

## **TITLE 13 LAND USE AND ZONING CODE**

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## ***TITLE 13 - LAND USE AND ZONING CODE***

### **CHAPTER 1: GENERAL PROVISIONS**

#### ***Section 101. Title***

This Title shall be known as the Yavapai-Apache Nation (“Nation”) “Land Use and Zoning Code”.

#### ***Section 102. Policy Statement***

The Nation recognizes the importance of establishing uniform land use and zoning regulations and procedures that govern the use of the Nation’s reservation lands and help to ensure the overall health and welfare of the Nation and the people residing and working on the Nation’s lands. This Code is intended to establish efficient procedures for the timely consideration of leases, land use permits, and other authorized uses of the Nation’s lands. The Nation’s overall goal is to create a land use system that provides safe housing, encourages responsible business development, and creates a viable and vibrant tribal community to meet the present and future needs of the Nation.

#### ***Section 103. Authority***

This Land Use and Zoning Code is enacted by the Yavapai-Apache Tribal Council under its constitutional authority to “act in all matters concerning the health and welfare of the Tribe,” “to regulate the use and disposition of all land within the jurisdiction of the Tribe, including but not limited to the enactment of ordinances providing for the manner of creating, retaining and revoking assignments of tribal lands and interests,” to oversee “lease[s] or encumbrances of tribal lands,” to “exercise civil jurisdiction over all tribal members and any non-member of the Tribe to the extent permitted by federal law,” and to “enact laws, ordinances and resolutions necessary or incidental to the exercise of its legislative powers” See Constitution of the Yavapai-Apache Nation, Article V (a), (e),(f), (u) and (v), respectively.

#### ***Section 104. Jurisdiction***

This Land Use and Zoning Code shall apply to all persons and property, personal and real, subject to the jurisdiction of the Yavapai-Apache Nation as established by the Constitution of the Yavapai-Apache Nation, the inherent sovereignty of the Nation, and other applicable laws and regulations. The Nation’s Tribal Court shall have exclusive subject matter jurisdiction over all proceedings authorized to be brought in Tribal Court under this Title, and personal jurisdiction over all persons and property, personal and real, that is the subject of proceedings under this Title.

#### ***Section 105. Applicability***

Pursuant to Article I of the Constitution of the Yavapai-Apache Nation, this Title shall apply to all land under the jurisdiction of the Nation, including all property within the exterior boundaries of the Yavapai-Apache Nation Reservation, as defined under federal

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law and regulation, and as the same may be amended from time-to-time, all tribal trust lands, and all lands owned in fee by the Nation, including non-contiguous lands, as well as any structure or improvement, natural resource, or water supply present therein. The requirements of this Title are to be construed as minimum requirements, and this Title supplements any applicable regulations that may otherwise be applicable to the Nation.

### ***Section 106. Sovereign Immunity***

Pursuant to Article XIII of the Constitution of the Yavapai-Apache Nation, nothing in this Title shall be construed as a waiver or limitation upon the sovereignty or sovereign immunity of the Yavapai-Apache Nation, which is hereby expressly reaffirmed.

### ***Section 107. Severability***

This Title, its various chapters, parts, sections, subsections, phrases, and clauses thereof are hereby declared to be severable. If any chapter, part, sentence, paragraph, section, subsection, phrase, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, it is hereby provided that the remainder of this Title shall not be affected thereby.

### ***Section 108. Amendments***

At the discretion of the Tribal Council, amendments or supplements to this Title may be made from time to time.

### ***Section 109. Repeal of Inconsistent Legislation***

Any prior codes, ordinances, regulations, resolutions, orders, motions, titles, or other laws passed by the Nation that are inconsistent with the purposes and procedures established by this Title are hereby repealed to the extent necessary to avoid inconsistency. The Council declares that Ordinance No. 6, the Yavapai-Apache Community Council Land Utilization Code, adopted by the Community Council of the Yavapai-Apache Indian Community of Camp Verde Reservation on May 15, 1954, is hereby repealed.

### ***Section 110. Definitions***

The following definitions shall apply for the purposes of this Title:

“Agricultural” refers to land used for farming, ranching, or timber production, including arable land, permanent crops, and permanent pastures, and may encompass areas used for livestock production or related activities.

“Applicant” is a person applying for a permit, certificate, variance, or other procedure pursuant to this Title.

“Application” means the written request submitted by an applicant to the Department, on a form of application provided by the Department,

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requesting a Land Use Permit, a land lease, or a right-of-way as provided under this Title.

“Approve” or “Approval” means any approval required under this Code and the manner of approval specified under this Code. All approvals by the Tribal Council shall be accomplished by a duly adopted Tribal Council resolution or ordinance.

“Assignee” means a person who has obtained an assignment of a land use permit, lease, or other right to land use pursuant to the policies and procedures under this Title.

“Bureau of Indian Affairs” or “BIA” means the Bureau of Indian Affairs of the United States Department of the Interior.

“Bureau of Indian Affairs Regulations for Leases and Permits” means the federal regulations set forth under 25 CFR Part 162, Leases and Permits, as may be amended from time to time, and as referred to in this Code as 25 CFR Part 162 and its various sub-parts and sections.

“Bureau of Indian Affairs Regulations for Rights-of-Way” means the federal regulations set forth under 25 CFR Part 169, Rights-of-Way over Indian Land, as may be amended from time to time, and as referred to in this Code as 25 CFR Part 169 and its various sub-parts and sections.

“Cemetery” means a designated area of land set aside for the burial or other interment of human remains and for the conducting of the ceremonies associated with burial and interment.

“Commercial” means a category of land designated for business activities, including retail, office, hospitality, and other income-generating purposes.

“Community Development Department” is the Department of the Nation that is responsible for planning tribal land and land use development. Throughout this Code, the Community Development Department may be referred to as the “Department.”

“Community Development Director” is the official of the tribal government responsible for administering the Zoning Code in Chapter 6 of this Title.

“Constitution” means the Constitution of the Yavapai-Apache Nation.

“Cultural” refers to a category of lands designated to preserve and promote the cultural expression, heritage, and traditional activities of the Yavapai-Apache Nation.

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“Environmental Code” means “The Yavapai-Apache Nation Environmental Code,” Enacted on September 12, 2019 under Tribal Council Resolution No. 166-19, as amended on March 19, 2020 under Tribal Council Resolution No. 58-20, and on May 9, 2024 under Tribal Council Resolution No. 91-24, and as may be further amended from time to time by the Tribal Council.

“Environmental Protection Department” is a Department of the Nation that is responsible for the conservation and protection of tribal lands and the natural environment within the jurisdiction of the Yavapai-Apache Nation.

“Governmental” refers to a category of lands designated for tribal office and governmental service buildings.

“Industrial” refers to a category of land designated for the manufacture, production, processing, repair, maintenance, or storage of goods and materials, as well as for the processing, storage, transfer, or disposal of waste.

“Land Use Code Chapter 7” means the “Yavapai-Apache Nation Land Use Code, Chapter 7 – Garden Plots and Corrals” enacted by the Tribal Council on October 2, 2014 under Tribal Council Resolution No. 193-14, as amended on May 2, 2029 under Tribal Council Resolution No. 71-19, under which the issuance of permits to Tribal Members for use of the Nation’s lands for garden plots and corrals is administered.

“Land Use Permit” means the revocable land use permit issued under this Title whereby the Nation grants an individual the right to use a particular parcel of the Nation’s land for a particular period of time and a specified purpose, as further defined herein below at Section. The Term “Permit” does not encompass the Revocable Land Use Permits issued under Chapter 7 of the Land Use Code, Garden Plots and Corrals. The Nation’s Agricultural Department, in conjunction with the Community Development Department, will administer all permits for garden plots and corrals.

“Lease” means a written contract between the Nation as lessor and a lessee under which the lessee is granted the right to possess and use a portion of the Nation’s lands and/or buildings for a specified purpose and duration.

“Lease Assignment” means the legal process under which the lessee (acting as the “Assignor”) under a lease issued by the Nation acts to assign all its rights and obligations under the lease to a third party (the “assignee”) approved by the Nation.

“Lessee” means any person or entity, including a sublessee or assignee, that occupies land under a lease, including a lessee of residential property.

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“Lessor” means the Nation or other legal entity established by the Nation and delegated authority to enter into leases of the Nation’s lands.

“Master Land Use Plan” is the plan in Chapter 6 of this Title that will guide land use and zoning districts within the Yavapai-Apache Nation.

“Master Lease Agreement” means a written contract under which the Nation as Lessor leases a portion of the Nation’s land to a legal entity established by the Nation, or to a third party, as the primary lessee or “Master Tenant”, which then subleases the land to individual tenants for land development purposes.

“Nation” means the Yavapai-Apache Nation, a federally recognized Indian tribe organized and operating under Section 16 of the Indian Reorganization Act of 1934 and in accordance with its sovereign powers. (See also, “Tribe”).

“Permitted Land” means a parcel of land that has been designated for individual Tribal Member use under a Land Use Permit.

“Permittee” is a person holding a land use permit under this Title.

“Person” means any natural person who is born alive and is a person by virtue of existence, or legal persons who are entities created by law, such as corporations, partnerships, and limited liability companies that are granted the ability to act and hold legal rights and duties like a natural person.

"Premises" means any land and/or any structures or parts thereof, existing facilities, and appurtenances, including, but not limited to, utilities where applicable, grounds, areas, and existing facilities that are the subject of a Lease, Land Use Permit, or Right of Way granted under this Title.

“Probate Code” means the Yavapai-Apache Nation Probate Code adopted by the Nation under the authority of Tribal Council Resolution No. 113-24, June 26, 2024, as the same may be amended by the Nation from time to time.

“Recreational” refers to a category of land designated for leisure and outdoor activities. These activities include outdoor parks, hunting and fishing areas, hiking trails, and other outdoor-related activities.

"Rent" means payments to be made to the lessor in consideration for the lease, rental, or use of the premises.



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“Reservation” means the Yavapai-Apache Nation Reservation for the Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona, in Yavapai County, Arizona.

“Residential” means the permitting of construction for areas or properties designated for housing or living purposes, encompassing single-family homes, apartments, duplexes, and other dwelling types.

“Rights of Way” means an easement or a contracted-for legal right to go over or across the Nation’s lands for a specific purpose, including but not limited to building and operating a road, utility (water, sewer, electric, natural gas, or communication) line and associated facilities, but not including electric Service Line Agreements, which shall be administered under 25 CFR Part 169, Subpart B-Service Line Agreements, §§169-51-169-56. The term may also refer to the area of land subject to the grant of right-of-way; however, in all cases, the grant of a right-of-way title to the land remains vested in the Nation as landowner.

“Riparian and Undisturbed Lands” are lands designated for protection or non-development purposes for maintaining the environment and protecting natural resources, habitats, wildlife, and vegetation, or otherwise maintaining open spaces.

“Riparian Conservation Corridor” means the Yavapai-Apache Nation Riparian Conservation Corridor and Management Plan, as first established under Tribal Council Resolution No. 46-2006, as confirmed and amended under Tribal Council Resolution No. 140-2023.

“Sublease” means a contract under which a lessee conveys the right to a third party to temporarily occupy and use leased property under the terms of the original Lease.

“Termination” means an action by the Nation to end a lease, permit, or right-of-way granted under this Code.

“Tribal Council” or “Council” means the governing body of the Yavapai-Apache Nation as defined under the Constitution of the Yavapai-Apache Nation.

“Tribal Member” means a person who is an enrolled member of the Yavapai-Apache Nation.

“Tribe” means the Yavapai-Apache Nation (See also, “Nation”).

“Tribal Lands,” “Lands of the Nation,” or “Nation’s Lands” means the Nation’s lands, including its Reservation lands, all lands that are held in trust by the United States for the benefit of the Nation, all lands that are within the

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Nation's jurisdiction as provided under the Constitution of the Yavapai-Apache Nation, and all lands that are owned in fee simple status by the Nation.

"Zoning Map" means the official zoning map of the Yavapai-Apache Nation.

"Zoning Permit" means the permit issued under Chapter 6 of this Title granting the Nation's Consent to build or modify a structure based on its compliance with the requirements of Chapter 6.

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### **CHAPTER 2: REVOCABLE LAND USE PERMITS**

#### ***Section 201. No Allotments***

As provided in Section 1 of Article XI of the Constitution, “all lands within the jurisdiction of the Tribe shall remain tribal property and shall not be divided by allotment in any way whatsoever to individuals, groups of individuals or any other entity.”

#### ***Section 202. Purposes***

- A. Use of Designated Lands of the Nation. The Tribal Council has determined it is in the best interests of the Nation, its members, and districts to provide for the use of designated areas of the Nation’s lands by the issuance of temporary revocable land use permits, hereinafter “land use permit,” to tribal members for various land zoning designation uses. The Community Development Department shall be responsible for the oversight and administration of this Chapter.
- B. Land Use Permits are Short-Term, Temporary, and Revocable. All Land Use Permits approved under this Chapter shall have a term of not more than one calendar year, subject to annual renewal as provided herein. Land Use Permits are intended to provide for temporary land uses. An applicant desiring to use the Nation’s land for a period greater than one-year should apply for a lease. All land use permits are revocable by the Nation as provided in this Chapter.

#### ***Section 203. Application for Revocable Land Use Permits***

- A. Land Use Permits may be approved by the Community Development Department upon application of the tribal member.
- B. An application for a land permit shall be made in writing to the Department. The Department shall develop a form of application for a land use permit.
- C. The Department, in coordination with the Attorney General’s Office, shall develop a form of land use permit for use in issuing permits approved by the Department.
- D. The Department shall review all applications for a land use permit and shall approve or disapprove of an applicant’s request for a land use permit.
- E. Upon approval of a land use permit by the Community Development Department, the Department shall record and file the permit.
- F. The Department shall notify the Tribal Council of all approved land use permits within 21 business days of approval.

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- G. Any denial of a land permit by the Department shall be subject to review by the Tribal Council.
- H. If, after review by the Tribal Council, the denial stands, the decision shall be final and shall not be subject to judicial review by the Yavapai-Apache Tribal Court.

### ***Section 204. Land Use Permit Term and Renewal***

- A. Land Use Permits shall be valid for one calendar year and are then subject to the renewal requirements of this Code. A Permittee shall make active use of the Premises within six (6) months from the date of issuance of the initial Permit and its first renewal. Permittee's failure to utilize the Premises within the issued one-year period shall be cause for revocation and non-renewal of the Permit. Any failure by the Permittee to actively utilize the Premises during the one-year period following issuance of any Permit renewal shall be cause to revoke the Permit.
- B. Land Use Permits may be renewed in January of each year, contingent upon:
  - 1. A request by the Permittee for Permit renewal can be done by filing a Renewal Application with the Department and validation by the Department that the Permittee is in full compliance with the requirements of the Permit, this Code, and other applicable Nation or federal law;
  - 2. Updating of all information on the most recent permit application and;
  - 3. Payment of the annual renewal fee(s) due and owing for the Permit in the Permittee's possession. Annual renewal fees shall be \$25 per one-fourth (1/4) acre requested for each Permit issued per plot. The maximum plot that can be permitted is one acre, and fees shall not be prorated.
- C. Upon finding that a Permittee is eligible for renewal of his/her Permit(s) and has satisfied all renewal requirements, the Department shall issue a Certificate of Renewal for each Permit the Permittee is eligible to renew. Each Certificate of Renewal shall be effective for one calendar year. The Department shall send a written notice to each Permittee 60 calendar days prior to the expiration of a Permit, advising the Permittee of the Permit's expiration date and the requirements and procedure for renewal.

### ***Section 205. Land Use Permit Plot Size and Locations***

All land use permit plots shall be one-fourth (1/4) acre in size. Upon submission of a documented request, which includes a detailed use plan, a Permittee may request a plot size increase of up to one acre. All land must reside within the Reservation boundaries of the Nation. The Tribal Council shall designate appropriate lands that may be utilized as land use permit plots within each zoning district of the Nation. The Department will

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record and assign land plots to approved tribal members for use for one-calendar year. There will be no consideration of plots assigned outside of designated areas approved by the Tribal Council.

### ***Section 206. Agreements for Utility Services and Charges***

The Permit may include authorization for the Permittee to enter into agreements with the Nation or public utility companies to provide utility services, including gas, water, electricity, communications services, sewer facilities, and other customary utility services to the permitted area as may be necessary to the full enjoyment of the Permitted land use in accordance with the provisions of the Permit. The Nation shall have no obligation to extend utility services into the permitted area. The Permit shall not include authorization to install a septic sewer system. The construction or other extension of any utility services into the permitted area shall be subject to the requirement that the Permittee provide the Department with a copy of the survey, plat, or diagram showing the location of the utility service lines proposed for construction into the permitted area. The extension of utility service lines into the Permitted Area shall be subject to all applicable requirements under federal law and regulations. Construction of any utility service lines within the permitted area is subject to the Nation's approval.

If the Permit authorizes utility services to the Permitted area, the Permittee must agree to pay all charges and fees for water, sewage, gas, electricity, telephone and all other utility services supplied to the permit area when and as charges and fees become due. The Nation shall have no obligation or liability for payment of any such fees.

### ***Section 207. Fees & Rents for Land Use Permit Processes***

The Department shall recommend to the Tribal Council a schedule of fees for processing land use permit applications and a schedule of rents payable by the permittee during the term of the land use permit. All payments of fees and rents associated with land use permits shall be paid directly to the Yavapai-Apache Nation Finance Department, with a copy of the receipt for said payments provided to the Community Development Department for their records.

### ***Section 208. Public Notice of Applications for Land Use Permits and Renewals***

- A. As provided in this Section, the Department shall provide public notice of its receipt of an application for Land Use Permit or permit renewal (an "application").
- B. The Department shall post a public notice no less than twenty-one (21) calendar days before taking action on an application. The public notice shall identify (i) the applicant, (ii) the location of the permit area encompassed by the proposed permit or renewal, and (iii) a brief description of the proposed land use under the permit.

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- C. The Public Notice required under this Section shall be posted at the Tribal Administrative office, the Community Development Department office, on the Nation's website, and on the land proposed for the permit.
- D. Any adult tribal member claiming a prior right in or to the land comprising the proposed land use permit area, or asserting any reason why the application should be denied, shall file a written opposition to the application on a form provided by the Department. The opposition shall include a statement of reasons for the opposition, together with any supporting evidence.

### ***Section 209. Department Action to Approve or Disapprove Applications for Land Use Permit or Renewal***

- A. Any adult Tribal Member may submit written comments to the Department in support of or opposition to the application for land use permit or renewal before the end of the twenty-one (21) notice period established under Section 207 B.
- B. Comments must have supportive documentation in the form of petitions, notarized letter(s), evidence of prior land claims or rights, environmental impact reports, preservation concerns, zoning or land use conflicts, expert testimony or affidavit, or any other official documents deemed appropriate in the argument.
- C. If the Department receives a written opposition to the application, the Department shall provide a copy of the objection to the applicant, and thereafter the applicant shall have seven (7) calendar days to provide the Department a written response to the opposition. If the applicant's seven (7) day response period extends beyond the original twenty-one (21) calendar day period, the applicant will be given a full seven (7) days before a final decision is made for the approval or disapproval of the land use permit.
- D. After the applicant's response period concludes, the Department will make a final decision to approve or disapprove the land use permit.
- E. The Department shall notify the applicant in writing of approval or disapproval of the application within seven (7) business days after the twenty-one (21) day notice period, or after the conclusion of the applicant's extended seven (7) day response period.
- F. The Department shall notify the Tribal Council of the approved land use permit within twenty-one (21) business days of its approval.

### ***Section 210. Applicant Action to Appeal Denial for Land Use Permit or Renewal***

Any adult tribal member who is denied a land use permit or land use permit renewal may appeal that decision by the Department to the Tribal Council. Any adult tribal member who files an appeal of a denial decision shall not be considered to have completed the

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administrative appeal process until the appeal period has expired or a decision by the Tribal Council is made.

- A. A notice of appeal for a land use permit or land use permit renewal must be filed within fourteen (14) days of the application's denial. The notice of appeal must be filed with the Department prior to the expiration of that fourteen (14) period. If the fourteenth day falls on a weekend or holiday, the appeal notice will be accepted on the next business day. The notice must indicate the grounds for the appeal, identify the appealing applicant, and provide supporting documentation for their appeal.
- B. Upon receiving the necessary documentation pertaining to the applicant's appeal request, the Department shall promptly inform the Tribal Council Secretary. Subsequently, the Department, in coordination with the Tribal Council Secretary, shall arrange for the appellant(s) to present their case before the Tribal Council within twenty-one (21) days following the conclusion of the fourteen (14) day filing period referenced in Section 209 A. Should all required appellant documents be submitted prior to the end of the fourteen (14) day period, the appellant hearing may be expedited. The scheduling of the appellant hearing will be included as an agenda item in a Tribal Council meeting, as determined by the Tribal Council Secretary.
- C. Upon confirmation of an appearance date by the Department and the Tribal Council Secretary, as outlined in Section 209 B, the applicant shall be notified within twenty-four (24) hours via telephone, email, and postal mail by the Department regarding the scheduled date for the appeal.
- D. During the appellant hearing, the Tribal Council will thoroughly examine all documentation pertinent to the denial of the application, as well as the supporting materials associated with the appeal and any other relevant information concerning the land use permit or its renewal. The Tribal Council reserves the right to approve or deny the land use permit or renewal based on the information presented. Furthermore, the decision made by the Tribal Council regarding land use permits shall be deemed final and will not be subject to review by the Tribal Court.

### ***Section 211. Miscellaneous Provisions - Transfer and Inheritance of Land Use Permits, Non-Permanent Structures only, and Compliance with the Nation's Environmental Code***

Except as otherwise provided under the Yavapai-Apache Nation Probate Code, a land use permit may not be transferred, leased, sold, willed, devised, or otherwise given to another person or entity without the expressed written approval of the Tribal Council, except that:

- A. If a permittee dies and the spouse of the deceased permittee is a member of the Nation, the surviving spouse may continue to hold the permit.

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- B. If a permittee dies and the spouse of the deceased assignee is a non-member of the Nation, the surviving spouse may continue to occupy the permitted land, but only with the written consent of the Tribal Council.
- C. The Tribal Council may give preference in reassignment of permits to tribally-enrolled lineal descendants of the previous permittee.
- D. Construction of permanent structures is not allowed under land use permits. Non-permanent structures constructed within the land use permit area are constructed at the permittee's sole expense and are considered the personal property of the permittee and, upon expiration or revocation of the Permit, said property shall be removed by the Permittee and the land within the Permit area must returned to the condition substantially similar to its condition at the time of acquiring the land use permit.
- E. The issuance of all land use permits under this Code and all uses and activities conducted within the permit area by the Permittee are subject to the permitting and environmental review requirements of the Nation's Environmental Code, Titles II and III, to the extent that said uses and activities fall within the permitting and review requirements. Prior to the Department's consideration of a proposed permit, the Department shall consult with the Environmental Protection Department to determine whether any of the uses and activities authorized under the proposed lease fall within the requirements of the Environmental Code. All applicable requirements under the Environmental Code must be met before the lease is approved.

#### ***Section 212. Notice of Intent to Revoke a Land Use Permit***

- A. The Department shall recommend to the Tribal Council any action to revoke a land use permit under Section 211 of this Code.
- B. The Department shall post a notice twenty-one (21) calendar days before any proposed revocation action is taken by the Tribal Council. Notice shall be posted in the Tribal Administration office, Community Development Department office, on the Nation's website, and on the land itself so that, on a date and time as specified in the notice, interested persons will have an opportunity to appear before the Department to support or oppose the revocation. The Attorney General's office shall also send, via certified mail, notice to the last known address of the permittee.
- C. The Department shall collect all supporting documentation until a hearing date is scheduled. Individuals supporting or opposing the revocation may submit any documentation to the Department within that period. Documentation, see Section 208. B. may be remediated until the date of the scheduled hearing. No additional documents will be accepted, and no additional arguments shall be permitted, once the hearing concludes.



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- D. The Department shall hold a hearing to receive and consider any support or objections to the proposed revocation within the twenty-one (21) day period.
- E. At the conclusion of the hearing, the Department, based on its findings, shall make a recommendation to the Tribal Council on whether to revoke the permit. All findings and documentation shall be submitted with a recommendation to revoke to the Tribal Council.

### ***Section 213. Good Cause for Revocation of Land Use Permit***

Once granted, land use permits shall not be revoked absent good cause. Good cause is established, and the Tribal Council may revoke any land use permit for one or more of the following reasons:

- A. Failure to use the land as assigned for a period of one calendar year, provided that failure to use the land is not caused by a natural disaster or other cause beyond the control of the permittee; or
- B. Use of the land is in violation of the terms of the permit or any other contract relating to the permit, such as a default under a mortgage, deed of trust, or promissory note; or
- C. Violation of any applicable tribal law relating to land or land use; or
- D. Use of the land in any manner that results in injury to the Nation or the tribal community in general.
- E. Eminent domain by the Tribal Council to utilize lands for a communal necessity.

### ***Section 214. No Administrative or Judicial Review of Land Use Permits***

A revocation of a land use permit by the Tribal Council is a final decision and not subject to judicial review by the Yavapai-Apache Tribal Court, except as may be allowed under the Nation's Constitution.

### ***Section 215. Expiration of Land Use Permits***

Except for a revocation under Section 211 above, all land use permits shall terminate in accordance with their term, unless said term is renewed by the Nation. Except as otherwise provided, land use permits include the rights of use and occupancy for a one-year term unless the permit is renewed by the Department or Tribal Council. Relinquishment, expiration, revocation, or other termination of a land permit shall result in the reversion of the land back to the Nation.

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### ***Section 216. Summary Action for Recovery of Property by the Nation***

A legal action for recovery of the premises that fails to vacate the premises under a land use permit shall be commenced and conducted in the Tribal Court of the Yavapai-Apache Nation. In addition to determining the right to actual possession and ordering the eviction of a holdover permittee, the Tribal Court may assess damages, attorney fees, and costs against a holdover permittee.

### ***Section 217. Title to the Land***

Pursuant to Section 2 of Article XI of the Constitution, title to any lands of the Nation subject to a Land Use Permit shall not vest in the permittee. The Nation retains the right to use any land subject to a land use permit in any manner that does not interfere with the permittee's use of the land under the Permit. Any subsurface or mineral right and the right to grant easements on the lands shall be reserved to the Nation.

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### **CHAPTER 3: LEASES**

#### ***Section 301. Purpose***

The Tribal Council has determined it is in the best interests of the Nation to provide for the use of designated areas of the Nation's lands through leasing for various land zoning designation uses as provided under this Chapter 3. The Department shall be responsible for the oversight and administration of this Chapter.

#### ***Section 302. Application for Lease***

- A. Leases of the Nation's lands may only be approved by the Tribal Council upon application of the party seeking the lease.
- B. An application for a lease shall first be made in writing to the Community Development Department.
- C. The Department shall review the application for lease and recommend to the Tribal Council the approval or disapproval of an applicant's request for a lease.
- D. All lease applications shall comply with the requirements of 25 CFR Part 162 Leases and Permits.
- E. Upon the Tribal Council's approval of a lease, the Department shall record, file, and administer the lease. The Lease shall also be filed with the BIA for recording at its Branch of Land Titles and Records ("BLTR") and its Land Titles and Records Office ("LTRO").
- F. The Tribal Council's approval of a Lease Agreement shall be set forth in a Tribal Council Resolution that includes all waivers and acknowledgements as may be required under the BIA Regulations governing Land Leases and Permits, 25 CFR Part 162.
- G. All payments of fees and rents associated with leases shall be paid directly to the Yavapai-Apache Nation Finance Department, with a copy of the receipt for said payments provided to the Community Development Department for its records.
- H. The approval of all leases under this Code and all uses and activities conducted within the lease area by the lessee are subject to the permitting and environmental review requirements of the Nation's Environmental Code, Titles II and III, to the extent that said activities fall within the permitting and review requirements. Prior to issuance of a lease, the Department shall consult with the Environmental Protection Department to determine whether any of the uses and activities authorized under the

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proposed lease fall within the requirements of the Environmental Code. All applicable requirements under the Environmental Code must be met before the lease is issued.

### ***Section 303. Obligations and Liabilities of Lessee***

- A. The lessee is obligated to pay all rents as agreed.
- B. The lessee shall exercise diligence to maintain the premises in as good condition as when they took possession, ordinary wear and tear expected.
- C. The lessee shall be liable to the lessor for any removal or intentional and material alteration or damage of any part of the land, a building, the furnishings thereof, or any permanent fixture, by or at the instance of the lessee, other occupants, or persons on the leased property with the lessee's consent, without prior permission of the lessor.
- D. The lessee shall comply with all applicable laws and regulations of the Yavapai-Apache Nation, including but not limited to laws and regulations governing sanitation, plumbing, electrical, building, and any other applicable code.
- E. The lessee shall comply with all terms and conditions as specified in the Lease Agreement.
- F. The lessee shall procure and maintain throughout the term of the lease all insurance policies, including the minimum policy limits, as specified in the Lease Agreement.
- G. The Lease Agreement shall include provisions requiring the lessee to indemnify the Nation, and when required by applicable federal regulations, the United States of America, from and against all lawsuits, claims, and actions arising out of the lessee's use of the property under the lease.

### ***Section 304. Sublease, Transfer, or Sale of Leases***

Except as otherwise provided under the Yavapai-Apache Nation Probate Code, a lease may not be transferred, assigned, subleased, sold, willed, devised, or otherwise given to another person or entity without the express written approval of the Tribal Council.

### ***Section 305. Premises Rendered Unfit***

A leased structure must remain in compliance with all safety requirements set forth in the laws and regulations of the Yavapai-Apache Nation. The structure shall remain functional and up to code. All waste shall be disposed of properly and within health and safety regulations. The structure shall remain free of infestation(s) that would be considered a

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safety or hazardous concern to the health and wellness of the community. Failure to comply with health and safety regulations could result in fines, loss of privileges, and/or termination of the lease agreement.

### ***Section 306. Termination of Leases***

Except as may be otherwise provided in a Lease Agreement, all leases are subject to the following schedule of termination:

- A. A lease that has reverted to a year-to-year tenancy shall terminate at the end of each year unless the Nation's written consent is given by the Council to remain for a longer period. The Nation's consent shall specify the time the lessee may remain, and upon the termination of such time, the lease shall expire.
- B. A lease that has reverted to a month-to-month tenancy may be terminated by either the lessor or the lessee by giving at least thirty (30) calendar days' written notice thereof.
- C. When a lease is for a certain period, and the time expires, the lessee shall surrender possession. Notice to quit or demand for possession by the Nation is not necessary unless otherwise provided by the lease.
- D. A lessee shall be responsible for the removal of any and all property at the expense of the lessee; if property is not removed within the given time, the Nation shall remove the remaining property at the remittance of the lessee in addition, any land that is damaged or left in an unusable condition shall be reconditioned at the remittance of the lessee.

### ***Section 307. Effect of Lessee Holding Over***

When a lessee holds over and retains possession of premises after the expiration of the term of the lease, and absent an extension approved by the Tribal Council, the holding over shall not operate to renew the lease for the term of the formal lease, but thereafter the lease reverts to a month-to-month tenancy.

### ***Section 308. Lessee's Default in the Payment of Rent under a Lease***

When a lessee neglects or refuses to pay rent when due and said rent remains in arrears for five days thereafter, or when a lessee violates any provision of the lease, the Nation may reenter and take possession of the premises, or, without formal demand or reentry, commence an action for recovery of possession of the premises.

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### ***Section 309. Summary Action for Recovery of Premises***

Any legal action for recovery of the premises shall be commenced and conducted in the Tribal Court of the Yavapai-Apache Nation. In addition to determining the right to actual possession, the Tribal Court may assess damages, attorney fees, and costs to the holdover tenant.

### ***Section 310. Lien for Unpaid Rent; Enforcement***

If the lessee refuses or fails to pay the rent due and owing, the Nation shall have a lien upon and may seize as much personal property of the lessee located on the premises and not exempted by the law of the Nation as is necessary to secure payment of the rent. If the rent is not paid and satisfied within sixty (60) calendar days after the seizure as provided for in this section, the Nation may sell the seized personal property and apply the proceeds of the sale to the unpaid rent. When premises are sublet or the lease is assigned, the Nation's lien rights shall extend to the personal property of any sub-lessee or assignee and may enforce said lien in the same manner. The property of any other person not a party to the lease may not be held or sold to pay for rents owed by the lessee.

### ***Section 311. No Administrative or Judicial Review of Lease Determinations***

All decisions of the Tribal Council to approve, deny, or terminate a lease pursuant to this Chapter are final and not subject to judicial review in the Yavapai-Apache Nation Tribal Court.

### ***Section 312. Master Lease***

The Tribal Council, per applicable law, may establish Master Lease agreements with legal entities wholly owned by the Nation to act as the primary lessee or Master Tenant on the Nation's behalf. The tribal entity will act in the interests of the Nation for economic, housing, community, industrial, and other types of development as delegated by the Nation to the entity under the entity's organizing documents and the Master Lease. The primary lessee will have the authority to sublease land plots to secondary tenants in accordance with the terms and conditions specified in the Master Lease. It will be the responsibility of the primary lessee to manage subleases and gather rents due from secondary tenants. The Nation will receive rents from the primary lessee based upon agreed terms within the Master Lease. The Nation will retain land ownership rights for all primary and secondary subleases throughout the duration of the Master Lease. The Master Lease shall have an initial term of up to twenty-five (25) years. At the end of the initial Term, the Council may renew the lease for an additional term of not more than twenty-five (25) years, but only upon renegotiated terms satisfactory to the Tribal Council. The Master Lease Agreement shall not include a unilateral right on the part of the Lessee to exercise an option to renew the lease. For any proposed lease renewal, the lessee must submit to the Department an updated business plan, together with a written inspection report describing the current condition of all structures within the lease premises and verifying their suitability for continuing use under a renewed lease.

**CHAPTER 4: STREET NAMING AND ADDRESSING GUIDELINES**

***Section 401. Purpose***

The purpose of this chapter is to ensure the uniform assignment of property numbers, the naming of new streets, and the renaming of existing streets or the elimination of duplicate names. The objective of this chapter is to facilitate efficient and effective emergency services and to enhance safety for all members of the Yavapai-Apache Nation.

These standards are established solely for the assignment of physical addresses and are not intended to supersede or replace mailing addresses assigned by the United States Postal Service (USPS). It should be noted that mailing addresses will not align with the addresses issued by the Department until the USPS determines the necessity of utilizing physical addresses. The addresses generated by this chapter are specifically intended to provide a physical address for each structure; consequently, no addresses will be assigned to vacant lots until such time as the property is occupied by a structure or until the Department deems it necessary to issue an address.

***Section 402. Applicability***

This chapter is applicable to all lands of the Yavapai-Apache Nation, regardless of their fee or trust status. Prior to the development of property under a lease or permit, all individuals intending to construct permanent structures on the Nation's lands are required to submit to the Department a request for an address to be assigned to the property.

***Section 403. Addressing Standards***

- A. Address numbers shall be assigned with even numbers on the north side of east-west streets and the west side of north-south streets, and with odd numbers on the south side of east-west streets and the east side of north-south streets.
- B. An address shall be complete and official only if it contains all the following elements, unless listed as optional:
  - a. Number (Value denoting distance from baseline, plus a unit number or alphabetical letter, if necessary.)
  - b. Directional Prefix (Indicating directions of the street and its location within the addressing grid system)
  - c. Street Name (As shown on the address map and recognized by the Department)

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- d. Suffix Designation (Appropriate suffix as shown on the address map recognized by the Department), such as Avenue, Street, Road, etc.
- C. Where multiple tenants are located within one building (commercial or multiple/duplex residential), a singular address shall be assigned to each building and the individual tenants provided with suite or unit numbers/ letters.
  - a. Mobile Home Parks shall display space numbers/ letters upon the mobile home park interior roadway side of the individual mobile home spaces in an easy-to-read and legible manner that can be read night or day by the personnel of emergency service units.
- D. There is currently no legal standard utilized to designate the addresses of structures within the Nation's lands.
- E. Installing and affixing the addressing numbers for individual structures is the responsibility of the property developer or the person owning the structure. The location, type, method, and design of such numbers shall be in accordance with the Street Naming and Addressing Guidelines. Upon notification of address assignment by the Department, the address shall be posted within thirty (30) days prior to completion of the development. The following minimum standards apply:
  - a. Address numbers and letters shall be located in a manner that renders the numbers and letters visible and legible from the street on which the address is assigned
  - b. Where a building is not clearly visible from the street on which it is addressed, its address number/ letter shall be posted at the point at which its private driveway meets the street
  - c. Where unit numbering is necessary, the property developer is responsible for posting the unit number/ letter in a logical and appropriate manner
  - d. Address numbers and letters shall be maintained by the property developer/ owner in a manner that renders the numbers and letters legible and clearly readable from the named roadway or street to which it is addressed.

### ***Section 404. Street Naming/ Renaming Standards***

- A. The names of streets should be appropriate and easy to read, so that children can pronounce the name in an emergency situation. Street names are subject to review, and prior to approval from the Department, procedures must be followed in accordance with the Street Naming and Addressing Guidelines.



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B. Effective as of the date of the adoption of this Code by the Tribal Council, all new streets must be unique within the grid of the Yavapai-Apache Nation, and must not replicate streets either within the Nation or local communities within the Verde Valley. A street name is considered a duplicate if any of the following conditions exist:

- a. A street has the same name as another street even if their prefix or suffix designations differ
- b. A street name sounds similar to the name of another street despite a difference in spelling

C. Length of street names should be limited to spacing consistent with a 42-inch sign, usually 15-17 letters, depending on the suffix

D. Street Configuration and Appropriate Naming

- a. Streets which change direction, or loop back onto themselves or another street, should be given a directional prefix based on the street's overall orientation in the context of the surrounding streets. A street should change directional prefix only where it crosses a baseline road.
- b. Streets which change direction for a significant distance may change directional prefixes at the point where they cross a baseline road.
- c. Streets located on the same alignment in the same geographical region should bear the same name and directional prefix, though they are not connected.

E. Street Naming Procedures and Requirements for New Roads or Subdivisions:

After approval of a preliminary plat map and before the submittal of a final plat, the developer shall submit a street naming and addressing request to the Department. If the developer proposes to locate or construct a new road, the developer shall submit an engineer's or survey plat displaying the layout and connection of the proposed road to the existing roadways in the area of development.

### ***Section 405. Street Name Sign and Installation Standards***

To ensure uniform appearance, readability, and proper maintenance, all street signs for dedicated or private roads shall conform to the standards contained in this section. In addition, the installation of street name signs shall be reviewed by the Department for conformance with all requirements contained in this section to ensure safety and longevity of the installation.

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- A. All street name signs shall conform to the guidelines established in the Street Naming and Addressing Guidelines, as required by the Manual of Uniform Traffic Control Devices (MUTCD), United States Department of Transportation.
- B. Street Name Sign Specifications
  - a. Length of sign not to exceed 42 inches
  - b. Sign blade to be 6 inches wide, extruded aluminum with a .090 web thickness and a .250 flange thickness
  - c. Sign letters shall be made of materials with reflective properties
  - d. Letters shall be white on a green background
  - e. Four inches (4 in.) shall be the minimum letter height for names
  - f. Two inches (2 in.) letter height to be used for suffix designations (and directional prefixes, if used)
  - g. Conventional abbreviations are acceptable except for the street names themselves
  - h. In the event a street is named using an Apache or Yavapai word, ALL signs must have their English translation first, with the traditional wording underneath for emergency service personnel.

### ***Section 406. Street Name Change Procedures***

- A. Street name changes may be initiated in one of two ways:
  - a. Initiated by the Department for the purpose of implementing Chapter 4 of the Land Use and Zoning Code and the standards designated therein
  - b. An affected property developer or tribal member(s) may file an application with the Department requesting a hearing to consider a name change of a public or private roadway. Name change applications are for the limited purpose of correcting a name duplication or to reword a difficult or inappropriate name. Name changes may not be initiated for frivolous or personal purposes, and if an application is filed, the following information shall be included:
- B. An application to initiate a hearing to consider the naming or renaming of a public or private roadway within the Nation may be submitted to the Department by

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either an affected tribal member or a property developer. The application must be accompanied by a written petition demonstrating the consent of at least 51% of the individuals residing on or frequently traveling the entirety of the road in question. Additionally, all required components of the application outlined by the Department, as stipulated in the Street Naming and Addressing Guidelines, must be included.

- a. A completed Street Name Change application as provided by the Department shall include the following information:
  - i. A correct list of names and addresses of all tribal members residing on the street or road suggested for name change, including those who signed the petition, to the best of the petitioners' knowledge.
  - ii. A brief statement summarizing the reasons why the street name change is needed (i.e., eliminate duplicate names, help improve emergency services, etc.)
  - iii. A map showing the location of the road which is the subject of the application for name change.
  - iv. Old name and proposed new name and alternate(s).
  - v. Description of the beginning and end of the road subject to the proposed name change.
- C. Upon receipt of a complete application for a road name change, the Department shall schedule a public hearing date within thirty (30) days following the receipt of the application. The Department will notify all affected community members regarding the proposed name change. Notification of the hearing will be conducted through first-class mail or by hand delivery to all tribal members residing on the road designated for the name change. Such notification shall be provided at least ten (10) days prior to the scheduled hearing date. Additionally, notices will be prominently displayed at both the beginning and end sections of the road in question, as well as at the Department's office, Tribal Administration, on the Nation's website, and across the Nation's social media platforms. The Department reserves the right to approve the requested name change, deny the request, or defer the request for further consideration at a subsequent specified time and date.
- D. Any person affected may appear at the hearing in support of or in opposition to the requested street name change(s) or submit written comments explaining the person's support or opposition to the name change(s) at least twenty-four (24) hours in advance of the hearing date.

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- E. When a street name change is adopted and approved by the Department, the name change will automatically become part of the Nation's official street name map. However, the said street name change may not be shown immediately on mapping devices until such amendments are incorporated by their respective mapping agencies. The Department will notify local GIS systems of the new name change integration and will work with Yavapai County to update emergency response dispatchers on the street name change.
- F. A street name change shall become effective within sixty (60) days after the date of its approval or upon appropriate signage availability.
- G. Any tribal member whose street name is changed by a decision of the Department may appeal to the Tribal Council within twenty-one (21) days of the road name change decision. All decisions made by the Tribal Council are considered final and cannot be appealed to the Tribal Court.

**CHAPTER 5: RIGHTS-OF-WAY ON TRIBAL LANDS**

***Section 501. Purpose***

The Tribal Council has determined it is in the best interests of the Nation to manage and regulate rights-of-way on tribal lands for energy, telecommunications, transportation, and other utility purposes. This Chapter is intended to prescribe the procedures, terms, and conditions under which the Nation consents to a right-of-way on tribal land as provided under Right-of-Way regulations administered by the United States Department of the Interior, Bureau of Indian Affairs. *See* 25 C.F.R. Part 169. The Community Development Department shall be responsible for the oversight and implementation of this Chapter and the administration of all Rights-of-Way granted under this Chapter.

***Section 502. Procedure for Acquiring a Right-of-Way***

A person or entity seeking the Nation's consent to a right-of-way shall:

- A. File with the Community Development Department the application required by the Bureau of Indian Affairs under 25 CFR Subpart C, §169.101 et seq., for a right-of-way.
- B. The Community Development Department, with assistance from the Attorney General's Office, shall review the application for completeness. The Department may request additional information to complete the application or to satisfy requirements of the Nation not set out in the BIA regulations.
- C. The Department will recommend to the Tribal Council whether it should grant its preliminary consent to or deny the application, along with the reasons for such recommendation. The Department shall review the application with the Tribal Council.
- D. If the Council grants its preliminary consent to the application, the Department and the applicant shall forward the application to the BIA for its review and further Action under 25 CFR Part 169.
- E. Final consideration of the application shall be placed on the Tribal Council's calendar within thirty (30) calendar days, and the Tribal Council shall consider final approval of the right-of-way and either consent to it or not, stating the reasons for such decision.
- F. The Tribal Council's approval and granting of consent for a Right-of-Way shall be set forth in a Tribal Council Resolution that includes all waivers and acknowledgements as may be required under the BIA Regulations governing Land Leases and Permits, 25 CFR Part 169.

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### ***Section 503. Protection of Natural Resources***

- A. The Nation may establish reasonable procedures for the protection of its tribal land and any natural resources on and under tribal lands. There shall be no application of pesticides/herbicides, nor trimming of trees or other vegetation, without the Nation's prior consent given under a permit issued by the Environmental Protection Department.
- B. As the most sacred of natural resources, all waterways must be safeguarded with the utmost respect. In no way shall any natural water source of the Nation be used as a disposal for waste or industrial debris. Any development through or around a waterway must comply with additional regulations and screenings by the Environmental Protection Department.

### ***Section 504. Duty of Holders of Rights-of-Way***

A holder of a right-of-way has the duty to protect the tribal lands and natural resources, including but not limited to the plants, animals, water, air, and cultural sites within the area encompassed by the right-of-way. A holder of a right-of-way shall provide written notice to the Department, the Environmental Protection Department, and the Tribal Council of all activity or proposed activities that may have a significant impact on the environment.

### ***Section 505. Right-of-Way Fees & Payments***

The Tribal Council reserves the right to set right-of-way fees. The amounts will be established by the Tribal Council and will be paid to the Nation through the Finance Department.

### ***Section 506. Retention of Tribal Rights***

The Nation shall retain all rights not specifically granted to a holder of a right-of-way, including but not limited to:

- A. The right to exercise the Nation's civil and criminal jurisdiction to the fullest extent allowed under law.
- B. The Right to tax the property or activities located on and occurring within the right-of-way.
- C. The right to adopt laws regarding the property or activities within the right-of-way.
- D. The right to control access to the land within the right-of-way.

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### ***Section 507. Tribal Use of Right-of-Way***

The Nation reserves the right to use the area encompassing the right-of-way for all purposes that do not conflict with rights granted under the right-of-way, and the right-of-way shall provide for the Nation to interconnect its tribal facilities and buildings into the utility use allowed under the right-of-way.

### ***Section 508. Deposit of Consideration and Damages***

Prior to the Nation's consent to a right-of-way, the Nation may require the applicant to deposit with the Nation the total estimated consideration and damages, which may include consideration for the right-of-way, severance damages, damages caused during the survey, and estimated damages that may result from construction within the right-of-way. Due to the unique nature of the Reservation and the Nation's desire to protect its land and resources, consenting to a right-of-way shall be done with due deliberation concerning the following factors:

- A. Whether any tribal land or resource will be damaged if the Nation consents to the application.
- B. The cost to the Nation if consent is provided.
- C. The cost to the applicant if the Nation refuses to consent.
- D. The applicant's estimated earnings resulting from the right-of-way.
- E. Whether similar rights-of-way have received the Nation's consent.
- F. The terms and conditions in the application.
- G. The Fair Market Value of the right-of-way
- H. Any other factor the Nation deems relevant.

### ***Section 509. Tenure of a Right-of-Way***

Any right-of-way consented to by the Nation shall be limited in tenure to an original term of 25 years from the date of consent, with any term of renewal as may be agreed to by the Nation.

### ***Section 510. Notice of Entrance onto a Right-of-Way***

A holder of a right-of-way shall provide written notice to the Department of any maintenance or other activities occurring within the right-of-way prior to entering the Reservation for such maintenance or other activities. Such notice shall include a description of the actions to be performed and the timeframe for performance. In the case

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of an emergency, best efforts shall be made to provide such notice. The Department may accompany the holder when such activities are being performed.

### ***Section 511. Notice of Damage***

A holder of a right-of-way on tribal land shall provide written notice to the Department of all new activities or proposals that may have a significant impact on the environment. Such notice is required, but not limited to:

- A. Proposed construction of new facilities.
- B. Proposed changes in the Holder's business structure or operations that may affect the environment.
- C. Applications for licenses or extensions of licenses to State or Federal agencies.
- D. Transfer of significant ownership of assets of the company.
- E. Major State or Federal initiatives.



**CHAPTER 6: RIPARIAN CONSERVATION CORRIDOR**

***Section 601. Declaration of a Riparian Conservation Corridor and Management Plan***

As provided under Tribal Council Resolution No. 140-2023, the Tribal Council has declared a Riparian Conservation Corridor and Management Plan to protect habitat within the riparian corridor of the Verde River, and both Dry and Wet Beaver Creeks from development and degradation, and to preserve the traditional and cultural practices of the Nation. The Nation shall implement the goals described in Resolution No. 140-2023 to protect the habitat within the Riparian Conservation Corridor. The Department, in conjunction with the Environmental Protection Department, shall incorporate implementation of the Riparian Conservation Corridor and Management Plan into the administration of this Code and the Nation's Environmental Code.

***Section 602. Location of the Corridor***

The Riparian Conservation Corridor includes the undeveloped Reservation, trust, and fee-owned lands on both sides of the Verde River, beginning at the center of the Verde River and extending outward for approximately three hundred (300) feet. The Corridor also includes both dry and wet Beaver Creek, beginning at the center of each waterway and extending outward for approximately seventy-five (75) feet. The description and location of the Corridor are set forth in Tribal Council Resolution No. 140-2023.

***Section 603. Prohibitions within the Corridor***

As provided under Tribal Council Resolution No. 140-2023, within the Riparian Conservation Corridor:

1. The stocking of non-native fish is prohibited.
2. Livestock grazing, construction, and other activities with the potential to significantly alter riparian habitat shall be minimized, and there shall be no net loss of riparian habitat located within the Riparian Conservation Corridor for federally listed species.
3. No permanent modification of habitat essential to any federally listed species shall be permitted, unless authorized by a separate action of the Tribal Council.
4. No discharge of dredged or fill material into the waters of the United States without compliance with Section 404 of the Clean Water Act. In the event that Section 404 is determined not to apply to a proposed construction activity, the person proposing the activity must nevertheless obtain the Nation's consent to the activity before proceeding with the activity.

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### ***Section 604. Recreation within the Corridor***

The Nation shall take all reasonable steps to coordinate all recreational activities taking place near or within the Corridor, including hunting and fishing, with the United States Fish and Wildlife Service.

### ***Section 605. Habitat Restoration and Other Activities within the Corridor***

The Nation will take all reasonable steps to coordinate its activities within the Riparian Conservation Corridor with the United States Fish and Wildlife Service, where these activities might materially alter the riparian habitat (for example, flood mitigation, habitat restoration, or the control of invasive species) and adversely impact habitat essential to the conservation or recovery of federally listed species.

### ***Section 606. Monitoring Habitat within the Corridor***

Within the Nation's funding limitations, and subject to confidentiality guidelines established by the Nation, the Nation will coordinate with the United States Fish and Wildlife Service to monitor habitat within the Riparian Conservation Corridor for the presence of federally listed species, including performing surveys, and to conduct research or other activities pertaining to or for the benefit of federally listed species or their habitat.

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### **CHAPTER 7: ZONING**

#### ***Section 701. Purposes***

- A. Beginning on the effective date of this Chapter, a zoning clearance permit (permit) is required for construction of all new buildings, structures, or parts thereof, or any other improvements. A permit is also required to enlarge, rebuild, or alter an existing building or structure. The Community Development Department is responsible for the oversight and implementation of this Chapter.
- B. This Chapter shall be implemented to achieve the following purposes:
  1. To protect and preserve the tribal living environment, tribal lands and waters, and natural and cultural resources of the Yavapai-Apache Nation;
  2. To establish residential areas where families may live in privacy and a wholesome environment;
  3. To facilitate the planning and development of public facilities such as roads, schools, and utility services;
  4. To advance economic development and foster commercial investments that support tribal entrepreneurship and business growth;
  5. To prevent the deterioration of property values occasioned by the random location of homes, commercial, industrial, and other categories of buildings; and
  6. To protect the public health and safety by preventing overcrowding and by segregating industrial districts away from residential and commercial districts;

#### ***Section 702. Monitoring and Enforcement***

##### ***A. Purpose***

The purpose of this section is to set forth provisions for enforcing the provisions of this Zoning Code. Any violation of this Zoning Code shall be subject to the enforcement remedies and penalties provided in this Chapter or by the laws of the Nation.

##### ***B. Violations***

1. It shall be unlawful for a responsible party to allow or permit, facilitate, suffer, aid, or abet any violation of any provision of this Zoning Code or to fail to perform any act or duty required by this Zoning Code.

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2. Each day any violation of any provision of this Zoning Code or the failure to perform any act or duty required by this Zoning Code continues shall constitute a separate offense.

### ***C. Enforcement Authority***

1. The Department shall have the power and responsibility to conduct inspections and enforce this Zoning Code. The Department shall have the authority to enter any building, structure, or premises or any part thereof at all reasonable times in compliance with such legal requirements governing administrative inspections of private property as may be adopted by the Nation, for the purpose of performing the Department's duties. The Department is hereby authorized to commence an enforcement action in compliance with this division by issuing a citation for civil sanctions in the Yavapai-Apache Nation Tribal Court. The Department may also seek the filing of a complaint by the Chief Prosecutor of the Nation for criminal prosecution of habitual offenders as defined in this division.
2. If the Department intends to enter the property or facilities, the Department shall first attempt to provide reasonable written notice to the owner at least twenty-four (24) hours in advance; however, lack of notice shall not prevent the Community Development Department from entering the premises.
3. Upon proper notice as stated above, and where access to the premises is restricted, locked, or secured in a manner that prohibits entry, the owner shall provide entry to the Department upon presentation of proper identification.
4. The Department may conduct any sampling, monitoring, measurement, or other required activity to ensure compliance with this Chapter.

### ***D. Interference with Enforcement Personnel***

It shall be unlawful for any person knowingly to interfere with, hinder, or obstruct the Department's enforcement personnel in the performance of their official duties.

### ***E. Police to Assist in Enforcement Activities***

It shall be the duty of the Yavapai-Apache Police Department to assist the Department in the enforcement of this Zoning Code.

### ***F. Civil Enforcement – Penalties***

1. Any responsible party that allows, permits, facilitates, suffers, aids, or abets any violation of any provision of this Zoning Code or fails to perform any act

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or duty required by this Zoning Code shall be responsible for a civil violation unless otherwise specified.

2. Any person found responsible by the Tribal Court for violating this Zoning Code shall be fined not less than \$100. Any person found responsible for a second violation of this Zoning Code committed within 36 months of a prior violation of this Zoning Code shall be subject to a fine of not less than \$250. Any person found responsible for a third or subsequent violation of this Zoning Code within 36 months of a prior violation of this Zoning Code shall be subject to a fine of not less than \$500.
3. Every civil action or proceeding in compliance with this division shall be commenced and prosecuted in compliance with the Nation's laws and the rules of the Tribal Court.

### ***G. Criminal Enforcement- Penalties***

1. Any person found responsible by the Tribal Court for three or more civil violations of this Zoning Code within a 24-month period, whether by admission, by payment of the fine, by default, or by judgment after hearing, shall be deemed to be a habitual offender. For purposes of calculating the 24-month period in compliance with this subsection, the dates of the commission of the offenses are the determining factor.
2. A habitual offender who subsequently violates this Zoning Code shall be guilty of a class one misdemeanor.
3. Every criminal action or proceeding made pursuant to this Chapter shall be commenced and prosecuted in compliance with the Nation's criminal laws relating to misdemeanors.

### ***H. Other Powers and Remedies***

The Department shall have such other enforcement rights, powers, and remedies as are and may from time to time be provided for or permitted by the Nation's law for the enforcement of zoning regulations, or for the litigation by action or appeal of controversies in regard to zoning regulations or enforcement.

### ***I. Enforcement by Stop Work Order***

1. The Department may issue an order to stop work on any development, excavation, building, or structure on any land on which there is an uncorrected violation of a provision of this Zoning Code or of a permit or other form of authorization issued pursuant to this Zoning Code. The Department may also order work to be stopped in the event that the activity is being conducted without having obtained the required permit or approval. In addition to the

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issuance of complaints against habitual offenders, the Nation's Chief Prosecutor is authorized to issue complaints for those violations of this Zoning Code deemed criminal.

2. The Department may conduct any sampling, monitoring, measurement, or other required activity to ensure compliance with this Chapter.

### ***Section 703. Official Tribal Zoning Map***

The Department, in conjunction with the Tribal Council and various Tribal Department Directors, shall develop an official Tribal Zoning Map that delineates the Zoning Districts for the entire Nation. The Community Development Department shall prepare and provide the Zoning Map, or amendment thereto, to the Tribal Council for approval. Upon approval or amendment by the Tribal Council, the Zoning Map shall be available for public viewing during working hours as well as electronically.

### ***Section 704. Official Tribal Land Districts***

- A. The Yavapai-Apache Nation encompasses a vast land base that includes various locations throughout the Verde Valley. With properties situated in Camp Verde, Clarkdale, and Rimrock, the Nation has established officially designated districts for each grouping of land to facilitate identification and management purposes. These lands will be identified shall be identified through GIS maps produced by the Department for public and private use.

1. Middle Verde
2. Lower Verde (Camp Verde)
3. Rimrock
4. Tunlii
5. Cloverleaf
6. Clarkdale
7. Kwail Heights
8. Montezuma (Cliff Castle Economic Corridor)

- B. In the event that the Nation acquires additional properties, the Department shall submit proposals for the establishment of new districts to the Tribal Council for their review and approval. Alternatively, should the property be adjacent to an existing district, the Department will propose the incorporation of the new property into the already established district. The Land Use and Zoning Code will

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be revised to incorporate the newly approved districts. Subsequently, the Department will update internal maps and notify the Nation's tribal members regarding the approvals.

### ***Section 705. Zoning Districts, Permitted Uses, and Restrictions***

The Nation's lands shall be divided into zoning districts of varied shape, kind, and area, with regulations adopted for each such district, but with due consideration for the character of each district, its peculiar suitability for particular purposes and uses, the conservation of property values and natural resources, and the general trend and character of land, buildings and population development. There shall be nine (9) categories of zoning districts as follows:

- A. Residential
- B. Commercial
- C. Governmental
- D. Agricultural
- E. Industrial
- F. Cultural
- G. Recreational
- H. Riparian and Undisturbed Land
- I. Cemetery

### ***Section 706. Residential Districts***

It is the intent of the Tribal Council to create a safe, peaceful, and harmonious place for the Nation's people to live. Residential Districts are intended to provide an area that will allow residential development in those areas of the Nation best suited for residential uses. No building, structure, or part thereof shall be erected, altered, or used, or land or premises occupied in a Residential District, except by permit approved pursuant to this Chapter. Residential Districts may contain, and permissible uses include:

- A. A house, trailer, cabin, or other permanent residence, or multi-family dwelling;
- B. Communal spaces for outdoor activities that include playgrounds, parks, or other outdoor spaces constructed for community use;

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- C. Gardening and raising poultry, small animals, as well as domestic animals, is permitted to a limited extent in the Middle Verde residential district only, and only in accordance with permits issued under Chapter 7 of the Land Use Code, Garden Plots and Corrals. Unless otherwise permitted under Chapter 7 of the Land Use Code, all farming or raising of livestock, including cows, steers, bulls, horses, goats, or pigs within Residential Districts is prohibited;
- D. Services that enhance residential living, such as schools, police and fire department buildings, churches, or religious institutions, libraries, and other tribally-owned buildings;
- E. Public services such as electricity, internet, telecommunications, or utility providers;
- F. Small in-home businesses that do not impact the health and safety of the tribal community.

### ***Section 707. Commercial Districts***

It is the intent of the Tribal Council to establish areas for the development of commercial businesses by the Nation, the Nation's Community members, and such non-tribal business entities, and the Nation may authorize. Commercial districts will consist primarily of retail sales and service functions and may also provide for lodging compatible with commercial uses. No commercial building, structure, or part thereof shall be erected, altered, or used, or land or premises occupied in a Commercial District, except by permit approved pursuant to this Chapter. A Commercial District may contain, and permissible uses include:

- A. Professional services, including sole proprietorships, partnerships, professional associations, or corporations, where a person is trained as a doctor, attorney, dentist, newspaper editor, religious leader, or in a similar endeavor;
- B. Retail businesses including grocery, hardware, drug, clothing, or general merchandise stores; gasoline service stations; automobile repair shops; restaurants; movie theaters; barber or beauty shops; cleaning establishments and similar personal service businesses; handicraft establishments and other trades and businesses of similar character;
- C. Large-scale commercial development that includes big box retail, entertainment venues, franchises, and businesses of similar character;
- D. Lodging, in reference to temporary accommodations offered for rent to the public for a period of seven (7) consecutive days or less. This includes, but is not limited to, hotels, motels, bed and breakfasts, cabin camps, or any



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other similar short-term rental units intended to provide overnight or short-duration stays;

- E. Subordinate Economic Organization and other businesses owned by the Nation, including the Cliff Castle Casino and Hotel, The Lodge, The Whitehills Convenience Store, The Market Place convenience store, the Distant Drums RV Resort, and such other businesses of the Nation as may be established from time to time;
- F. Public services such as electricity, internet, telecommunications, or utility providers; or
- G. Any use that is customarily permitted in a Commercial District.

### ***Section 708. Governmental Districts***

It is the intent of the Tribal Council to establish areas for governmental buildings, facilities, and uses integral to the governmental operations of the Nation, and where appropriate, the United States. No building, structure, or part thereof shall be erected, altered, or used, or land or premises occupied in a Governmental District, except by permit approved under this Chapter. Governmental Districts may contain, and permissible uses include:

- A. Governmental offices and other buildings owned by the Nation;
- B. Health clinics, police station, fire station, library, or other public services; and
- C. Educational facilities, including early childhood education through postsecondary education and vocational or trade institutions.

### ***Section 709. Agricultural Districts***

It is the intent of the Tribal Council to designate and set aside lands that are to be protected for the continuation or establishment of agricultural practices aimed at advancing the Nation's food sovereignty policies. Agricultural Districts may contain, and permissible uses include:

- A. Any form of agricultural use, including the raising of crops, horticulture, pasturing, or grazing livestock or other farm animals;
- B. Residences and accessory buildings;
- C. Farm labor accommodations; or
- D. Farm equipment storage.

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### ***Section 710. Industrial Districts***

It is the intent of the Tribal Council to permit industrial and other uses that are incompatible with other land uses but are beneficial in that they provide industrial employment opportunities or serve a useful or necessary function on the Nation. No industrial building, structure, or part thereof shall be erected, altered, or used, or land or premises occupied in an Industrial District, except by permit approved pursuant to this Chapter. Industrial Districts may contain permissible uses including:

- A. Manufacturing facilities;
- B. Storage warehouses and Distribution Centers;
- C. Animal processing plants;
- D. Lumber yards;
- E. Trash collection or transfer station facilities;
- F. Landfills;
- G. Wastewater treatment facilities;
- H. Recycle facilities;
- I. Large-scale laundries and cleaning establishments; and
- J. Sand and Gravel mining operations and concrete production;
- K. Business of similar character.

### ***Section 711. Cultural Districts***

It is the intent of the Tribal Council to designate and set aside lands for the protection, preservation, and enhancement of sites, areas, and structures of architectural, historical, archaeological, or cultural importance or value, and to limit public access to such areas. No building, structure, or part thereof shall be erected, altered, or used, or land or premises occupied in a Cultural District, except by permit approved pursuant to this Chapter. Cultural Districts may contain permissible uses including:

- A. Archaeological sites;
- B. Historical, cultural, or religious sites;
- C. Traditional gathering areas; or

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- D. Open spaces;
- E. Culturally sensitive access.
- F. Ceremonial grounds of the Nation.

### ***Section 712. Recreational Districts***

It is the intent of the Tribal Council to identify open areas suitable for parks and outdoor recreational use. No building, structure, or part thereof shall be erected, altered, or used, or land or premises occupied in a Recreational District, except by permit approved pursuant to this Chapter. Recreational Districts will state their permissible uses. These permissible uses may contain the following:

- A. Parks;
- B. Walking and biking trails;
- C. Fields or playgrounds;
- D. Any national or state park areas; or
- E. Camping or picnicking areas;
- F. Fishing;
- G. Hunting.

### ***Section 713. Riparian and Undisturbed Land Districts***

It is the intent of the Tribal Council to designate and set aside areas of protection for designated riparian and undisturbed lands. No building, structure, or land alteration shall be erected, altered, or developed on land within Riparian and Undisturbed Land Districts, except by permit approved by the Tribal Council. Riparian and Undisturbed Land Districts may contain permissible uses, including:

- A. Riparian Conservation Corridor areas for the Verde River, Dry, and Wet Beaver Creek
- B. Other lands designated for non-development use.

### ***Section 714. Cemetery District***

It is the intent of the Tribal Council to designate and set aside a location for the Nation's Cemetery District. No building, structure, or land alteration shall be erected, altered, or

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developed on land within the Cemetery District, except by permit approved by the Tribal Council. The Cemetery District may contain permissible uses, including:

- A. Excavating plots for burial purposes;
- B. Burial of tribal members within designated plots;
- C. Use of cemetery for funeral services;
- D. Any other service deemed necessary for cemetery operation.

### ***Section 715. Application for Zoning Clearance Permits***

- A. Any person or entity required to apply for a permit as described in this Chapter may acquire a permit application from the Community Development Department.
- B. The Tribal Council shall approve or deny any permit required under this Chapter within thirty (30) days of receiving a complete permit application. A permit application must be approved by the Tribal Council before any work or excavation, construction, alteration, enlargement, or movement is begun. Accessory buildings, when erected at the same time as the principal building on a lot and shown on the application, shall not require a separate building permit.
- C. An application for a permit shall include:
  - 1. The name, address, and phone number of the applicant;
  - 2. A brief written description of the proposed use;
  - 3. A description of the location and actual dimensions of the land to which the permit is to apply;
  - 4. A description of any structure or other improvement to be erected, moved, or removed, including size;
  - 5. A description of any corporate structure involved, a description of the number of people estimated to live, work, or use the area, and
  - 6. The location, dimensions, and description of any infrastructure involved or intended, including roads, sidewalks, water, utilities, disposal, or sewer.

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### **D. Permit Fee**

The Community Development Department may establish a permit fee schedule in an amount to be determined at the discretion of the Department. The Department shall provide fee information to the public, as requested, and shall post the fee schedule in the Department office. All fees that are required for approval of a zoning clearance permit are to be submitted to the Yavapai-Apache Nation's Finance Department for payment.

### ***Section 716. Duration***

- A. All permits shall be effective for a limited time, not to exceed one (1) year or through the completion date of the construction time requested.
- B. If a permittee requires an extension of time to complete any construction activity approved under the permit, the permittee shall file an extension request no later than 45 days prior to the expiration of the permittee's existing permit.
- C. Requests for an extension of a permit shall be filed with the Department, and if no changes have occurred within the permit, the Department shall give approval or denial. If there are additional requirements or alterations in the permit renewal, the Department will present the renewal to the Tribal Council, which shall approve or deny such request for extension before the expiration of the existing permit.

### ***Section 717. Review and Approval of Zoning Clearance Permit Application***

- A. The Department shall provide a preliminary review of any permit application submitted under this Chapter and request additional information, at the Department's discretion, from the applicant.
- B. Upon receipt of a complete permit application, the Department shall review the application and approve or deny an unchanged extension request. If the permit extension has alterations, the Department shall recommend approval or denial of the permit to the Tribal Council.
- C. The Department or the Tribal Council shall approve or deny any permit required under this Chapter within thirty (30) calendar days of receiving a complete permit application and the Department's recommendation.
- D. The Department shall notify an applicant in writing within thirty (30) calendar days after a permit has been approved or denied. This decision shall be in writing and state the reasons for the approval or denial.

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- E. Any person adversely affected by a permit decision made by the Department under this Chapter may appeal such decision to the Tribal Council pursuant to the procedures in Section 627 of this Chapter.
- F. No permit shall be transferable, sold, assigned, or otherwise given away. Any change in ownership requires a new permit application.

### ***Section 718. Zoning Clearance Permit Modification***

- A. If significant and material changes have occurred since the approval of a permit issued under this Chapter, the permittee shall file an application for a permit modification with the Department.
- B. The application shall describe the changes, the proposed modifications to the permit, and any necessary information regarding the implementation of such changes.
- C. The Department shall review the request for modification and recommend approval or denial to the Tribal Council, whereupon the Tribal Council shall approve or deny a request for a modification to any permit issued under this Chapter.
- D. The Department shall notify the applicant in writing within thirty (30) calendar days of approval or denial of a permit modification.
- E. Any person whose request to modify a permit is denied by the Department may appeal such denial to the Tribal Council pursuant to the rules and procedures established under Section 627 of this Chapter.

### ***Section 719. Zoning Clearance Permit Revocation***

- A. The Department may revoke a permit issued pursuant to this Chapter for the permit holder's failure to comply with any of the provisions of this Chapter or in case of any false statement or misrepresentation in the application.
- B. Any person whose permit is revoked by the Department may appeal such revocation to the Tribal Council pursuant to the rules and procedures established under Section 627 of this Chapter.

### ***Section 720. Certificate of Occupancy***

- A. No dwelling or building for which a permit is issued or is otherwise subject to the provisions of this Chapter shall be occupied or used until the Department, or state-certified inspector, has issued a Certificate of Occupancy to the owner or their duly authorized agent. Such a certificate

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shall be applied for as soon as any structure is ready for occupancy. Any inspection fees shall be incurred by the occupant.

- B. A state-certified building inspector, or such other inspector as may be approved by the Nation (the “inspector”), accompanied by the Department, shall inspect the permitted structure, including a walk-through.
- C. If the structure conforms to applicable codes, the inspector shall issue a Certificate of Occupancy to the owner or their agent. If there is non-compliance, the inspector may issue a written statement of non-compliance to the owner or their agent, with a copy to the Department.
- D. No structure may be occupied until a Certificate of Occupancy has been issued by the inspector or the Department.
- E. Any person who has been denied a Certificate of Occupancy issued under this Chapter may appeal such denial to the Tribal Council pursuant to the rules and procedures established under Section 627 of this Chapter.

### ***Section 721. Zoning Variances***

- A. Application. Any person proposing to erect a structure not in conformity with this Chapter, or to use an existing structure for a purpose not permitted by the Chapter, may apply to the Department for a zoning variance by stating, in writing, the nature of the proposed structure, condition of the structure, proposed use and location, which shall also be posted in the Department office for public review.
- B. The Department shall consult with the Tribal Council and recommend the approval or denial of any request for a variance under this Chapter.
- C. Following consultation with the Tribal Council, the Department may approve the requested variance if the person provides sufficient evidence that:
  - 1. The proposed use will not materially interfere with the land use policies of the Nation or any provision in this Chapter; or
  - 2. The applicant will sustain hardship that outweighs the Nation’s intent to protect the public and the Nation’s lands; or
  - 3. The provision from which a variance is sought can be adequately mitigated, or the effect of the variance is neutral.

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- D. Any person whose request for a variance has been denied by the Department may appeal such denial to the Tribal Council pursuant to the rules and procedures established under Section 627 of this Chapter.

### ***Section 722. Record of Non-Conforming Uses***

- A. The Department shall maintain a record of all instances of uses, location, size, and construction of buildings, structures, premises, lots, and lands which are not in conformity with this Chapter. Such records shall contain a description of the property sufficient to identify its location and the nature and extent of all non-conformities.
- B. The Department shall make available for public examination the record of non-conforming uses. In addition, the Department shall provide notice of any non-conforming use to the owner or user of any property which the Department has determined constitutes a non-conforming use.
- C. An owner of a property where a non-conforming use has been identified must identify in writing to the Department any errors, omissions, or corrections to the record in a timely manner. The Department may then make corrections to the record to ensure accuracy. Should any dispute arise regarding a non-conforming use, the Department shall review and determine whether a use constitutes a non-conforming use.
- D. The record of non-conforming uses shall be presented to the Tribal Council upon request. The final record shall constitute prima facie evidence of the nature and extent of non-conformance with reference to any land, premises, lot, building, or structure existing at the time this Chapter becomes effective.
- E. Following the filing of the corrected record of non-conforming uses, it shall be the duty of the Community Development Department to track these non-conforming uses and to report annually to the Tribal Council on the discontinuance of any non-conforming use, including the date thereof.

### ***Section 723. Removal of Non-Conforming Uses***

This Chapter shall not be construed to require the abandonment of existing uses or the removal of existing structures except as herein provided.

- A. Improvements.

No person shall make any additions, improvements, or repairs to a non-conforming structure that requires a total investment in materials and labor (including their own) that is equal to or greater than fifty percent (50%) of the value of the premises prior to such addition. Improvements or repairs



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may be obtained in the same manner and under the same conditions as a variance.

**B. Destruction.**

If any non-conforming structure is more than fifty percent (50%) destroyed by fire, natural deterioration, or other causes, it shall no longer be used in a non-conforming manner and shall not be rebuilt except for use in conformity with this Chapter.

**C. Abandonment.**

Any non-conforming structure that is abandoned may be removed by application to the Department. The Tribal Court may authorize the condemnation and removal of any non-conforming structure which has been permanently abandoned, and if it finds such action fair and just, charge the cost of such removal to the former owner. If the former owner is not given personal notice of the pending action, the Tribal Court shall, before issuing an order pursuant to this subsection, make every reasonable effort to provide notice.

### ***Section 724. Enforcement***

- A. Any person may file a written complaint with the Department alleging violations of this Chapter.
- B. The Department shall investigate the complaint, take whatever action is warranted, and inform the complainant of such action.

### ***Section 725. Violations***

- A. Any owner, tenant, or occupant of any building, land, or part thereof, and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Chapter may be held responsible for the violation and be subject to the penalties and remedies provided herein.
- B. Any building or structure which is erected, constructed, reconstructed, altered, converted, maintained, or used, or any use of land or premises which is begun or maintained in violation of this Chapter, is subject to the penalties provided herein.

### ***Section 726. Notice of Violations and Correction***

- A. If the Department finds that any provision of this Chapter is being violated, the Department shall provide written notice to the person

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responsible for such violation and/or owner of the property, indicating the nature of the violation and ordering the action necessary to correct it.

- B. The notice shall state what action the Department will take if the violation is not corrected, as specified, as well as the timing required for such correction. In special cases where there is a threat to the public health, safety, or welfare of the Nation, its members, or its lands, the Department may seek enforcement without prior written notification.

### ***Section 727. Penalties***

Any person, owner, renter, lessor, lessee, firm, corporation, or the agent in charge of such building or land, who violates, omits, neglects, or refuses to comply with, or resists the enforcement of any provisions of this Chapter, or any amendment thereof, shall be assessed a civil fine upon conviction of not more than one hundred dollars (\$100.00) Each day the violation continues is a separate offense.

### ***Section 728. Tribal Council Review of Department Decisions***

Any person adversely affected by any action of the Department made under this Chapter may request a hearing before the Tribal Council.

- A. A request for a hearing must be submitted in writing to the Tribal Council Secretary within ten (10) days of the action of the Department being appealed.
- B. A request for a hearing must identify the decision of the Department being appealed and the reasons for the appeal. The person filing the appeal may submit evidence in support of the appeal. At a minimum, a request for a hearing must:
  - 1. State that the document is an appeal from a decision or action of the Department;
  - 2. List the name, address, email address, and telephone number of the person filing the challenge;
  - 3. Identify the decision or action being appealed.
  - 4. Identify and include copies of any document reflecting the decision or action;
  - 5. State the reason for the appeal, and
  - 6. Be signed by the appellant under oath.

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- C. Within ten (10) business days after the request for a hearing, the Council Secretary shall inform the person filing the appeal, as well as all persons known to have an interest in the appeal, of:
  - 1. The time, place, and nature of the hearing;
- D. During the hearing, the party filing the appeal and any party having an interest in the appeal may present such evidence in support of or in opposition to the appeal.
- E. Following the hearing, the Tribal Council shall issue a written decision stating its reasons for such decision.
- F. A decision by the Tribal Council shall be final and shall not be appealable to the Tribal Court.

#### ***Section 729. Private Right of Action in Tribal Court***

Any person or entity adversely affected by any person's non-compliance with the Chapter may institute a lawsuit in Tribal Court for an injunction, writ of mandamus, cease and desist order, or any other appropriate remedy as may be ordered by the Court, to end such illegal construction, reconstruction, alteration, maintenance or use, including such damages as the Tribal Court finds warranted.

#### ***Section 730. Sovereign Immunity***

Nothing contained in this Code shall be construed to affect or be deemed a waiver of the sovereign immunity of or by the Yavapai-Apache Nation.

#### ***Section 731. Effective Date***

This Code will become effective on \_\_\_\_\_.