sign to designate the property is/as open. Such sign shall be in compliance with the standard travel management sign protocol used by Southwest Land Management Agencies and shall at a minimum be conspicuously placed at all points of vehicular access and contain the following information: "Travel Must Remain On Designated Routes." Copies of the standard travel management sign protocol are available for review at the Maricopa County Air Quality Department, 1001 North Central Avenue, Phoenix, AZ, 85004;

2. Orders of a government land management agency;

3. Most current maps approved by such government land management agency; and

4. Virtual posting from a government land management agency.

B. A person shall not operate any vehicle, including off-road vehicles, on unpaved private property that is not a private road, street or lawful easement and that is closed by the landowner by rule or regulation of a federal agency, this state, a county or a municipality or by a proper posting, without the consent of the lawful owner. Consent of the lawful owner consists of either or both of the following:

1. A sign to designate the property is/as open. Such sign shall be in compliance with the standard travel management sign protocol used by Southwest Land Management Agencies and shall at a minimum be conspicuously placed at all points of vehicular access and contain the following information: "Travel Must Remain On Designated Routes." Copies of the standard travel management sign protocol are available for review at the Maricopa County Air Quality Department, 1001 North Central Avenue, Phoenix, AZ, 85004;

2. Prior written permission which contains the following:

   (a) the name, address and telephone number of the person granting permission for the use of the property;

   (b) a description of the interest the person granting permission has in the property (i.e., property owner, lessee or agent);

   (c) if the person granting permission is not the owner of the property, the written permission shall also contain the name, address and telephone number of the property owner;

(d) specific period of time for which permission for the use of the property is being granted; and

(e) The signature of the person granting permission for the use of the property.

C. Whenever any person is stopped by an Enforcement Officer for a violation of Section 10-7-5 of this ordinance, he/she shall, upon the request of the Enforcement Officer identify or present the lawful authority or consent of the lawful owner required in this section

D. The property owner, person entitled to immediate possession of the property, or invitee who has lawful authority may operate such vehicles on the property if such use does not violate any other applicable laws.

E. Exemptions:

1. This Section 10-8-5 shall not apply to the operation of vehicles used in the normal course of business or the normal course of government operations.

2. This Section 10-8-5 shall not apply to operations directed by utilities for operation, distribution and transmission systems provided that both of the following conditions are satisfied: (a) operations are performed with a marked company vehicle; and (b) if operations are performed with a personal vehicle, then identification of the company shall be visible and readable by the public.

F. As mandated by A.R.S. §9-500.27, a person who violates this section 10-8-5 of the ordinance is guilty of a class 3 misdemeanor.

G. As mandated by A.R.S. §9-500.27, if a person is deemed to have violated this section 10-7-5, in addition to or in lieu of a fine, a judge may order the person to perform at least eight (8) but not more than twenty-four (24) hours of community restitution or to complete an approved safety course related to the off-highway operation of motor vehicles, or both.

Section 10-8-6 Parking, Maneuvering, Ingress and Egress

A. Other than Residential. All persons who are owners, tenants or operators shall maintain parking, maneuvering, ingress and egress areas at developments other than residential buildings with four (4) or fewer units with one or more of the following dustproof paving methods:

1. Asphaltic concrete;

2. Cement concrete;

3. Penetration treatment of bituminous material and seal coat of bituminous binder and a mineral aggregate;

4. A stabilization method approved by the Town.

B. Residential. All persons who are owners, tenants or operators shall maintain parking, maneuvering, ingress and egress areas that are three thousand (3,000) square feet or more in size at residential buildings with four (4) or fewer units with a paving or stabilization method authorized by the Town Code or permit.

Section 10-8-7 Leaf Blower Restrictions

A. A person shall not operate a leaf blower in a manner that causes landscape debris to be blown into a public roadway.

B. No person who is an employee or contractor of the Town shall operate a leaf blower on any high pollution advisory day forecast by the department of environmental quality, except while in vacuum mode.

Section 10-8-8 Compliance Monitoring

The Town shall be permitted to enter and inspect property subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

A. If a property owner has security measures in force, which require proper identification and clearance before entry into its premises, the property owner shall make the necessary arrangements to allow access to representatives of the Town, including the Enforcement Officer.

B. Any temporary or permanent obstruction to safe and easy access to the property to be inspected shall be promptly removed by the property owner at the written or oral request of the Town, including the Enforcement Officer, and shall not be replaced. The costs of such access shall be borne by the property owner.

Section 10-8-9 Violations Deemed A Public Nuisance

In addition to the enforcement process and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Section 10-8-10 Remedies Not Exclusive

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Town to seek cumulative remedies.

The Town may recover all attorneys' fees, court costs and other expenses associated with enforcement of this ordinance, including monitoring expenses.

Section 10-8-11 Compatibility With Other Regulations

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards of human health or the environment shall control.

Section 10-8-12 Severability

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provision or application of this ordinance.

ARTICLE 10-9 SOLID WASTE SERVICES; BULK WASTE SERVICES; RECYCLING SERVICES; ANIMAL WASTE SERVICES FOR RESIDENTIAL DWELLINGS

10-9-1 Purpose
10-9-2 Definitions
10-9-3 Applicability
10-9-4 Presumption of Responsibility
10-9-5 Residential Waste Services – Mandatory; Animal Waste Service Optional
10-9-6 Temporary Discontinuance of Residential Waste Services
10-9-7 Accumulation and Storage Solid Waste, Bulk Waste, Program Recyclables and Animal Waste
10-9-8 Location for Collection of Solid Waste, Bulk Waste, Program Recyclables and Animal Waste
10-9-9 Time for placement for Collection of Solid Waste, Bulk Waste, Program Recyclables and Animal Waste
10-9-10 Cart Responsibilities
10-9-11 Cart Costs for New Residential Waste Service Units
10-9-12 Ownership of Solid Waste, Bulk Waste, Program Recyclables and Animal Waste
10-9-13 Rates, Charges, Fees and Payments
10-9-14 Prohibited Acts
10-9-15 Rules and Regulations
10-9-16 Inspections
10-9-17 Vector Control
10-9-18 Cart Repossession
10-9-19 Termination of Services; Lien for Unpaid Charges
10-9-20 Enforcement as a Civil Code Violation
10-9-21 Exemptions

Section 10-9-1 Purpose

The purpose of this Article is to preserve the health, safety and welfare of the citizens of Queen Creek, and establish a sustainable community by providing standards for the safe and sanitary provision of Solid Waste Services, Bulk Waste Services and Recycling Services for residential dwellings ("Residential Waste Service Units" as defined herein) within the Town. Nothing in this Article shall be construed to impinge upon or supplant the authority of the county health department, state department of health services or other public agency having exclusive legal jurisdiction over any matter which is the subject of this Article.

Section 10-9-2 Definitions

In this Article, unless the context otherwise requires:

"Administrator" — Administrator shall mean the Town Manager of the Town, or his designee or designees, who shall represent the Town in the administration of this Article.

"Animal Waste" — Animal Waste shall mean any unsanitary waste from the breeding, raising, containing, maintaining or grooming of animals from stables, kennels, pet pens, chicken coops, places of residence, veterinary establishments or other places of a similar nature. Animal Waste shall include manure.

"Animal Waste Services" — Animal Waste Services shall mean the collection of Animal Waste, delivery of Animal Waste to the Disposal Facility or the Recycling Facility, and the disposal of Animal Waste at the Disposal Facility or recycling of Animal Waste at the Recycling Facility.

"Audio/Video Equipment" — Audio/Video Equipment shall mean televisions, stereos, radios, amplifiers, projectors, satellite and cable equipment, video equipment, VCR's, CD player, Video game equipment, surveillance equipment, cameras, broadcasting equipment, communications equipment, and other electronic equipment of a similar nature.

"Backdoor" — Backdoor shall mean a location at the front, side or rear of a Residential Waste Service Unit designated by the Town for Solid Waste Services and Recycling Services for the Residential Waste Service Units.

"Batteries" — Batteries shall mean alkaline batteries, nickel cadmium batteries, lead acid batteries, lithium batteries, and other electronic equipment of a similar nature.

"Bag" — Bag shall mean non-dissolvable leak proof plastic sacks with a capacity of up to approximately thirty-two (32) gallons designed or intended to store Solid Waste with sufficient wall strength to maintain physical integrity when lifted by the top.

"Bulk Waste" — Bulk Waste shall mean Solid Waste composed of materials not easily containerized in a Cart such as, but not limited to, Green Waste, furniture, cardboard and large appliances. Bulk Waste shall not include Animal Waste or Excluded Waste.

"Bulk Waste Services" — Bulk Waste Services shall mean the collection of Bulk Waste by the Contractor, delivery of Bulk Waste to the Disposal Facility or the Recycling Facility by the

Contractor, and the disposal of Bulk Waste at the Disposal Facility or recycling of Bulk Waste at the Recycling Facility by the Contractor.

"Cart" — Cart shall mean a receptacle with wheels with a capacity of up to approximately ninety-five (95) gallons designed or intended to be mechanically dumped into a loader-packer type truck and approved for use by the Town.

"Collection" — Collection shall mean the act of picking up Residential Solid Waste, Bulk Waste, or Animal Waste from Residential Waste Service Units, or Neighborhood Recycling Drop-off Sites, and delivery of the Residential Solid Waste, Bulk Waste, or Animal Waste to the Disposal Facility. Collection shall also mean the act of picking up Program Recyclables, Animal Waste, Electronics, or tires from Residential Waste Service Units, or Neighborhood Recycling Drop-off Sites, and delivery of the Program Recyclables or Animal Waste to the Recycling Facility.

"Computer Equipment" — Computer Equipment shall mean PC's, laptops, CRT monitors, modems, switches, hubs and routers, storage devices, main frames, servers, power supplies, tape libraries, circuit boards, power cords, printers, wire and cabling, surplus metals, mice, keyboards, hard drives, floppy, DVD and CD drives, and other electronic equipment of a similar nature.

"Construction Waste" — Construction Debris shall mean solid waste derived from the construction, repair or remodeling of buildings or other structures.

"Contractor" — Contractor shall mean the person or entity engaged by the Town to perform Solid Waste Services, Bulk Waste Services and Recycling Services for Residential Waste Service Units within the Town.

"Curbside" — Curbside shall mean within five (5) feet of the street or alleyway that provides primary access to the Residential Waste Service Unit as designated by the Town.

"Demolition Waste" — Demolition Waste shall mean solid waste derived from the demolition of buildings or other structures.

"Dispose", "Disposed" or **"Disposal" —** Dispose, Disposed, or Disposal shall mean the discharge, deposit injection, dumping, spilling, leaking of any Residential Solid Waste, Town Facility Solid Waste, Special Event Solid Waste, Bulk Waste, or Animal Waste at a Disposal Facility operated in accordance with laws.

"Disposal Facility" — Disposal Facility shall mean a facility, area of land or excavation in Town Facility Solid Waste, Special Event Solid Waste, Bulk Waste which Residential Solid Waste, and Animal Waste is placed for permanent disposal. Disposal Facility does not include a land application unit, surface impoundment, injection well, compost pile or waste pile or an area containing ash from the on-site combustion of coal that does not contain household waste, household hazardous waste or conditionally exempt small quantity generator waste.

"Electronic Components" — Electronic Components shall mean capacitors diodes, resistors, transistor and integrated circuits, and other electronic equipment of a similar nature.

"Electronics" — Electronics shall mean Computer Equipment, Point of Sale Equipment, Telecom Equipment, Printing Equipment, Audio/ Visual Equipment, Batteries, Electronic Components, household appliance, surplus metals and wire and cable, test equipment,

lab equipment, connectors, ballasts, power strips, and other electronic equipment of a similar nature.

"Excluded Waste" — Excluded Waste shall mean Hazardous Waste, Electronics, Construction Waste and Demolition Waste, latex and oil based paints, stains and varnishes, adhesives, motor oil, antifreeze, transmission fluids, gasoline and diesel fuel, pesticides and fungicides, pool chemicals, household cleaners, propane tanks, camping cylinders, fire extinguishers, fluorescent and CFL light bulbs, and automobile and household batteries.

"Green Waste" — Green Waste shall mean organic yard waste, including but not limited to, grass clippings, tree trimmings, brush clippings, and other organic yard waste of a similar nature.

"Hazardous Waste" — Hazardous Waste shall have the meaning set forth in Arizona Administrative Code Section R18-8-261.

"Large Lot" - Large Lot shall mean any residential lot on which Large Livestock is legally kept in conformance with the Town Zoning Ordinance, or any residential lot of two (2) acres or more.

"Laws" – Laws shall mean any and all Federal, State and local laws, statutes, regulations, rulings, ordinances and policies.

"Neighborhood Recycling Drop-off Site" — Neighborhood Recycling Drop-off Site shall mean any site designated by the Town for drop-off of Program Recyclables. The Town has the sole authority to add or eliminate Neighborhood Recycling Drop-off Sites.

"Point of Sale Equipment" — Point of Sale Equipment shall mean credit card machines, printers, scanners, and other electronic equipment of a similar nature.

"Printing Equipment" — Printing Equipment shall mean printers, fax machines and copiers, calculators, typewriters and printer cartridges, and other electronic equipment of a similar nature.

"Program Aluminum and Steel Recyclables" — Program Aluminum and Steel Recyclables shall mean aluminum used beverage containers, aluminum foil, aluminum pie plates, scrap aluminum, steel "tin" food cans, bi-metal containers, aerosol cans, and lids composed primarily of whole iron or steel.

"Program Glass Recyclables" — Program Glass Recyclables shall mean clear, brown, and green glass food and beverage jars and bottles with or without paper labels, rings, and lids. Program Glass Recyclables shall not mean window glass, porcelain and china are not acceptable.

"Program Paper Recyclables" — Program Paper Recyclables shall mean (i) all loose or bagged Kraft paper, all loose or bagged old corrugated containers that have liners of Kraft, jute, or test liner including dry food boxes, beer and soda carriers, and shoe boxes, (ii) all loose or bagged old newspaper including slick paper inserts, and (iii) all junk mail, junk mail inserts, residential mixed paper, bagged shredded paper, high-grade paper, white and colored ledger, copier paper, office paper, laser printer paper, computer paper including continuous-formed perforated white bond or green bar paper, book paper, cotton fiber content paper, duplicator paper, form bond, manifold business

forms, mimeo paper, note pad paper (no backing), loose leaf fillers, stationery, writing paper, paper envelopes without plastic windows, carbonless (NCR) paper, tabulating cards, facsimile paper, manila folders, magazines, paperback books, small catalogs, telephone books and Yellow Pages .

"Program Plastic Recyclables" — Program Glass Recyclables shall mean any #1 through #7 rigid plastic bottle, containers, jugs, or jars.

"Program Recyclables" — Program Recyclables shall mean Program Aluminum and Steel Recyclables, Program Glass Recyclables, Program Paper Recyclables, and Program Plastic Recyclables. Program Recyclables shall not include Animal Waste or Excluded Waste.

"Recyclable Materials"— Recyclable Materials shall mean those materials which are capable of being recycled, which would otherwise be processed or disposed of as Solid Waste, and which are approved by the Town for Recycling Services. Recyclable Materials shall not include Excluded Waste.

"Recycling" — Recycling shall mean any process by which materials which would otherwise become Solid Waste are collected, processed and marketed for reuse or return to use in the form of raw materials or products.

"Recycling Container" – Recycling Container shall mean any metal or plastic container, with a capacity of approximately three hundred (300) gallons designed to or intended to be mechanically dumped into a loader-packer type garbage truck and used for Neighborhood Recycling Drop-off Site Services. All such Recycling Containers must be clearly marked in a manner approved by the Town.

"Recycling Services" — Recycling Services shall mean the collection of Single Stream Recyclable Materials from Residential Waste Service Units, or Neighborhood Drop-off Recycling Sites, delivery of Recyclable Materials to Recycling Facility, and processing of Recyclable Materials at the Recycling Facility, and marketing of Recyclable Materials by the Recycling Facility.

"Resident" — Resident shall mean a person residing at a Residential Waste Service Unit.

"Residential Waste Service Area" — Residential Waste Service Area shall mean Residential Waste Service Area as described by separate resolution on file with the Town Clerk.

"Residential Waste Service Unit" — Residential Waste Service Unit shall mean a residential dwelling identified by the Town to receive Residential Waste Services and utilizing a Solid Waste Cart for the accumulation and storage of Residential Solid Waste.

"Residential Waste Services" — Residential Waste Services shall mean the provision of (i) once per week collection of one (1) Solid Waste Cart, Services, (ii) once per week collection of one (1) Recycling Cart, and (iii) once per month collection of six (6) cubic yards of Bulk Waste. Residential Waste Services may include the provision of optional collection of (i) additional Solid Waste Cart(s), (ii) Non-collection Day Solid Waste Cart (iii) additional Recycling Cart(s), (iv) additional collection of Bulk Waste, and (v) collection of Animal Waste, where such election is made pursuant to this Article.

"Single Stream" — Single Stream shall mean a recycling process in which Recyclable Materials are collected mixed together with no sorting required by the Residential Waste

Service Unit, Neighborhood Recycling Drop-off Site or other Person generating the Recyclable Materials.

"Solid Waste" — Solid Waste shall mean any garbage, trash, rubbish, waste tire, refuse, sludge from a waste treatment plant, water supply treatment plant or pollution control facility and other discarded material, including solid, liquid, semisolid or contained gaseous material (as set forth in Section 49-701.01(A) of the Arizona Revised Statutes) unless otherwise excluded by the provisions of Sections 49-701.01(B) or 49-701.02 of the Arizona Revised Statutes. Solid Waste shall not include Animal Waste or Excluded Waste.

"Solid Waste Services" — Solid Waste Services shall mean the collection of Solid Waste, delivery of Solid Waste to the Disposal Facility, and the disposal of Solid Waste at the Disposal Facility.

"Telecom Equipment" — Telecom Equipment shall mean telephones, cell phones, CSU/DSU multiplexing equipment, phone systems, answering systems, and other electronic equipment of a similar nature.

"Vector" — Vector shall mean rodents, flies and mosquitoes capable of transmitting disease to humans.

Section 10-9-3 Applicability

Except where expressly provided otherwise in this Chapter, this Article shall apply to Solid Waste Services, Bulk Waste Services, Recycling Services, and Animal Waste Services for Residential Waste Service Units.

Section 10-9-4 Presumption of Responsibility

The Resident(s) and the property owner (if different than the Resident(s)) of any Residential Waste Service Unit shall be responsible for compliance with all applicable laws relating to the Residential Waste Service Unit, including compliance with this Chapter.

Section 10-9-5 Residential Waste Services Mandatory; Animal Waste Service Optional

A. Except where expressly provided otherwise in this Article, all Residential Service Units currently served by a water system and located within the Town Residential Waste Service Area shall be provided Residential Waste Services by Town forces, or the Town's Contractor, and pay the rates as provided by Town resolution. Except where expressly provided otherwise in this Article, every person residing in a Residential Waste Service Unit served by a water system and located within the Town Residential Waste Service Area shall cause Solid Waste, Bulk Waste, and Program Recyclables to be collected by Town forces, or the Town's Contractor.
B. Animal Waste may be collected by Town forces, or the Town's Contractor, as set forth herein, but is not required.

Section 10-9-6 Temporary Discontinuance of Residential Waste Services

Any Residential Waste Service Unit currently served by a water system and located within the Town Residential Waste Service Area may be granted a Temporary Discontinuance of Residential Waste Services by the Town if:

A. The Resident in the Residential Waste Service Unit submits a written request for Temporary Discontinuance of Mandatory Residential Waste Services in accordance with the Town's Application for Temporary Discontinuance of Mandatory Residential Waste Services; and
B. The requested period for Temporary Discontinuance of Residential Waste Services is for a minimum period of two (2) consecutive calendar months and a maximum period of six (6) consecutive calendar months; and
C. The requested period for Temporary Discontinuance of Residential Waste Services combined with granted written request(s) for Temporary Discontinuance of Residential Waste Services for the same calendar year does not exceed a total of six (6) calendar months for the calendar year; and
D. Town receives the Residential Waste Service Unit's Temporary Discontinuance of Residential Waste Services application for Temporary Discontinuation of Residential Waste Services a minimum of one (1) calendar month and a maximum of three (3) calendar months prior to requested start date for Temporary Discontinuance of Residential Waste Services; and
E. The Resident in the Residential Waste Service Unit submits the Temporary Discontinuation Fee in accordance with the Town's Application Temporary Discontinuance of Residential Waste Services form.

A Resident may terminate the Temporary Discontinuance of Residential Waste Services and resume receiving Residential Waste Services for a Residential Waste Service Unit by following the procedures set forth in the Town's Application for Temporary Discontinuation of Residential Waste Services form and paying any applicable fee set by the Town. If a Cart(s) or Bulk Waste is placed at the curbside of the Residential Waste Service Unit granted a Temporary Discontinuance of Residential Waste Services during the period of time for which the Temporary Discontinuance of Residential Waste Services has been granted without properly terminating the Temporary Discontinuance of Residential Waste Services as set forth above, the Town shall terminate the Temporary Discontinuance of Mandatory Residential Waste Services and no further Temporary Discontinuance of Residential Waste Services for that Residential Waste Services Unit shall be permitted for twelve (12) consecutive calendar months following the date of termination of the Temporary Discontinuance of Residential Waste Services by the Town. Upon termination of the Temporary Discontinuation of Residential Waste Services, Residential Waste Services will resume, and all rates, charges and fees under § 10-8-13 below will apply commencing on that date forward.

Section 10-9-7 Accumulation and Storage Solid Waste, Bulk Waste, Program Recyclables, and Animal Waste

Except where expressly provided otherwise in this Chapter, Solid Waste, Bulk Waste, Program Recyclables, and Animal Waste shall be accumulated and stored in conformance with the following provisions:

A. **Solid Waste.** Residents shall accumulate and store Solid Waste in bags that are tightly secured to where odors cannot escape, flies or other vectors cannot pass, and uncontained Solid Waste shall not release dust or other particles. Residents shall

place bags containing Solid Waste in Carts designated by the Town for collection of Solid Waste with the Cart lid completely closed. Residents shall accumulate and store Solid Waste within the Residential Waste Service Unit until placement as set forth in this Chapter.

B. **Bulk Waste.** Residents shall accumulate and store Bulk Waste within the Residential Waste Service Unit until placement as set forth in this Chapter.

C. **Program Recyclables.** Residents shall not accumulate and/or store Program Recyclables in bags prior to being placed in Recycling Carts or Recycling Containers designated by the Town for collection of Program Recyclables. Residents shall place Program Recyclables in Recycling Carts designated by the Town for collection of Program Recyclables with the Cart lid completely closed. Residents shall place Program Recyclables in Recycling Containers designated by the Town for collection of Program Recyclables as instructed by the Town on the Recycling Container. Residents shall accumulate and store Program Recyclables within the Residential Waste Service Unit until placement as set forth in this Chapter.

D. **Animal Waste.** For Residents electing to receive Animal Waste Services by Town forces, Residents shall accumulate and store Animal Waste to be collected by Town forces, including manure, in bags that are tightly secured so that odors cannot escape, and flies or other vectors cannot pass into or out of the bags. Residents shall dry manure prior to accumulation and storage in tightly secured bags. Residents shall place bags containing Animal Waste in Carts designated by the Town for collection of Animal Waste with the Cart lid completely closed. Residents shall accumulate and store Animal Waste within the Residential Waste Service Unit until placement in the appropriate Cart as set forth in this Article.

Section 10-9-8 Location for Collection of Solid Waste, Bulk Waste, Program Recyclables, and Animal Waste

Residents shall place Solid Waste in Carts designated by the Town for collection of Solid Waste, Program Recyclables in Carts designated by the Town for collection of Program Recyclables, and Animal Waste in Carts designated by the Town for collection of Animal Waste at the:

A. **Solid Waste and Program Recyclables.**

(1) **Curbside.** For Residents not deemed approved for collection of Solid Waste and Program Recyclables at the backdoor, Residents shall place Solid Waste and Program Recyclables at the curbside with the lids closed, the lids opening toward the street, and a minimum of two (2) feet apart to facilitate automated collection. Residents shall place Carts away from street light poles, mail boxes and parked cars. If parked cars prevent access by mechanized collection vehicles to the sidewalk or driveway, Residents shall place the Carts in the street away from such parked cars. Residents shall not place Carts in such a manner as to create a pedestrian hazard, impair the use of the sidewalk or interfere with vehicular traffic.

(2) **Backdoor.** If the Town deems all Residents of a Residential Waste Service Unit are handicapped or due to age or verified physical limitations cannot safely move

a Cart, the Residents of such Residential Waste Service Units shall place Solid Waste and Recycling Carts at the backdoor.

B. **Bulk Waste.** Residents shall place Bulk Waste neatly in a consolidated pile at the curbside. Residents shall not place Bulk Waste in a location as to block Carts, to create a pedestrian hazard, impair the use of the sidewalk or interfere with vehicular traffic.

C. **Animal Waste.** For Residents electing to receive Animal Waste Services by Town forces, Residents shall place Carts designated by the Town for collection of Animal Waste at the curbside with the lids closed, the lids opening toward the street, and a minimum of two (2) feet apart to facilitate automated collection. Residents shall place Carts away from street light poles, mail boxes and parked cars. If parked cars prevent access by mechanized collection vehicles to the sidewalk or driveway, Residents shall place the Carts in the street away from such parked cars. Residents shall not place Carts in such a manner as to create a pedestrian hazard, impair the use of the sidewalk or interfere with vehicular traffic.

Section 10-9-9 Time for placement for Collection of Solid Waste, Bulk Waste, Program Recyclables, and Animal Waste

Solid Waste, Bulk Waste, Program Recyclables, and Animal Waste shall be placed at the curbside prior to 6:00 a.m. on the designated collection day, but shall not be placed at the curbside before 6:00 p.m. on the day preceding the designated collection day. Carts must be removed from the curb by end of day on the day of collection and shall be secured at the Residential Waste Service Unit between collection days in such a manner that they are not readily susceptible to theft or vandalism.

Section 10-9-10 Cart Responsibilities

Residents shall be responsible for the following:

A. **Weight Limitations of Carts.** Residents to ensure optimal use of Carts and collection equipment and/or prevent the injury or harm to those Town or Contractor staff shall ensure the contents of the Cart shall not exceed two hundred (200) pounds.

B. **Capacity Limitations of Carts.** Residents to ensure optimal use of Carts and collection equipment and/or prevent the injury or harm to those Town or Contractor staff shall ensure the contents of the Cart shall not exceed the following capacity limitations:

(1) Carts designated for collection of Solid Waste: ninety-five (95) gallons

(2) Carts designated for collection of Program Recyclables: ninety-five (95) gallons

(3) Carts designated for collection of Animal Waste

i. Animal Waste Half Cart Collection: forty-three (43) gallons

ii. Animal Waste Full Cart Collection: ninety-five (95) gallons

C. **Ownership of Carts.** All Carts are the property of the Town. Residents shall ensure all Carts remain at the Residential Waste Service Unit after the Residential Waste Service Unit is sold or new Resident(s) move in. Resident shall be responsible for maintaining the Carts at the Residential Waste Service Unit.

D. **Replacement of Carts.** The Town will provide replacement Carts at no additional expense to the Resident of a Residential Waste Service Unit where replacement is necessary because of normal wear and tear caused by proper usage. The Resident of a Residential Waste Service Unit shall be charged and shall be responsible for full payment of a fee set forth by Town Council resolution when replacement of a Cart is required because of something other than normal wear and tear caused by proper usage.

E. **Maintenance of Carts.** The Resident of a Residential Waste Service Unit shall ensure Carts are maintained in a clean and sanitary condition and used only for their intended purpose.

Section 10-9-11 Cart Costs for New Residential Waste Service Units

The initial cost of providing Carts, including the cost of assembling such carts, for newly constructed Residential Waste Service Units shall be set forth by Town Council resolution and shall be paid by the person applying for the initial building permit for each new Residential Waste Service Unit at the same time that the fees for the residential building permit are paid. When property with a Residential Waste Service Unit located thereon is annexed into the Town, the owner of such property shall pay the initial cost to the Town of providing such property with Carts.

Section 10-9-12 Ownership of Solid Waste, Bulk Waste, Program Recyclables, and Animal Waste

Solid Waste, Bulk Waste, Program Recyclables, and Animal Waste that is not: (i) Excluded Waste or (ii) otherwise prohibited under applicable law or this Chapter, that is set out for collection, transportation, storage, disposal or recovery by the Town shall become the sole property of the Town, or it's Contractor, when it is taken into the actual or constructive possession of the Town or it's Contractor.

Section 10-9-13 Rates, Charges, Fees and Payment

The Town Council by resolution may adopt, set or amend the fees, rates, payments, penalties and charges related to this Article 10-8, which resolution shall be on file with the Town Clerk. In addition, the following provisions shall apply:

A. When Residential Waste Services are made available, a monthly charge shall be imposed upon all Residential Waste Service Units in accordance with the Town resolution plus any additional fees, taxes, or charges, regardless of how they are designated, that are or may be imposed by the state or federal government, or by a regional authority, in respect to either individual or municipal action relating to this Article. Except as provided in subsection F below or Section 10-8-6 above, the basic

monthly charges as described herein shall apply regardless of the nature and extent of services actually provided to a Residential Waste Service Unit by the Town.

B. In case of a multiple-dwelling unit, the charge shall be billed to the Resident whom the water bill is addressed and who shall be liable for the payment thereof.

C. All charges incurred pursuant to the provisions of this article shall become due and payable when a utility bill is prepared by the Town and shall become a personal debt of the Resident. Except when specific payment arrangements have been made in advance of the delinquent date, all charges levied pursuant to the provisions of this article shall become delinquent if unpaid twenty (20) calendar days after the utility bill is prepared.

D. It is the responsibility of the person or persons in whose name or names an account has been established to pay all charges in full and on a timely basis. Failure to receive a utility bill will not excuse the account holder or holders from full and timely payment for the services.

E. Charges for first and final bills with billing periods more or less than one (1) month shall be prorated.

F. The Town may discontinue monthly service charges to a Residential Waste Service Unit if the Town receives notice from the Resident or owner of the Residential Waste Service Unit, in writing, that the Residential Waste Service Unit(s) have been permanently abandoned, or receives notice from the Town or county health officer that the Residential Waste Service Unit(s) have been condemned as not habitable, or unsanitary and dangerous to human life.

Section 10-9-14 Prohibited Acts

It shall be unlawful for any person to do any of the following, all of which shall be a civil code infraction as defined under Section 5-7-1(A), and subject to Article 5-7, of the Town Code:

A. To collect Solid Waste, Bulk Waste, or Program Recyclables from Residential Waste Service Units without an executed Agreement for the provision of such services.

B. To place or cause to be placed any Solid Waste, Bulk Waste, Program Recyclables, or Animal Waste upon the property of another without proper authority.

C. To deposit any Excluded Waste in any cart.

D. To place or cause to be placed any Solid Waste, Program Recyclables, or Animal Waste in the Cart belonging to another without proper authority.

E. To remove any materials, without proper authority, from any Cart belonging to another which contains materials set out for Residential Waste Services;

F. To place or cause to be placed any Solid Waste in the Cart designated by the Town for collection of Program Recyclables or Animal Waste.

G. To place or cause to be placed any Animal Waste in the Cart designated by the Town for collection of Solid Waste or Program Recyclables.

H. To place or cause to be placed any Program Recyclables in the Cart designated by the Town for collection of Animal Waste.

I. To have a Cart that was not issued by the Town for the property where located.

J. To encourage, permit or fail to restrain a vicious animal from interfering with employees performing Residential Waste Services acting in the course of their employment. "Vicious animal" means any animal of a vicious species or an animal of a domesticated species, including, but not limited to, cats and dogs, which is prone to, or known to, attack persons without provocation.

K. To park a vehicle in such a way as to obstruct access to a Solid Waste, Recycling, or Animal Waste Cart placed out for collection service, to obstruct any right-of-way, or to obstruct or interfere with Residential Waste Services in any other manner.

L. To do any act prohibited or to fail to do any act required under this Article.

M. To burn Solid Waste, except in incinerators, as may be permitted by the county and the Town. Any burning of Solid Waste must comply with the rules and regulations established by the Arizona Department of Health Services and the U.S. Environmental Protection Agency.

Section 10-9-15 Rules and Regulations

The Administrator shall make such rules and regulations as may be deemed reasonably necessary concerning the Residential Waste Services and other wastes by the Town, its authorized agents, licensees or permittees, including Contractor; or relating to the operation of any recycling or waste reduction program or other similar activities or facilities. Copies of such rules and regulations shall be filed with the office of the Town clerk. The rules and regulations shall be made available to the public upon request.

Section 10-9-16 Inspections

Town may conduct inspections of Carts to ensure compliance with, and knowledge of, the provisions of this Article. The Town may provide notice of compliance violations prior to undertaking formal enforcement action pursuant to procedures established by the Administrator. Inspections of restricted access areas on private property shall not be conducted without prior notice to the Resident or property owner. Prior to collection the Town shall have the right to inspect Carts and their contents.

Section 10-9-17 Vector Control

The Town has the authority to develop, administer, and enforce rules, regulations and procedures to control vectors in accordance with county and state vector control rules and regulations. All users shall be responsible for properly bagging materials consistent with, and otherwise complying with, such rules regulations and procedures.

Section 10-9-18 Cart Repossession

In addition to any other actions or remedies it may pursue, the Town has the authority to repossess Town owned Carts from Residents and/or property owners who fail to comply with the requirements of this Article.

Section 10-9-19 Termination of services; lien for unpaid charges

A. Any and all unpaid charges for Residential Waste Services provided pursuant to this Article shall constitute a lien on the real property, lot or tract of land benefited by the Residential Waste Services. The lien shall be imposed in accordance with the applicable law and unpaid charges under this Article may be consolidated with amounts subject to lien upon the Residential Waste Service Unit by the Town.

B. In addition, delinquent charges may be collected by a civil suit, instituted in the name of the Town by the Town attorney at the request of the Town at any time after the charges become delinquent. The remedy provided by this section is cumulative and supplemental to all other remedies provided under this article.

C. In addition, the Town may assign delinquent accounts to a bona fide collection agency for collection.

Section 10-9-20 Enforcement and Inspection

Representatives of the Town may conduct inspections of waste storage, collection, hauling and disposal activities to ensure compliance with, and knowledge of, the provisions of this Article. The Town may provide notice of compliance violations prior to undertaking formal enforcement action pursuant to procedures established by the administrator. These Actions may include, but are not limited to, placing additional carts at the owner's and/or Resident(s)' expense, fines, or both, as determined by the administrator. Disposal of hazardous or excluded waste may be removed and disposed of by the Town at either the Resident(s) and/or the property owner's expense.

Section 10-9-21 Exemptions

A. Application for Exemption. A Resident may apply to the Administrator, in writing on forms provided by the Town, to have an individual Residential Service Unit be exempt from only the Solid Waste Services and Bulk Waste Services requirements of § 10-9-5 if both of the following requirements are met:

(1) The Residential Service Unit is on a Large Lot; and
(2) The Resident can establish to the satisfaction of the Administrator that the Resident has available and will utilize alternative services for disposal of Solid Waste that fully comply with all Town, county, state, and federal rules, regulations and statues that apply to such disposal.

B. Determination of Exemption. Upon a determination by the Administrator that all of the above requirements have been fully met, the Administrator shall have discretion to grant an exemption for the Residential Service Unit upon such conditions as the Administrator may determine are appropriate, if the Administrator determines that an exception is

consistent with the purpose of this Article as set forth in § 10-9-1 of this Article and is in the best interest of the Town. A resident may appeal the determination of the Administrator by filing a written appeal with the Town Clerk within ten (10) business days after the date of the Administrator's determination, and all such appeals will be resolved by the Town Manager, if the Town Manager is not acting as the Administrator, or by the Town Council if the Town Manager is acting as the Administrator, within a reasonable time after the filing of the appeal.

C. Recycling Services Applicable to Exempt Residential Service Unit. Any Residential Services Unit granted an exemption as provided herein shall continue to receive Recycling Services, and other community-wide services, and shall be billed for and pay the fees, rates, taxes and other charges adopted by the Town applicable to Recycling Services pursuant to § 10-9-13 of this Article as long as the exemption is in effect.

ARTICLE 10-10 STORMWATER QUALITY MANAGEMENT AND DISCHARGE CONTROL ORDINANCE

10-10-1	Introduction
10-10-2	Purpose
10-10-3	Definitions
10-10-4	Enforcement, Violations, Notices and Penalties
10-10-5	Applicability
10-10-6	Illicit Non-Stormwater Drainage and Connections
10-10-7	Construction Site Stormwater Runoff Pollution Control
10-10-8	Post-construction Stormwater Management
10-10-9	Industrial Activity Discharges
10-10-10	Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices
10-10-11	Notification of Spills
10-10-12	Compliance Monitoring
10-10-13	Violations Deemed A Public Nuisance
10-10-14	Remedies Not Exclusive
10-10-15	Compatibility with Other Regulations
10-10-16	Severability
10-10-17	Disclaimer
10-10-18	Other Regulatory Requirements
10-10-19	Town Permits and Approvals

Section 10-10-1 Introduction

The Town of Queen Creek (Town) meets the minimum federal requirements for designation by the United States Environmental Protection Agency (EPA) as a small Municipal Separate Storm Sewer operator or MS4. As a small MS4, the Town is required by the Federal Water Pollution Control Act of 1972, 33 U.S.C. Sec. 1251 et seq. commonly known as the "Clean Water Act" (as amended), to implement and enforce a program to improve to the maximum extent practicable the quality of Stormwater in the Town's Stormwater conveyance system.

A. Statutory Authorization

The Town may enact a Stormwater ordinance pursuant to A.R.S. §§ 11-251.66 and 49-371. The Town, as an MS4 under Phase II of the National Pollutant Discharge

Elimination System (NPDES) Stormwater program of the EPA, is empowered to regulate Stormwater by the authority of the Clean Water Act.

B. Title

This ordinance shall be known as the "Town of Queen Creek Stormwater Quality Management and Discharge Control Ordinance."

C. Required Permit for Town

This ordinance ensures that the Town is compliant with its Arizona Pollutant Discharge and Elimination System (AZPDES) General Permit for Stormwater Discharges from Small Separate Storm Sewer Systems (Stormwater Permit) requirements by establishing methods for controlling the introduction of pollutants into the Town's MS4.

The Town's Stormwater Permit and federal regulations (40 CFR 122.34) require the Town to implement and maintain six minimum control measures (MCMs). They are:

1. Public education and outreach on Stormwater impacts;
2. Public involvement and participation;
3. Illicit drainage detection and elimination;
4. Construction site Stormwater runoff control;
5. Post-construction Stormwater management in new development and redevelopment;
6. Pollution prevention/good housekeeping for municipal operations.

This ordinance addresses the Stormwater Permit requirements for MCMs three, four and five. MCMs one, two, and six are related to the Town's Stormwater Management Plan and addressed therein.

Section 10-10-2 Purpose

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Town by prohibiting the introduction of non-Stormwater drainages to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance will also protect Waters of the U.S. (as defined herein) within the Town by improving the quality of the Stormwater runoff from urbanized areas to the Town-owned MS4 system by implementing best management practices (BMPs) by the Town and its citizens.

The objectives of this ordinance are:

A. To regulate the contribution of pollutants to the Town MS4 by Stormwater drainage in urbanized areas by any user.

B. To prohibit illicit connections and drainages to the Town MS4.

C. To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with the Stormwater Permit.

Section 10-10-3 Definitions

For the purposes of this ordinance, the following shall mean:

A. **"ADEQ"** – means the Arizona Department of Environmental Quality.

B. **"Administrator"** – means the Town Manager of the Town, or his designee or designees, who shall represent the Town in the administration of this Article.

C. **"AZPDES"** – means the Arizona Pollutant Discharge Elimination System program as adopted under section 402(b) of the Clean Water Act.

D. **"AZPDES Permit"** – means a permit issued by the Arizona Department of Environmental Quality pursuant to 33 U.S.C. § 1342(b) that authorizes the discharge of pollutants to Waters of the U.S.

E. **"Best Management Practices" or "BMPs"** – means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, other management practices to prevent or reduce the introduction of pollutants directly or indirectly to the Town MS4 or Storm Drainage Systems connected to the MS4 and the prohibition of specific activities, practices, and procedures and such other provisions as the Enforcement Officer determines appropriate for the control of pollutants. BMPs also include treatment practices, operating procedures, and practices to control the following; site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

F. **"Civil Hearing Officer"** – a Civil Hearing Officer shall be appointed by the Town Manager and may hear all civil code infractions and make such orders as may be proper and necessary to dispose of such cases. Such cases shall be heard without a jury. The Civil Hearing Officer shall adopt such local rules of procedure as may be necessary to implement the hearing of civil code infraction cases. The Civil Hearing Officer shall be the person with authority to hear complaints related to violations and to issue penalties for violations of Chapter 10, Health and Sanitation and for violations of the Zoning Ordinance."

G. **"Clean Water Act"** – means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

H. **"CFR"** – means Code of Federal Regulations.

I. **"Construction Activity"** – means activities subject to NPDES and/or AZPDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

J. **"Discharge"** – means any addition of any pollutant to navigable waters from any point source.

K. **"Disturbance"** – means the result of altering soil from its native or stabilized condition thereby rendering it subject to movement or erosion by water to potentially become, or becoming a pollutant in site Stormwater runoff; also means soil disturbance.

L. **"Drainage System"** – means all facilities and natural features used for the movement of Stormwater through and from a drainage area, including, but not limited to, any and all of the following: conduits; pipes and appurtenant features; channels; ditches; flumes; culverts; streets; swales; gutters as well as all watercourses, water bodies, and wetlands.

M. **"EPA"** – means the United States Environmental Protection Agency.

N. **"Erosion"** – means the wearing away of land surface by water or wind that occurs from weather or runoff, but is often intensified by human activity.

O. **"Enforcement Officer"** – means any person, who is either an employee, agent or independent contractor, authorized by the Town Manager to administer, implement and enforce the provisions of this ordinance and who has authority to enforce the Town of Queen Creek rules, regulations, resolutions and ordinances. The "Enforcement Officer" may include more than one person including a civil hearing officer acting in compliance with A.R.S. § 9-500.21.

P. **"Facility"** – means any land, building, installation, structure, equipment, device, conveyance, area, source, activity or practice from which there is, or with reasonable probability may be, the introduction of Stormwater to the Town MS4 or Storm Drainage Systems connected to the MS4.

Q. **"Hazardous Materials"** – means any material, including any substance, waste, or combination thereof, that because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

R. **"Illegal Drainage"** – means any direct or indirect non-Stormwater drainage to the County MS4 or a Storm Drainage System connected to the MS4, except as exempted in Section 10.9.6 this ordinance.

S. **"Illicit Connection"** – means either of the following:

1. Any drain or conveyance, whether on the surface or subsurface that allows illegal drainage to enter any Storm Drainage System including but not limited to any conveyances that allow any non-Stormwater drainage including sewage, process wastewater, and wash water to enter the Town MS4 or any Storm Drainage System and any connections to the Town MS4 or any Storm Drainage System from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency, or

2. Any drain or conveyance connected from a commercial or industrial land use to the Town MS4 or any Storm Drainage System that has not been documented in plans, maps, or equivalent records and approved by an authorized regulatory or enforcement agency.

T. **"Illicit Discharge"** – means any discharge to an MS4 that is not composed entirely of Stormwater, except discharges pursuant to an NPDES permit (other than the NPDES Stormwater Permit) and discharges resulting from fire fighting activities.

U. **"Impervious Surface"** – means a surface that has been compacted or covered with a layer of material so that it is resistant to infiltration by water. It includes semi-pervious surfaces such as compacted clayey soils, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots, and other similar surfaces. "Net Increase of Impervious Surface" refers to the difference between the existing impervious coverage and the total impervious surface proposed.

V. **"Industrial Activity"** – means activities subject to NPDES Industrial Stormwater Permits as defined in 40 CFR, Section 122.26 (b) (14).

W. **"Urbanized Area" –** means the area depicted by the most recent U.S. Census published "urbanized" area (UA) map and as may be identified by future Decennial Census.

X. **"Land Disturbance"** – means soil disturbance or any site disturbance.

Y. **"Land Surveyor"** – means a land surveyor licensed to practice land surveying in the State of Arizona.

Z. **"Maintenance"** – means the action taken to restore or preserve the as-built functional design of any facility or system.

AA. **"Municipal Separate Storm Sewer System" or "MS4"** – means the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, natural conveyances or storm drains) owned or operated by the Town and designed or used for collecting or conveying Stormwater, and that is not used for collecting or conveying sewage. Also the Town MS4.

BB. **"National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit"** – means a permit issued by the EPA, or by a State under authority delegated pursuant to 33 U.S.C. § 1342(b), that authorizes the discharge of pollutants to Waters of the U.S., whether the permit is applicable on an individual, group, or general area-wide basis.

CC. **"Non-Stormwater Drainage"** – means any drainage to the County MS4 or a Storm Drainage System that is not composed entirely of Stormwater.

DD. **"Nuisance"** – means the unreasonable or unlawful use of real or personal property that may obstruct or injure the right of another or the public and producing such material annoyance, inconvenience, discomfort, or hurt, that the Enforcement Officer presumes such use will result in damage. This definition includes the conditions listed in A.R.S. 36-601 as public nuisances dangerous to public health.

EE. **"Operator"** – means an operator of a construction site, such as the developer, is one who maintains overall operational control over construction plans and specifications, including the ability to change these plans and specifications. An operator can also be one who maintains day-to-day operational control over activities that will ensure compliance with the Stormwater Pollution Prevention Plan (SWPPP), such as the general contractor or subcontractor.

FF. **"Outfall"** – means a point source as defined by 40 CFR 122.2 at the point where a municipal separate storm sewer discharges to waters of the United States and does not include open conveyances connecting two MS4s or pipes, tunnels or other conveyances that connect segments of the same stream of other waters of the United States and are used to convey waters of the United States.

GG. **"Owner"** – means the person, persons, or entity whose name appears on the title or deed to the subject property or properties.

HH. **"Permit"** – means a written permit to operate or discharge, issued by the Town of Queen Creek or other regulatory authority.

II. **"Permittee"** – means the person, agency or entity authorized to conduct the work specified in accordance with the conditions of the Stormwater permit(s) and as described in the application, approved drawings, plans, and other documents on file with the Town.

JJ. **"Person"** – means any individual, organization, public or private corporation or other entity recognized by law, company, partnership, firm, association or society of persons, the Federal Government and any of its departments or agencies, or the State and any of its departments or agencies, or political subdivisions.

KK. **"Pollutant"** – means any agent introduced to Stormwater or non-Stormwater through human activity that may cause, potentially cause, or contribute to the degradation of water quality. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; dredged spoil, rock, sand or silt; and noxious or offensive matter of any kind.

LL. **"Post-construction"** – means, for purposes of this ordinance, that regulated category of construction for new developments and redevelopments that results in the establishment of permanent Stormwater pollution prevention devices, or structural BMPs, built in compliance to the Town's design standards and also includes long-term operations and maintenance (O&M) programs, or non-structural BMPs, to be permanently associated with the Stormwater pollution devices or controls at the new development upon completion of the land disturbing activity.

MM. **"Premises"** – means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

NN. **"Redevelopment"** – Projects that alter the "footprint" of an existing site or building in such a way that there is a disturbance of equal to or greater than one (1) acre of land. Redevelopment projects do not include such activities as exterior remodeling, which

would not be expected to cause adverse Stormwater quality impacts and offer no new opportunity for Stormwater controls.

OO. **"Sewage"** – means wastes from toilets, baths, sinks, lavatories, laundries, and other plumbing fixtures in residences, institutions, public and business buildings, mobile homes, watercraft, and other places of human habitation, employment, or recreation.

PP. **"Storm Drainage System"** – means public and private drainage facilities other than sanitary sewers within the urbanized area of the Town by which Stormwater is collected and/or conveyed to the Town MS4, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

QQ. **"Stormwater"** – means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

RR. **"Stormwater Management Plan" or "SWMP"** – means a document that describes the BMPs and activities and measures to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions and measures to eliminate or reduce the introduction of pollutants to Stormwater, the Town MS4, or Storm Drainage Systems connected to the MS4 to the maximum extent practicable (MEP).

SS. **"Stormwater Pollution Prevention Plan" or "SWPPP"** – means the Stormwater Pollution Prevention Plan associated with the permit for a site.

TT. **"Town"** – means the Town of Queen Creek, Arizona.

UU. **"Urbanized Area"** – means a portion of the Town that has a population density of at least 1,000 people per square mile and/or meets other criteria set by the U.S. Bureau of Census in the latest Decennial Census.

VV. **"Wastewater"** – means liquid and water-carried industrial waste and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are conveyed to the Town collector system and publicly owned treatment works.

WW. **"Waters of the U.S."** – As defined in 33 CFR 328.3(a) and 40 CFR 230.3(s).

Section 10-10-4 Enforcement, Violations, Notices and Penalties

A. Responsibility for Administration

1. The Enforcement Officer, acting through and designated by the Town Manager, shall administer, implement and enforce the provisions of this ordinance involving Stormwater. The Enforcement Officer may enforce the provisions of this ordinance when reasonable cause exists to believe that any person has violated or is in violation of any provision of this ordinance.

2. The Administrator or his designee or designees represent the Town in the administration of this ordinance.

B. Violations, Notices and Penalties of General Applicability

1. Except as otherwise specifically provided, civil offenses shall be punished by imposition of a civil penalty in the amount of $250.00 for the first offense; $500.00 for a second offense within a 12-month period, and $2,000.00 for a third offense within said 12-month period. For purposes of calculating the 12-month period, such period shall begin on the date of the first offense.

2. Civil matters shall be tried before the civil hearing officer in accordance with the provisions of Chapter 5, Section 7 of the Town code. When appropriate, civil matters may also be tried before a justice of the peace or a county hearing officer.

C. This ordinance shall not apply during a period of public emergency as declared by the Town, state authorities or federal authorities, or if the operation is directed by a peace officer or other public authority.

Section 10-10-5 Applicability

This ordinance applies to all urbanized areas of the Town, as defined herein and depicted by the most recent U.S. Census published "urbanized" area (UA) map and as may be identified by future Decennial Census.

This ordinance applies to all water entering the Town MS4 or Storm Drainage System connected to the MS4 in the urbanized areas of the Town and generated on any developed and undeveloped lands unless explicitly exempted in this ordinance.

Section 10-10-6 Illicit Non-Stormwater Drainage and Connections

A. Prohibition of Non-Stormwater Drainage

1. No person shall throw, drain, or otherwise introduce, cause, or allow others under its or their control to throw, drain, or otherwise introduce into the Town MS4 or into the Storm Drainage System connected to the Town MS4 any pollutants or waters containing any pollutants, other than Stormwater.

2. The commencement, conduct or continuance of any illegal drainage to the Town MS4 or any Storm Drainage System is prohibited except as described as follows:

a. The following types of drainage are exempt from prohibitions established by this ordinance:

i. Water line flushing, irrigation water, landscape irrigation, lawn watering, return flow from irrigated agriculture, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, drainages from potable water sources, foundation drains, air conditioning condensation, springs, water from crawl space pumps, footing drains, individual residential car washing, flows from riparian habitats and wetlands, de-chlorinated swimming pool drainages, and street wash water.

ii. Drainage or flow from firefighting (including fire fighting training).

iii. Drainage associated with dye testing (e.g., for leak detection).

iv. Other drainages specified in writing by the Enforcement Officer as being necessary to protect public health and safety.

b. This drainage prohibition shall not apply to any non-Stormwater drainage permitted under an NPDES permit, waiver, or waste drainage order issued to the discharger and administered under the authority of the EPA, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any drainage to a Storm Drainage System.

c. The Administrator may evaluate and remove any of the above exemptions if it is determined that they are significant sources of pollutants pursuant to 40 CFR 122.34.b.3.ii.

B. Prohibition of Illicit Connections

1. The construction, use, maintenance or continued existence of illicit connections to the Town MS4 or any Storm Drainage System is prohibited.

2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

3. A person is in violation of this ordinance if the person connects a line conveying non-Stormwater to the Town MS4, or allows such a connection to continue.

4. Illicit connections must be disconnected and redirected to an appropriate approved waste disposal system.

5. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the Storm Sewer System, shall be located by the owner or occupant of that property upon receipt of written Notice of Violation from the Enforcement Officer requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other drainage point be identified. Results of these investigations are to be documented and provided to the Enforcement Officer.

Section 10-10-7 Construction Site Stormwater Runoff Pollution Control

A. Introduction

1. Runoff from construction sites may be a major source of pollution and is subject to federal, state and local requirements to improve Stormwater quality. With few exceptions, these requirements include the development and implementation of a SWPPP for every construction activity as defined herein within the urbanized areas of the Town. That SWPPP may be reviewed by the State. SWPPPs may be reviewed at the construction site by the Enforcement Officer. Stormwater treatment measures (BMPs) may be required along with inspections by the Town or State to determine compliance with the SWPPP and the installation and management of the BMPs.

2. In accordance with its own Stormwater Permit requiring it to reduce construction site Stormwater pollution in its urbanized area, the Town has established a Subdivision Ordinance and a companion Design Standards and Procedures Manual, which document the procedures and review process for construction site stormwater runoff control.

B. Construction Site Regulation

1. An owner or operator who intends to disturb an area of land that is equal to or greater than one acre, or that is less than one acre but is part of a larger plan of development shall obtain permit coverage from the ADEQ. A copy of the Notice of Intent (NOI) to be bound by the State's general construction permit, including the number and date of application, or evidence of the State's construction permit obtained by the owner or operator, must be filed with the Enforcement Officer prior to the start of the land disturbance as required by ADEQ.

2. The SWPPP for the construction site is to remain at the site and is to be made available to the Enforcement Officer. At the start of and during construction the Enforcement Officer may inspect any site to determine that the SWPPP for the site is being followed and that the indicated BMPs have been properly installed and satisfactorily maintained. If the SWPPP has not been implemented and/or if the BMPs onsite have not been satisfactorily installed or maintained, the Department will notify the owner or operator of the deficiencies. If the owner or operator fails to satisfactorily address these issues within 7 days of notification of the deficiencies, a compliance order will be issued by the Enforcement Officer and a complaint shall be referred to the County Attorney as provided herein and in A.R.S.§ 49-261. The Enforcement Officer has the authority to issue a stop work order, seek an injunction to stop the work as provided herein, and pursue civil or criminal penalties.

C. Exemptions

Coverage under a Town Stormwater approval for construction is not required for sites over one acre for:

1. Regular maintenance activities performed within the original line, grade or capacity of a facility.

2. Construction projects where the operator can prove that there is no reasonable probability that Stormwater can leave the site.

3. A site that qualifies for an erosivity waiver for activities in low-risk soil conditions.

4. A site already covered by an individual NPDES permit with Stormwater provisions.

5. Emergency construction activities required to protect public health and safety.

D. Transfers of Approvals

An approval may be transferred by the submittal of a Town transfer of coverage form that includes assurances by the new owner that the approved SWPPP and BMP requirements will be met.

E. Termination of Coverage

Coverage under the construction approval will end when a Notice of Termination (NOT) is filed with the Town and an inspection by the Enforcement Officer has confirmed that the entire site has been stabilized and landscaping and paving complete (as described in the Design Standards and Procedures Manual).

F. Compliance Monitoring

1. Right of Entry for Inspections and Observations

a. Inspections shall be conducted in accordance with the rules and regulations provided in A.R.S. § 41-1009. An Enforcement Officer conducting an inspection shall, unless otherwise provided by law, present photo identification on entry of the premises, state the purpose of the inspection and the legal authority for conducting the inspection, disclose any applicable inspection fees, and allow the Owner, Operator, or an authorized representative to accompany the Enforcement Officer, except during confidential interviews.

b. If an Owner or Operator holding an approval has security measures in force that require proper identification and clearance before entry into its premises, the Owner or Operator shall make the necessary arrangements to allow the Enforcement Officer access to the premises.

c. Owners or Operators holding an approval or their designated representatives shall allow the Enforcement Officer ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES and/or AZPDES permit to discharge Stormwater,

and to determine performance of any additional duties required by the approved plans or by applicable state and federal Stormwater regulations.

d. Any temporary or permanent obstruction to safe and easy access to the site or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the Enforcement Officer and shall not be replaced. The costs of clearing such access shall be borne by the operator.

e. Unreasonable delay in allowing the Enforcement Officer access to an approved facility is a violation of this ordinance. A person who is the owner or operator of a facility with an NPDES or AZPDES permit to discharge Stormwater associated with industrial activity violates the permit terms if the person denies the Enforcement Officer reasonable access to the permitted facility for conducting any activity authorized or required by this ordinance.

2. Search Warrants

a. If the Enforcement Officer has been refused access to the premises, then the Enforcement Officer may seek issuance of a search warrant from any court of competent jurisdiction in addition to issuing a compliance order, seeking an injunction, and assessing appropriate civil or criminal penalties under Title 49, Arizona Revised Statutes.

Section 10-10-8 Post-construction Stormwater Management

A. Introduction

The goal of this post-construction Stormwater management program is to protect public safety and public infrastructure, reduce erosion on private properties and stream channels, and protect the quality of Waters of the U.S. to the maximum extent practicable. The goals are achieved by maintaining and/or restoring natural drainage patterns, minimizing grading and disturbance, and minimizing the extent of impervious cover, as well as encouraging the use of a variety of BMPs for reducing the pollutant loadings from newly developed and redeveloped sites. These goals will be accomplished by requirements to, among other things, reduce the magnitude and extent of impervious cover and site disturbance, remove pollutants from runoff prior to the introduction of Stormwater to the Town MS4, and promote effective operation and maintenance of all Stormwater facilities.

1. Applicability

The Town will develop, implement, and enforce a program to address post-construction Stormwater runoff from new development and redevelopment projects that disturb one (1) or more acres of land (or less than one (1) acre if part of a common plan of development) that discharge into the Town's MS4. The post-construction requirements in this Section apply to permanent Stormwater management facilities, systems and/ or devices. Stormwater management during construction activities is regulated separately pursuant to Section 10-10-6 of this ordinance.

B. Objectives

In order to protect the health, safety and general welfare of the residents of the Town, as well as to protect, sustain and enhance the quality of the Waters of the U.S. in and adjacent to the Town, drainage and Stormwater management practices shall be utilized as directed herein to achieve the following objectives:

1. Accommodate site development and redevelopment in a manner that protects public safety and that is consistent with federal and state water quality requirements and the requirements of the Phase II Stormwater permit for the Town.

2. Protect water quality to the maximum extent practicable by removing and/or treating pollutants prior to the introduction of Stormwater to the Town MS4 or any Storm Drainage System connected to the MS4 throughout the Town.

3. Promote effective long-term operation and maintenance of all permanent Stormwater management facilities.

4. Treat and release Stormwater as close to the source of runoff as possible using a minimum of structures and maximizing reliance on natural processes.

5. Address certain requirements of the Phase II Stormwater Permit regulations.

6. Reduce the environmental impacts of Stormwater pollution from existing developed sites undergoing redevelopment while encouraging development and redevelopment in urban areas and areas designated for growth.

C. General Requirements

1. The management of Stormwater onsite, both during and upon completion of the land disturbances described above shall be accomplished in accordance with the standards and criteria of this ordinance and the requirements of the Town of Queen Creek Design Standards and Procedures Manual, the Queen Creek Subdivision Ordinance, and any applicable county floodplain regulations. The design of any temporary or permanent facilities and structures and the utilization of any natural drainage systems shall be in full compliance with this ordinance and any other applicable regulation.

D. Construction and Operation Responsibilities

1. “As Built” Plans. When construction is complete the applicant shall submit to the Department an actual “as built” plan for all Stormwater management facilities required per the approved Stormwater permit. The “as built” plan shall show all final design specifications for all permanent Stormwater facilities and if necessary shall be prepared and certified by a licensed professional engineer or land surveyor registered in the State of Arizona. The “as built” plan shall be based on an actual field survey. The “as built” plan shall be submitted to the Department for review and final inspection by the Department. Any performance and/or financial securities established for the project by the Department shall include requirements for submittal of “as built” plans.

E. Ownership and Maintenance

1. All Stormwater management facilities, systems and/or devices identified within an approved Stormwater permit shall be owned and maintained by one, or a combination of, the following entities:

   a. An individual for his or her own on-lot Stormwater management facilities not constructed as part of a subdivision and/or land development plan.

   b. Where individual on-lot Stormwater management facilities, systems and/ or devices are proposed in a subdivision or other development greater than one acre, the subdivision and/or land development plan and plat shall contain a note in a form satisfactory to the Department designating the entity responsible for operation and maintenance of the on-lot facilities consistent with an approved operation and maintenance plan.

   c. An entity that owns or has a perpetual right to access the land on which the Stormwater management facilities, system and/ or devices are located. The operation and maintenance obligation runs with the land and is binding upon the initial grantees of each lot and his, her, or their heirs, administrators, successors or assigns. Stormwater management facilities, systems and/ or devices or the ownership of the land on which they are located may not be deeded or dedicated to the County or the Flood Control District.

Section 10-10-9 Industrial Activity Discharges

A. Submission of NOI or Other Proof of Compliance to the Town

1. Any person subject to an industrial activity individual or general NPDES or AZPDES discharge permit, upon request, may be required to provide a copy in a form acceptable to the Administrator, prior to the allowing of discharges to the Town MS4.

2. The owner or operator of a facility required to have an individual NPDES or AZPDES permit to discharge Stormwater associated with industrial activity shall obtain proof of the permit, or if under a general permit, a copy of the NOI.

3. Any person found owning or operating a facility or owning a site that is not exempt, that does not have an NPDES or AZPDES permit, and is discharging Stormwater associated with industrial activity within the Town MS4 may be reported to the EPA and/or the ADEQ.

Section 10-10-10 Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices

A. Any activity, operation, or facility that may cause or contribute to pollution or contamination of Stormwater that discharges to any Storm Drainage System connected to the Town MS4 must implement BMPs for managing Stormwater. The owner or operator of such activity, operation, site or facility shall provide, at their own expense, reasonable protection from accidental introduction of prohibited materials or other wastes into any Storm Drainage System using BMPs. These BMPs shall be part of SWPPP as necessary for compliance with requirements of the AZPDES permit.

B. Any person responsible for a property or premise that is, or may be, the source of illegal non-Stormwater drainage as described in Section 10-10-6(A), may be required to implement, at said person's expense, additional BMPs to prevent the further drainage of pollutants.

Section 10-10-11 Notification of Spills

A. Notwithstanding other requirements of law, as soon as any person responsible for a facility, site or operation, including construction sites, or responsible for emergency response for a facility, site or operation has information of any known or suspected release of materials that are resulting or may result in the illegal introduction of pollutants into a Storm Drainage System connected to the MS4 or the Town MS4 shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Administrator in person, by phone, or by e-mail no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Town within ten calendar days of the phone notice. If prohibited materials emanate from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the release and the actions taken to prevent its recurrence. Such records shall be retained for at least one year or as may otherwise be required by applicable state or federal law.

B. Failure to provide notification of a release as provided above is a violation of this ordinance.

Section 10-10-12 Compliance Monitoring

The Town shall be permitted to enter and inspect property subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

A. Inspections shall be conducted in accordance with the rules and regulations provided in A.R.S. 41-1009.

B. If the owner or operator of a facility has security measures in force, which require proper identification and clearance before entry into its premises, the property owner shall make the necessary arrangements to allow access to representatives of the Town, including the Enforcement Officer.

C. Any temporary or permanent obstruction to safe and easy access to the property to be inspected shall be promptly removed by the property owner at the written or oral request of the Town, including the Enforcement Officer, and shall not be replaced. The costs of such access shall be borne by the property owner.

Section 10-10-13 Violations Deemed A Public Nuisance

In addition to the enforcement process and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Section 10-10-14 Remedies Not Exclusive

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Town to seek cumulative remedies.

The Town may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this ordinance, including monitoring expenses.

Section 10-10-15 Compatibility with Other Regulations

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards of human health or the environment shall control.

Section 10-10-16 Severability

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provision or application of this ordinance.

Section 10-10-17 Disclaimer

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized drainage of pollutants.

Neither submission of a plan or permit under the provisions herein, nor compliance with the provisions of this ordinance, shall relieve any person from responsibility for damage to any person or property otherwise imposed by law.

Section 10-10-18 Other Regulatory Requirements

Permits and approvals issued pursuant to this ordinance shall not relieve the applicant of the responsibility to comply with or to secure other required permits or approvals for activities regulated by any other applicable code, rule, regulation, act, statute or ordinance. This ordinance shall not preclude the inclusion in such other permit of more stringent requirements concerning regulation of Stormwater and erosion.

Section 10-10-19 Town Permits and Approvals

An application for any discretionary permits or approvals issued by the Town shall be accompanied by plans demonstrating how the development project will comply with the requirements of this ordinance. The permit or approval shall not be granted unless the decision maker determines that the development project complies with the applicable requirements of this ordinance. If a person applies for any one permit from the Town, that person is not relieved from the obligation to obtain any other applicable Town permit or permits

ARTICLE 10-11 PENALTIES

10-11-1 Enforcement Officers
10-11-2 Civil Offenses
10-11-3 Procedure
10-11-4 Criminal Penalties
10-11-5 State Law Penalties

Section 10-11-1 Enforcement Officers

Except as otherwise specifically provided in this Chapter 10, any Code Enforcement Officer, Peace Officer, or the Town Attorney or Town Prosecutor, may issue civil citations or complaints to enforce violations of this Chapter.

Section 10-11-2 Civil Offenses

Except as otherwise specifically provided in this Chapter, any person who fails to comply with the requirements of this Chapter, or violates any of its provisions is guilty of a civil offense. Except as otherwise specifically provided, civil offenses shall be punished by imposition of a civil fine in the amount of $250.00 for the first offense; $500.00 for a second offense in a 12-month period, and $2,000.00 for a third offense in said 12-month period. For purposes of calculating the 12-month period, such period shall begin on the date of the first offense.

Section 10-11-3 Procedure

Civil matters shall be tried before the civil hearing officer in accordance with the provisions of Chapter 5, Section 7 of this Code.

When appropriate, civil matters may also be tried before a justice of the peace or county hearing officer

Section 10-11-4 Criminal Penalties

Except as otherwise specifically provided herein, any person who violates a provision of this Chapter for which a civil penalty is not prescribed upon first conviction shall be considered guilty of a petty offense and upon subsequent convictions shall be guilty of a class 1 misdemeanor.

Section 10-11-5 State Law Penalties

Nothing in this Chapter 10 regarding civil penalties shall be interpreted or applied to prevent a law enforcement officer from imposing criminal penalties as provided by state law.