

AGENDA
ORO VALLEY TOWN COUNCIL
REGULAR SESSION
February 2, 2011
ORO VALLEY COUNCIL CHAMBERS
11000 N. LA CAÑADA DRIVE

REGULAR SESSION AT OR AFTER 6:00 PM
CALL TO ORDER
ROLL CALL
PLEDGE OF ALLEGIANCE
UPCOMING MEETING ANNOUNCEMENTS
COUNCIL REPORTS
DEPARTMENT REPORTS

The Mayor and Council may consider and/or take action on the items listed below:

ORDER OF BUSINESS: MAYOR WILL REVIEW THE ORDER OF THE MEETING

INFORMATIONAL ITEMS

- A. DIS Customer Feedback Forms and Letter of Appreciation
- B. Public Safety Providers Quarterly Reports

CALL TO AUDIENCE – At this time, any member of the public is allowed to address the Mayor and Town Council on any issue *not listed on today's agenda* . Pursuant to the Arizona Open Meeting Law, individual Council Members may ask Town Staff to review the matter, ask that the matter be placed on a future agenda, or respond to criticism made by speakers. However, the Mayor and Council may not discuss or take legal action on matters raised during "Call to Audience." In order to speak during "Call to Audience" please specify what you wish to discuss when completing the blue speaker card.

PRESENTATIONS

CONSENT AGENDA
(Consideration and/or possible action)

- A. Minutes - January 5, 2011
- B. Coyote Run Monthly Report December 2010
- C. Economic Development Division Quarterly Report: October 1, 2010 - December 31, 2010
- D. Procurement Division Quarterly Report - October 1, 2010 - December 31, 2010
- E. Development & Infrastructure Services Department Permitting Division Report - November 2010

- F. Development & Infrastructure Services Department Permitting Division Report - December 2010
- G. Fiscal Year 2010/11 Financial Update Through November 2010
- H. Resolution No. (R) 11-09 Authorizing and Approving an Agreement for Tucson Area Reliability Among the Central Arizona Water Conservation District, the City of Tucson, Flowing Wells Irrigation District, Metropolitan Domestic Water Improvement District, the Town of Marana and the Town of Oro Valley

REGULAR AGENDA

- 1. PUBLIC HEARING - DISCUSSION AND POSSIBLE ACTION REGARDING AN APPLICATION FOR A SERIES 12 (RESTAURANT) LIQUOR LICENSE FOR CARRABBA'S ITALIAN GRILL LOCATED AT 7635 N. ORACLE ROAD
- 2. RESOLUTION NO. (R) 11-10 DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT ENTITLED CHAPTER 23, ZONING DISTRICTS, SECTION 23.1, DISTRICTS AND BOUNDARIES THEREOF, SECTION 23.8, PROPERTY DEVELOPMENT STANDARDS FOR NONRESIDENTIAL DISTRICTS, SECTION 23.3, TABLE OF PERMITTED USES AND SECTION 23.4, TABLE OF DIMENSIONAL REQUIREMENTS, ATTACHED HERETO AS EXHIBIT "A" AND FILED WITH THE TOWN CLERK
- 3. PUBLIC HEARING: ORDINANCE NO. (O) 11-02 AMENDMENT TO SECTION 23.8.A, C-N NEIGHBORHOOD COMMERCIAL DISTRICT, TABLE 23-1, TABLE OF PERMITTED USES, AND SECTION 23.4, TABLE OF DIMENSIONAL REQUIREMENTS, IN THE ORO VALLEY ZONING CODE REVISED, OV710-005
- 4. RESOLUTION NO. (R) 11-11 DECLARING THAT A CERTAIN DOCUMENT ENTITLED CHAPTER 8, BUSINESS REGULATIONS, ARTICLE 8-5, PAWNBROKERS, SECONDHAND DEALERS AND SCRAP METAL DEALERS, ATTACHED HERETO AS EXHIBIT "A", AND FILED WITH THE TOWN CLERK AS A PUBLIC RECORD
- 5. PUBLIC HEARING - ORDINANCE NO. (O) 11-03 AMENDING THE ORO VALLEY TOWN CODE, ADDING ARTICLE 8-5, PAWNBROKERS, SECONDHAND DEALERS AND SCRAP METAL DEALERS; AND REPEALING ALL RESOLUTIONS, ORDINANCES AND RULES OF THE TOWN OF ORO VALLEY IN CONFLICT HEREWITH
- 6. PUBLIC HEARING - ORDINANCE NO. (O) 11-04 AMENDING ORO VALLEY TOWN CODE CHAPTER 3, ADMINISTRATION, ARTICLE 3-6, ADVISORY BOARDS; REPEALING ALL RESOLUTIONS, ORDINANCES, AND RULES OF THE TOWN OF ORO VALLEY IN CONFLICT THEREWITH; PRESERVING THE RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS THAT HAVE ALREADY BEGUN THEREUNDER
- 7. DISCUSSION AND POSSIBLE ACTION TO INITIATE A ZONING CODE AMENDMENT TO REQUIRE PUBLIC NOTICE OF PLANNING AND ZONING ADMINISTRATOR INTERPRETATIONS OF THE ZONING CODE

FUTURE AGENDA ITEMS (The Council may bring forth general topics for future meeting agendas. Council may not discuss, deliberate or take any action on the topics presented pursuant to ARS 38-431.02H)

CALL TO AUDIENCE – At this time, any member of the public is allowed to address the Mayor and Town Council on any issue *not listed on today's agenda*. Pursuant to the Arizona Open Meeting Law, individual Council Members may ask Town Staff to review the matter, ask that the matter be placed on a future agenda, or respond to criticism made by speakers. However, the Mayor and Council may not discuss or take legal action on matters raised during "Call to Audience." In order to speak during "Call to Audience" please specify what you wish to discuss when completing the blue speaker card.

ADJOURNMENT

POSTED: 1/21/11
4:00 p.m.
tlg

When possible, a packet of agenda materials as listed above is available for public inspection at least 24 hours prior to the Council meeting in the office of the Town Clerk between the hours of 8:00 a.m. – 5:00p.m.

The Town of Oro Valley complies with the Americans with Disabilities Act (ADA). If any person with a disability needs any type of accommodation, please notify the Town Clerk's Office at least five days prior to the Council meeting at 229-4700.

INSTRUCTIONS TO SPEAKERS

Members of the public have the right to speak during any posted public hearing. However, those items not listed as a public hearing are for consideration and action by the Town Council during the course of their business meeting. Members of the public may be allowed to speak on these topics at the discretion of the Chair.

If you wish to address the Town Council on any item(s) on this agenda, please complete a speaker card located on the Agenda table at the back of the room and give it to the Town Clerk. **Please indicate on the speaker card which item number and topic you wish to speak on, or if you wish to speak during "Call to Audience", please specify what you wish to discuss when completing the blue speaker card.**

Please step forward to the podium when the Mayor announces the item(s) on the agenda which you are interested in addressing.

1. For the record, please state your name and whether or not you are a Town resident.
2. Speak only on the issue currently being discussed by Council. Please organize your speech, you will only be allowed to address the Council once regarding the topic being discussed.
3. Please limit your comments to 3 minutes.
4. During "Call to Audience" you may address the Council on any issue you wish.
5. Any member of the public speaking must speak in a courteous and respectful manner to those present.

Thank you for your cooperation.

TOWN OF ORO VALLEY
COUNCIL COMMUNICATION

TO: HONORABLE MAYOR AND COUNCIL

Item #: A.

Town Council Regular Session

Date: 02/02/2011

Submitted By: Arinda Asper, Town Manager's Office

Information

Subject

DIS Customer Feedback Forms and Letter of Appreciation

Attachments

Link: [DIS Customer Feedback Forms and Letter of Appreciation](#)



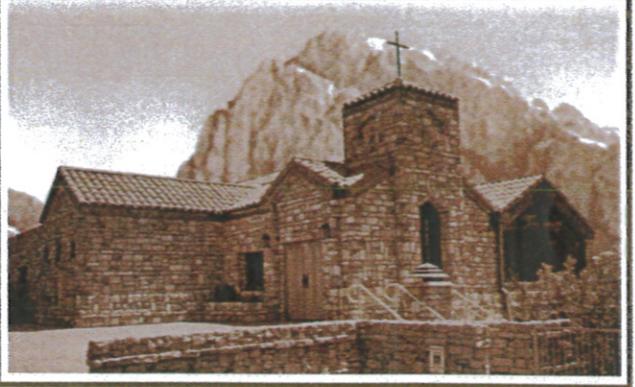
ORO VALLEY
UNITED CHURCH OF CHRIST

1401 East El Conquistador Way, Oro Valley, Arizona 85704-7908
Phone: 520-742-7333 • Email: OroValleyUCC@msn.com

James Briney, pastor and teacher



ORO VALLEY
UNITED CHURCH
OF CHRIST



Web Site: www.orovalleyucc.org



(11-18-10)

NOTE:

please SHARE THIS
with: Lory & Cheryl!

DEAR TRACEY-

THANK YOU VERY MUCH
FOR YOUR KIND AND THOUGH-
FUL ATTENTION TO MY
REQUEST FOR INFORMATION
ABOUT SIGN PLACEMENT AT
THE CHURCH.

CHERYL AND LORY BOTH
FOLLOWED THROUGH IN A
GENUINE, TIMELY AND
PROFESSIONAL FASHION.

Respectfully - J. Briney



Development and Infrastructure Services Department
11000 N. La Cañada Drive • Oro Valley, Arizona 85737
www.orovalleyaz.gov

DEC - 6 2010

Ted Doe / IT KNOW BUSINESS 400-1010 11/30/2010

Customer Name (Please Print)

Contact Phone (Optional)

Date

Meeting our Customer's needs is important to us. We welcome your suggestions and comments and encourage you to fill out this form.

1. Were the steps for the development, permit, or inspection process clearly explained and understandable?

Yes? No?

2. Were the development, permit, and/or inspection approval (s) received within the timeline goals prescribed?

Yes? No?

3. Was the service professional, courteous and helpful?

Yes? No? Would you like to name any employee(s) that you feel provided exceptional service? SHIRLEY - WAS GREAT!

4. Did you experience any problem getting the information you needed? If yes, what aspect? NONE - SHE WENT ABOVE & BEYOND!

5. Any general comments?

GREAT SERVICE THANK TO SHIRLEY!

Thank you for taking your time to help us improve!



DEC 17 2010

Development and Infrastructure Services Department
11000 N. La Cañada Drive • Oro Valley, Arizona 85737
www.orovalleyaz.gov

John K. Goudy Mobil
520-907-4045 12-7-10
Customer Name (Please Print) Contact Phone (Optional) Date

Meeting our Customer's needs is important to us. We welcome your suggestions and comments and encourage you to fill out this form.

1. Were the steps for the development, permit, or inspection process clearly explained and understandable?

Yes? No?

2. Were the development, permit, and/or inspection approval (s) received within the timeline goals prescribed?

Yes? No?

3. Was the service professional, courteous and helpful?

Yes? No?

Would you like to name any employee(s) that you feel provided exceptional service? Tim (2010-Project) - Super Prop
Eric (2007-Project) - Super Prop.

4. Did you experience any problem getting the information you needed? If yes, what aspect? No

5. Any general comments?

VERY HELPFUL, COURTEOUS, PROFESSIONAL
TECHNICAL KNOWLEDGE.

TOWN OF ORO VALLEY
COUNCIL COMMUNICATION

TO: HONORABLE MAYOR AND COUNCIL

Item #: B.

Town Council Regular Session

Date: 02/02/2011

Submitted By: Arinda Asper, Town Manager's Office

Information

Subject

Public Safety Providers Quarterly Reports

Attachments

Link: [Public Safety Providers Quarterly Reports](#)

TOWN OF ORO VALLEY

Page 1 of 1

COUNCIL COMMUNICATION

MEETING DATE: February 2, 2011

TO: HONORABLE MAYOR AND COUNCIL

FROM: JERENE WATSON, TOWN MANAGER

SUBJECT: PUBLIC SAFETY FIRE AND EMERGENCY MEDICAL SERVICE PROVIDERS QUARTERLY REPORT TO COUNCIL

SUMMARY:

Attached please find the Public Safety Fire and Emergency Medical Service Providers Quarterly Report covering October 1, 2010 through December 31, 2010. The report, prepared by the Golder Ranch Fire District, includes a summary of response criteria, call load, work activity, and public education with data from Golder Ranch Fire District, Rural/Metro Fire Department, and Southwest Ambulance.

ATTACHMENTS:

1. Public Safety Fire and Emergency Medical Service Providers Quarterly Report to Council by Golder Ranch Fire District (including Rural/Metro Fire Department and Southwest Ambulance).

SWA - Oro Valley Transport Units	Time	#of Calls	Adopted %	Actual %	Description of Variance
Dispatch to At Scene - ALS Transport Unit	< 8:00	350	90%	94%	Calls are in compliance
Time to achieve Adopted Standard of 90%	Achieved				
Average Dispatch to At Scene Time	7:34				

Golder Ranch Fire District - Oro Valley Call Summary FY 2010/11 Qtr 2 (Oct – Dec 2010)

Sun City Station 374	# of calls	%
Dispatch to At Scene <5:00 minutes -EMS	185	89%
Dispatch to At Scene <6:00 minutes -FIRE	3	100%
Average Dispatch to At Scene Time	4:02	

Woodburne Station 375	# of calls	%
Dispatch to At Scene <5:00 minutes -EMS	162	80%
Dispatch to At Scene <6:00 minutes -FIRE	5	50%
Average Dispatch to At Scene Time	4:01	

Lambert Station 376	# of calls	%
Dispatch to At Scene <5:00 minutes -EMS	104	85%
Dispatch to At Scene <6:00 minutes -FIRE	1	100%
Average Dispatch to At Scene Time	4:02	

Linda Vista Station 377	# of calls	%
Dispatch to At Scene <5:00 minutes -EMS	182	91%
Dispatch to At Scene <6:00 minutes -FIRE	1	100%
Average Dispatch to At Scene Time	3:32	

Average Total All Oro Valley Stations	# of calls	%
Dispatch to At Scene <5:00 minutes -EMS	633	86%
Dispatch to At Scene <6:00 minutes -FIRE	11	88%
Average Dispatch to At Scene Time	3:50	

Average Total All Oro Valley Stations -2nd Fire Unit	# of calls	%
2 nd Fire Unit Dispatch to At Scene <8:00 minutes -FIRE	3	66%
Average Dispatch to At Scene Time for 2nd Fire Unit	7:01	

Other Miscellaneous Fire Calls –All Oro Valley Stations	# of calls	%
Dispatch to At Scene <6:00 minutes -FIRE	27	70%
Average Dispatch to At Scene Time	5:29	

Golder Ranch - Oro Valley Call Load Breakdown
FY 2010/11 Qtr 2 (Oct – Dec 2010)

CALL TYPE	Sun City	Woodburne	Lambert	Oracle	TOTAL
Aircraft					
Brush / Vegetation	1	2	1	1	5
Building					
Electrical / Motor	1	1	2	1	5
Fires - All Other	3	1	3	2	9
Gas Leak	1	3	2		6
Hazmat		2	1	2	5
Trash / Rubish			2	1	3
Unauthorized Burning		2			2
Vehicle				3	3
Total Fire Calls	6	11	11	10	38
Animal Problem				1	1
Animal Rescue	2			1	3
Assist -Other	9	2	2	5	18
Battery Change	42	35	24	25	126
Bee Swarm			2		2
Defective Appliance	4	2	1		7
Invalid Assist	40	9	21	12	82
Snake	68	73	74	42	257
Lockout	1	1	2	2	6
Fire Now Out	1	1			2
Total Service Calls	167	123	126	88	504
Alarms (Fire, Smoke, CO)	21	21	21	4	67
Cancelled / Negative Incident	7	5	3	7	22
Smoke / Odor Investigation		5	2	2	9
Total Good Intent Calls	28	31	26	13	98
Motor Vehicle Accident	4	6	9	9	28
Rescue (high, trench, water)					
All Other EMS Incidents	181	156	95	173	605
Total EMS Type Calls	185	162	104	182	633
TOTAL ALL CALLS	386	327	267	293	1273

**Golder Ranch Fire District – Oro Valley
Detailed Fire Response Report
FY 2010/11 Qtr 2 (Oct – Dec 2010)**

Date	Call #	Type	Disp. time	Unit	Respond	On-scene	Total Resp. Time
10/5/10	18642	HOUSE	13:03:53	EN374	13:04:59	13:08:04	4:11
St.374							
Calling party reports their kitchen is on fire. EN374 on scene and can handle –fire contained to stove. NEGATIVE INCIDENT.							

Date	Call#	Type	Disp. Time	Unit	Respond	On-scene	Total Resp. Time
10/11/10	19036	BLDG	17:16:44	EN374	17:17:09	17:21:37	4:53
St.374				EN370	17:17:29	17:22:11	5:27
Reported as a smell of smoke in building with secondary alarm indications. After further investigation it was found the source of the smoke was an AC condenser on the roof. Negative extension beyond the unit. NEGATIVE INCIDENT.							

Date	Call #	Type	Disp. time	Unit	Respond	On-scene	Total Resp. Time
10/13/10	19145	HOUSE	01:34:22	LT375	01:35:56	01:40:05	5:43
St.375				EN374	01:35:13	01:42:28	8:06
Calling party reports smell of smoke in house with alarms going off. Upon arrival, there was neither smell of smoke nor any alarms going off. The house was searched with thermal imaging with nothing found. NEGATIVE INCIDENT.							

Date	Call #	Type	Disp. time	Unit	Respond	On-scene	Total Resp. Time
10/18/10	19507	HOUSE	11:01:39	EN376	11:02:29	11:08:46*	7:07**
St.375				LT375	11:02:50	11:08:58*	7:19**
A 3 rd party called in to report of what she thinks is a smoke coming from a house about ¼ mile from her location. *Units initially searching find nothing showing in the area prior to finally locating an illegal burn at a residential address. **NEGATIVE INCIDENT –not counted due to an “in the area of” call.							

Date	Call #	Type	Disp. time	Unit	Respond	On-scene	Total Resp. Time
10/26/10	20082	HOUSE	18:41:41	LD375	18:42:42	18:47:58	6:17
St.375				EN377	18:42:31	18:49:13	7:32
Residence report smoke detectors have active and there is an odor of smoke. Units determined to be the HVAC starting up and burning dust. NEGATIVE INCIDENT							

Date	Call #	Type	Disp. time	Unit	Respond	On-scene	Total Resp. Time
10/31/10	20405	BUILD	08:38:47	EN376	08:40:07		
St.375				EN377	08:39:26	08:43:27	4:40
A passerby reported that smoke is coming from the top of a building. EN377 reports nothing showing, investigating. After further investigation it was found to be smoke from a manufacturing process. NEGATIVE INCIDENT							

Date	Call #	Type	Disp. time	Unit	Respond	On-scene	Total Resp. Time
11/23/10	21999	BUILD	08:07:35	EN377	08:08:40	08:11:17	3:42
St.377							
Reported as smoke coming from a building. Engine 377 on scene with a crew resurfacing a parking lot with tar. NEGATIVE INCIDENT							

Date	Call #	Type	Disp. time	Unit	Respond	On-scene	Total Resp. Time
11/25/10	22147	HOUSE	12:00:25	EN374	12:01:17	12:04:39	4:14
St.374							
Caller was resident of home stating their stove is on fire. EN374 found a grease fire contained to the stove. EN374 can handle, cancel other units. NEGATIVE INCIDENT							

Date	Call #	Type	Disp. time	Unit	Respond	On-scene	Total Resp. Time
12/9/10	23080	HOUSE	17:42:03	EN376	17:42:41	17:46:48	4:45
St.376							
Reported as a kitchen fire in a residence. EN376 on scene reports negative fire, EN376 can handle. Found to be a faulty element in the oven. NEGATIVE INCIDENT							

Date	Call #	Type	Disp. time	Unit	Respond	On-scene	Total Resp. Time
12/11/10	23162	HOUSE	08:42:05	EN374	08:42:58	08:49:09	7:04
St.375							
Smoke detectors going off inside home from cooking in oven. PM378 was covering in the area during the call and responded. Once on scene (08:43:16 -1:11 response time) they advised that other units could shut down code 2 except the first arriving unit (EN374) as the fire appears to be out. *Station 375 units were at the Oro Valley Christmas Parade during this incident. 374 and 375 units were splitting the 375 area during this time. The incident was 2 blocks away from Station 375. NEGATIVE INCIDENT							

Date	Call #	Type	Disp. time	Unit	Respond	On-scene	Total Resp. Time
12/17/10	23520	HOUSE	09:42:38	LT375	09:44:06	09:47:34	4:56
St.375							
Reported as smoke coming from oven in residence. LT375 on scene to find no fire conditions, other units can cancel. NEGATIVE INCIDENT.							

Date	Call #	Type	Disp. time	Unit	Respond	On-scene	Total Resp. Time
12/27/10	24155	HOUSE	13:37:21	EN376	13:38:59	13:43:14	6:53
St.375							
Neighbor from across the street of dispatched address reports smoke coming from house. EN376 on scene to advise smoke coming from chimney –other responding units can shut down. NEGATIVE INCIDENT. Fire in fireplace.							

SWA - Oro Valley Transport Units	Time	#of Calls	Adopted %	Actual %	Description of Variance
Dispatch to At Scene - ALS Transport Unit	< 8:00	104	90%	92%	Calls are in compliance
Time to achieve Adopted Standard of 90%	Achieved				
Average Dispatch to At Scene Time	4:51				



Item #: A.

Town Council Regular Session

Date: 02/02/2011

Requested by: Julie K. Bower, Town Clerk

Submitted By: Mike Standish, Town Clerk's Office

Department: Town Clerk's Office

Information

SUBJECT:

Minutes - January 5, 2011

RECOMMENDATION:

Staff recommends approval of the January 5, 2011 minutes.

EXECUTIVE SUMMARY:

N/A

BACKGROUND OR DETAILED INFORMATION:

N/A

FISCAL IMPACT:

N/A

SUGGESTED MOTION:

I MOVE to approve the minutes as presented or with the following corrections...

Attachments

Link: [January 5, 2011 minutes](#)

**MINUTES
ORO VALLEY TOWN COUNCIL
REGULAR SESSION
January 5, 2011
ORO VALLEY COUNCIL CHAMBERS
11000 N. LA CANADA DRIVE**

REGULAR SESSION AT OR AFTER 5:00 PM

CALL TO ORDER -at 5:02 PM

ROLL CALL

PRESENT: Satish Hiremath, Mayor
Bill Garner, Vice Mayor
Joe Hornat, Councilmember
Mary Snider, Councilmember
Steve Solomon, Councilmember
Lou Waters, Councilmember

EXCUSED: Barry Gillaspie, Councilmember

EXECUTIVE SESSION

MOTION: A motion was made by Vice Mayor Garner and seconded by Councilmember Hornat to go into Executive Session at 5:03 p.m. to conduct the annual evaluation of the Town Attorney pursuant to ARS 38-431.03(A)(1).

MOTION carried, 6-0.

Mayor Hiremath noted that the following staff members would join Council in Executive Session: Town Attorney Tobin Rosen, Human Resources Director Betty Dickens, and Town Manager Jerene Watson.

RESUME REGULAR SESSION AT OR AFTER 6:00 PM

CALL TO ORDER -at 6:01 PM

ROLL CALL

PRESENT: Satish Hiremath, Mayor
Bill Garner, Vice Mayor
Joe Hornat, Councilmember
Mary Snider, Councilmember
Steve Solomon, Councilmember

Lou Waters, Councilmember

EXCUSED: Barry Gillaspie, Councilmember

PLEDGE OF ALLEGIANCE

Mayor Hiremath led the audience in the Pledge of Allegiance.

UPCOMING MEETING ANNOUNCEMENTS

Communications Administrator Mary Davis announced the upcoming Town meetings.

COUNCIL REPORTS

Councilmember Waters stated that a meeting was held last night at the library called Imagine Greater Tucson to discuss the future of our children. It was very constructive and went really well.

DEPARTMENT REPORTS

Town Manager Jerene Watson introduced and welcomed new Town Clerk Julie Bower.

Town Clerk Kathryn Cuvelier announced that the artwork on display in the Council Chambers was created by Oro Valley resident and artist Mr. John Gerdes.

Councilmember Snider noted the passing of Officer Bill Burney and extended her condolences to his family and the Oro Valley Police Department.

ORDER OF BUSINESS

Mayor Hiremath stated that the order will stand as is.

INFORMATIONAL ITEMS

There were no informational items.

CALL TO AUDIENCE

Oro Valley resident Mr. Richard Tracy congratulated Town Clerk Kathryn Cuvelier on her retirement. Mr. Tracey stated that he was concerned with the human capital of the Police Department. Raises through the step program need to be given to the Police Officers or else they might start looking for employment elsewhere.

Oro Valley resident Mr. Bill Adler stated that the Naranja Town site should be placed on a future agenda. There should be an integration with neighborhood parks and community parks. Neighborhood parks should be used for gatherings and family activities, not basketball etc. There needs to be more coordination so there are clear intentions as to what constitutes a neighborhood park vs. a community park.

PRESENTATIONS

- a. Announcement of the Shop Oro Valley Holiday Campaign Final Prize Winner

Economic Development Manager Amanda Jacobs gave an overview of the Shop OV campaign and stated that the grand prize is a two night stay-cation at the Hilton El Conquistador. Ms. Jacobs thanked all of the sponsors for their generous donations.

Mayor Hiremath randomly selected a receipt and the grand prize winner is Kay Gragg.

Mayor Hiremath thanked all of the businesses who contributed to the Shop Oro Valley Campaign.

- b. Presentation of Plaques of Appreciation to members of the Finance and Bond Committee - Chuck Kill for his service from November 2005 to December 2010 and to Peter Lamm for his service from May 2006 to December 2010

Mayor Hiremath presented Plaques of Appreciation to Peter Lamm and Chuck Kill for their service on the Finance and Bond Committee.

- c. Presentation of a Proclamation in Honor of Retiring Town Clerk Kathryn Cuvelier

Mayor Hiremath presented a proclamation to Town Clerk Kathryn Cuvelier for her 30 years of service to the Town of Oro Valley.

Town Clerk Kathryn Cuvelier thanked all of the Elected Officials, Town Staff, and Citizens that she has been able to work with over the years.

CONSENT AGENDA

Councilmember Solomon requested that item (E) be removed from the Consent Agenda so that it can be voted on separately.

- A. Minutes - October 13, 20, 27, November 17, December 1, 2010
- B. Police Department - October 2010 Statistics
- C. Coyote Run Monthly Report - November 2010
- D. Resolution No. (R)11-01, Authorizing and Approving Drainage Easements Between the Town of Oro Valley and Two Homeowners on Poinsettia Drive for the Drainage Control Berm Project
- F. Reappointment of Valerie D. Pullara to the Historic Preservation Commission with term effective through December 31, 2012
- G. Appointment of Mike Zinkin as a member to the Oro Valley Board of Adjustment with a term effective through December 31, 2013
- H. Re-appointment of one member and appointment of two new members to the Oro Valley Planning and Zoning Commission (PZC) with terms effective through December 31, 2012

MOTION: A motion was made by Councilmember Solomon and seconded by Councilmember Waters to approve the Consent Agenda with the exception of item (E).

MOTION carried, 6-0.

E. Resolution No. (R)11-02, Authorizing and Approving an Intergovernmental Agreement Between the Regional Transportation Authority (RTA) of Pima County and the Town of Oro Valley for Regional Circulator Transit Service Improvements

Transit Services Administrator Aimee Ramsey clarified that the five new part-time drivers will be Town of Oro Valley employees.

Councilmember Solomon asked for clarification regarding the Town's contribution of \$27,000.

Transit Services Administrator Aimee Ramsey stated that the \$27,000 is an in-kind contribution. This amount would be spent on personnel regardless of whether or not the service is added.

Vice Mayor Garner asked if the IGA will limit the Town's ability to place some type of advertising on the vehicles.

Transit Services Administrator Aimee Ramsey clarified that the IGA will limit the

Town's ability to advertise on the outside of the vehicles but the Town seal will be fixed to the rear of the shuttles.

MOTION: A motion was made by Councilmember Solomon and seconded by Councilmember Waters to approve item (E).

MOTION carried, 6-0.

REGULAR AGENDA

1. RESOLUTION NO. (R)11-03, AUTHORIZING AND APPROVING THE TOWN OF ORO VALLEY DEVELOPMENT AND INFRASTRUCTURE SERVICES DEPARTMENT TRANSIT SERVICES DIVISION COYOTE RUN FARE INCREASES

Transit Services Administrator Aimee Ramsey gave a brief overview of the Coyote Run Fare Increases.

- Zone (A) from \$2.00 to \$2.50 (Sun Shuttle)
- Zone (B) from \$4.00 to \$5.00
- Zone (C) from \$6.00 to \$7.50

The fare increase is primarily to start making the service region wide with hopes that in May, the new fare-box technology will start coming out which will allow users to travel anywhere with one pass.

MOTION: A motion was made by Councilmember Snider and seconded by Councilmember Waters to approve Resolution No. (R) 11-03, authorizing and approving the Town of Oro Valley Development and Infrastructure Services Department Transit Services Division Coyote Run Fare Increases.

MOTION carried, 6-0.

2. ELECTION OF VICE MAYOR

Councilmember Waters nominated Councilmember Mary Snider to serve as Vice Mayor.

Vice Mayor Garner nominated Councilmember Barry Gillaspie to serve as Vice Mayor.

Mayor Hiremath asked for a Roll Call Vote regarding the nomination of Councilmember Mary Snider as Vice Mayor.

Vice Mayor Garner: Abstain
Councilmember Snider: Nay

Councilmember Waters: Aye
Mayor Hiremath: Aye
Councilmember Solomon: Aye
Councilmember Hornat: Aye

NOMINATION of Mary Snider to serve as Vice Mayor carried, 4-1.

**3. DISCUSSION AND POSSIBLE ACTION REGARDING
RECOMMENDATIONS FOR SAN JOSE PLAZA, ORACLE
ROAD/GREENOCK DRIVE, LEFT TURN LANE**

Town Engineer Craig Civalier gave a brief overview of the Greenhock Drive Left Turn Lane recommendations. The recommendations included:

- Leave the access in the existing arrangement
- Suggest better signage for the plaza
- Explore cross access with Rooney Ranch

Town Engineer Craig Civalier noted the possible solutions that were reviewed with ADOT. These solutions included:

- Signal at Oracle and Greenock
- Southbound Left at Southern Plaza Driveway
- Southbound Left at Northern Plaza Driveway
- Moving Southern Plaza Drive to the North
- Adding a Driveway North of OV Wash

Mr. Mark Rusin, owner of The Loop restaurant, commended Town Engineer Craig Civalier for all of his hard work on this issue.

Mr. Rusin proposed to shorten the left turn lane going into Greenhock and cut the median going the opposite way just past the intersection and then cut a median in the middle of the plaza. The change makes good business sense and is feasible. Mr. Rusin urged the Council to look into the matter further.

Mr. Dean Garrett stated that he is opposed to any change to the Greenhock left turn lane.

Mr. Garrett said that ADOT will not support other possible solutions due to the increased dangers that they pose. The Plaza was created knowing that they would not have a left turn lane. Mr. Garrett asked the Council to support the Town Engineer's recommendation.

Ms. Lois Nagy, President of Oro Valley Country Club Estates Homeowner's Association, stated that she would like the left turn lane on Greenhock Drive to stay as is.

MOTION: A motion was made by Councilmember Hornat and seconded by Councilmember Waters to accept the Town Engineer's recommendations for the San Jose Plaza, Oracle Road/Greenock Drive, left turn lane.

MOTION carried, 6-0.

4. RESOLUTION NO. (R)11-04, APPROVING THE ANNUAL LEGISLATIVE AGENDA OF THE TOWN AND PROTOCOLS GUIDING THE TOWN'S PRIORITIES FOR THE UPCOMING LEGISLATIVE SESSION AND ANY LOBBYING ACTIVITIES

Assistant to the Town Manager Kevin Burke gave an overview of the Legislative Agenda and the Town's priorities for the upcoming Legislative Session. The Town's priorities include:

- State Shared Revenue
- Economic Development Tools
- Transit Funding
- Transportation
- Annexation/Incorporation
- Arizona State Trust Land ROW Acquisition
- Impact Fees
- Support for Public Education

Councilmember Hornat asked about the publishing of Notices on the Town's website instead of in the newspapers.

Assistant to the Town Manager Kevin Burke stated that the Town is looking into this and that it might be possible in the future.

MOTION: A motion was made by Councilmember Hornat and seconded by Vice Mayor Snider to approve Resolution No. (R) 11-04, approving the annual Legislative Agenda of the Town and protocols guiding the Town's priorities for the upcoming Legislative Session and any lobbying activities.

MOTION carried, 6-0.

FUTURE AGENDA ITEMS

There were no future agenda item requests.

CALL TO AUDIENCE

There were no requests.

ADJOURNMENT

MOTION: A motion was made by Councilmember Garner and seconded by Councilmember Waters to adjourn the meeting at 7:13 p.m.

MOTION carried, 6-0.

Prepared by:

Michael Standish, CMC
Deputy Town Clerk

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular session of the Town of Oro Valley Council of Oro Valley, Arizona held on the 5th day of January, 2011. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this _____ day of _____, 2011.

Julie K. Bower, MMC
Town Clerk



Item #: B.

Town Council Regular Session

Date: 02/02/2011

Submitted By: Aimee Ramsey, Development Infrastructure Services

Information

SUBJECT:

Coyote Run Monthly Report December 2010

SUMMARY:

DISCUSSION:

FISCAL IMPACT:

Attachments

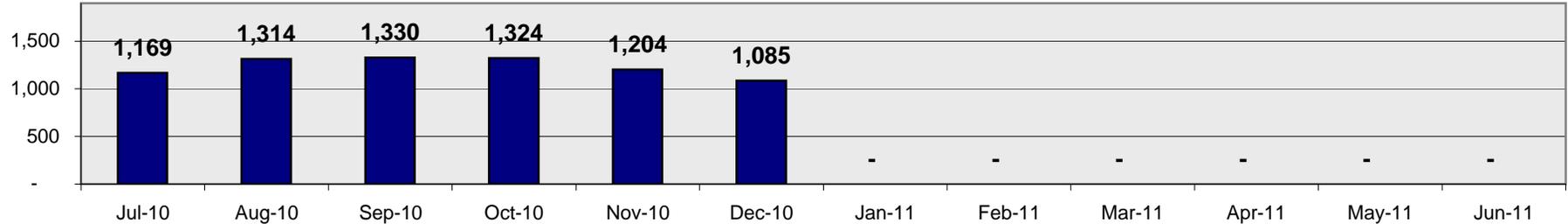
Link: [Coyote Run Monthly Report](#)



Month	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	Apr-11	May-11	Jun-11
Revenue Hours	584.5	546.5	626.2	631.7	699.7	500.7	-	-	-	-	-	-
Passengers*	1,169	1,314	1,330	1,324	1,204	1,085	-	-	-	-	-	-
Pass/Rhour	2.00	2.40	2.12	2.10	1.72	2.17	-	-	-	-	-	-
YTD Rev. Hours	584.5	1,130.9	1,757.1	2,388.8	3,088.5	3,589.2	-	-	-	-	-	-
YTD Passengers	1,169	2,483	3,813	5,137	6,341	7,426	-	-	-	-	-	-
YTD Pass/RHour	2.00	2.20	2.17	2.15	2.05	2.07	-	-	-	-	-	-

Passenger Trips*

* A trip is defined as a one-way passenger trip. Each trip is a one-way trip.

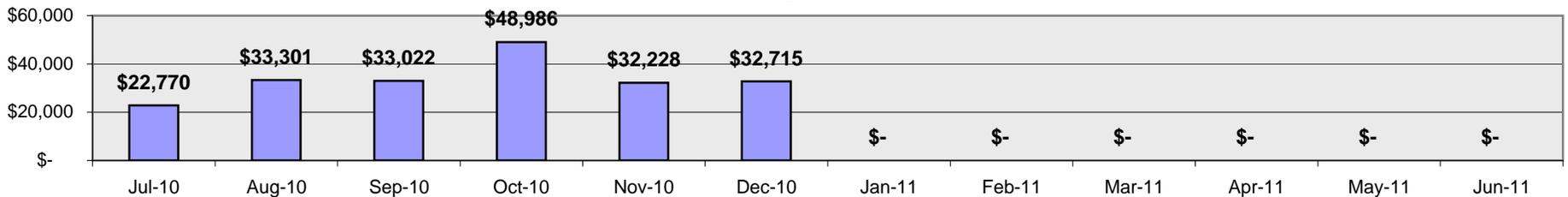


Month	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	Apr-11	May-11	Jun-11
Oper Expenses	\$ 22,770	\$ 33,301	\$ 33,022	\$ 48,986	\$ 32,228	\$ 32,715	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Expenses ¹	\$ 35,814	\$ 33,703	\$ 33,022	\$ 48,986	\$ 32,601	\$ 32,715	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
YTD TExpenses	\$ 35,814	\$ 69,517	\$ 102,539	\$ 151,525	\$ 184,126	\$ 216,841	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Farebox	\$ 2,524	\$ 5,112	\$ 3,101	\$ 7,080	\$ 3,018	\$ 4,224	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
YTD Farebox	\$ 2,524	\$ 7,636	\$ 10,737	\$ 17,817	\$ 20,835	\$ 25,059	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Volunteer Hours ²	104.0	88.5	61.8	137.2	91.5	60.3	-	-	-	-	-	-

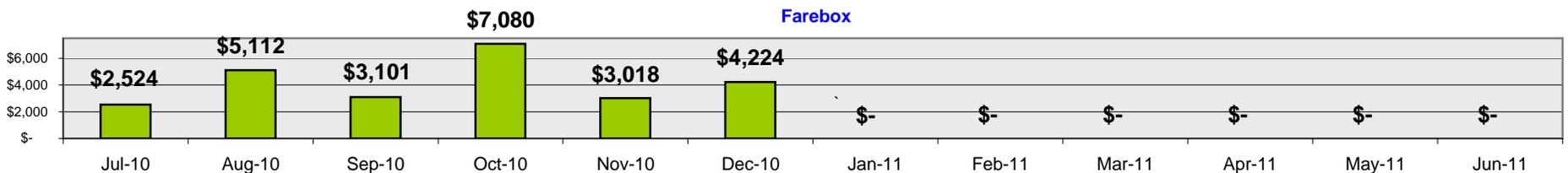
¹ Total Expenses include outside services and other non-operating capital. (Maintenance Estimated)

² YTD 543.25 Hours ≈ \$8,865.84

Operating Expenses



Farebox





December 2010 System Summary

- Passenger demand continues to rise as more seniors register
 - Observed two additional holidays
 - Operated 1,611 less monthly miles or 13.8% as compared to December 2009
 - Carried 264 less passenger trips or 19.6% as compared to December 2009
 - Provided 142 less service hours or 22.1% as compared to December 2009
 - Passenger Per Hour reached 2.07
 - Farebox revenues are above projected decrease due to anticipated loss of ridership
-
- Requested rides exceeded capacity 11 out of 19 operational days

Days service demand exceeded capacity

11 / 19 57.9%

Year to Date:

<u>New Riders</u>	65		
Female	41	63%	
Male	24	37%	
ADA Eligible	2	3%	
Disabled	3	5%	
Seniors	60	92%	Average Age of Seniors: 80.2



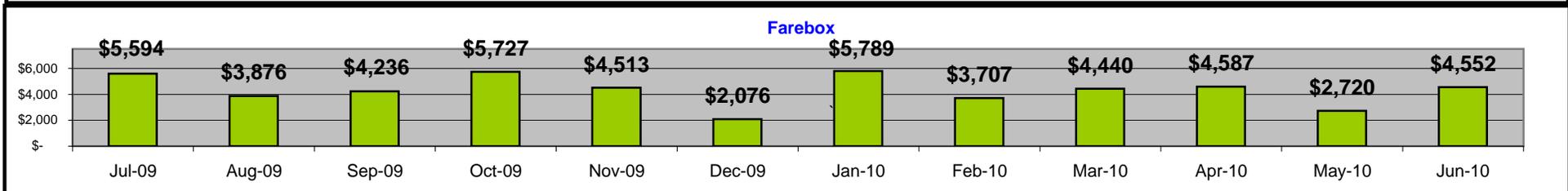
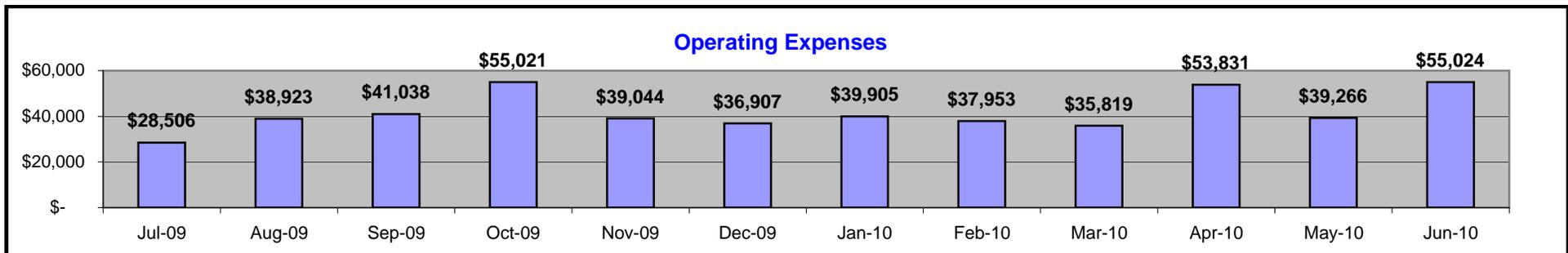
Month	Jul-09	Aug-09	Sep-09	Oct-09	Nov-09	Dec-09	Jan-10	Feb-10	Mar-10	Apr-10	May-10	Jun-10
Revenue Hours	663.6	695.6	680.9	668.7	609.2	643.0	601.4	561.1	675.4	622.7	582.5	513.9
Passengers*	1,405	1,352	1,372	1,407	1,226	1,349	1,271	1,177	1,365	1,259	1,183	1,162
Pass/Rhour	2.12	1.94	2.01	2.10	2.01	2.10	2.11	2.10	2.02	2.02	2.03	2.26
YTD Rev. Hours	663.6	1,359.2	2,040.2	2,708.9	3,318.0	3,961.0	4,562.4	5,123.6	5,798.9	6,421.6	7,004.1	7,518.0
YTD Passengers	1,405	2,757	4,129	5,536	6,762	8,111	9,382	10,559	11,924	13,183	14,366	15,528
YTD Pass/RHour	2.12	2.03	2.02	2.04	2.04	2.05	2.06	2.06	2.06	2.05	2.05	2.07



Month	Jul-09	Aug-09	Sep-09	Oct-09	Nov-09	Dec-09	Jan-10	Feb-10	Mar-10	Apr-10	May-10	Jun-10
Oper Expenses	\$ 28,506	\$ 38,923	\$ 41,038	\$ 55,021	\$ 39,044	\$ 36,907	\$ 39,905	\$ 37,953	\$ 35,819	\$ 53,831	\$ 39,266	\$ 55,024
Total Expenses ¹	\$ 28,999	\$ 39,452	\$ 41,226	\$ 55,167	\$ 39,426	\$ 40,609	\$ 39,961	\$ 38,013	\$ 35,869	\$ 53,855	\$ 39,291	\$ 68,112
YTD TExpenses	\$ 28,999	\$ 68,451	\$ 109,676	\$ 164,844	\$ 204,270	\$ 244,879	\$ 284,840	\$ 322,853	\$ 358,722	\$ 412,578	\$ 451,868	\$ 519,980
Farebox	\$ 5,594	\$ 3,876	\$ 4,236	\$ 5,727	\$ 4,513	\$ 2,076	\$ 5,789	\$ 3,707	\$ 4,440	\$ 4,587	\$ 2,720	\$ 4,552
YTD Farebox	\$ 5,594	\$ 9,470	\$ 13,706	\$ 19,433	\$ 23,946	\$ 26,022	\$ 31,811	\$ 35,518	\$ 39,958	\$ 44,545	\$ 47,265	\$ 51,817
Volunteer Hours ²	90.5	107.8	63.5	75.5	40.0	49.9	67.0	48.5	84.8	77.3	96.0	63.5

¹ Total Expenses include outside services such as the RTA Park and Ride costs and other non-operating capital.

² YTD 864.17 Hours ≈ \$14,103





Item #: C.

Town Council Regular Session

Date: 02/02/2011

Requested by: Amanda Jacobs, Economic Development Manager

Submitted By: Amanda Jacobs, Town Manager's Office

Department: Town Manager's Office

Information

SUBJECT:

Economic Development Division Quarterly Report: October 1, 2010 - December 31, 2010

RECOMMENDATION:

This report is for information only.

EXECUTIVE SUMMARY:

Attached is the Economic Development Division quarterly report for the period October 1, 2010 – December 31, 2010.

BACKGROUND OR DETAILED INFORMATION:

N/A

FISCAL IMPACT:

N/A

SUGGESTED MOTION:

N/A

Attachments

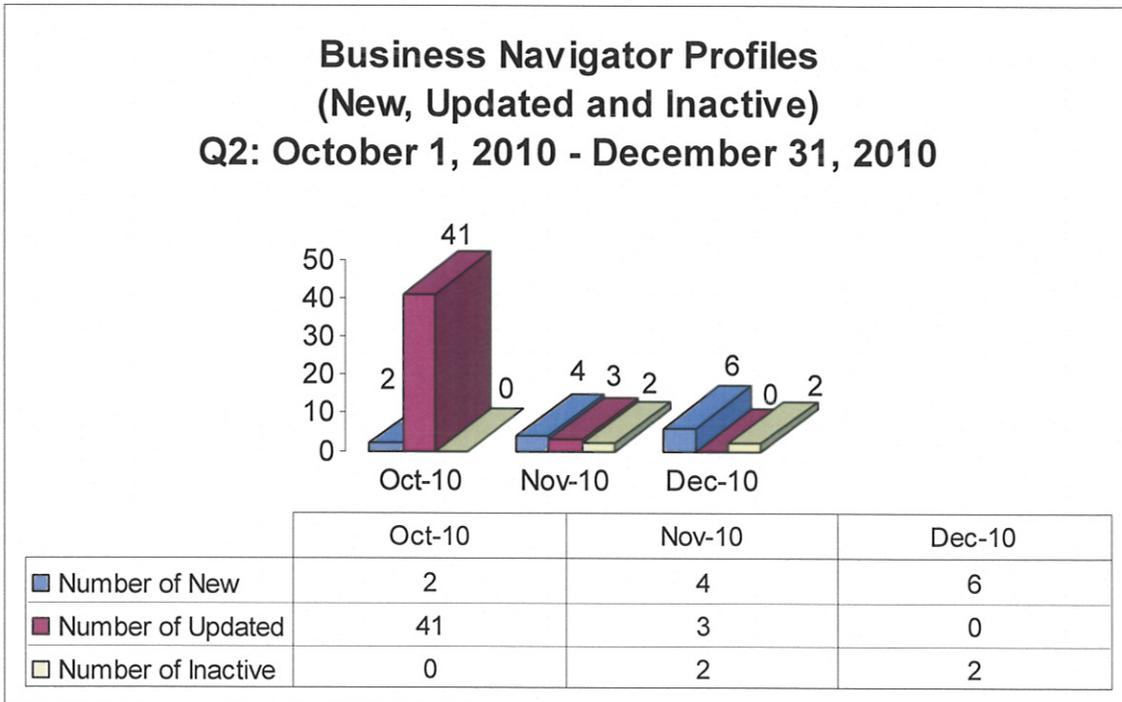
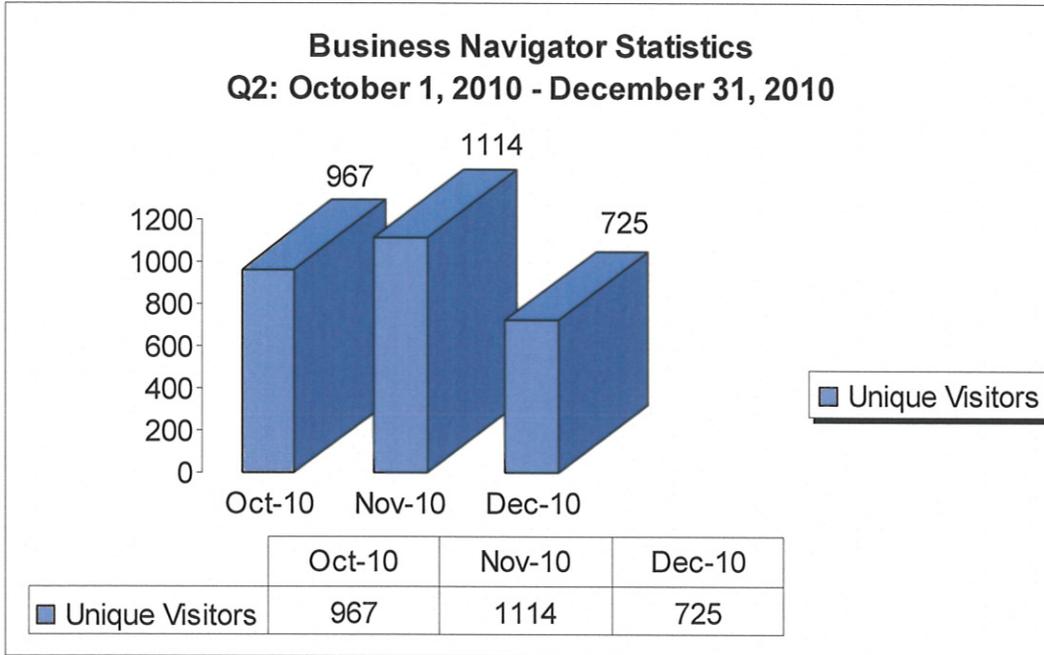
Link: [Economic Development Division Quarterly Report: October 1, 2010 - December 31, 2010](#)



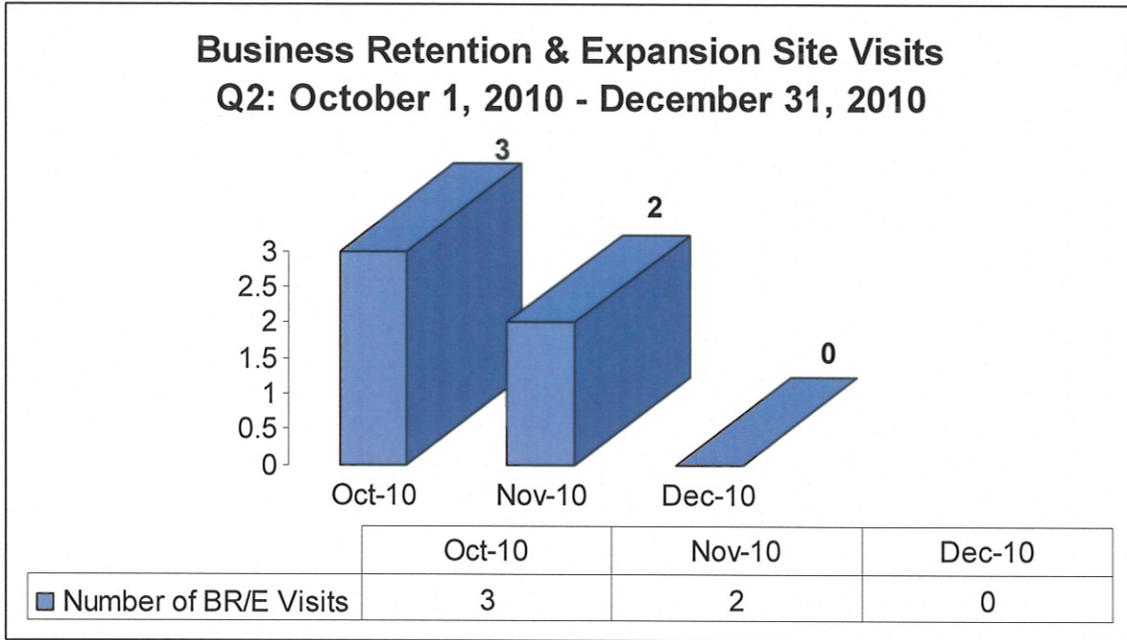
**Economic Development Division
Quarterly Report:
October 1, 2010 – December 31, 2010**

**Presented to Town of Oro Valley Mayor and Council
February 2, 2011**

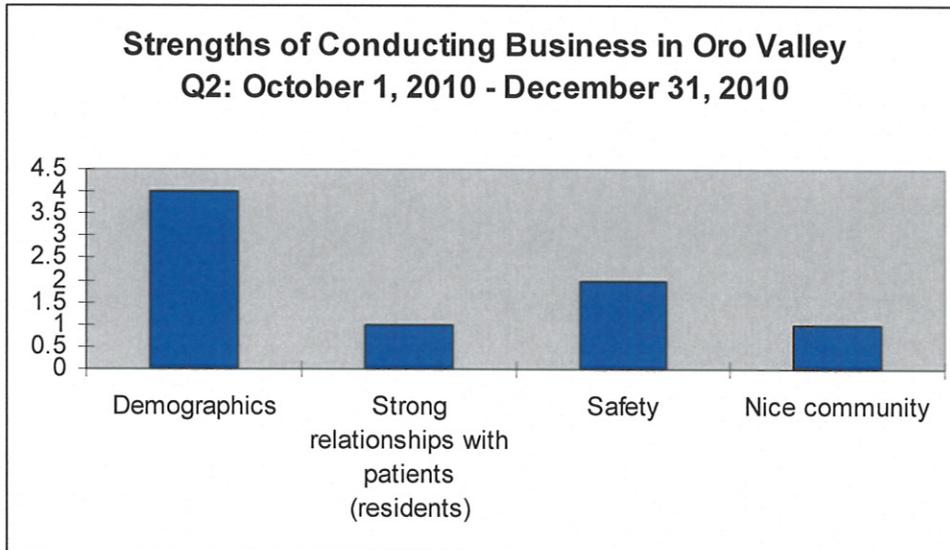
Business Retention Activity



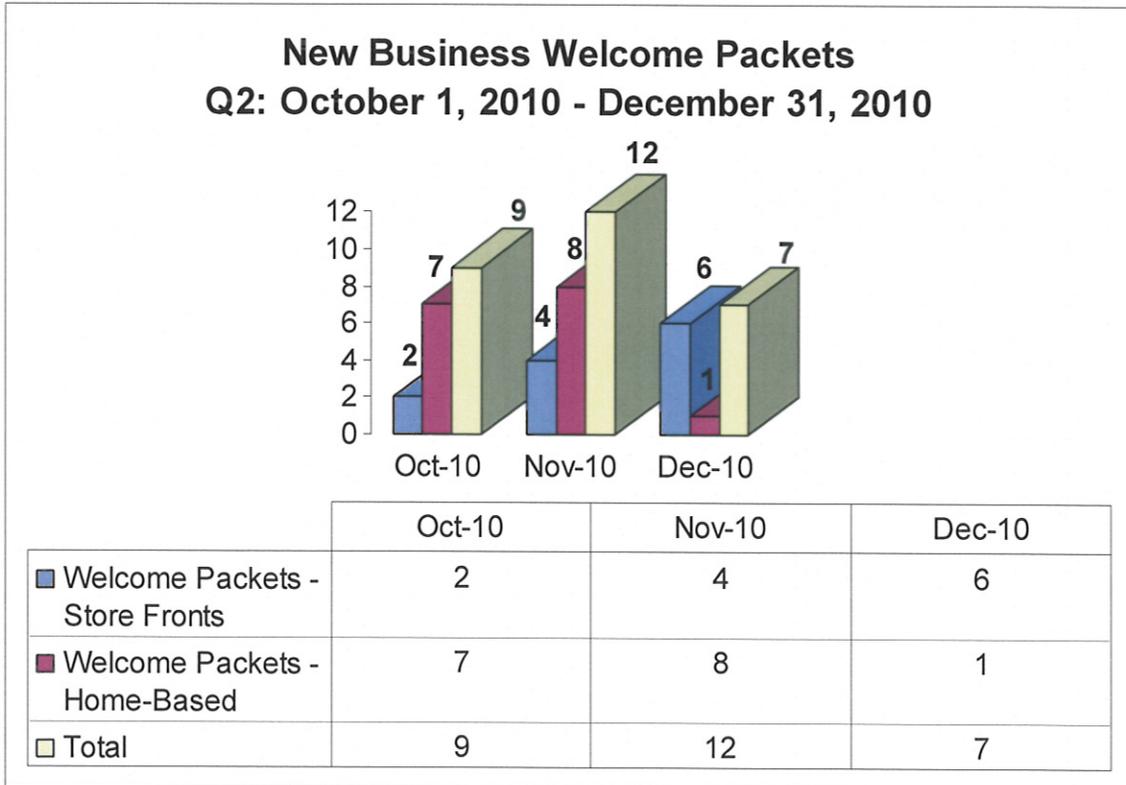
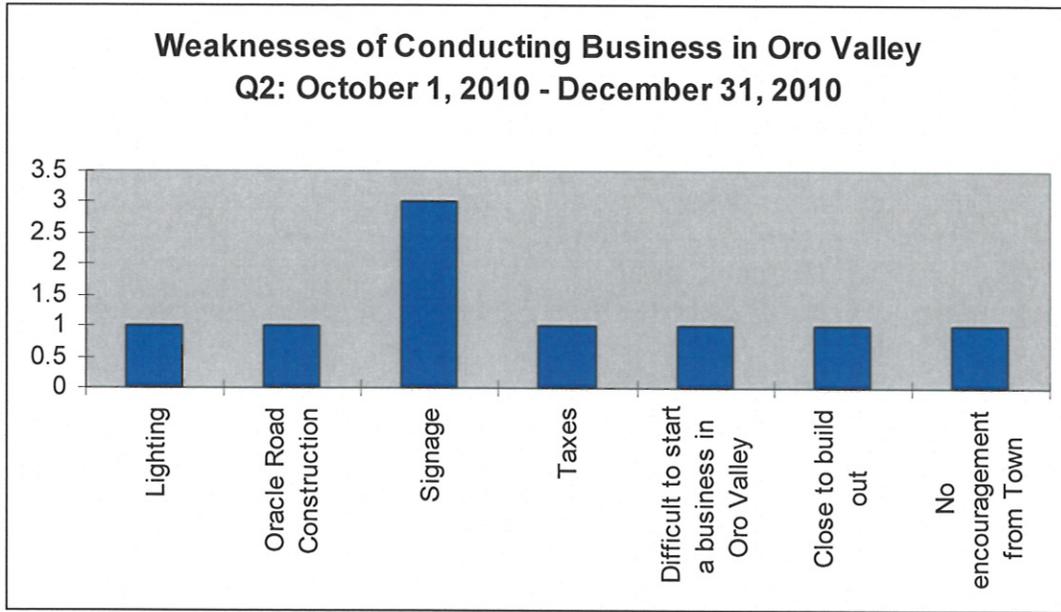
Business Retention Activity Continued



Responses from Business Retention & Expansion (BR/E) Site Visits



Business Retention Activity Continued



Attachment '1'
New Local Business Report: October 1, 2010 - December 31, 2010

TOWN OF ORO VALLEY

New Local Business Report

Report Dates: 10/01/2010 thru 12/31/2010

Business No.	Business Name	Business Address	Home Y/N	Phone	Start Date
TOV1000366	FOOT CLINICS LTD	760 E PUSCH VIEW LN #130 ORO VALLEY AZ 85737	N	520-575-9108	10/01/2010
TOV1000368	ORO VALLEY ADULT MEDICINE PA INC	760 E PUSCH RIDGE LN #100 ORO VALLEY AZ 85737	N	520-547-5688	10/04/2010
TOV1000339	KOPS MARKETING SERVICES LLC	13401 N RANCHO VISTOSO BL #165 ORO VALLEY AZ 85755	Y	520-429-1528	10/05/2010
TOV1000364	WILLIAM BOYLE AND ASSOCIATES	1294 W VINOVO PS ORO VALLEY AZ 85755	Y	520-797-3230	10/05/2010
TOV1000369	YOUR LIFE MADE EASY	10333 N ORACLE RD #6103 ORO VALLEY AZ 85737	Y	520-289-9250	10/05/2010
TOV1000374	TRAVEL ON	1024 E CAMINO DIESTRO ORO VALLEY AZ 85704	Y	520-395-0489	10/07/2010
TOV1000378	MARICARMEN SALAZAR	11655 N RED CREEK PL ORO VALLEY AZ 85737	Y	520-297-2793	10/07/2010
TOV1000382	GLASSDESIGN	851 E DESERT GLEN DR ORO VALLEY AZ 85755	Y	267-250-7240	10/15/2010
TOV1000405	VANGUARD GLOBAL ASSOCIATES	10950 N LA CANADA DR #8202 ORO VALLEY AZ 85737	Y	908-472-9833	10/20/2010
TOV1000429	LA BELLA A CONSIGNMENT BOUTIQUE CO LLC	1665 W THORNTREE DR ORO VALLEY AZ 85737	N	520-544-2001	11/04/2010
TOV1000426	BEAUTICONTROL - HALLIDAY	11646 N RED CREEK PL ORO VALLEY AZ 85737	Y	520-548-9079	11/05/2010
TOV1000427	MCGLAMERY AND ASSOCIATES	730 W HARDY DR ORO VALLEY AZ 85704	Y	520-514-9733	11/05/2010
TOV1000437	MOBILE NUTRITION CONSULTING SERVICES	222 E RIO VISTOSO LN ORO VALLEY AZ 85755	Y	703-859-6045	11/09/2010
TOV1000438	PREMIER JEWELER	2221 E RIO VISTOSO LN ORO VALLEY AZ 85755	Y	703-859-6045	11/09/2010
TOV1000446	STRONGTIE ENTERPRISE LLC	10170 N COLONIAL PL ORO VALLEY AZ 85737	Y	520-780-8176	11/12/2010
TOV1000451	OUT OF GLASS	979 E COACHWOOD DR ORO VALLEY AZ 85755	Y	520-825-2223	11/16/2010
TOV1000457	HC VISIONS LLC	1310 E EQUINOX PL ORO VALLEY AZ 85737	Y	520-797-7773	11/17/2010

Business No.	Business Name	Business Address	Home Y/N	Phone	Start Date
TOV1000465	CASA DE LA LUZ HOSPICE	400 W MAGEE RD ORO VALLEY AZ 85704	N	520-544-9890	11/22/2010
TOV1000466	ARIZONA FAMILY PROTECTION CTR	1570 W CALLE CONCORDIA ORO VALLEY AZ 85704	N	520-297-9691	11/22/2010
TOV1000467	PARRY ACTION ENTERPRISES LLC	11115 N LA CANADA #295 ORO VALLEY AZ 85737	N	520-529-6100	11/22/2010
TOV1000462	LIL ORBITS	11704 N DESERT HOLLY DR ORO VALLEY AZ 85737	Y	520-797-9451	11/23/2010
TOV1000413	J MARINARAS	8195 N ORACLE RD #105 ORO VALLEY AZ 85715	N	520-907-8099	12/03/2010
TOV1000449	WILD BIRDS UNLIMITED	7645 N ORACLE RD #110 ORO VALLEY AZ 85704	N	520-878-9585	12/06/2010
TOV1000461	GRAIN RIVER ASIAN BISTRO RESTAURANT	12985 N ORACLE RD #125 ORO VALLEY AZ 85737	N	520-220-6159	12/08/2010
TOV1000473	RESOLUTIONS MEDICAL SPA	7930 N ORACLE RD ORO VALLEY AZ 85704	N	520-444-3662	12/08/2010
TOV1000478	WENDY WISE STATE FARM AGENT	1880 E TANGERINE RD #130 ORO VALLEY AZ 85755	N	520-444-6390	12/09/2010
TOV1000475	FARMERS INSURANCE/SPECTOR	190 W MAGEE RD #122 ORO VALLEY AZ 85704	N	520-906-3848	12/20/2010
TOV1000499	RUST GILCHRIST CONSTRUCTION	1611 W LIMWOOD DR ORO VALLEY AZ 85755	Y	520-203-3501	12/29/2010

Total Number of Store Fronts **12**
Total Number of Home-Based Businesses **16**
Total Number of Businesses on this Report: **28**



Item #: D.

Town Council Regular Session

Date: 02/02/2011

Requested by: Brian Garrity, Procurement Administrator

Submitted By: Brian Garrity, Finance

Information

SUBJECT:

Procurement Division Quarterly Report - October 1, 2010 - December 31, 2010

Attachments

Link: [Q4 2010 Quarterly Report](#)

ORO VALLEY QUARTERLY PROCUREMENT REPORT - January 2011

Awarded Contracts

<i>Solicitation Number</i>	<i>Title</i>	<i>Department</i>	<i>Awarded Contractor</i>	<i>Award Date</i>	<i>Amount</i>	<i>Notes</i>
11 003	TOV SURFACE TREATMENTS PHASE I	PUBLIC WORKS	SUNLAND ASPHALT	10/12/2010	\$42,055.00	ENG. ESTIMATE \$47,500
11 004	POOL UPGRADE AND EXPANSION FEASIBILITY STUDY	PARKS AND RECREATION	BALLARD KING & ASSOCIATES, LTD.	12/10/2010	\$20,000.00	NEGOTIATED REDUCTION IN PRICE OF \$1,350
11 006	SOLAR LIGHTING FOR BIG WASH RAMADA	PUBLIC WORKS	E2 POWER AND SPECIAL SYSTEMS GROUP, INC.	11/4 /2010	\$5,825.33	
11 007	PISTACHIO / POMEGRANATE DRAINAGE IMPROVEMENTS	PUBLIC WORKS	MARCON EXCAVATING	11/2 /2010	\$44,327.50	OV 30 10/11 03 ENG. ESTIMTE = \$49,732.50
11 008	WEB REPORTING PORTAL	IT	SUNDANCE DATA TECHNOLOGIES	11/9 /2010	\$2,500.00	
11 010	FINANCIAL MANAGEMENT SERVICES	FINANCE	PFM ASSET MANAGEMENT LLC	11/16/2010	\$0.00	CITY OF SCOTTSDALE CONTRACT NO. 2010-160-COS
11 011	NARANJA DRIVE SAFETY IMPROVEMENTS	PUBLIC WORKS	CORONADO ENGINEERING	11/29/2010	\$82,528.00	DISALLOWED MARKUPS FOR DIRECT COSTS AND TRAVEL

<i>Solicitation Number</i>	<i>Title</i>	<i>Department</i>	<i>Awarded Contractor</i>	<i>Award Date</i>	<i>Amount</i>	<i>Notes</i>
11 012	REAL ESTATE APPRAISAL SERVICES	PUBLIC WORKS	AXIA REAL ESTATE APPRAISERS	12/14/2010	\$7,000.00	

ORO VALLEY QUARTERLY PROCUREMENT REPORT January 2011

Current Solicitations / Agreements

<i>Solicitation Number</i>	<i>Title</i>	<i>Department</i>	<i>Opening Date</i>	<i>Notes</i>
11 002	EL CONQUISTADOR C-D BOOSTER STATION	WATER		OV20-02-10
11 015	WIRELESS SIGNAL NETWORK	PUBLIC WORKS		



Item #: E.

Town Council Regular Session

Date: 02/02/2011

Submitted By: Roseanne Flores, Development Infrastructure Services

Information

SUBJECT:

Development & Infrastructure Services Department Permitting Division Report - November 2010

SUMMARY:

This report is provided for information only.

DISCUSSION:

N/A

FISCAL IMPACT:

N/A

Attachments

Link: [Activity Report](#)

Link: [Customer Chart](#)

Link: [Permit Activity](#)

Link: [Plan Review](#)

Link: [Inspection Activity](#)

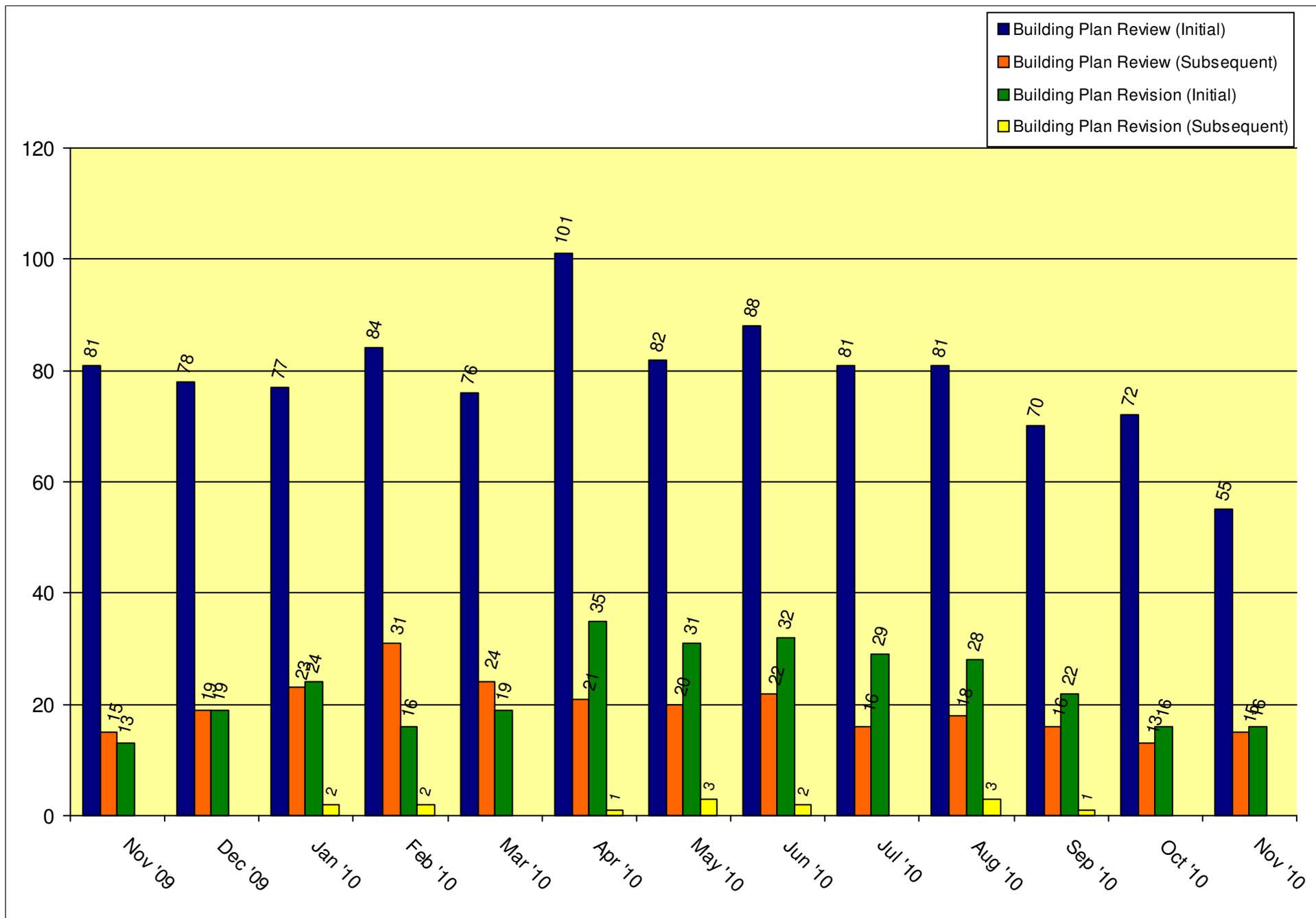
Link: [Revenue chart](#)

Development and Infrastructure Services Department
Permitting Division
Building Permits Monthly Activity Reports - November 2010

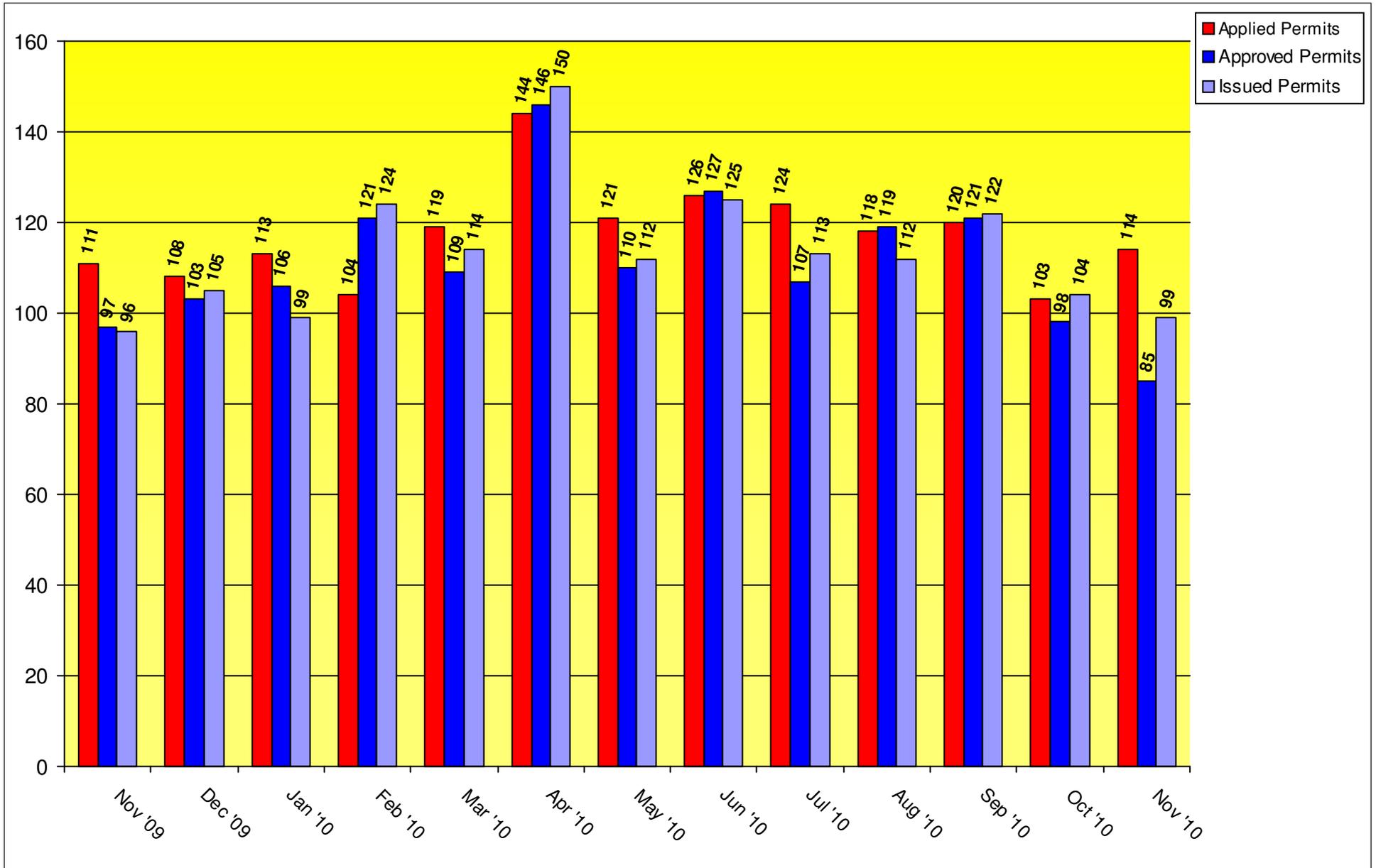
DESCRIPTION	CLASS CODE	CURRENT MONTH			PREV MONTH		SAME MONTH ONE YEAR AGO		CUMULATIVE LAST FISCAL YEAR 2009/10		CUMULATIVE THIS FISCAL YEAR 2010/11	
		November-2010			October-2010		November-2009		PERMITS	REVENUES	PERMITS	REVENUES
		PERMITS	VALUATION	REVENUES	PERMITS	REVENUES	PERMITS	REVENUES				
SFR Detached	0101	1	\$350,344	\$3,239	3	\$23,592	5	\$21,709	26	\$97,714	13	\$90,013
SFR Attached	0102											
Res Pools	0329	7	\$45,849	\$1,738	5	\$1,676	6	\$2,498	32	\$11,930	28	\$8,441
Revisions/Alter/Addit	0434	6	\$286,643	\$5,993	7	\$2,477	9	\$6,702	62	\$33,896	39	\$29,921
Res Walls	0434						1	\$230	1	\$230	1	\$220
Garage/Carport Encl	0438				3	\$6,994	1	\$599	5	\$7,144	5	\$8,243
Misc Residential		42	\$24,272	\$2,022	38	\$1,254	39	\$1,166	251	\$7,839	252	\$10,208
Model Plans									4	\$8,370		
Multi-Family Res.												
Res Demo							1	\$507	3	\$958	1	\$137
Subtotal Residential Permits		56	\$707,108	\$12,992	56	\$35,993	62	\$33,411	384	\$168,081	339	\$147,183
Condos > 5 units	0105											
Commercial Shell												
Hotels or Motels	0213								1	\$72,658		
Social or Recreation	0318											
Churches, Temples	0319											
IndstPlnts/PublicWks	0320								3	\$2,108		
Pkg/Grgs/Ramada/Maint	0321											
Service Stations/Washes	0322											
Hospitals/Clinics	0323											
Offices/Banks/Proff/Rest	0324						1	\$17,830	1	\$17,830		
Schools	0326								1	\$120		
Stores	0327											
Commercial Pools	0329										1	\$659
TI's & Comm Reno	0437	1	\$60,000	\$1,649	5	\$5,930	2	\$4,625	18	\$34,599	16	\$37,491
CommAlter/Revisions	0328	3	\$192,000	\$3,825	2	\$1,206	3	\$201	16	\$6,431	14	\$31,488
Misc Commercial		1	\$0	\$59	5	\$1,681	2	\$84	13	\$17,225	14	\$2,804
CommerDemo												
Subtotal Commercial Permits		5	\$252,000	\$5,533	12	\$8,817	8	\$22,740	53	\$150,971	45	\$72,442
Signs		13	\$0	\$2,339	16	\$3,066	15	\$2,733	83	\$15,783	68	\$12,536
Total Residential & Commercial Permits		74	\$959,108	\$20,864	84	\$47,876	85	\$58,884	520	\$334,835	452	\$232,161
Resid. Impact Fees				\$6,078		\$18,234		\$28,280		\$155,814	0	\$79,015
Comm. Impact Fees								\$24,733		\$97,881	0	\$0
Total Dev Imp Fees				\$6,078		\$18,234		\$53,013		\$253,695	0	\$79,015

* Revenues / Fees represent the total cost of the permits issued, and is not a representation of actual revenues within a given month.

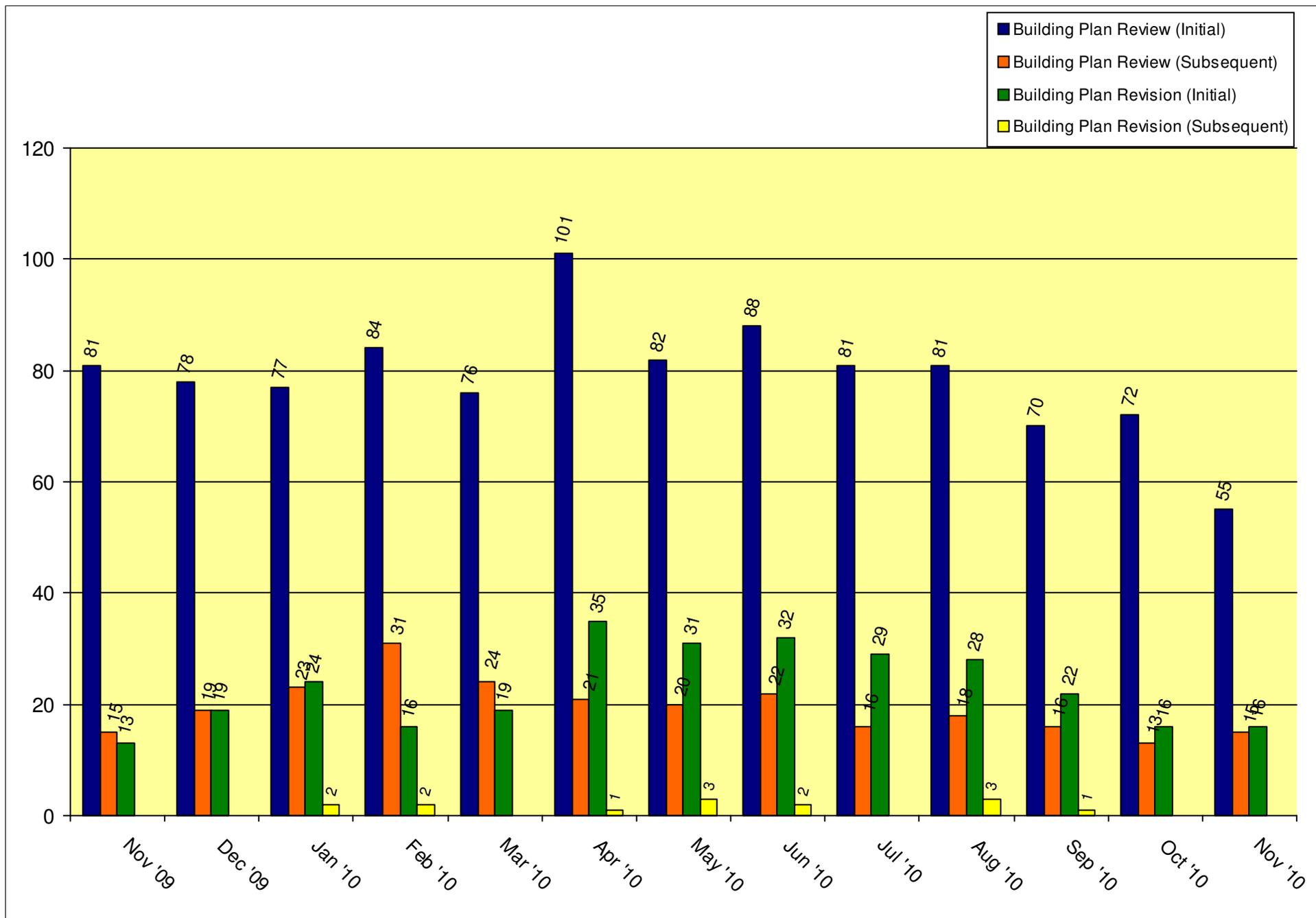
Development Services Plan Review Activity for November 2009 thru November 2010



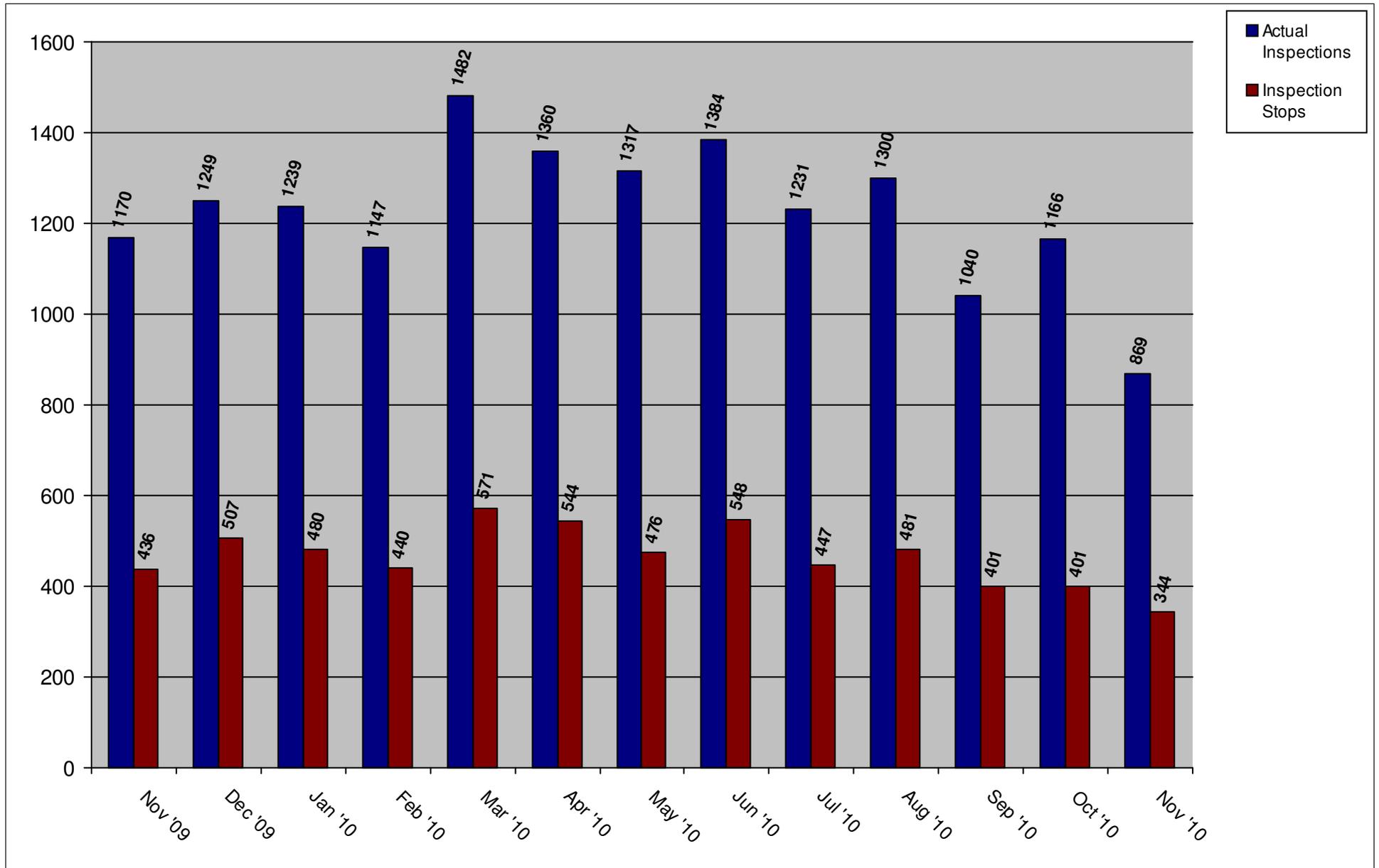
Development Services Permit Activity for November 2009 thru November 2010



Development Services Plan Review Activity for November 2009 thru November 2010

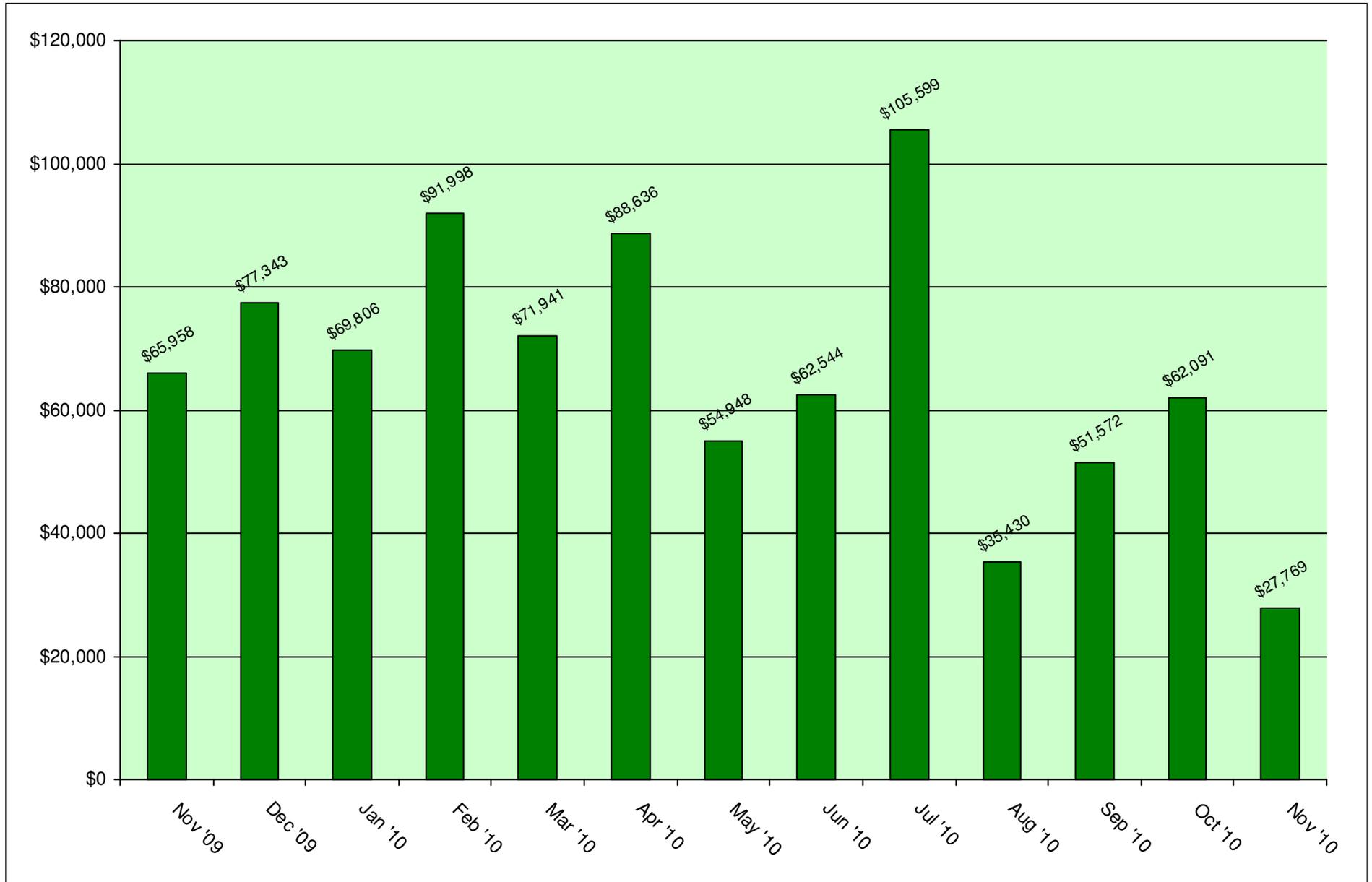


Development Services Inspection Activity for November 2009 thru November 2010



Development Services Revenue for November 2009 thru November 2010

(Does not include Impact Fees, Engineering Fees, Zoning Fees, Books, Copies or APA Deposits)





Item #: F.

Town Council Regular Session

Date: 02/02/2011

Submitted By: Roseanne Flores, Development Infrastructure Services

Information

SUBJECT:

Development & Infrastructure Services Department Permitting Division Report - December 2010

SUMMARY:

This report is provided for information only.

DISCUSSION:

N/A

FISCAL IMPACT:

N/A

Attachments

Link: [Activity Report](#)

Link: [Customer Chart](#)

Link: [Permit Activity](#)

Link: [Plan Review Chart](#)

Link: [Inspection Activity](#)

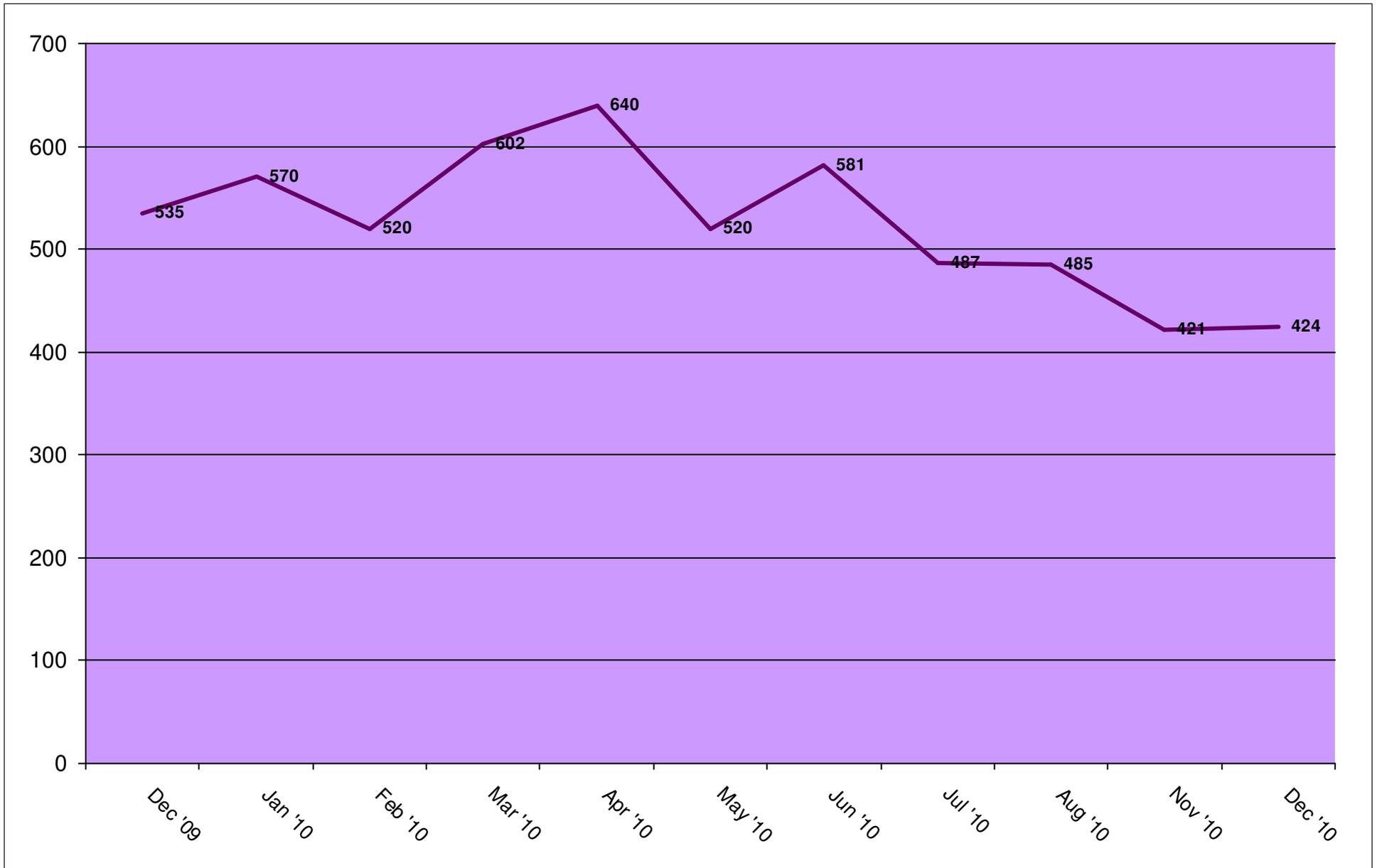
Link: [Revenue chart](#)

Development and Infrastructure Services Department
Permitting Division
Building Permits Monthly Activity Reports December 2010

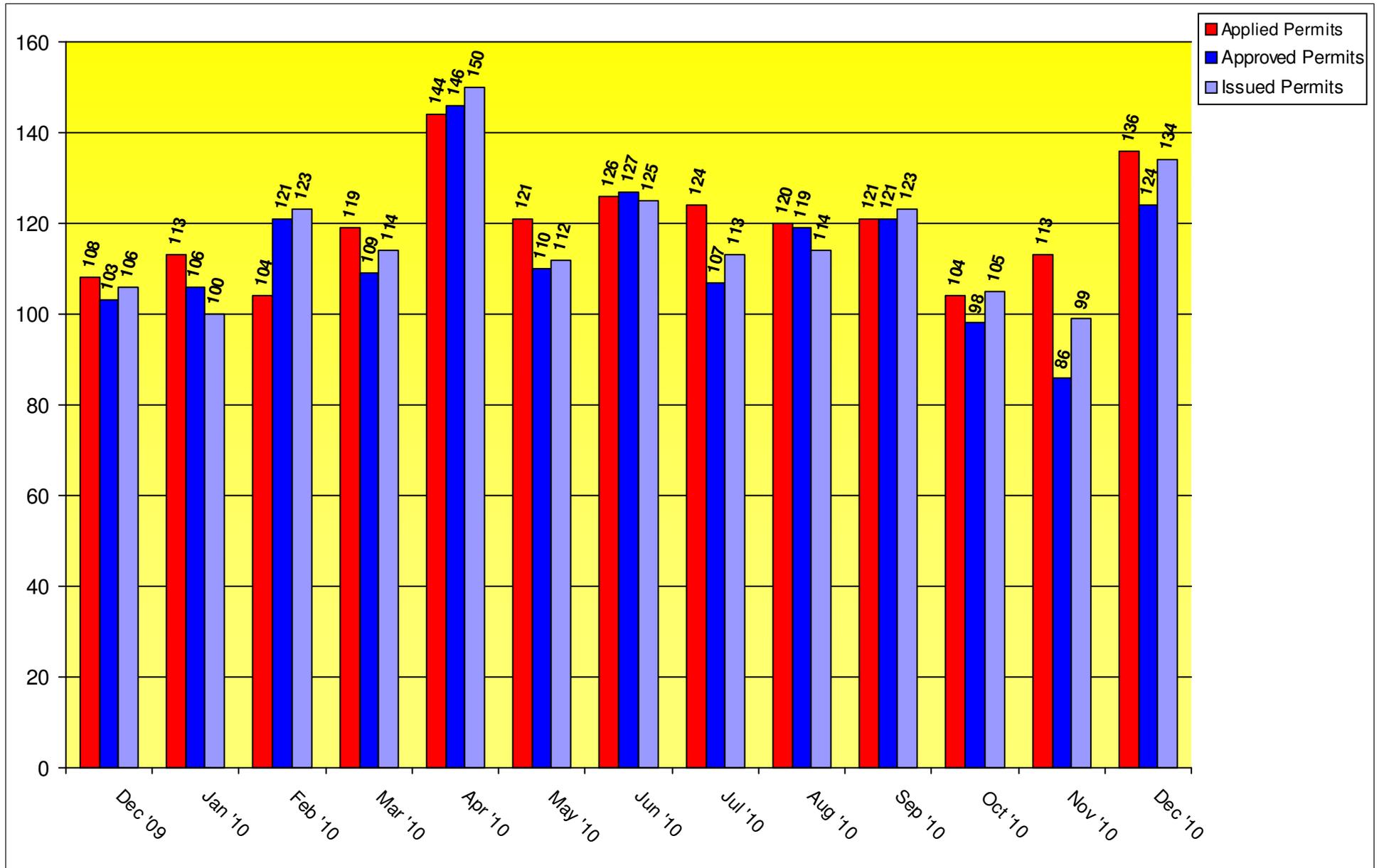
		CURRENT MONTH			PREV MONTH		SAME MONTH ONE YEAR AGO		CUMULATIVE LAST FISCAL YEAR 2009/10		CUMULATIVE THIS FISCAL YEAR 2010/11	
DESCRIPTION	CLASS CODE	December-2010			November-2010		December-2009		PERMITS	REVENUES	PERMITS	REVENUES
		PERMITS	VALUATION	REVENUES	PERMITS	REVENUES	PERMITS	REVENUES				
SFR Detached	0101	4	\$1,425,145	\$17,960	1	\$3,239	6	\$26,832	32	\$124,546	17	\$107,973
SFR Attached	0102											
Res Pools	0329	4	\$23,026	\$1,057	7	\$1,738	4	\$1,290	36	\$13,220	32	\$9,498
Revisions/Alter/Addit	0434	5	\$29,984	\$1,218	6	\$5,993	13	\$11,187	75	\$45,083	44	\$31,139
Res Walls	0434						1	\$84	2	\$314	1	\$220
Garage/Carport Encl	0438								5	\$7,144	5	\$8,243
Misc Residential		63	\$44,500	\$3,482	42	\$2,022	48	\$1,559	299	\$9,398	315	\$13,690
Model Plans							1	\$1,564	5	\$9,934		
Multi-Family Res.												
Res Demo							1	\$120	4	\$1,078	1	\$137
Subtotal Residential Permits		76	\$1,522,655	\$23,717	56	\$12,992	74	\$42,636	458	\$210,717	415	\$170,900
Condos > 5 units	0105											
Commercial Shell												
Hotels or Motels	0213								1	\$72,658		
Social or Recreation	0318											
Churches, Temples	0319											
IndstPlnts/PublicWks	0320								4	\$2,108		
Pkg/Grgs/Ramada/Maint	0321											
Service Stations/Washes	0322											
Hospitals/Clinics	0323											
Offices/Banks/Proff/Rest	0324								1	\$17,830		
Schools	0326								1	\$120		
Stores	0327											
Commercial Pools	0329										1	\$659
TI's & Comm Reno	0437	2	\$131,971	\$3,279	1	\$1,649	3	\$11,134	21	\$45,733	18	\$40,770
CommAlter/Revisions	0328	6	\$2,043,696	\$19,703	3	\$3,825	2	\$3,969	18	\$10,400	20	\$51,191
Misc Commercial		6	\$164,979	\$2,675	1	\$59	2	\$542	15	\$17,767	20	\$5,479
CommerDemo												
Subtotal Commercial Permits		14	\$2,340,646	\$25,657	5	\$5,533	8	\$15,645	61	\$166,616	59	\$98,099
Signs		11	\$0	\$2,161	13	\$2,339	14	\$2,235	97	\$18,018	79	\$14,697
Total Residential & Commercial Permits		101	\$3,863,301	\$51,535	74	\$20,864	96	\$60,516	616	\$395,351	553	\$283,696
Resid. Impact Fees				\$24,312		\$6,078		\$37,220		\$193,034		\$103,327
Comm. Impact Fees										\$97,881		
Total Dev Imp Fees				\$24,312	0	\$6,078	0	\$37,220	0	\$290,915	0	\$103,327

* Revenues / Fees represent the total cost of the permits issued, and is not a representation of actual revenues within a given month.

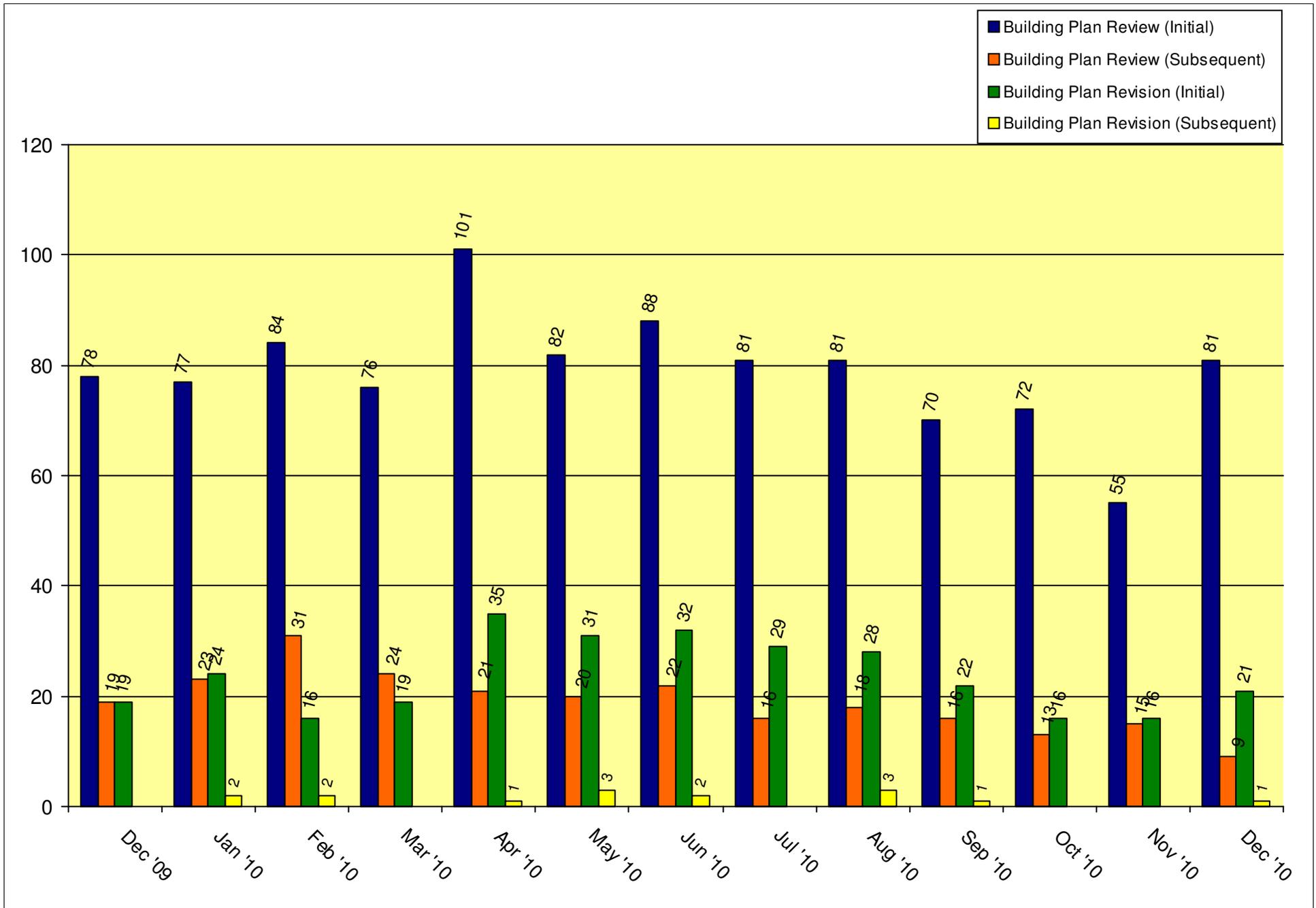
Development Services Customers for December 2009 thru December 2010



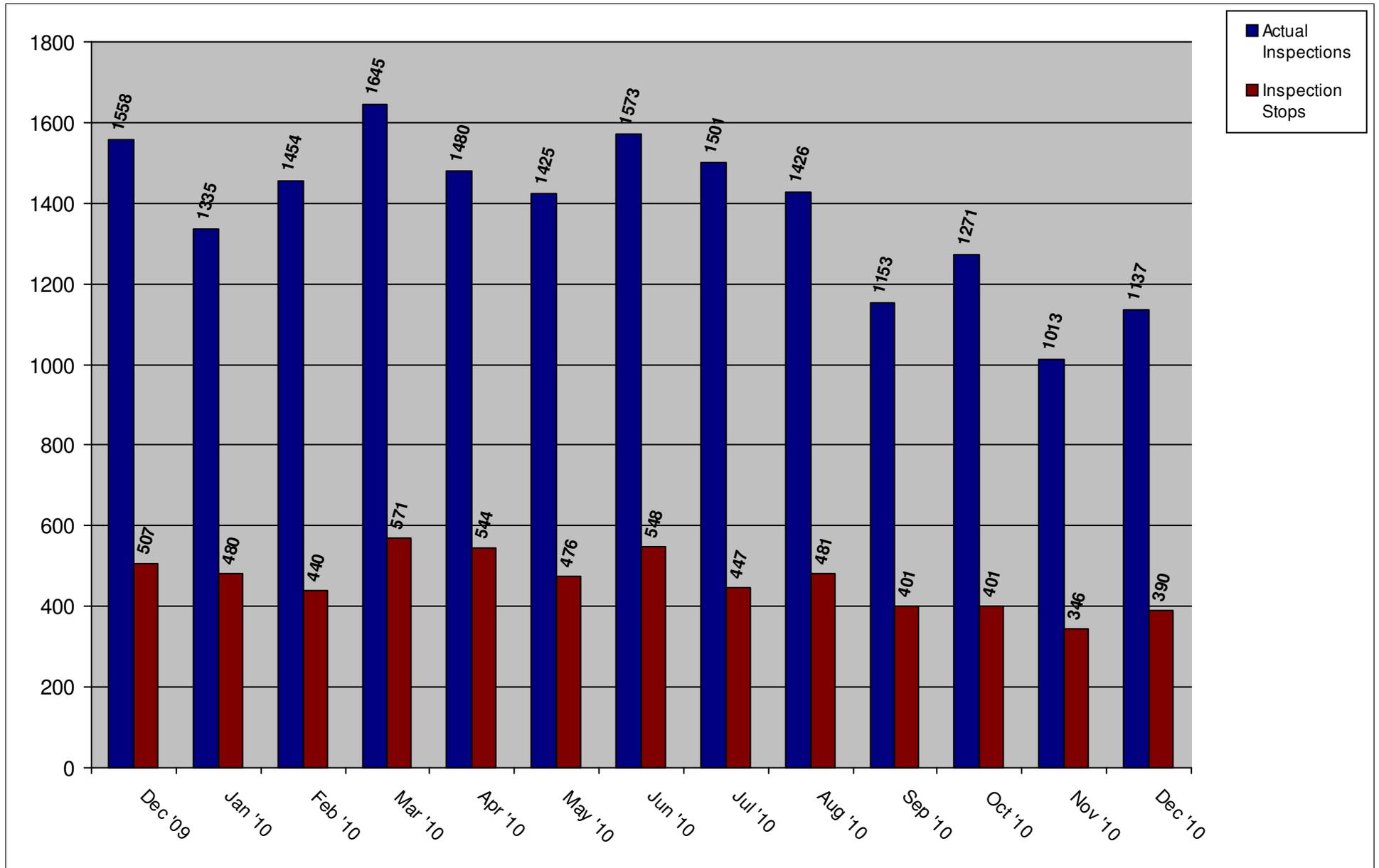
Development Services Permit Activity for December 2009 thru December 2010



Development Services Plan Review Activity for December 2009 thru December 2010

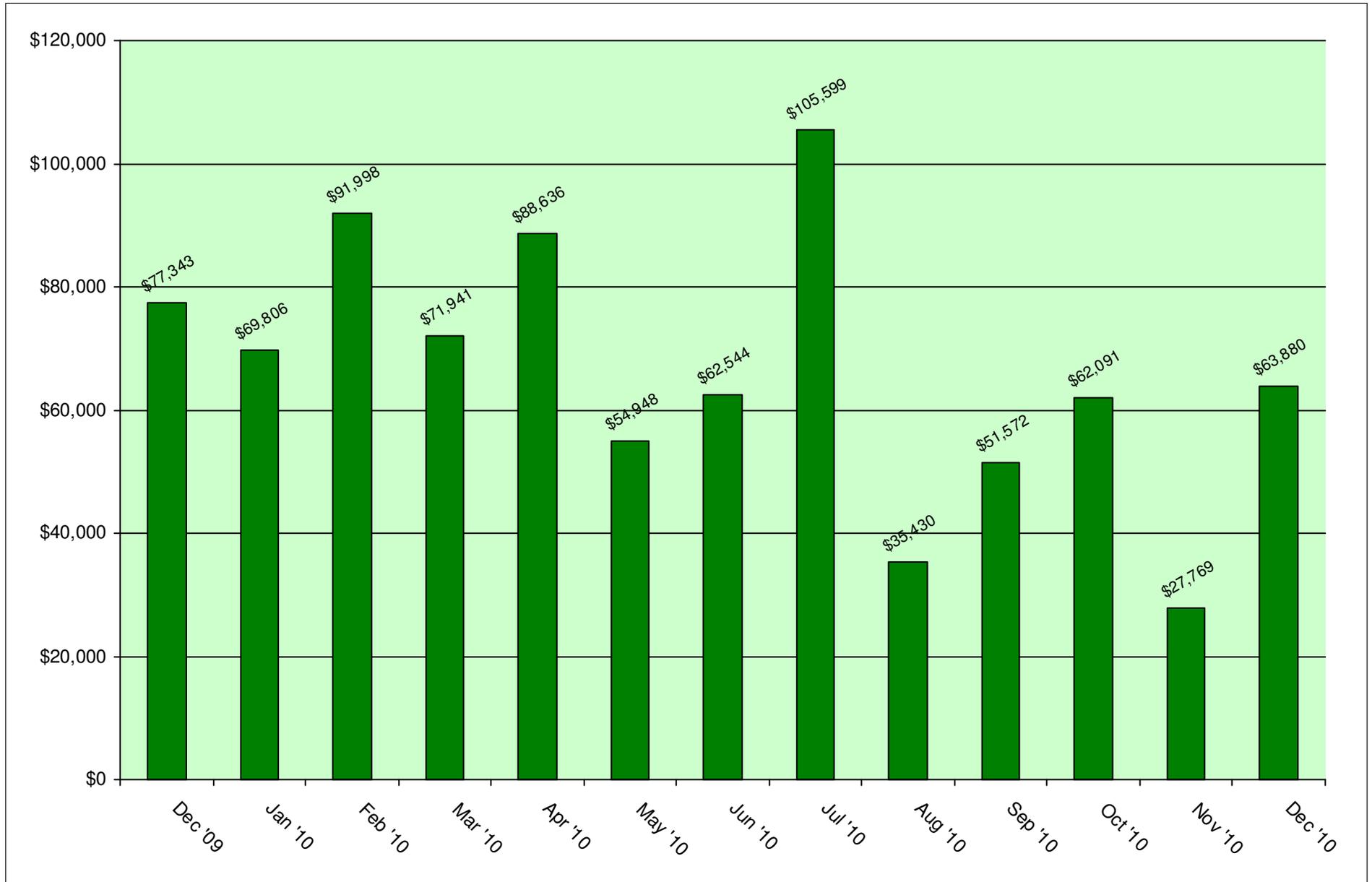


Development Services Inspection Activity for December 2009 thru December 2010



Development Services Revenue for December 2009 thru December 2010

(Does not include Impact Fees, Engineering Fees, Zoning Fees, Books, Copies or APA Deposits)





Item #: G.

Town Council Regular Session

Date: 02/02/2011

Requested by: Wendy Gomez, Budget and Management Analyst

Submitted By: Wendy Gomez, Finance

Department: Finance

Information

SUBJECT:

Fiscal Year 2010/11 Financial Update Through November 2010

RECOMMENDATION:

This report is for information only.

EXECUTIVE SUMMARY:

General Fund

Attachment B shows General Fund revenues and expenditures through November as well as year-end estimates for each category. Through November, revenue collections totaled \$10,066,231 and expenditures totaled \$9,616,239.

The estimated **year-end** projections in the General Fund are as follows:

Revenues	\$24,391,543
Expenditures	<u>25,653,126</u>

Estimated Operating Deficit (\$1,261,583)

General Fund Revenues

- Revenues through November total \$10,066,231, which represents 38.4% of the budgeted FY 2010/11 revenues
- Revenues are estimated to come in under budget by about \$1,800,000, or by about 7%, primarily due to the continued slowdown in construction activity and lagging construction sales taxes
- Although the distribution by revenue category has changed, the total amount of General Fund revenues projected for this fiscal year are near levels seen in FY 2005-2006

General Fund Major Revenue Categories

Local Sales Tax

- Fiscal year to date General Fund collections are \$4,595,993 (roughly flat to FY 2009/10 through November)
- Estimated to come in 9.8% below budget due to reduced construction sales tax collections

State-Shared Revenues

- Income Tax - fiscal year to date is \$1,597,880 (25% decrease from FY 2009/10 through November)
- Sales Tax - fiscal year to date is \$1,181,393 (roughly flat to FY 2009/10 through November)

- Vehicle License Tax - fiscal year to date is \$646,252 (9% decrease from FY 2009/10 through November)

General Fund Expenditures

- Expenditures through November total \$9,616,239, which represents 36.2% of the budgeted FY 2010/11 expenditures
- Expenditures are estimated to come in under budget by about \$900,000, or by about 3%

See attachment B for additional detail on the General Fund, and attachments C through E for the Highway, Bed Tax, and Public Transportation Funds. See Attachment F for the monthly financial dashboard.

BACKGROUND OR DETAILED INFORMATION:

N/A

FISCAL IMPACT:

N/A

SUGGESTED MOTION:

This report is for information only.

Attachments

Link: [Attachment A - Summary](#)

Link: [Attachment B - Gen Fund](#)

Link: [Attachment C - HW Fund](#)

Link: [Attachment D - Bed Tax Fund](#)

Link: [Attachment E - Transit Fund](#)

Link: [Attachment F - Dashboard 1 of 2](#)

Link: [Attachment F - Dashboard 2 of 2](#)



November 2010 Monthly Financial Report

Revenues

Fund	Actuals thru 11/2010	Budget	% Actuals to Budget	Year End Estimate	% Variance to Budget
General	\$ 10,066,231	\$ 26,215,984	38.4%	\$ 24,391,543	-7.0%
Highway	\$ 1,339,013	\$ 3,797,842	35.3%	\$ 3,523,524	-7.2%
Bed Tax	\$ 85,823	\$ 270,569	31.7%	\$ 263,930	-2.5%
Transit	\$ 88,221	\$ 454,845	19.4%	\$ 425,999	-6.3%

Expenditures

Fund	Actuals thru 11/2010	Budget	% Actuals to Budget	Year End Estimate	% Variance to Budget
General	\$ 9,616,239	\$ 26,560,334	36.2%	\$ 25,653,126	-3.4%
Highway	\$ 1,146,892	\$ 4,105,231	27.9%	\$ 3,975,872	-3.2%
Bed Tax	\$ 83,450	\$ 358,869	23.3%	\$ 390,146	8.7%
Transit	\$ 184,126	\$ 482,320	38.2%	\$ 535,074	10.9%

Surplus/(Deficit)

Fund Balance

Fund	YTD	Budgeted	Year End Estimate	Budgeted	Year End Estimate
General	\$ 449,992	\$ (344,350)	\$ (1,261,583)	\$ 10,620,363	\$ 9,073,266 *
Highway	\$ 192,121	\$ (307,389)	\$ (452,348)	\$ 3,772,144	\$ 3,586,554
Bed Tax	\$ 2,373	\$ (88,300)	\$ (126,216)	\$ 987,870	\$ 863,329
Transit	\$ (95,905)	\$ (27,475)	\$ (109,075)	\$ 54,532	\$ 26,961

* Represents 35.4% of General Fund year-end estimated expenditures



Bed Tax Fund

% Budget Completion through November --- 41.7%

FINANCING SOURCES	Actuals thru 11/2010	Budget	% Actuals to Budget	Year End Estimate	% Variance to Budget
REVENUE:					
BED TAXES	292,018	861,569	33.9%	861,569	0.0%
less allocation to General Fund	(207,180)	(600,000)	34.5%	(600,000)	0.0%
INTEREST INCOME	985	9,000	10.9%	2,361	-73.8%
TOTAL FINANCING SOURCES	85,823	270,569	31.7%	263,930	-2.5%

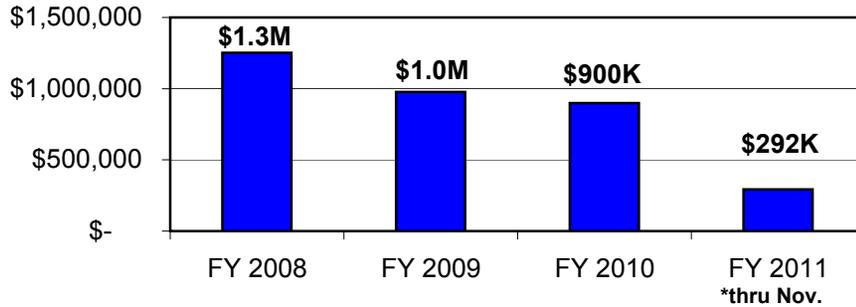
FINANCING USES	Actuals thru 11/2010	Budget	% Actuals to Budget	Year End Estimate	% Variance to Budget
EXPENDITURES:					
ECONOMIC DEVELOPMENT	83,450	358,869	23.3%	390,146	8.7%
TOTAL FINANCING USES	83,450	358,869	23.3%	390,146	8.7%

SURPLUS/(DEFICIT)	2,373	(88,300)		(126,216)
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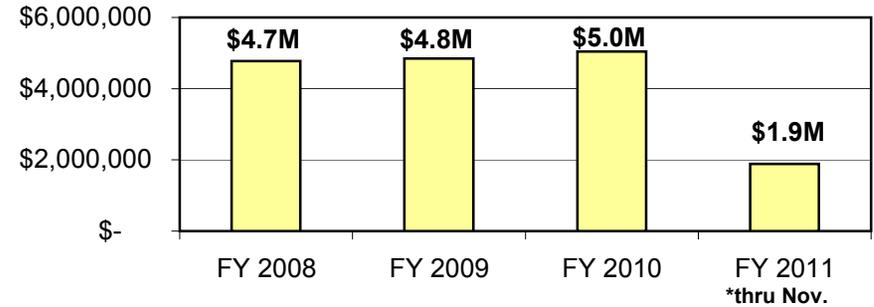


Town of Oro Valley Financial Dashboard Historical Annual Totals

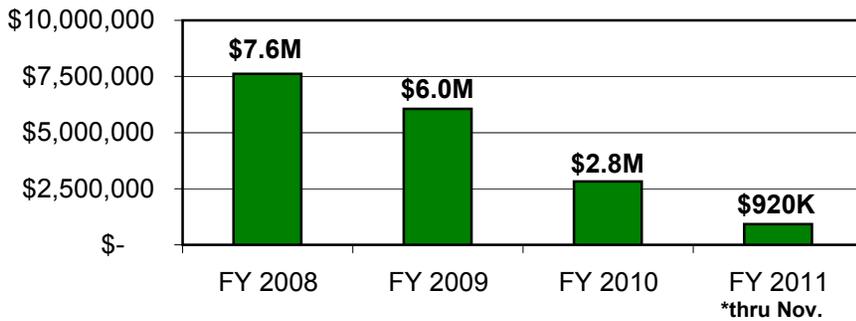
Hotel/Motel Sales Tax Collections



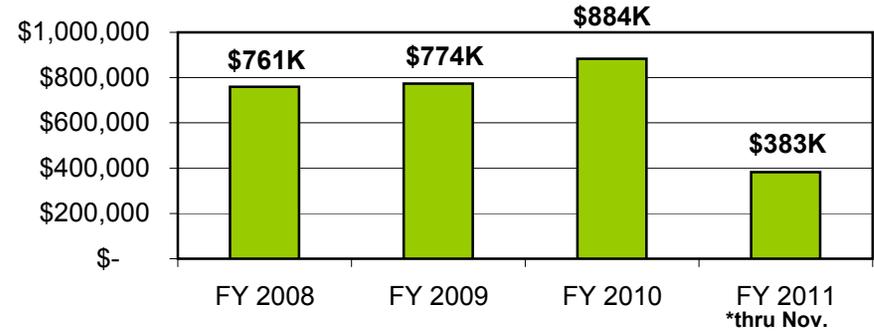
Retail Sales Tax Collections



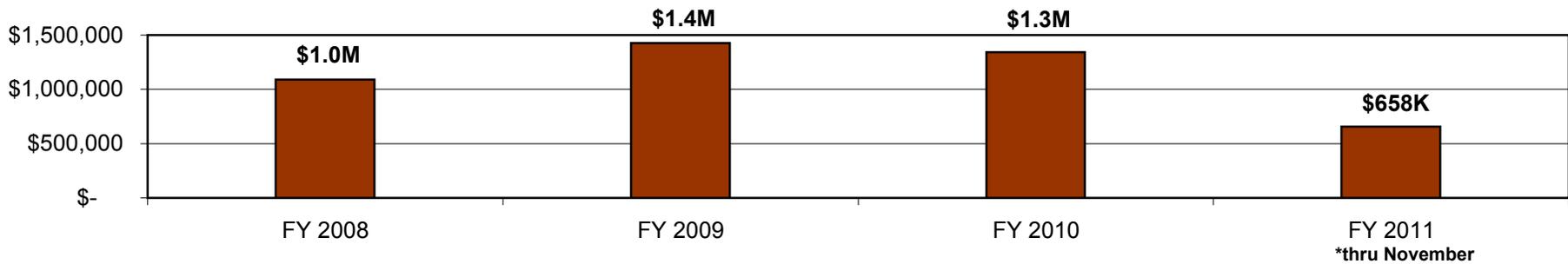
Construction Sales Tax Collections



Restaurant/Bar Sales Tax Collections



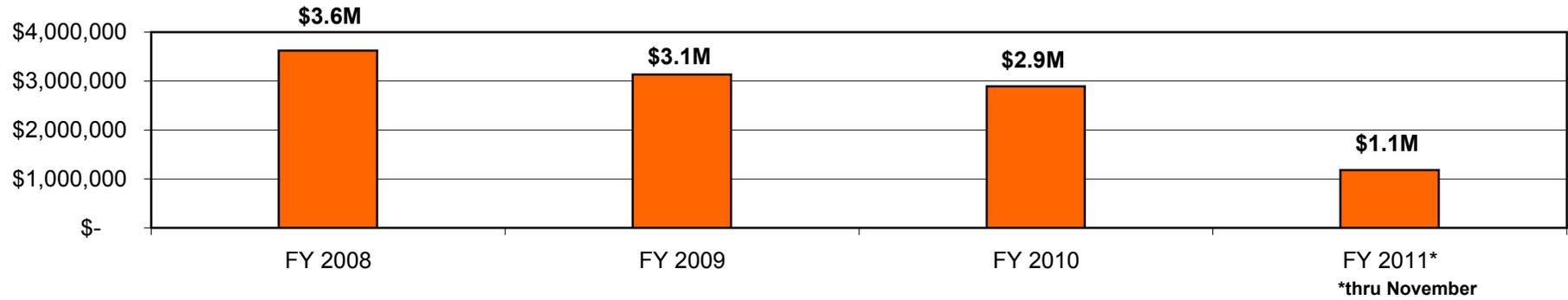
Utility Sales Tax Collections



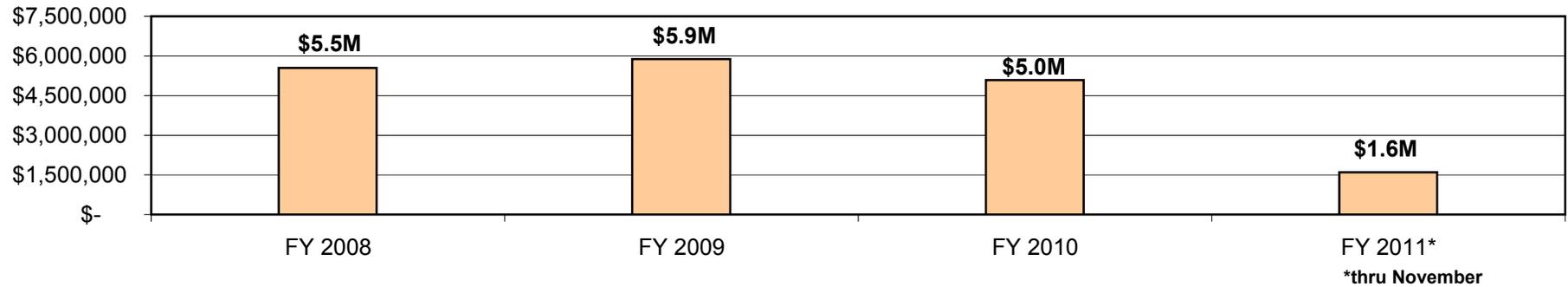


Town of Oro Valley Financial Dashboard Historical Annual Totals

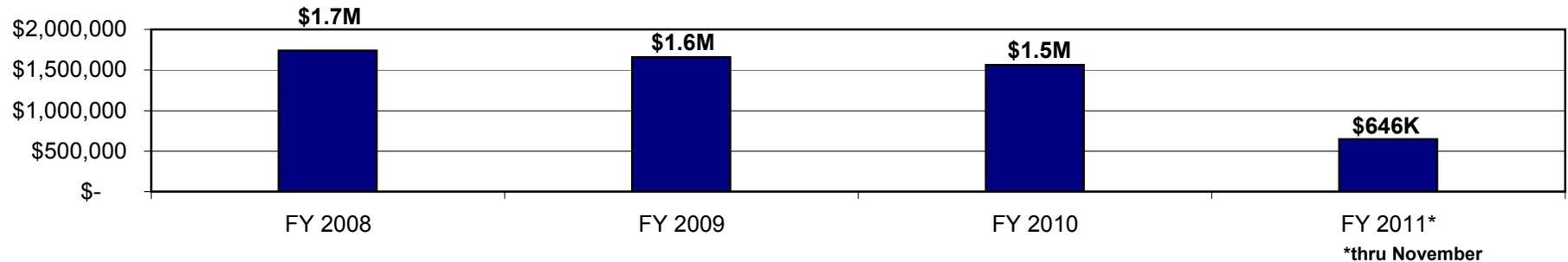
State Shared Sales Tax Collections



State Shared Income Tax Collections



State Shared County Auto Lieu Collections





Town of Oro Valley Financial Dashboard Historical Annual Totals

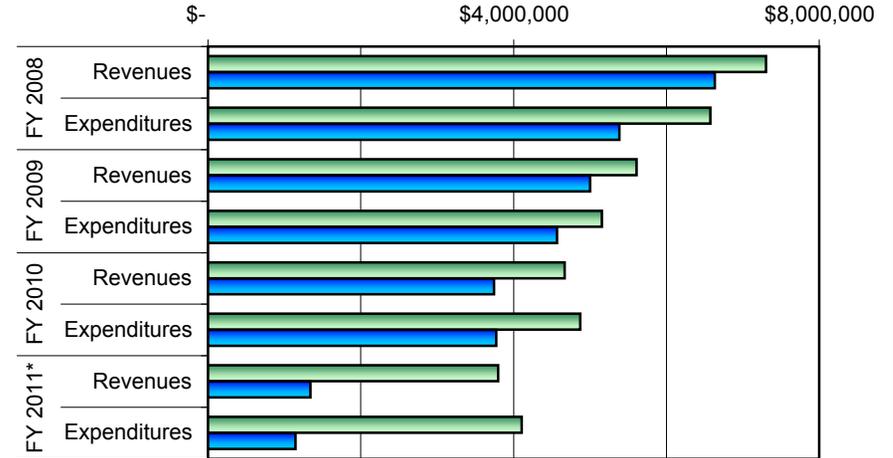
General Fund



*thru November

■ Budget ■ Actual

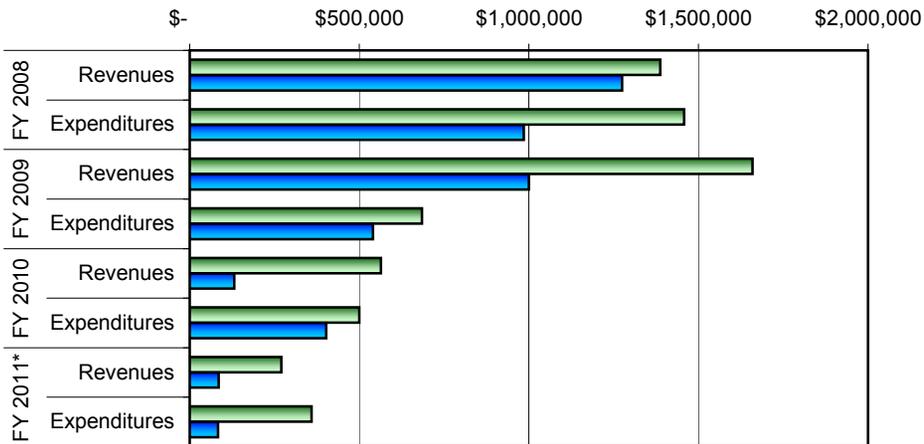
Highway Fund



*thru November

■ Budget ■ Actual

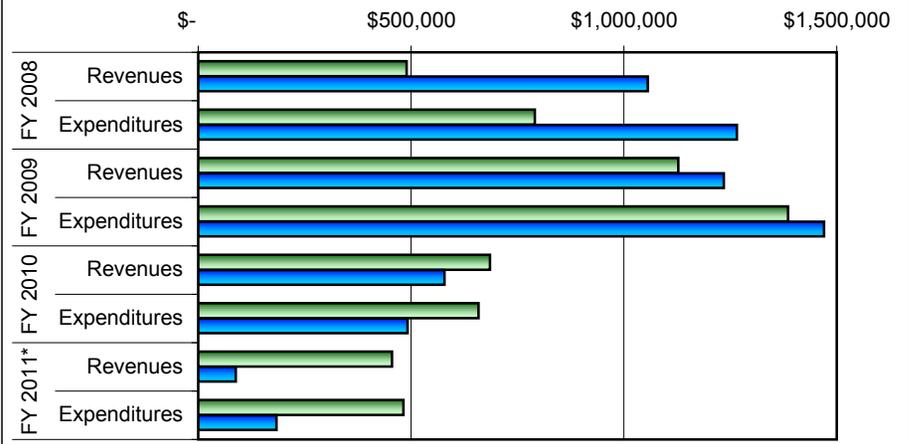
Bed Tax Fund



*thru November

■ Budget ■ Actual

Transit Fund



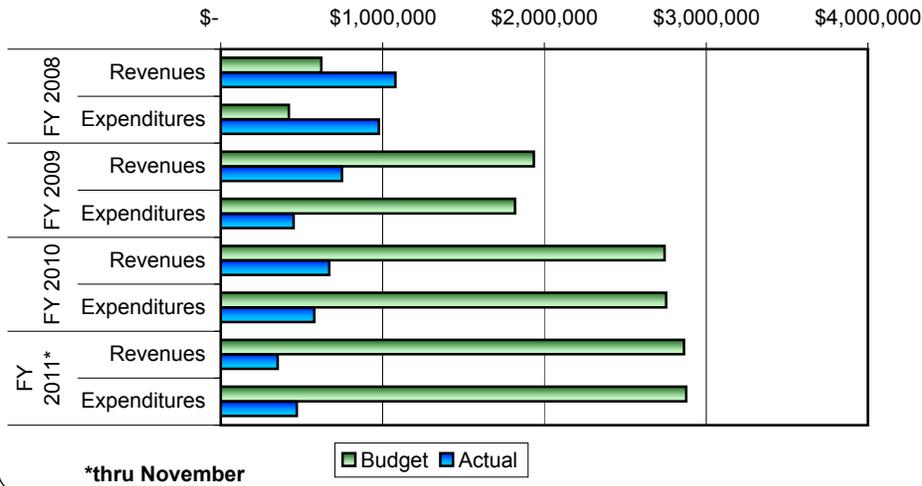
*thru November

■ Budget ■ Actual

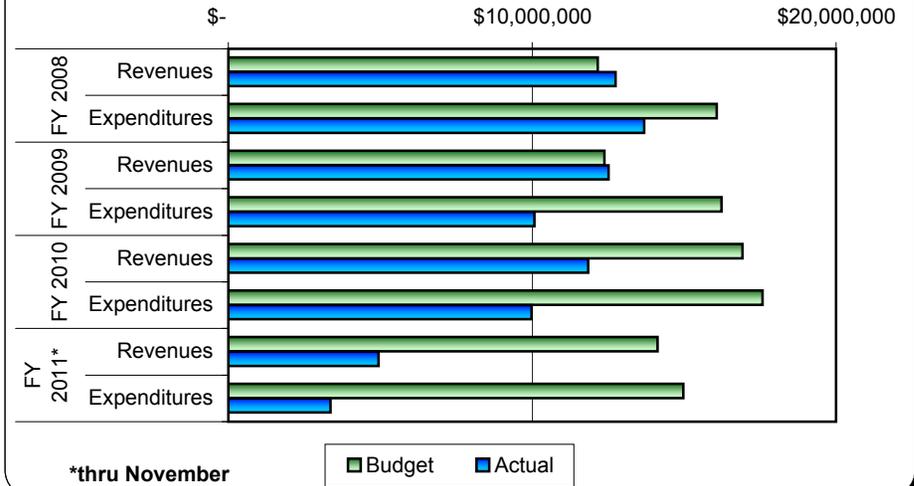


Town of Oro Valley Financial Dashboard Historical Annual Totals

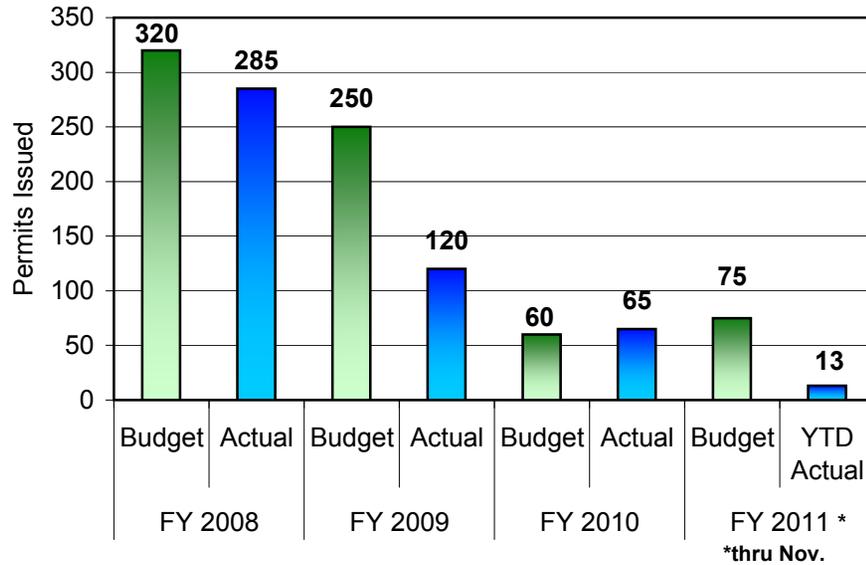
Stormwater Fund



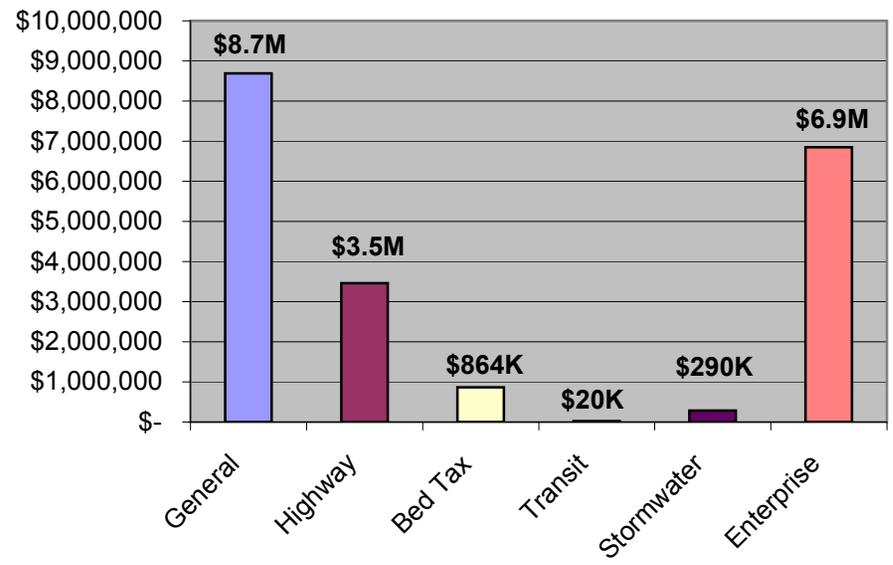
Water Utility Enterprise Fund



Single Family Residential Permits



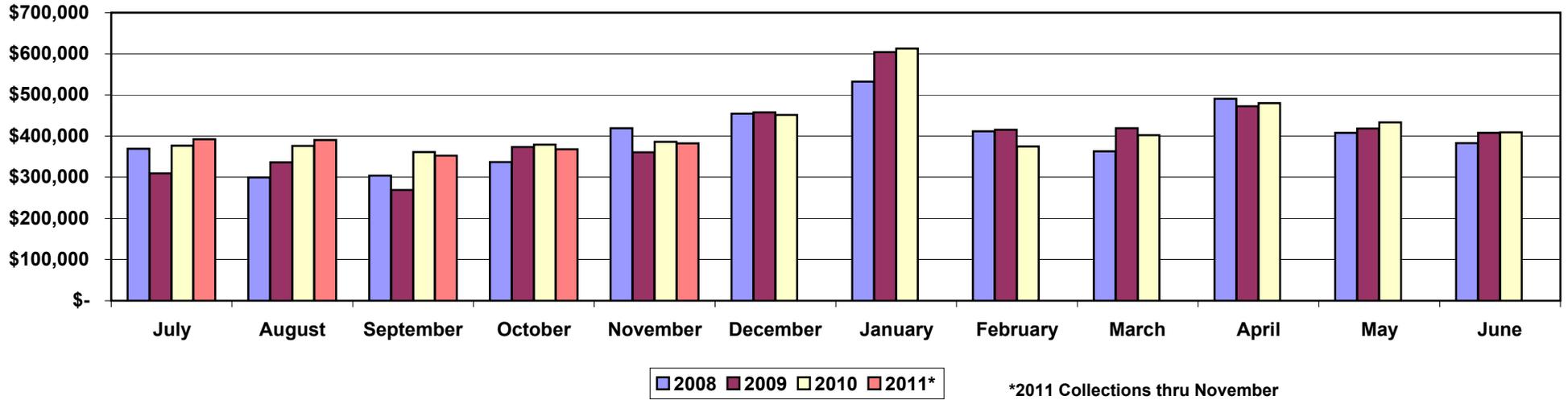
Projected YE Fund Balances Fiscal Year 2011



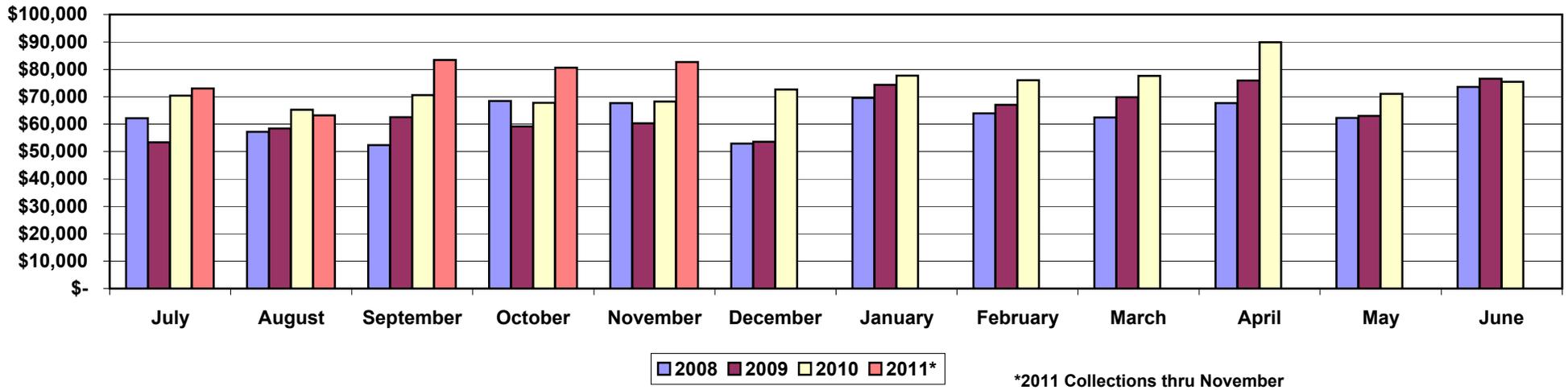


**Town of Oro Valley
Financial Dashboard
Month-By-Month History
FY 2008 - 2011**

Retail Sales Tax Collections



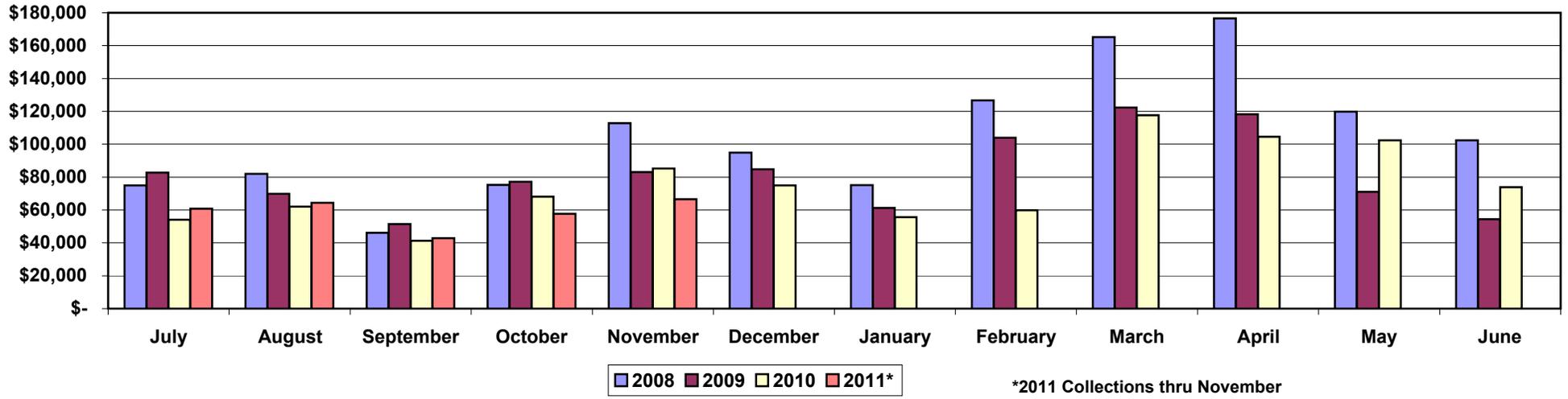
Restaurant and Bar Sales Tax Collections



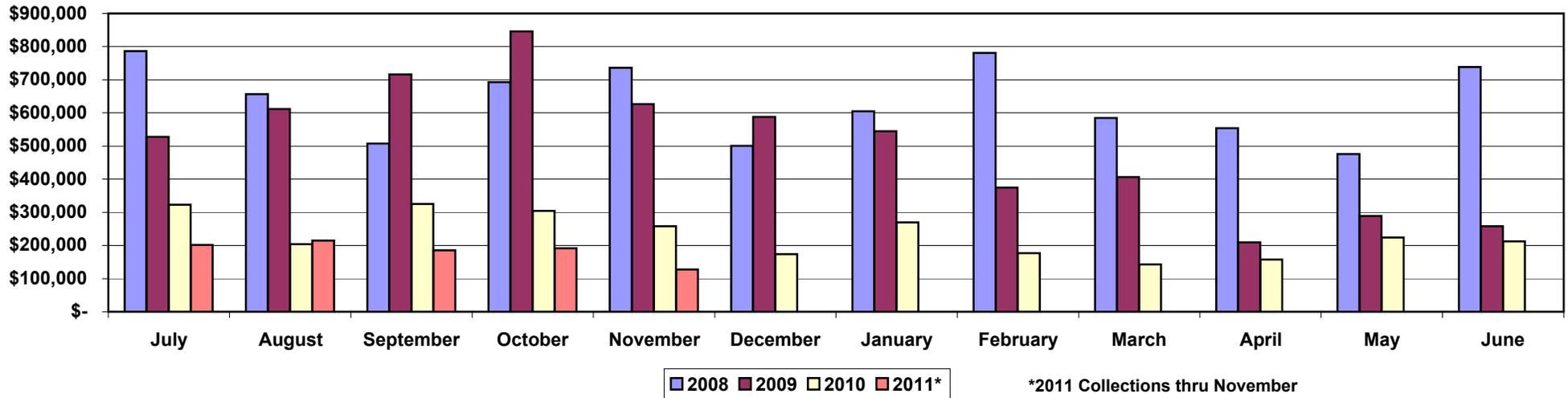


**Town of Oro Valley
Financial Dashboard
Month-By-Month History
FY 2008 - 2011**

Hotel Bed Tax Collections



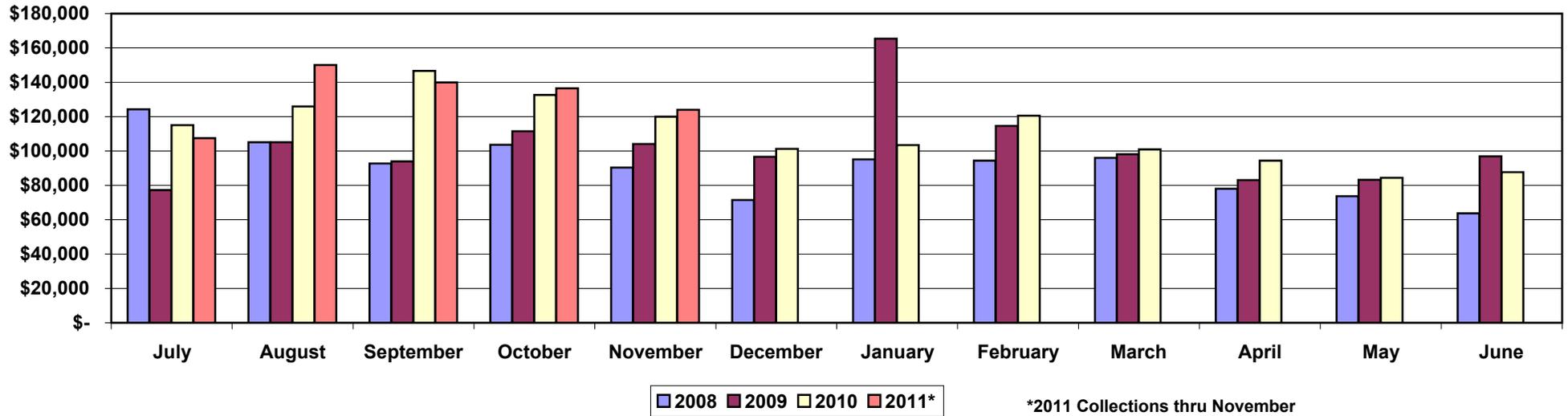
Construction Sales Tax Collections



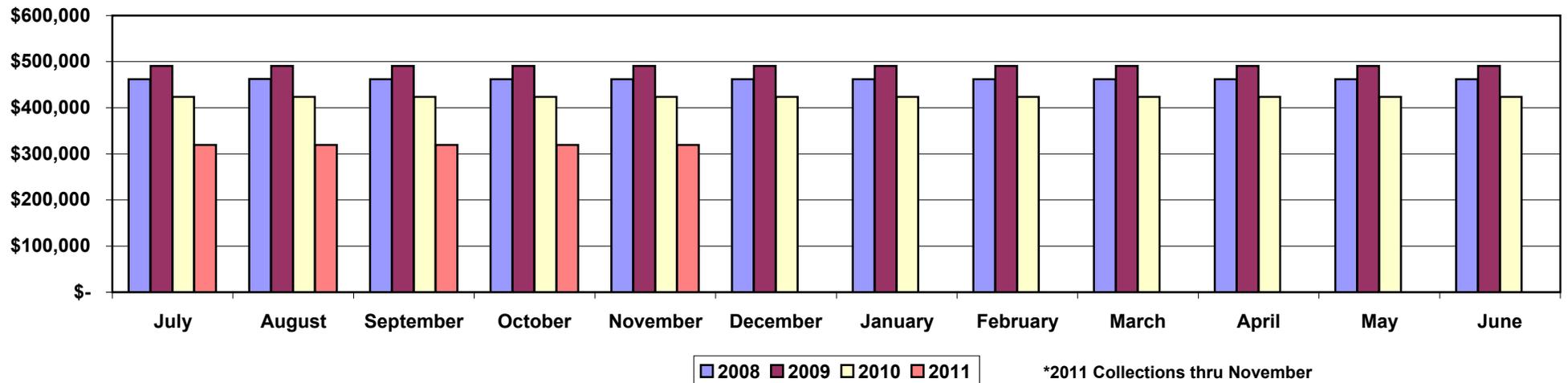


Town of Oro Valley
Financial Dashboard
Month-By-Month History
FY 2008 - 2011

Utility Tax Collections



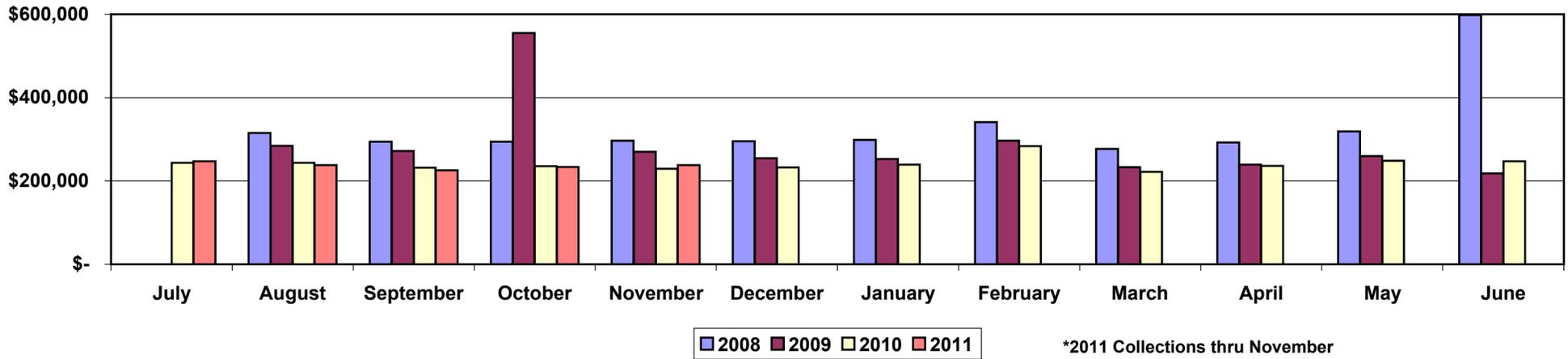
State Income Tax Collections



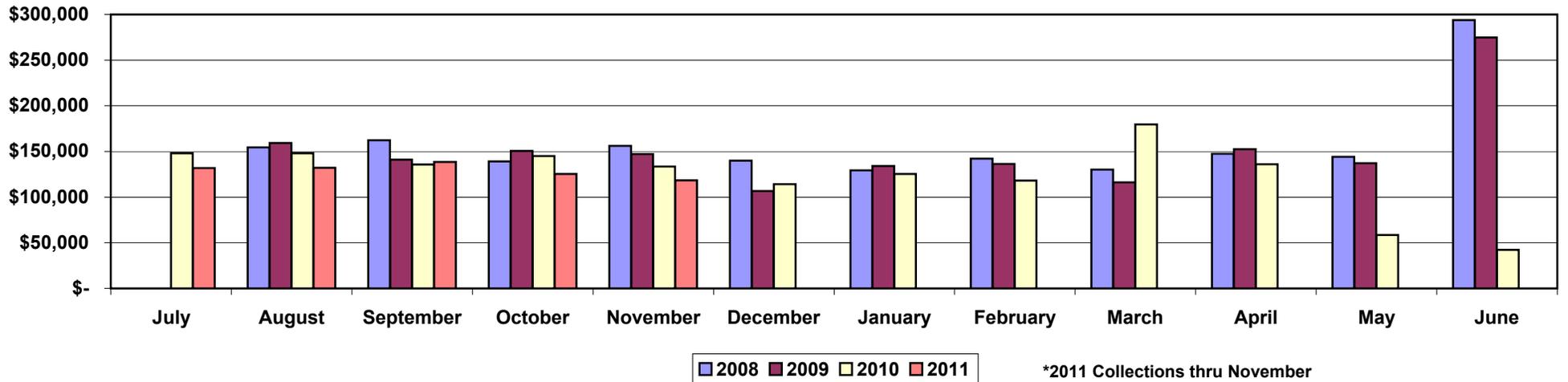


Town of Oro Valley
Financial Dashboard
Month-By-Month History
FY 2008 - 2011

State Sales Tax Collections



Vehicle License Tax Collections





Item #: H.

Town Council Regular Session

Date: 02/02/2011

Requested by: Philip Saletta, Water
Utility Director

Submitted By: Philip Saletta, Water

Department: Water

Information

SUBJECT:

Resolution No. (R) 11-09 Authorizing and Approving an Agreement for Tucson Area Reliability Among the Central Arizona Water Conservation District, the City of Tucson, Flowing Wells Irrigation District, Metropolitan Domestic Water Improvement District, the Town of Marana and the Town of Oro Valley

RECOMMENDATION:

The Oro Valley Water Utility Commission and Water Utility staff recommend approval of this agreement.

The Commission reviewed the agreement at their December 13, 2010 meeting, voting to forward the agreement to Council with a recommendation to approve.

EXECUTIVE SUMMARY:

Reliability of CAP water deliveries has been discussed since 1986. This agreement settles long standing issues for CAP reliability in Southern Arizona.

This agreement provides for reliability for the delivery of CAP water during times of planned outages. Specifically it provides reliability for Oro Valley whether we develop our CAP water through recharge and recovery or direct treatment and delivery. The amount of reliability water for Oro Valley is 834 acre feet per year. The agreement assures that this amount would be stored in the Lower Santa Cruz Recharge Facility. In the event Oro Valley chose direct treatment and delivery of its CAP water, then reliability would be provided by water stored in the CAP canal and/or by-pass pumps.

The agreement has been approved by the Central Arizona Water Conservation District, Flowing Wells, The Town of Marana, Metro Water and the City of Tucson.

BACKGROUND OR DETAILED INFORMATION:

As part of the delivery of Central Arizona Project (CAP) water to Southern Arizona, the Central Arizona Water Conservation District made a commitment to provide for delivery reliability during times of planned outages on the CAP canal. The Central Arizona Water Conservation District operates the CAP. As part of its operations, the CAP canal is shut down for planned maintenance outages for a period of up to 30 days each year. This is usually in October or early November. In order to have continuity of deliveries throughout the year, the project agreed to provide delivery reliability during this time.

Initially, a large surface water reservoir was proposed for reliability; this was referred to as Black Wash Reservoir. Since Tucson Water chose to develop its Central Arizona Project water through recharge and recovery, this large reservoir was no longer required. After Tucson Water built its recharge and recovery facilities, there was still a need to meet the reliability requirements for the the Northwest Water Providers (Flowing Wells, Metro Water, Marana and Oro Valley). Another smaller reservoir was studied, known as the Northwest Reservoir. Subsequent to those studies, Metro Water has chosen to develop their CAP water through recharge and recovery. Flowing Wells can also recover this water through recovery wells. Marana and Oro Valley have not yet chosen direct treatment and delivery or recharge and recovery for the development of their CAP water. This agreement provides for flexibility in the event that any Northwest Water Provider builds a treatment plant off the CAP canal. This agreement assures reliability deliveries through recharge and recovery, CAP canal storage and/or by-pass pumps for Oro Valley or any other Northwest Water provider.

The agreement reduces Oro Valley's risk related to reliability because Tucson Water and Metro will not need reliability water during the time of planned outage directly off the CAP Canal. Tucson will receive its reliability deliveries to its existing recharge facilities and/or Pima Mine Road Recharge Facility over an 11-month period thus allowing for full delivery and storage under ground. Metro Water will also have its CAP deliveries made over an 11-month period. If Oro Valley chooses recharge and recovery its deliveries would also be provided over an 11-month period.

In accordance with the agreement, CAWCD would also set aside 6 million dollars in funds to replace recharge facilities in the Tucson Active Management Area. Having these funds available for future recharge facilities provides a regional benefit to Southern Arizona and also Oro Valley.

FISCAL IMPACT:

There is no fiscal impact as a result of this agreement. The Town will benefit because we would not have to bear any costs to construct 834 acre feet of underground storage or surface water storage facilities for reliability during planned outages.

Standard CAP charges for purchase and storage of our CAP water will apply. The Town already pays these charges on a per acre foot basis to store our CAP water underground.

In addition, Oro Valley and other water users in Southern Arizona will benefit from the funds set aside for additional recharge facilities in the Tucson Active Management Area.

SUGGESTED MOTION:

I MOVE to approve Resolution No. (R) 11-09, Authorizing and Approving an Agreement for Tucson Area Reliability Among the Central Arizona Water Conservation District, the City of Tucson, Flowing Wells Irrigation District, Metropolitan Domestic Water Improvement District, the Town of Marana and the Town of Oro Valley.

Attachments

Link: [Resolution R 11-09 CAP](#)

Link: [CAP Reliabilty Agreement](#)

RESOLUTION NO. (R) 11-09

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA AUTHORIZING AND APPROVING AN AGREEMENT FOR TUCSON AREA RELIABILITY AMONG THE CENTRAL ARIZONA WATER CONSERVATION DISTRICT, THE CITY OF TUCSON, FLOWING WELLS IRRIGATION DISTRICT, METROPOLITAN DOMESTIC WATER IMPROVEMENT DISTRICT, THE TOWN OF MARANA AND THE TOWN OF ORO VALLEY

WHEREAS, the Town of Oro Valley is a political subdivision of the State of Arizona vested with all associated rights, privileges and benefits and is entitled to the immunities and exemptions granted municipalities and political subdivisions under the Constitution and laws of the State of Arizona and the United States; and

WHEREAS, pursuant to ARS 9-511, *et seq.*, the Town has the requisite statutory authority to acquire, own and maintain a water utility for the benefit of the landowners within and without the Town's corporate boundaries; and

WHEREAS, Metropolitan Domestic Water Improvement District, Flowing Wells Irrigation District, the Town of Marana and the Town of Oro Valley, collectively referred to as the "Northwest Water Providers", entered into a Memorandum of Understanding in June 2006 to cooperate in planning for the development of renewable water systems; and

WHEREAS, pursuant to Arizona Revised Statutes A.R.S. § 11-952, the Town and the other Northwest Water Providers are authorized to enter into or renew agreements for joint and cooperative action with other public agencies; and

WHEREAS, the Northwest Water Providers desire to enter into an agreement with the Central Arizona Water Conservation District and the City of Tucson (now collectively referred to as the "Water Providers") in order to provide a 30-day backup supply of water necessary to meet the needs of each of the Water Providers; and

WHEREAS, it is in the best interest of the Town to enter into the Agreement for Tucson Area Reliability, attached hereto as Exhibit "A" and incorporated herein by this reference, in order to set forth the terms and conditions of the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Oro Valley, Arizona that the Agreement for Tucson Area Reliability, attached hereto as Exhibit "A" and incorporated herein by this reference, among the Central Arizona Water Conservation District, the City of Tucson, Flowing Wells Irrigation District, Metropolitan Domestic Water Improvement District, the Town of Marana and the Town of Oro Valley is hereby authorized and approved.

BE IT FURTHER RESOLVED that the Water Utility Director or his designee is hereby authorized to take such steps as are necessary to execute and implement the terms of the Agreement.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Oro Valley, Arizona this 2nd day of February, 2011.

TOWN OF ORO VALLEY

Dr. Satish I. Hiremath, Mayor

ATTEST:

APPROVED AS TO FORM:

Julie K. Bower, Town Clerk

Tobin Rosen, Town Attorney

Date: _____

Date: _____

EXHIBIT “A”

AGREEMENT

**AGREEMENT FOR TUCSON AREA RELIABILITY
AMONG
THE CENTRAL ARIZONA WATER CONSERVATION DISTRICT,
THE CITY OF TUCSON, FLOWING WELLS IRRIGATION DISTRICT,
METROPOLITAN DOMESTIC WATER IMPROVEMENT DISTRICT,
THE TOWN OF MARANA AND THE TOWN OF ORO VALLEY**

This Agreement is made this ____ day of _____, 2010 among the Central Arizona Water Conservation District, the City of Tucson, Flowing Wells Irrigation District, Metropolitan Domestic Water Improvement District, the Town of Marana and the Town of Oro Valley.

RECITALS

A. On April 15, 1986, the United States, CAWCD, the City of Tucson and a number of Phoenix-area entities executed the Plan 6 Funding Agreement. The concept of a Tucson-area CAP reliability feature derives from the Plan 6 Funding Agreement. Article 8.a of the Plan 6 Funding Agreement provides:

"The first priority for available Federal funds shall be for construction of the Aqueduct facilities through Tucson Phase B, exclusive of terminal storage. Terminal storage, if approved by the Secretary, shall be constructed after completion of the Tucson Phase B aqueduct and shall be phased with construction of New Waddell Dam, Cliff Dam and modification of Stewart Mountain and Roosevelt Dams, as set forth in Exhibit "A"; Provided, however, That in applying the principles and Guidelines (or such successors as may be applicable) to the planning for Terminal Storage, the United States agrees to consider all factors relating to the reliability of the Aqueduct south of the Phoenix area. Before concluding its analysis, the United States shall consult with CAWCD and Tucson to determine the acceptability of the United States' plan to provide the reasonable reliability (as defined in Subarticle 3.p).

B. Subarticle 3.p of the Plan 6 Funding Agreement defines "Terminal Storage" as "surface storage facilities or an alternative to surface storage facilities, in the Tucson area, which, if approved by the Secretary, will provide as reasonably reliable a supply of municipal and industrial (M&I) water for the water users in the Tucson area as is provided for other major Central Arizona Project M&I water subcontractors."

C. To fulfill its commitment under the Plan 6 Funding Agreement, the United States, acting through the Bureau of Reclamation, initiated the Tucson Area System Reliability Investigation (TASRI) in 1987 to determine the difference in CAP water delivery reliability between the Tucson and Phoenix metropolitan areas and to evaluate alternative methods for reducing or eliminating that difference. Throughout the 1990s,

Reclamation conducted an extensive public process to discuss and obtain input on the project. That process led to publication of a draft environmental impact statement in 1995 and a final EIS in 1998.

D. In the 1998 final EIS, Reclamation concluded that the only significant difference in CAP water delivery reliability between the Phoenix and Tucson areas results from planned maintenance outages. Specifically, Reclamation determined that providing a 30-day backup supply to meet low flow winter demands would afford Tucson area CAP M&I subcontractors reliability equivalent to that of Phoenix area CAP M&I subcontractors.

E. Reclamation determined the volume of this 30-day backup supply for each of the Water Providers (the "Reliability Volume").

F. At present, the Water Providers intend to make use of their CAP entitlements through underground storage and recovery rather than direct delivery to water treatment plants, and to maximize their use of CAP water and other renewable water supplies at Tucson area recharge facilities.

G. The City of Tucson, Flowing Wells Irrigation District, Metropolitan Domestic Water Improvement District, the Town of Marana and the Town of Oro Valley believe CAP reliability can be achieved through underground storage, or other reliability alternatives for a possible water treatment plant, and desire to enter into this Agreement with CAWCD to insure the reliability of their CAP deliveries through underground storage.

H. In 1998, the Arizona legislature added Article 6 to Chapter 3.1 of Title 45, Arizona Revised Statutes, authorizing the development of underground storage projects known as "State demonstration projects". The stated purposes of this Article 6, as set forth in A.R.S. § 45-891.01, are:

- "1. To protect the general economy and welfare of this state and its citizens by wise resource management of the water of the central Arizona project.
2. To store for future needs or use for replenishment purposes the central Arizona project water not now utilized by central Arizona project subcontractors.
3. To provide an additional source of water for times of serious water shortage due to a substantial reduction in the supply of central Arizona project water available for delivery to central Arizona project subcontractors or a prolonged interruption of deliveries of central Arizona project water."

I. The Lower Santa Cruz Recharge Project is a state demonstration project constructed pursuant to A.R.S. 45-891.01 et seq. CAWCD owns and operates the Lower Santa Cruz Recharge Project.

J. The City of Tucson and CAWCD partnered in the development of the Pima Mine Road Recharge Project pursuant to the Pima Mine Road Recharge Project Intergovernmental Agreement, dated May 18, 2000, ("PMRRP IGA") and each owns 50% of the storage capacity of the facility. CAWCD's 50% share of the Pima Mine Road Recharge Project is a state demonstration project constructed pursuant to A.R.S. 45-891.01 et seq. CAWCD operates the Pima Mine Road Recharge Project. CAWCD and the City of Tucson are currently negotiating an amendment to the PMRRP IGA.

K. The parties to this Agreement intend to solve the Terminal Storage/Reliability issue without the expenditure of additional federal funds.

L. If the CAP M&I subcontract entitlements of the Water Providers change in the future, the parties agree to meet and consult on whether this Agreement should be amended to reflect the new entitlements.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, and intending to be legally bound, the parties hereby agree as follows.

ARTICLE 1 DEFINITIONS

1.1 "ADWR" means the Arizona Department of Water Resources.

1.2 "Agreement" means this Agreement for Tucson Area Reliability among the Central Arizona Water Conservation District, the City of Tucson, Flowing Wells Irrigation District, Metropolitan Domestic Water Improvement District, the Town of Marana and the Town of Oro Valley.

1.3 "CAWCD" means the Central Arizona Water Conservation District.

1.4 "CAVSARP" means the Central Avra Valley Storage and Recovery Project, which is owned and operated by the City of Tucson.

1.5 "LSCR" means the Lower Santa Cruz Recharge Project, which is owned and operated by CAWCD.

1.6 "Northwest Providers" means Flowing Wells Irrigation District, Metropolitan Domestic Water Improvement District, the Town of Marana and the Town of Oro Valley.

1.7 "PMRRP" means the Pima Mine Road Recharge Project, which is owned by CAWCD and the City of Tucson and operated by CAWCD.

1.8 "Reclamation" means the United States Bureau of Reclamation.

1.9 "Reliability Volume" means the volume of the 30-day backup supply necessary to meet the reliability needs of each of the Water Providers, as determined by Reclamation. The Reliability Volume for each of the Water Providers is: the City of Tucson – 11,665 af; Flowing Wells Irrigation District – 231 af; Metropolitan Domestic Water Improvement District – 1,089 af; Spanish Trail Water Company – 246 af; the Town of Marana – 124 af; the Town of Oro Valley – 834 af; Vail Water Company – 150 af.

1.10 "SAVSARP" means the Southern Avra Valley Storage and Recovery Project, which is owned and operated by the City of Tucson.

1.11 "Water Providers" means the City of Tucson, Flowing Wells Irrigation District, Metropolitan Domestic Water Improvement District, Spanish Trail Water Company, the Town of Marana, the Town of Oro Valley and Vail Water Company.

1.12 "Water Storage Permit" is as defined in Arizona Revised Statutes § 45-802.01(24).

ARTICLE 2
RESPONSIBILITY OF NORTHWEST PROVIDERS –
ANNUAL COORDINATION BETWEEN
CAWCD AND NORTHWEST PROVIDERS

2.1 At present, the Northwest Providers intend to make use of their CAP entitlements through underground storage and recovery rather than direct delivery to water treatment plants. The Northwest Providers are responsible for securing access to sufficient storage capacity at underground storage facilities to provide for storage of their CAP entitlements over a twelve-month period. The Northwest Providers shall obtain and maintain Water Storage Permits from ADWR authorizing them to store water at such underground storage facilities.

2.2 No later than November 1st of each year during the term of this Agreement, CAWCD and the Northwest Providers shall meet and confer regarding the availability of storage capacity for the Northwest Providers during the following year and the delivery of the Northwest Providers' CAP entitlements to such storage facilities during the following year.

ARTICLE 3
RESERVATION OF LSCRIP STORAGE CAPACITY
FOR NORTHEWEST PROVIDERS

3.1 During the annual consultation pursuant to Article 2.2, if CAWCD and the Northwest Providers determine that the Northwest Providers' CAP water delivery schedules for the following year cannot be filled due to a CAP planned maintenance outage and the scheduled volume cannot be moved to another month for storage at the LSCRIP or another storage facility available and acceptable to the Northwest Providers, then CAWCD shall reserve 2,278 af of storage capacity in the LSCRIP for the benefit of

the Northwest Providers. This 2,278 af of reserved LSCRП storage capacity is allocated among the Northwest Providers as follows: Flowing Wells Irrigation District – 231 af; Metropolitan Domestic Water Improvement District – 1,089 af; the Town of Marana – 124 af; and the Town of Oro Valley – 834 af. Provided, however, CAWCD is obligated to reserve storage capacity pursuant to this Article only if both of the following conditions have been satisfied: (i) the Northwest Providers have coordinated with CAWCD in accordance with Article 2.2 above, and (ii) the Northwest Providers have met their responsibility under Article 2.1 above. CAWCD will manage the reserved storage capacity and may utilize such capacity for other purposes if it is not needed in any year for reliability.

3.2 Each Northwest Provider shall obtain and maintain a Water Storage Permit from ADWR authorizing it to store water at the LSCRП.

3.3 Each Northwest Provider shall be responsible for paying all water delivery and storage costs associated with its use of the LSCRП storage capacity reserved pursuant to Article 3.1 above.

**ARTICLE 4
RESPONSIBILITY OF TUCSON –
ANNUAL COORDINATION BETWEEN
CAWCD AND TUCSON**

4.1 The City of Tucson intends to make use of its CAP entitlement through underground storage and recovery rather than direct delivery to a water treatment plant. The City of Tucson has developed two underground storage facilities: CAVSARP and SAVSARP, and owns 50% of the storage capacity in the PMRRP. The City of Tucson is responsible for utilizing the storage capacity it owns at these underground storage facilities to provide for use of its CAP entitlement over a twelve-month period.

4.2 No later than November 1st of each year during the term of this Agreement, CAWCD and the City of Tucson shall meet and confer regarding the availability of storage capacity for the City of Tucson at CAVSARP, SAVSARP and the PMRRP during the following year and the delivery of the City of Tucson's CAP entitlement to such storage facilities during the following year. In addition, CAWCD and the City of Tucson will coordinate underground storage activities at CAVSARP, SAVSARP and PMRRP to maximize the amount of CAP water that may be stored at all regional facilities each year by developing a rolling five-year cooperative underground storage plan.

**ARTICLE 5
RESERVATION OF CAWCD PMRRP STORAGE CAPACITY
FOR TUCSON**

5.1 In any year in which the City of Tucson schedules more than 132,526 af of its CAP subcontract entitlement for delivery, CAWCD shall reserve CAWCD storage

capacity in the PMRRP to meet the reliability needs of the City of Tucson. The volume of PMRRP storage capacity reserved shall be equal to the difference between the volume of Tucson's subcontract entitlement scheduled for delivery in that year and 132,526 af, not to exceed 6,000 af. CAWCD will manage the reserved storage capacity and may utilize such capacity for other purposes if it is not needed in any year for reliability. CAWCD and the City of Tucson will address any remaining reliability needs through conjunctive management of CAVSARP, SAVSARP and PMRRP. Provided, however, CAWCD is obligated to reserve storage capacity pursuant to this Article for the City of Tucson only if both of the following conditions have been satisfied: (i) the City of Tucson has coordinated with CAWCD in accordance with Article 4.2 above; (ii) the City of Tucson has met its responsibility under Article 4.1 above.

5.2 The City of Tucson shall be responsible for paying all water delivery and storage costs associated with its use of CAWCD storage capacity at the PMRRP reserved pursuant to Article 5.1 above.

**ARTICLE 6
RESERVATION OF CAWCD PMRRP STORAGE CAPACITY
FOR VAIL WATER AND SPANISH TRAIL**

6.1 If CAWCD determines that Vail Water Company's and Spanish Trail Water Company's CAP water delivery schedules for the following year cannot be filled due to a CAP planned maintenance outage and the scheduled volumes cannot be moved to another month for storage at another storage facility available to those entities, then CAWCD shall reserve up to a total of 396 af of CAWCD storage capacity in the PMRRP for the benefit of Vail Water Company and Spanish Trail Water Company. CAWCD will manage the reserved storage capacity and may utilize such capacity for other purposes if it is not needed in any year for reliability. Provided, however, CAWCD is obligated to reserve storage capacity pursuant to this Article for Spanish Trail Water Company and Vail Water Company only if: (i) Vail Water Company and Spanish Trail Water Company have obtained a Water Storage Permit from ADWR authorizing them to store water at the PMRRP; and (ii) Vail Water Company and Spanish Trail Water Company have secured access to sufficient storage capacity at underground storage facilities to provide for storage of their CAP entitlements over a twelve-month period.

6.2 Vail Water Company and Spanish Trail Water Company shall be responsible for paying all water delivery and storage costs associated with their use of CAWCD storage capacity at the PMRRP reserved pursuant to Article 6.1 above.

**ARTICLE 7
CAWCD DEDICATION OF FUNDS FOR FIRING
IN THE TUCSON AMA**

CAWCD agrees to dedicate \$6.0 million to be used for firming the CAP M&I entitlements of water providers in the Tucson AMA, increasing the available underground storage capacity in the Tucson AMA, or other purposes consistent with

accommodating the reduction in available state demonstration storage capacity at the LSCR and the PMRRP resulting from the reservation of storage capacity at such facilities pursuant to this Agreement.

**ARTICLE 8
INSURING RELIABILITY FOR
DIRECT DELIVERIES OF CAP ENTITLEMENT**

In the event a Northwest Provider constructs a water treatment plant that uses CAP water directly from the CAP aqueduct within twenty years of the execution of this Agreement, then CAWCD will continue delivery of water to such treatment plant during any planned maintenance outage. This continued delivery would be accomplished through the use of CAP canal storage, by-pass pumps, or other reliable means or methods, as determined by CAWCD.

**ARTICLE 9
SATISFACTION OF UNITED STATES'
AND CAWCD'S
COMMITMENTS IN THE PLAN 6 FUNDING AGREEMENT**

The Water Providers hereby recognize that this Agreement fully satisfies any obligation or commitment of the United States or CAWCD for insuring the reliability of deliveries of Tucson area CAP entitlements arising out of the Plan 6 Funding Agreement. Further, the Water Providers hereby release the United States from any obligation to insure the reliability of deliveries of Tucson area CAP entitlements that may be construed to arise out of the Plan 6 Funding Agreement.

**ARTICLE 10
UNITED STATES, VAIL WATER COMPANY AND
SPANISH TRAIL WATER COMPANY AS EXPRESS
THIRD-PARTY BENEFICIARIES**

10.1 The United States is an express third-party beneficiary of the provisions of Article 9 of this Agreement.

10.2 Vail Water Company and Spanish Trail Water Company are express third-party beneficiaries of the provisions of Article 6 of this Agreement.

**ARTICLE 11
GENERAL PROVISIONS**

11.1 Additional Documentation. Each party agrees to execute and record any additional documentation that the other may reasonably require to effectuate the intents and purposes of this Agreement.

11.2 Entire Agreement. This Agreement constitutes the entire agreement between the parties and no understandings or obligations not expressly set forth in this Agreement are binding upon the parties.

11.3 Amendments. This Agreement may be modified, amended or revoked only by the express written agreement of the parties hereto.

11.4 Interpretation. This Agreement is governed by and must be construed and interpreted in accordance with and in reference to the laws of the State of Arizona, without regard to its conflict of laws provisions. Any action to resolve any dispute regarding this Agreement shall be taken in a state court of competent jurisdiction located in Maricopa County, Arizona.

11.5 Waiver. No delay in exercising any right or remedy shall constitute a waiver unless such right or remedy is waived in writing signed by the waiving party. The waiver by either party of a breach of any term, covenant, or condition in this Agreement shall not be deemed a waiver of any other term, covenant, or condition of this Agreement.

11.6 Rules, Regulations, and Amendment or Successor Statutes. All references in this Agreement to the Arizona Revised Statutes include all rules and regulations promulgated by the Arizona Department of Water Resources under such statutes and all amendment statutes and successor statutes, rules, and regulations to such statutes, rules, and regulations.

11.7 Severability. Any determination by any court of competent jurisdiction that any provision of this Agreement is invalid or unenforceable does not affect the validity or enforceability of any other provision of this Agreement.

11.8 Captions. All captions, titles, or headings in this Agreement are used for the purpose of reference and convenience only and do not limit, modify, or otherwise affect any of the provisions of this Agreement.

11.9 Term. The term of this Agreement between each Water Provider and CAWCD shall be commensurate with the term of each Water Provider's CAP Subcontract with CAWCD and the Secretary of the Interior.

11.10 Notices. Except as otherwise required by law, any notice given in connection with this Agreement must be in writing and must be given by personal delivery, overnight delivery, facsimile, or United States certified or registered mail. Any such notice must be addressed to the appropriate party at the following address (or at any other address as a party may hereafter designate by written notice given as required by this paragraph):

CAWCD:

For delivery use:

Central Arizona Water Conservation District

c/o General Manager
23636 N. 7th Street
Phoenix, AZ 85024

For U.S. Mail use: Central Arizona Water Conservation District
c/o General Manager
P.O Box 43020
Phoenix, AZ 85080-3020

The City of Tucson:

For delivery and
For U.S. Mail use: City of Tucson Water Department
Water Director
310 West Alameda
P.O. Box 27210
Tucson, Arizona, 85726-7210

Flowing Wells Irrigation District:

For delivery and
For U.S. Mail use: Flowing Wells Irrigation District
c/o President
3901 N. Fairview Ave.
Tucson, Arizona 85705

Metropolitan Domestic Water Improvement District:

For delivery and
for U.S. Mail use: Metropolitan Domestic Water Improvement District
c/o General Manager
6265 North La Cañada Drive
Tucson, Arizona 85704

The Town of Marana:

For delivery and
for U.S. Mail use: Town of Marana
c/o Utilities Department Director
Attn: Ms. Dorothy O'Brien
5100 W. Ina Road
Tucson, Arizona 85743
Fax No.: 520-382-2590

With a copy to: Town Attorney
Attn: Mr. Frank Cassidy

11555 W. Civic Center Dr.
Marana, Arizona 85653
Fax No.: 520-382-1945

The Town of Oro Valley:

For delivery and
for U.S. Mail use:

The Town of Oro Valley
c/o Water Utility Director
11000 N. La Canada Dr.
Oro Valley, AZ 85737

c/o Town Attorney
11000 N. La Canada Dr.
Oro Valley, AZ 85737

Notice is deemed to have been given on the date on which notice is personally delivered, delivered to an overnight delivery service, transmitted by facsimile or mailed. Notice is deemed to have been received on the date on which the notice is actually received or delivery is refused.

11.11 A.R.S. 38-511. This Agreement is subject to the provisions of A.R.S. 38-511.

11.12 Effective Date. This Agreement shall be effective upon full execution on behalf of the governing board/councils of CAWCD, the City of Tucson, Flowing Wells Irrigation District, Metropolitan Domestic Water Improvement District, the Town of Marana and the Town of Oro Valley.

11.13 Duplicate originals and counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original, and all of which, when taken together, shall constitute one and the same instrument. This Agreement also may be executed in duplicate originals, each of which shall constitute an original Agreement.

IN WITNESS WHEREOF, the parties to this Agreement have executed this Agreement as of the date first set forth above.

**CENTRAL ARIZONA WATER CONSERVATION
DISTRICT**

By: _____

Its: _____

ATTEST:

THE CITY OF TUCSON

By: _____

Its: _____

ATTEST:

APPROVED AS TO FORM:

City Attorney

FLOWING WELLS IRRIGATION DISTRICT

By: _____

Its: _____

ATTEST:

**METROPOLITAN DOMESTIC WATER
IMPROVEMENT DISTRICT**

By: _____

Its: _____

ATTEST:

THE TOWN OF MARANA

By: _____
Mayor Ed Honea

ATTEST:

Jocelyn C. Bronson, Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

THE TOWN OF ORO VALLEY

By: _____

Its: _____

ATTEST:

, Town Clerk

APPROVED AS TO FORM:

Tobin Rosen, Town Attorney



Item #: 1.

Town Council Regular Session

Date: 02/02/2011

Requested by: Julie K. Bower

Submitted By: Mike Standish, Town Clerk's Office

Department: Town Clerk's Office

Information

SUBJECT:

PUBLIC HEARING - DISCUSSION AND POSSIBLE ACTION REGARDING AN APPLICATION FOR A SERIES 12 (RESTAURANT) LIQUOR LICENSE FOR CARRABBA'S ITALIAN GRILL LOCATED AT 7635 N. ORACLE ROAD

RECOMMENDATION:

Staff recommends approval of this liquor license to the State Liquor Board for the following reasons:

1. No protests to this license have been received.
2. The necessary background investigation was conducted by the Police Department.
3. The Police Department has no objections to the approval of the Series 12 Liquor License.

EXECUTIVE SUMMARY:

An application has been submitted by Ms. Amy S. Nations for a Series 12 (Restaurant) Liquor License for Carrabba's Italian Grill located at 7635 N. Oracle Road. Agent/Owner Ms. Amy S. Nations has submitted all necessary paperwork to the State Liquor Board and to the Town of Oro Valley and has paid all related fees associated with applying for the liquor license.

This Series 12 Liquor License application is required due to change in ownership of Carrabba's Italian Grill.

BACKGROUND OR DETAILED INFORMATION:

In accordance with Section 4-201 of the Arizona Revised Statutes, the application was posted for 20 days on the premises of the applicant's property, ending January 11, 2011. No protests were received during this time period. Police Chief Daniel Sharp completed a standard background check with no objectional finding on Carrabba's Italian Grill and Owner/Agent Amy Nations and Principals Thomas Wilson, Michael Johnson, Joseph Kadow, Robert Merritt, Carl Sahlsten and Steven Shlemon.

FISCAL IMPACT:

N/A

SUGGESTED MOTION:

I MOVE to recommend approval of the issuance of the Series 12 Liquor License to the Arizona State Liquor Board for Agent/Owner Ms. Amy S. Nations for Carrabba's Italian Grill located at 7635 N. Oracle Road.

Attachments

Link: [Carrabba's Liquor License](#)

DEC 21 10AM 11:38 TOU

APPLICATION FOR LIQUOR LICENSE
 TYPE OR PRINT WITH BLACK INK

Notice: Effective Nov. 1, 1997, All Owners, Agents, Partners, Stockholders, Officers, or Managers actively involved in the day to day operations of the business must attend a Department approved liquor law training course or provide proof of attendance within the last five years. See page 5 of the Liquor Licensing requirements.

SECTION 1 This application is for a:

- MORE THAN ONE LICENSE
- INTERIM PERMIT *Complete Section 5*
- NEW LICENSE *Complete Sections 2, 3, 4, 13, 14, 15, 16*
- PERSON TRANSFER (Bars & Liquor Stores ONLY)
Complete Sections 2, 3, 4, 11, 13, 15, 16
- LOCATION TRANSFER (Bars and Liquor Stores ONLY)
Complete Sections 2, 3, 4, 12, 13, 15, 16
- PROBATE/WILL ASSIGNMENT/DIVORCE DECREE
Complete Sections 2, 3, 4, 9, 13, 16 (fee not required)
- GOVERNMENT *Complete Sections 2, 3, 4, 10, 13, 15, 16*

SECTION 2 Type of ownership:

- J.T.W.R.O.S. *Complete Section 6*
- INDIVIDUAL *Complete Section 6*
- PARTNERSHIP *Complete Section 6*
- CORPORATION *Complete Section 7*
- LIMITED LIABILITY CO. *Complete Section 7*
- CLUB *Complete Section 8*
- GOVERNMENT *Complete Section 10*
- TRUST *Complete Section 6*
- OTHER (Explain) _____

SECTION 3 Type of license and fees LICENSE #(s):

1. Type of License(s): Series 12 Restaurant

2. Total fees attached: \$ _____	Department Use Only
----------------------------------	---------------------

APPLICATION FEE AND INTERIM PERMIT FEES (IF APPLICABLE) ARE NOT REFUNDABLE.
 The fees allowed under A.R.S. 44-6852 will be charged for all dishonored checks.

SECTION 4 Applicant

1. Owner/Agent's Name: Mr. Nations Last Amy First S. Middle P1641597
- (Insert one name ONLY to appear on license)
2. Corp./Partnership/L.L.C.: Carrabba's Italian Grill, LLC B1645242
 (Exactly as it appears on Articles of Inc. or Articles of Org.)
3. Business Name: Carrabba's Italian Grill 5307 B1033089
 (Exactly as it appears on the exterior of premises)
4. Principal Street Location 7635 N. Oracle Road Oro Valley Pima 85737
 (Do not use PO Box Number) City County Zip
5. Business Phone: 520-742-7442 Daytime Contact: 480-730-2675
6. Is the business located within the incorporated limits of the above city or town? YES NO
7. Mailing Address: P.O. Box 2502 Chandler Arizona 85244-2502
 City State Zip
8. Price paid for license only bar, beer and wine, or liquor store: Type _____ \$ _____ Type _____ \$ _____

DEPARTMENT USE ONLY

Fees: 16000 Application 10000 Interim Permit 2400 Agent Change 2400 Club 22400 Finger Prints \$ 22400
TOTAL OF ALL FEES

Is Arizona Statement of Citizenship & Alien Status For State Benefits complete? YES NO

Accepted by: Dm Date: 12/10/10 Lic. # 12104092

DANIEL G. SHARP
CHIEF OF POLICE

TO: Mike Standish

FROM:  Daniel G. Sharp

DATE: 12 January 2011

RE: Application for Liquor License Renewal
Carrabba's Italian Grill, located at 7635 N. Oracle Rd

On 12 January 2011, the Oro Valley Police Department completed the standard background investigation on Carrabba's Italian Grill Restaurant, Amy Nations and Principals Thomas Wilson, Michael Johnson, Joseph Kadow, Robert Merritt, Carl Sahlsten and Steven Shlemon.

The Oro Valley Police Department has no objection for the reissuance of a liquor license to Carrabba's Italian Grill Restaurant located at 7635 N. Oracle.

You Are Here: [home](#) > [licensing](#) > [series](#) > 12[Log In](#)

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License Types: Series 12 Restaurant License[News & Events](#)

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Non-transferable
On-sale retail privileges

Note: Terms in **BOLD CAPITALS** are defined in the [glossary](#).

PURPOSE:

Allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.

ADDITIONAL RIGHTS AND RESPONSIBILITIES:

An applicant for a restaurant license must file a copy of its restaurant menu and Restaurant Operation Plan with the application. The Plan must include listings of all restaurant equipment and service items, the restaurant seating capacity, and other information requested by the department to substantiate that the restaurant will operate in compliance with Title 4.

The licensee must notify the Department, in advance, of any proposed changes in the seating capacity of the restaurant or dimensions of a restaurant facility.

A restaurant licensee must maintain complete restaurant services continually during the hours of selling and serving of spirituous liquor, until at least 10:00 p.m. daily, if any spirituous liquor is to be sold and served up to 2:00 a.m.

On any original applications, new managers and/or the person responsible for the day-to-day operations must attend a basic and management training class.

A licensee acting as a **RETAIL AGENT**, authorized to purchase and accept **DELIVERY** of spirituous liquor by other licensees, must receive a certificate of registration from the Department.

A **PREGNANCY WARNING SIGN** for pregnant women consuming spirituous liquor must be posted within twenty (20) feet of the cash register or behind the bar.

A log must be kept by the licensee of all persons employed at the premises including each employee's name, date and place of birth, address and responsibilities.

Bar, beer and wine bar, and restaurant licensees must pay an annual surcharge of \$20.00. The money collected from these licensees will be used by the Department for an auditor to review compliance by restaurants with the restaurant licensing provisions of ARS 4-205.02.

AVERAGE APPROVAL TIME: Sixty-five (65) to one-hundred five (105) days.

PERIOD OF ISSUANCE: One (1) year with option to renew.

FEES: Non-refundable application fee: \$100.00
Fingerprint fee per card: Contact Department
Interim Permit fee: \$100.00

Upon approval:
Final fees (full year): \$2,000.00
Final fees (half year): \$1,750.00
Annual renewal fee (includes **SURCHARGE**): \$585.00

ARIZONA STATUTES AND REGULATIONS:

ARS 4-119, 4-201, 4-202, 4-203, 4-205.02, 4-205.06, 4-209(B)(12), 4-209(D)(12), 4-209(J), 4-213, 4-222, 4-261; Rule R19-1-214, R19-1-231.

Copyright 2007 - Arizona Department of Liquor License & Control - Privacy Policy - Accessibility
800 W. Washington 5th floor; Phoenix, AZ 85007 - 400 W. Congress #521; Tucson, AZ 85701



2007 Liquor License
Drawing Entry Form



Item #: 2.

Town Council Regular Session

Date: 02/02/2011

Requested by:

David Williams, Planning Division Manager

Submitted By:

Matt Michels, Development Infrastructure Services

Department:

Development Infrastructure Services

Information

SUBJECT:

RESOLUTION NO. (R) 11-10 DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT ENTITLED CHAPTER 23, ZONING DISTRICTS, SECTION 23.1, DISTRICTS AND BOUNDARIES THEREOF, SECTION 23.8, PROPERTY DEVELOPMENT STANDARDS FOR NONRESIDENTIAL DISTRICTS, SECTION 23.3, TABLE OF PERMITTED USES AND SECTION 23.4, TABLE OF DIMENSIONAL REQUIREMENTS, ATTACHED HERETO AS EXHIBIT "A" AND FILED WITH THE TOWN CLERK

RECOMMENDATION:

Staff recommends adoption of Resolution No. (R) 11-10, so that the amendments immediately become an official public record. The draft ordinance has been posted online and made available in the Town Clerk's office. The final version, as approved by Town Council, will be made available in the same manner.

EXECUTIVE SUMMARY:

This is a procedural item to declare the Neighborhood Commercial Zoning District Ordinance a matter of public record.

BACKGROUND OR DETAILED INFORMATION:

This proposed resolution includes an emergency clause so that the amendments become a public record immediately upon adoption by Town Council. The Town will save on advertising costs by publishing the ordinance in this manner. If the ordinance is adopted by Town Council, the Town will forgo publishing the entire document in print form. The adopted version will be published on the Town website. The current draft version of the ordinance has been posted on-line on the Town website. Furthermore, a printed version is available for public inspection at the Town Clerk's office.

FISCAL IMPACT:

The Town will save on advertising costs by meeting ordinance publishing requirements by reference, without including the pages of amendments.

SUGGESTED MOTION:

I MOVE to approve Resolution No. (R) 11-10, Declaring as a public record that document entitled Chapter 23, Zoning Districts, Section 23.1, Districts and Boundaries thereof, Section 23.8, Property Development Standards for Non-residential Districts, Section 23.3, Table of Permitted Uses and Section 23.4, Table of Dimensional Requirements.

Attachments

Link: [Resolution 11-10 ACN Public Record](#)

Link: [Exhibit "A"](#)

RESOLUTION NO. (R) 11-10

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT ENTITLED CHAPTER 23, ZONING DISTRICTS, SECTION 23.1, DISTRICTS AND BOUNDARIES THEREOF, SECTION 23.8, PROPERTY DEVELOPMENT STANDARDS FOR NONRESIDENTIAL DISTRICTS, SECTION 23.3, TABLE OF PERMITTED USES AND SECTION 23.4, TABLE OF DIMENSIONAL REQUIREMENTS, ATTACHED HERETO AS EXHIBIT "A" AND FILED WITH THE TOWN CLERK

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, that certain document entitled Chapter 23, Zoning Districts, Section 23.1, Districts and Boundaries Thereof, Section 23.8, Property Development Standards for Nonresidential Districts, Section 23.8, Property Development Standards for Nonresidential Districts, Section 23.3, Table of Permitted Uses and Section 23.4, Table of Dimensional Requirements, attached hereto as Exhibit "A", three copies of which are on file in the Office of the Town Clerk, is hereby declared to be a public record, and said copies are ordered to remain on file with the Town Clerk.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Oro Valley, Arizona this 2nd day of February, 2011.

TOWN OF ORO VALLEY

Dr. Satish I. Hiremath, Mayor

ATTEST:

APPROVED AS TO FORM:

Julie K. Bower, Town Clerk

Tobin Rosen, Town Attorney

Date: _____

Date: _____

EXHIBIT “A”

Chapter 23. Zoning Districts

...

Section 23.1 Districts and Boundaries Thereof

...

Section 23.1.B Purpose of Districts

...

Section 23.1.B.14. C-N Neighborhood Commercial District

This district provides small office and service centers within walking/biking distance or a short drive from adjacent neighborhoods. The center shall be designed to fit into ~~and reflect the architecture of~~ the adjacent neighborhoods, serve as a neighborhood activity center, and provide a combination of uses that offer basic goods and services that meet the ~~daily~~ needs of the nearby residents. A MIXTURE OF OFFICE, RETAIL, AND RESIDENTIAL IS ENABLED IN THE C-N ZONE AND IS ANTICIPATED TO PROVIDE A PHYSICALLY AND FUNCTIONALLY INTEGRATED COMBINATION OF USES.

Sites should be designed to accommodate multiple, smaller uses ~~as opposed to~~ RATHER THAN a single, large use. C-N zoning may be found along multi-use paths, near parks, immediately between or among higher density residential developments and municipal service sites. It is most appropriate at the intersection of collectors STREETS or a collector STREET and an arterial ~~other than Oracle Road~~ ROAD.

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Section 23.8. Property Development Standards for Nonresidential Districts

Section 23.8.A. C-N Neighborhood Commercial District

1. Floor Area Limits

- a. COMMERCIAL uses shall be no greater than 5,000 square feet of gross floor area per individual business, except that drug stores, grocery stores and hardware stores shall be no greater than 9,000 square feet.
- b. Expansions of COMMERCIAL uses ~~up to 9,000 square feet of gross floor area per individual business~~ BEYOND THESE FLOOR AREA LIMITS may be allowed with a Conditional Use Permit.

- C. THE AFOREMENTIONED SQUARE FOOTAGE LIMITS DO NOT APPLY TO BUILDINGS USED FOR RESIDENTIAL, PUBLIC, INSTITUTIONAL, CIVIC, OFFICE, REHABILITATIVE AND SKILLED NURSING CARE PURPOSES.
- D. RESIDENTIAL UNITS MAY COMPRISE NO MORE THAN 50% OF THE TOTAL GROSS FLOOR AREA OF THE DEVELOPMENT NOR OCCUPY MORE THAN 50% OF THE SITE BY AREA.
- E. THE MINIMUM GROSS LAND AREA PER RESIDENTIAL DWELLING UNIT SHALL BE 3,500 SQUARE FEET.

2. Building Height

- A. If a contiguous residential district has a more restrictive height standard, ALL BUILDINGS WITHIN 85 FEET OF THE PROPERTY LINE OF CONTIGUOUS R-1 SINGLE-FAMILY RESIDENTIALLY ZONED PROPERTY ~~the building height~~ shall conform to that more restrictive standard OF THE CONTIGUOUS ZONE.
- B. Architecturally APPROPRIATE elements such as bell towers OR MECHANICAL SCREENING may exceed this limitation by no more than ~~ten (10) feet~~ SEVEN (7') FEET, subject to approval by the PLANNING DIVISION MANAGER. ~~Development Review Board~~. ADDITIONAL HEIGHT FOR ARCHITECTURAL ELEMENTS, UP TO 35 FEET, MUST BE APPROVED BY THE TOWN COUNCIL.

3. Courtyards and Pedestrian Malls



- a. ~~A portion of the development shall~~ THE DESIGN OF THE SITE SHALL INCLUDE ~~be oriented towards~~ a landscaped courtyard(S)

or PEDESTRIAN mall with buildings enclosing the courtyard and opening onto the courtyard from at least two sides.

- b. The courtyard or mall should contain all or a portion of the required public art.
 - c. The courtyard(S) or PEDESTRIAN mall shall be a minimum of two (2%) percent of the net lot area of the site in square feet, which shall be considered to be part of the ANY required open space.
 - d. ~~The courtyard/mall requirement may be waived by Town Council based on a suitable alternative design solution being presented to the Development Review Board and Town Council.~~
- D. THE COURTYARD OR PEDESTRIAN MALL SHALL CONTAIN SHADED SEATING AREAS FOR EMPLOYEES AND PATRONS, AND MAY INCLUDE BENCHES OR SEAT WALLS, PLANTERS WITH SPECIMEN LANDSCAPE TREES, AND POTTED PLANTS TO PROVIDE SHADE AND VISUAL INTEREST.



4. Yards and Setbacks

- a. Front
 - i. Where adjacent to a residential district, the front setback regulations of the residential district shall apply.
- b. Side and Rear Setbacks
 - i. 50 feet or 3:1 whichever is greater (setback to building height) where the lot abuts a single-family residential

district or abuts an alley that is adjacent to a single-family residential district.

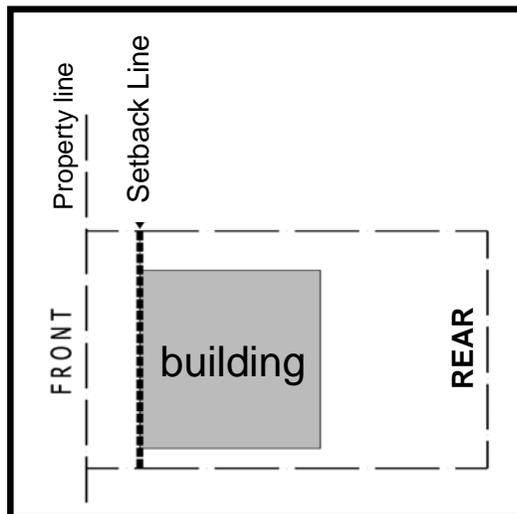
- ii. 25 feet where the lot abuts a multi-family OR NON-residential district.

5. ~~Retain Sales~~ SERVICE AND DELIVERY/OUTDOOR ACTIVITIES Hours of Operation

- a. Service and delivery operations are allowed only between 6:00 a.m. to 9:00 p.m., Monday through Saturday and 7:00 a.m. to 7:00 p.m. on Sundays. THESE HOURS MUST BE POSTED IN ALL SERVICE AND DELIVERY AREAS. HOURS MAY BE EXTENDED WITH A CONDITIONAL USE PERMIT.
- b. ~~Hours of operation may be extended with a conditional Use Permit.~~ OUTDOOR SPEAKERS ARE PROHIBITED. OUTDOOR ENTERTAINMENT SHALL BE LIMITED TO 9:00 A.M. TO 10:00 P.M., SEVEN DAYS A WEEK.
- c. ~~The property at the southwest corner of Lambert Lane and La Canada Drive is covered by a prior development agreement and is exempt from the hours of operation requirement.~~

6. COMMERCIAL SITE DESIGN

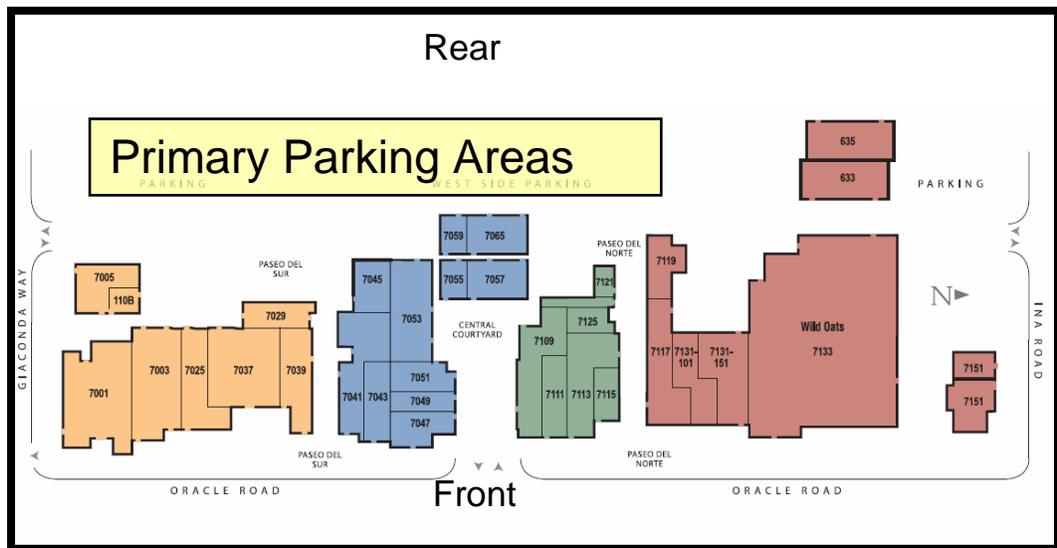
- A. WHERE FEASIBLE, BUILDINGS SHALL BE PLACED TO THE FRONT OF THE PROPERTY TO VISUALLY REINFORCE THE STREETScape AND PROMOTE A HUMAN-SCALE, PEDESTRIAN AND BICYCLE FRIENDLY DESIGN.



- B. BUILDINGS MAY ONLY BE SET BACK BEYOND THE SETBACK LINE AS NECESSARY TO ACCOMMODATE SHOP ENTRANCES, ARCADES, PLAZAS, SIDEWALK DINING AREAS, OR OTHER APPROVED AMENITIES, PARKING AREAS, OR LANDSCAPING.
- C. PARKING IN FRONT OF BUILDINGS IS LIMITED TO 15% OF THE TOTAL REQUIRED OFF-STREET PARKING SPACES.
- D. WELL-DEFINED PEDESTRIAN SIDEWALKS, BICYCLE LANES, OR SHARED-USE PATHS SHALL CONNECT TO EXISTING WALKS, LANES, OR PATHS TO ADJACENT DEVELOPMENTS.

7. PARKING

- A. A MINIMUM OF 85% OF THE REQUIRED PARKING SHALL BE PLACED BEHIND OR TO THE SIDE OF BUILDINGS.



source: Casas Adobes Plaza

- B. PARKING PLACED IN FRONT OF THE BUILDINGS SHALL BE ACCESSED FROM A SINGLE ACCESS LANE OR MAY BE PROVIDED ON-STREET IN FRONT OF THE BUILDING, SUBJECT TO APPROVAL BY THE ENGINEERING DIVISION.
- C. PARKING DESIGN SHALL MINIMIZE NOISE AND LIGHT POLLUTION IMPACTS TO ADJACENT RESIDENTIAL PROPERTIES.

8. RESIDENTIAL SITE DESIGN

A. RESIDENTIAL USES, WHICH INCLUDE CONDOMINIUMS, TOWNHOMES, AND APARTMENTS, SHALL BE PHYSICALLY AND FUNCTIONALLY INTEGRATED WITH COMMERCIAL USES BY UTILIZING ONE OR MORE OF THE FOLLOWING DESIGN STRATEGIES:

I. ATTACHED DWELLING UNITS WITH FIRST FLOOR OFFICE OR RETAIL



source: www.rosecrestvillage.com

II. NON-RESIDENTIAL USES SHALL PROVIDE PEDESTRIAN PATHS LINKING THEM WITH MULTI-FAMILY RESIDENTIAL USES ON THE PROPERTY.



source: www.internest.com

B. A SHARED OR PRIVATE OUTDOOR LIVING AREA OF AT LEAST 150 SQUARE FEET SHALL BE PROVIDED FOR EACH RESIDENTIAL UNIT. COVERED PORCHES AND PATIOS MAY BE PROVIDED TO SATISFY THIS REQUIREMENT.

C. PRIVATE OUTDOOR LIVING AREAS SHALL BE SCREENED FROM PARKING AREAS AND ADJACENT USES WITH AN ARCHITECTURALLY-COMPATIBLE OPAQUE FENCE OR WALL WITH A MINIMUM HEIGHT OF FIVE FEET.

D. UNDERGROUND PARKING OR FIRST FLOOR GARAGES ARE ENCOURAGED. FOR EACH TWO (2) SQUARE FEET OF UNDERGROUND OR FIRST FLOOR GARAGE, ONE (1) SQUARE FOOT OF ADDITIONAL FLOOR AREA IS PERMITTED.

9. ARCHITECTURE

THE DEVELOPMENT SHALL REFLECT THE ARCHITECTURAL THEMES AND COLORS OF ADJACENT RESIDENTIAL DEVELOPMENTS UTILIZING MATERIALS APPROPRIATE FOR COMMERCIAL CONSTRUCTION.



source: amreit.com

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Section 23.3 Table of Permitted Uses

The Table of Permitted Uses in this Section sets forth the uses permitted within the base zone districts.

A. Uses Permitted by Right

A “P” indicates that a use is permitted as a matter-of-right in the respective zone district, subject to compliance of all application regulations in this Code.

TABLE 23-1: PERMITTED USES

ADD AS “P” (permitted)

- INDEPENDENT LIVING FACILITY (FORMERLY MATURE ADULT RETIREMENT QUARTERS)
- RESTAURANT, CAFÉ OR DELICATESSEN WITH OUTSIDE SEATING
- OPTICIAN
- BLUEPRINTING, PRINTING, LITHOGRAPH, PUBLISHING OR PHOTOSTATING
- REHABILITATIVE CARE FACILITY
- SKILLED NURSING CARE FACILITY

B. Conditional Special Uses

A “C” indicates that a use category or specific use type is allowed only if reviewed and approved in accordance with the procedures and standards of Section 22.4, Use Permits.

ADD AS “C” (conditional use)

- COMMUNITY BUILDINGS OTHER THAN HOSPITALS, PARKS AND PLAYGROUNDS
- MUSEUM

...

TABLE 23-1: PERMITTED USES																					
USE CATEGORY	SPECIFIC USE TYPE	Single-Family									Multi-Family				Commercial			Other			ADDL REGS
		R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	S D H 6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	P O S	
RESIDENTIAL USES																					
Residential	Community residences	P	P	P	P	P					P	P									25.1.E
	Dwelling units, multi-family												P	P							
	Dwelling units, single-family	P	P	P	P	P	P	P	P			P	P					P*			*23.6(D)(1)
	Home occupations	P	P	P	P	P	P	P	P	P	P	P	P	P							25.2.C
	Mature adult retirement quarters										C		C	P	P						
	Model homes	C	C	C	C	C	C	C	C	C		C	C								
	Single-family dwellings having either party walls or walled courtyards										P	P									
	Site-built, site-delivered dwelling units, single-family									P											
	Temporary real estate offices	P	P	P	P	P	P	P	P	P	P	P	P								25.1.Q
PUBLIC, INSTITUTIONAL, AND CIVIC USES																					
Public, Institutional, Civic	Business schools or similar private schools														C	P	P				
	Cemetery, including funeral chapel		C															C			
	Community buildings and recreational facilities, private, not-for-profit, such as athletic fields and boy's clubs	C	C	C	C	C	C	C	C	C			C	C	C						C
	Community buildings other than hospitals, parks, and playgrounds												P		C	P	P				
	Flood control facilities and water recharge areas																				C
	General aviation airstrip	P																			

TABLE 23-1: PERMITTED USES																					
USE CATEGORY	SPECIFIC USE TYPE	Single-Family									Multi-Family				Commercial			Other			ADDL REGS
		R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	S D H 6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	P O S	
	Golf course (except miniature golf course or commercial driving range)	C	C	C	C	C	C	C	C												24.6 25.1.J
	Golf driving range															C					
	Hospitals															C					
	Municipal services														P	P	P		P		
	Museum														C	P	P				
	New utility poles and above ground wires	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	25.1.N
	Community-owned recreation facilities and buildings other than hospitals	P	P	P	P	P	P	P	P	P											
	Fire stations and rescue facilities															P	P	P		P	25.1.I
	Post office (substation)															P	P	P			
	Private college or university having a regular curriculum																		P		
	Private garages													P	P						
	Private schools having a curriculum equivalent to public schools																		P		
	Private tennis courts (unlighted)	P	P	P	P	P	P	P	P				P								
	Public parks and recreational facilities																			P	
	Public swimming pools, tennis courts or sport courts													C						P	25.2.D
	Religious institution	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		25.1.A
	Tennis courts (lighted) and sports clubs	C	C	C	C	C	C	C	C												25.1.R
	Transit center																C				

TABLE 23-1: PERMITTED USES																							
USE CATEGORY	SPECIFIC USE TYPE	Single-Family									Multi-Family				Commercial			Other			ADDL REGS		
		R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	S D H 6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	P O S			
	Utilities either publicly or privately owned																C	C	C				
COMMERCIAL USES																							
Automobile Related	Parts store																C	P	P				25.1.B
	Sales																		C				
	Car rental establishments																		C	C			25.1.C
	Car washes/detailing																		C	C			25.1.G
	Gas stations and/or automotive service																		C	C			25.1.G
Food and Beverage Related	Bakery																P	P	P				
	Bars and cocktail lounges with live entertainment or patron dancing																			C			
	Bars and cocktail lounges without live entertainment or patron dancing																			P			
	Candy shop																P	P	P				
	Concession facilities																					P	
	Grocery store																P	P	P				23.8.A
	Ice cream parlor																P	P	P				
	Restaurant, cafe, or delicatessen without entertainment/alcohol																P	P	P		A		23.8.E 25.1.O
	Restaurant, cafe, or delicatessen with outside seating																P	P	P		A		23.8.E 25.1.O
Restaurant, cafe, or delicatessen with entertainment/alcohol																C	C	C				25.1.O	

TABLE 23-1: PERMITTED USES																					
USE CATEGORY	SPECIFIC USE TYPE	Single-Family									Multi-Family				Commercial			Other			ADDL REGS
		R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	S D H 6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	P O S	
Manufacturing and Processing	Art needlework, hand weaving, tapestries, books (hand binding and tooling), jewelry, medical, dental, and drafting instruments, optical goods and equipment, watches, clocks, and other similar precision instruments, small electrical or electronic apparatus, musical instruments, games or toys																			P	
	Broadcasting station and studio, radio or television (excluding towers and communication facilities)																P	P			P
	Business and professional offices (including medical and dental)																P	P			P
	Optician																	P	P		
	Office, laboratory and manufacturing uses which do not pose a danger to the health and safety in surrounding areas and which do not create any excessive traffic, offensive noise, vibration, smoke, radioactivity, electromagnetic interference, dust, odor, heat or glare and which, by reason of high value in relation to size and weight of merchandise received and shipped, generate a minimum of truck traffic																				
Office, laboratory and manufacturing uses which do pose a danger and create negative impacts (per above)																					C
Retail Sales	Antique store																P	P	P		

TABLE 23-1: PERMITTED USES																					
USE CATEGORY	SPECIFIC USE TYPE	Single-Family									Multi-Family				Commercial			Other			ADDL REGS
		R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	S D H 6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	P O S	
	Art gallery												C	C	P	P	P				
	Bicycle shop														P	P	P				
	Book or specialty paper store														P	P	P				
	Camera store														P	P	P				
	Clothing store															P	P				
	Convenience uses (not specifically addressed elsewhere)														C	C	C				25.1.G
	Craft shop														P	P	P				
	Drug store														P	P	P				23.8.A
	Fabric store														P	P	P				
	Florist														P	P	P				
	Furniture store															P	P				
	General merchandising, including variety and specialty stores														P	P	P			A	23.8.E
	Gift/Hobby shop														P	P	P				
	Hardware store														P	P	P				23.8.A
	Video store														P	P	P				
Service Related	Appliance repair shop															P	P				
	Banks or financial institutions												C		P	P	P		A		
	Barber or beauty shop or day spa														P	P	P				
	Blueprinting, printing, lithograph, publishing or photostating														P	P	P		P		
	Clinic with urgent care facilities															C	P				
	Dry cleaners and laundromats, excluding industrial cleaning and dyeing plants															P	P	P		A	

TABLE 23-1: PERMITTED USES																					
USE CATEGORY	SPECIFIC USE TYPE	Single-Family									Multi-Family				Commercial			Other			ADDL REGS
		R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	S D H 6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	P O S	
	Communications, informational, and other technical service																			P	
	Day nursery or preschool (drop-off > 100' from residential district)													C	C	P	P	P	P	A	
	Day nursery or preschool (drop-off ≤ 100' from residential district)													C	C	C	C	C	P	C	
	Funeral chapel and mortuary																P	P			
	Indoor recreation, health spa, health studio or fitness center															P	P	P		P	25.1.K
	Hospital for animals including boarding and lodging															P	P	P			25.1.L
	Mail service															P	P	P			
	Pet grooming															P	P	P			
	Private clubs with entertainment/alcohol																	C			
	Private clubs without entertainment/alcohol																	P	P		
	Rehabilitative care facility													C	C	P					
	Self storage																	C		C	
	Sexually-oriented businesses																				
	Shoe repair shop															P	P	P			
	Skilled nursing care facility													C	C	P					
	Studio for professional work or teaching of any form of commercial or fine arts													P	P	P	P	P			
	Telephone answering service																P	P		P	
	Theater																C	P			

TABLE 23-1: PERMITTED USES																					
USE CATEGORY	SPECIFIC USE TYPE	Single-Family									Multi-Family				Commercial			Other			ADDL REGS
		R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	S D H 6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	P O S	
	Utility payment store														P	P	P				
Visitor Accommodation	Boarding house or lodging house											C	C	C							25.1.T
	Guest ranches											P									25.1.T
	Hotels/motels											P				C	P				25.1.T
	Resorts											P									25.1.T
	Short-term rental properties											C	C	C							
	Timeshare units											C	C	C							25.1.S
AGRICULTURE USES																					
Agriculture	Farms and ranches	C	P	C	C	C	C	C	C												
	Marketing of products raised on the premises		P																		25.1.M
	Plant nursery														C	C	P				
OTHER USES																					
Other	Antennas	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		25.1.F
	Major communications facilities	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	25.1.F
	Minor communications facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	25.1.F
	Motion picture production																			P	
ACCESSORY USES																					
Accessory Uses	Accessory buildings and uses	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	25.2

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Section 23.4 Table of Dimensional Requirements

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Change Maximum Floor Area Ratio from .2 TO .25

Section 23.4 Table of Dimensional Requirements

Zoning District	Minimum Property Size	Yard Setbacks (feet)			Maximum Building Height	Min. Open Space	Max. Floor Area Ratio	Addl Regs
		Front	Side	Rear				
CN	0 acres	20*	0-50*	0-50*	25 feet or 2 stories	25%	.2 .25	23.8.A
C-1	5 acres	20	0-50*	0-50*	25 feet or 2 stories	20%	.30	23.8.B
C-2	10 acres	20	0-50*	0-50*	30 feet or 2 stories	20%	.40	23.8.C
PS	5 acres (schools only)	*	*	*	1 story and 24-45 feet *	25%		23.8.D
T-P	3 acres	3:1*	0-50*	0-50*	34 feet *	25%	.50*	23.8.E
POS		0-50*	0-50*	0-50*	1 story and 25-45 feet *	*	.15*	23.8.G

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Item #: 3.

Town Council Regular Session

Date: 02/02/2011

Requested by:

David Williams, Planning Division Manager

Submitted By:

Matt Michels, Development Infrastructure Services

Department:

Development Infrastructure Services

Information

SUBJECT:

PUBLIC HEARING: ORDINANCE NO. (O) 11-02 AMENDMENT TO SECTION 23.8.A, C-N NEIGHBORHOOD COMMERCIAL DISTRICT, TABLE 23-1, TABLE OF PERMITTED USES, AND SECTION 23.4, TABLE OF DIMENSIONAL REQUIREMENTS, IN THE ORO VALLEY ZONING CODE REVISED, OV710-005

RECOMMENDATION:

Staff recommends approval of Ordinance No. (O) 11-02, with the unanimous concurrence of the Planning and Zoning Commission.

EXECUTIVE SUMMARY:

This item is an update to Section 23.8.A, Neighborhood Commercial development standards, Section 23.1.B.14: Purpose of Districts, and Table 23-1, Table of Permitted Uses, in the Zoning Code. The update to the C-N district is an item on the Planning Division's 2010-2012 work plan. Inconsistencies have been identified between the General Plan stated purpose, the stated purpose in the Zoning Code, and the existing development standards of the C-N zoning district. Please refer to the attached 11/8/10 P&Z Commission staff report for additional details.

The C-N purpose statement has been modified to clarify that a combination of uses, including retail, office, and multi-family residential is enabled and anticipated in the C-N district and that the development should "fit" the neighborhood. Please refer to Exhibit "A" for the proposed language.

BACKGROUND OR DETAILED INFORMATION:

The revised code introduces mixed-use development standards and elements of form-based regulation that emphasize design and function over segregation of uses. While this code update maintains a list of permitted and conditional uses, it encourages a form and mixture of uses that provide a more attractive, accessible, diverse "neighborhood activity center" rather than a solely automobile-oriented strip development.

A Technical Advisory Committee was formed to review the draft code. Please refer to the attached 11-8-10 P&Z Commission report for additional discussion of their role. The primary feedback received from technical reviewers included the desire to avoid changing development requirements in a manner that would increase development costs or that would add complexity to the development review process. Additional focus was given to providing sufficient flexibility through the expansion of allowed and conditional uses and a focus on mixed-used development within the code to allow C-N development proposals to efficiently respond to market demand.

Since C-N zoning is typically found adjacent to residential areas, compatibility with adjacent uses and mitigation of negative externalities such as traffic, noise, and light is essential. The code amendment aims to find an equilibrium that reduces negative impacts while maximizing benefits to neighbors and commercial property users.

The revised C-N development standards are intended to encourage development that is neighborhood scale and pedestrian friendly. Urban design elements that are included to help achieve this goal include locating buildings to the front of the property with primary parking areas behind the buildings, and providing landscaped courtyards and pedestrian paths to provide visual interest and a pedestrian friendly ambiance. The use of traditional architectural design themes and indigenous materials will further enhance development aesthetics and market acceptance.

The proposed standards, when combined with the Town's updated development review process should lead to improved compatibility and better community acceptance of development proposals, which saves time and resources by the applicant and staff and results in "win-win" outcomes for residents and developers.

There are currently four (4) parcels with existing C-N zoning in the Town. All of them are undeveloped, with the exception of the Canada Crossroads center at La Canada and Lambert. Please see attached Existing C-N Properties map for reference. As shown in the attached General Plan NCO (Neighborhood Commercial Office) Map, there are numerous properties within the Town that could rezone to C-N in the future. One possible area for a future C-N "node" is the Lambert and La Cholla area.

If the revised C-N code is adopted, the new code would apply to properties that rezone to C-N while the existing code will remain in effect for the four (4) properties currently zoned C-N. Properties with existing C-N zoning will be permitted to "opt in" to the new code if they wish.

FISCAL IMPACT:

The proposed amendment to the C-N zoning district is intended to enhance opportunities for desirable businesses to locate within the Town. Administration of the revised code will not require additional staff resources.

SUGGESTED MOTION:

I MOVE to [adopt, adopt with conditions, or deny] Ordinance (O) 11-02, AMENDING THE ORO VALLEY ZONING CODE REVISED, as shown in Exhibit "A".

Attachments

Link: [Ordinance 11-02 CN District](#)

Link: [Exhibit "A"](#)

Link: [C-N Zoning Map](#)

Link: [Project Timeline](#)

Link: [General Plan NCO Map](#)

Link: [Letter from Rick Kleiner](#)

Link: [Letter from Rio Linda Vista, LLC](#)

Link: [11-8-10 PZC Staff Report](#)

Link: [11-8-10 Draft PZC Minutes](#)

Link: [12-7-10 PZC Staff Report](#)

Link: [12-7-10 Draft PZC Minutes](#)

ORDINANCE NO. (O) 11-02

AN ORDINANCE OF THE TOWN OF ORO VALLEY, ARIZONA, AMENDING THE ORO VALLEY ZONING CODE REVISED, BY AMENDING CHAPTER 23, ZONING DISTRICTS, SECTION 23.1, DISTRICTS AND BOUNDARIES THEREOF, SECTION 23.8, PROPERTY DEVELOPMENT STANDARDS FOR NONRESIDENTIAL DISTRICTS, SECTION 23.3, TABLE OF PERMITTED USES AND SECTION 23.4, TABLE OF DIMENSIONAL REQUIREMENTS; REPEALING ALL RESOLUTIONS, ORDINANCES AND RULES OF THE TOWN OF ORO VALLEY IN CONFLICT THEREWITH; PRESERVING THE RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS THAT HAVE ALREADY BEGUN THEREUNDER

WHEREAS, the Town of Oro Valley is a political subdivision of the State of Arizona vested with all associated rights, privileges and benefits and is entitled to the immunities and exemptions granted municipalities and political subdivisions under the Constitution and laws of the State of Arizona and the United States; and

WHEREAS, on March 13, 1981, the Mayor and Council approved Ordinance (O)81-58, which adopted that certain document entitled “Oro Valley Zoning Code Revised (OVZCR); and

WHEREAS, on April 15, 2009, the Mayor and Council directed staff to place the Neighborhood Commercial (CN) District into the Planning Division work plan; and

WHEREAS, the proposed amendments to Chapter 23, Zoning Districts, Section 23.1, Districts and Boundaries Thereof, Section 23.8, Property Development Standards for Nonresidential Districts, Section 23.3, Table of Permits Uses and Section 23.4, Table of Dimensional Requirements, will allow the proposed development standards to be more consistent with the intent of the CN zoning district, emphasize neighborhood scale, increase architectural and functional compatibility with adjacent resident areas and provide more flexibility to allow a compatible mixture of uses; and

WHEREAS, the Planning and Zoning Commission reviewed the proposed amendments at duly noticed public hearings on November 8, 2010 and December 7, 2010, in accordance with State statutes and recommended approval of the proposed amendments to the Town Council on December 7, 2010; and

WHEREAS, the Oro Valley Town Council has considered the proposed amendments to Chapter 23, Zoning Districts, Section 23.1, Districts and Boundaries Thereof, Section 23.8, Property Development Standards for Nonresidential Districts, Section 23.3, Table of Permits Uses and Section 23.4, Table of Dimensional Requirements, and the Planning and Zoning Commission’s recommendation and finds that it is consistent with the Town's General Plan and other Town ordinances.

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Town of Oro Valley, Arizona, that certain document entitled Chapter 23, Zoning Districts, Section 23.1, Districts and Boundaries Thereof, Section 23.8, Property Development Standards for Nonresidential Districts, Section 23.3, Table of Permits Uses and Section 23.4, Table of Dimensional Requirements, attached hereto as Exhibit "A" and incorporated herein by this reference, are hereby amended with additions being shown in ALL CAPS and deletions in ~~striketrough~~ text.

SECTION 2. All Oro Valley Ordinances, Resolutions, or Motions and parts of Ordinances, Resolutions, or Motions of the Council in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Mayor and Council of the Town of Oro Valley, Arizona this 2nd day of February, 2011.

TOWN OF ORO VALLEY

Dr. Satish I. Hiremath, Mayor

ATTEST:

APPROVED AS TO FORM:

Julie K. Bower, Town Clerk

Tobin Rosen, Town Attorney

Date: _____

Date: _____

EXHIBIT “A”

Chapter 23. Zoning Districts

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Section 23.1 Districts and Boundaries Thereof

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Section 23.1.B Purpose of Districts

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Section 23.1.B.14. C-N Neighborhood Commercial District

This district provides small office and service centers within walking/biking distance or a short drive from adjacent neighborhoods. The center shall be designed to fit into ~~and reflect the architecture of~~ the adjacent neighborhoods, serve as a neighborhood activity center, and provide a combination of uses that offer basic goods and services that meet the ~~daily~~ needs of the nearby residents. A MIXTURE OF OFFICE, RETAIL, AND RESIDENTIAL IS ENABLED IN THE C-N ZONE AND IS ANTICIPATED TO PROVIDE A PHYSICALLY AND FUNCTIONALLY INTEGRATED COMBINATION OF USES.

Sites should be designed to accommodate multiple, smaller uses ~~as opposed to~~ RATHER THAN a single, large use. C-N zoning may be found along multi-use paths, near parks, immediately between or among higher density residential developments and municipal service sites. It is most appropriate at the intersection of collectors STREETS or a collector STREET and an arterial ~~other than Oracle Road~~ ROAD.

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Section 23.8. Property Development Standards for Nonresidential Districts

Section 23.8.A. C-N Neighborhood Commercial District

1. Floor Area Limits

- a. COMMERCIAL uses shall be no greater than 5,000 square feet of gross floor area per individual business, except that drug stores, grocery stores and hardware stores shall be no greater than 9,000 square feet.
- b. Expansions of COMMERCIAL uses ~~up to 9,000 square feet of gross floor area per individual business~~ BEYOND THESE FLOOR AREA LIMITS may be allowed with a Conditional Use Permit.

- C. THE AFOREMENTIONED SQUARE FOOTAGE LIMITS DO NOT APPLY TO BUILDINGS USED FOR RESIDENTIAL, PUBLIC, INSTITUTIONAL, CIVIC, OFFICE, REHABILITATIVE AND SKILLED NURSING CARE PURPOSES.
- D. RESIDENTIAL UNITS MAY COMPRISE NO MORE THAN 50% OF THE TOTAL GROSS FLOOR AREA OF THE DEVELOPMENT NOR OCCUPY MORE THAN 50% OF THE SITE BY AREA.
- E. THE MINIMUM GROSS LAND AREA PER RESIDENTIAL DWELLING UNIT SHALL BE 3,500 SQUARE FEET.

2. Building Height

- A. If a contiguous residential district has a more restrictive height standard, ALL BUILDINGS WITHIN 85 FEET OF THE PROPERTY LINE OF CONTIGUOUS R-1 SINGLE-FAMILY RESIDENTIALLY ZONED PROPERTY ~~the building height~~ shall conform to that more restrictive standard OF THE CONTIGUOUS ZONE.
- B. Architecturally APPROPRIATE elements such as bell towers OR MECHANICAL SCREENING may exceed this limitation by no more than ~~ten (10) feet~~ SEVEN (7') FEET, subject to approval by the PLANNING DIVISION MANAGER. ~~Development Review Board~~. ADDITIONAL HEIGHT FOR ARCHITECTURAL ELEMENTS, UP TO 35 FEET, MUST BE APPROVED BY THE TOWN COUNCIL.

3. Courtyards and Pedestrian Malls



- a. ~~A portion of the development shall~~ THE DESIGN OF THE SITE SHALL INCLUDE ~~be oriented towards~~ a landscaped courtyard(S)

or PEDESTRIAN mall with buildings enclosing the courtyard and opening onto the courtyard from at least two sides.

- b. The courtyard or mall should contain all or a portion of the required public art.
 - c. The courtyard(S) or PEDESTRIAN mall shall be a minimum of two (2%) percent of the net lot area of the site in square feet, which shall be considered to be part of the ANY required open space.
 - d. ~~The courtyard/mall requirement may be waived by Town Council based on a suitable alternative design solution being presented to the Development Review Board and Town Council.~~
- D. THE COURTYARD OR PEDESTRIAN MALL SHALL CONTAIN SHADED SEATING AREAS FOR EMPLOYEES AND PATRONS, AND MAY INCLUDE BENCHES OR SEAT WALLS, PLANTERS WITH SPECIMEN LANDSCAPE TREES, AND POTTED PLANTS TO PROVIDE SHADE AND VISUAL INTEREST.



4. Yards and Setbacks

- a. Front
 - i. Where adjacent to a residential district, the front setback regulations of the residential district shall apply.
- b. Side and Rear Setbacks
 - i. 50 feet or 3:1 whichever is greater (setback to building height) where the lot abuts a single-family residential

district or abuts an alley that is adjacent to a single-family residential district.

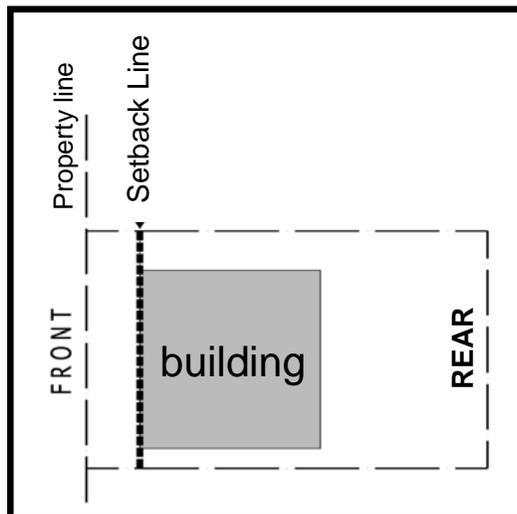
- ii. 25 feet where the lot abuts a multi-family OR NON-residential district.

5. ~~Retain Sales~~ SERVICE AND DELIVERY/OUTDOOR ACTIVITIES Hours of Operation

- a. Service and delivery operations are allowed only between 6:00 a.m. to 9:00 p.m., Monday through Saturday and 7:00 a.m. to 7:00 p.m. on Sundays. THESE HOURS MUST BE POSTED IN ALL SERVICE AND DELIVERY AREAS. HOURS MAY BE EXTENDED WITH A CONDITIONAL USE PERMIT.
- b. ~~Hours of operation may be extended with a conditional Use Permit.~~ OUTDOOR SPEAKERS ARE PROHIBITED. OUTDOOR ENTERTAINMENT SHALL BE LIMITED TO 9:00 A.M. TO 10:00 P.M., SEVEN DAYS A WEEK.
- c. ~~The property at the southwest corner of Lambert Lane and La Canada Drive is covered by a prior development agreement and is exempt from the hours of operation requirement.~~

6. COMMERCIAL SITE DESIGN

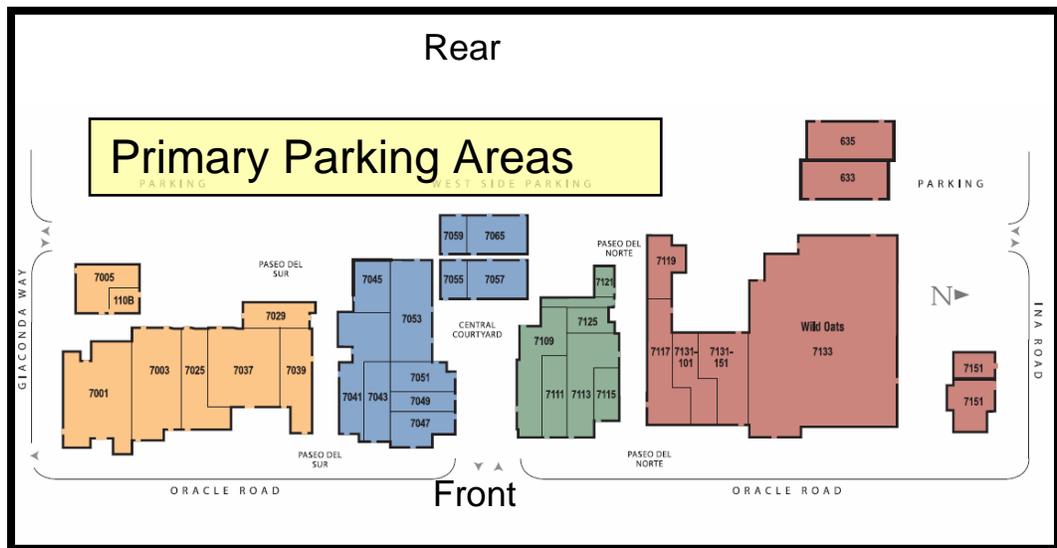
- A. WHERE FEASIBLE, BUILDINGS SHALL BE PLACED TO THE FRONT OF THE PROPERTY TO VISUALLY REINFORCE THE STREETScape AND PROMOTE A HUMAN-SCALE, PEDESTRIAN AND BICYCLE FRIENDLY DESIGN.



- B. BUILDINGS MAY ONLY BE SET BACK BEYOND THE SETBACK LINE AS NECESSARY TO ACCOMMODATE SHOP ENTRANCES, ARCADES, PLAZAS, SIDEWALK DINING AREAS, OR OTHER APPROVED AMENITIES, PARKING AREAS, OR LANDSCAPING.
- C. PARKING IN FRONT OF BUILDINGS IS LIMITED TO 15% OF THE TOTAL REQUIRED OFF-STREET PARKING SPACES.
- D. WELL-DEFINED PEDESTRIAN SIDEWALKS, BICYCLE LANES, OR SHARED-USE PATHS SHALL CONNECT TO EXISTING WALKS, LANES, OR PATHS TO ADJACENT DEVELOPMENTS.

7. PARKING

- A. A MINIMUM OF 85% OF THE REQUIRED PARKING SHALL BE PLACED BEHIND OR TO THE SIDE OF BUILDINGS.



source: Casas Adobes Plaza

- B. PARKING PLACED IN FRONT OF THE BUILDINGS SHALL BE ACCESSED FROM A SINGLE ACCESS LANE OR MAY BE PROVIDED ON-STREET IN FRONT OF THE BUILDING, SUBJECT TO APPROVAL BY THE ENGINEERING DIVISION.
- C. PARKING DESIGN SHALL MINIMIZE NOISE AND LIGHT POLLUTION IMPACTS TO ADJACENT RESIDENTIAL PROPERTIES.

8. RESIDENTIAL SITE DESIGN

A. RESIDENTIAL USES, WHICH INCLUDE CONDOMINIUMS, TOWNHOMES, AND APARTMENTS, SHALL BE PHYSICALLY AND FUNCTIONALLY INTEGRATED WITH COMMERCIAL USES BY UTILIZING ONE OR MORE OF THE FOLLOWING DESIGN STRATEGIES:

I. ATTACHED DWELLING UNITS WITH FIRST FLOOR OFFICE OR RETAIL



source: www.rosecrestvillage.com

II. NON-RESIDENTIAL USES SHALL PROVIDE PEDESTRIAN PATHS LINKING THEM WITH MULTI-FAMILY RESIDENTIAL USES ON THE PROPERTY.



source: www.internest.com

B. A SHARED OR PRIVATE OUTDOOR LIVING AREA OF AT LEAST 150 SQUARE FEET SHALL BE PROVIDED FOR EACH RESIDENTIAL UNIT. COVERED PORCHES AND PATIOS MAY BE PROVIDED TO SATISFY THIS REQUIREMENT.

C. PRIVATE OUTDOOR LIVING AREAS SHALL BE SCREENED FROM PARKING AREAS AND ADJACENT USES WITH AN ARCHITECTURALLY-COMPATIBLE OPAQUE FENCE OR WALL WITH A MINIMUM HEIGHT OF FIVE FEET.

D. UNDERGROUND PARKING OR FIRST FLOOR GARAGES ARE ENCOURAGED. FOR EACH TWO (2) SQUARE FEET OF UNDERGROUND OR FIRST FLOOR GARAGE, ONE (1) SQUARE FOOT OF ADDITIONAL FLOOR AREA IS PERMITTED.

9. ARCHITECTURE

THE DEVELOPMENT SHALL REFLECT THE ARCHITECTURAL THEMES AND COLORS OF ADJACENT RESIDENTIAL DEVELOPMENTS UTILIZING MATERIALS APPROPRIATE FOR COMMERCIAL CONSTRUCTION.



source: amreit.com

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Section 23.3 Table of Permitted Uses

The Table of Permitted Uses in this Section sets forth the uses permitted within the base zone districts.

A. Uses Permitted by Right

A “P” indicates that a use is permitted as a matter-of-right in the respective zone district, subject to compliance of all application regulations in this Code.

TABLE 23-1: PERMITTED USES

ADD AS “P” (permitted)

- INDEPENDENT LIVING FACILITY (FORMERLY MATURE ADULT RETIREMENT QUARTERS)
- RESTAURANT, CAFÉ OR DELICATESSEN WITH OUTSIDE SEATING
- OPTICIAN
- BLUEPRINTING, PRINTING, LITHOGRAPH, PUBLISHING OR PHOTOSTATING
- REHABILITATIVE CARE FACILITY
- SKILLED NURSING CARE FACILITY

B. Conditional Special Uses

A “C” indicates that a use category or specific use type is allowed only if reviewed and approved in accordance with the procedures and standards of Section 22.4, Use Permits.

ADD AS “C” (conditional use)

- COMMUNITY BUILDINGS OTHER THAN HOSPITALS, PARKS AND PLAYGROUNDS
- MUSEUM

...

TABLE 23-1: PERMITTED USES																					
USE CATEGORY	SPECIFIC USE TYPE	Single-Family									Multi-Family				Commercial			Other			ADDL REGS
		R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	S D H 6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	P O S	
RESIDENTIAL USES																					
Residential	Community residences	P	P	P	P	P					P	P									25.1.E
	Dwelling units, multi-family												P	P							
	Dwelling units, single-family	P	P	P	P	P	P	P	P			P	P					P*			*23.6(D)(1)
	Home occupations	P	P	P	P	P	P	P	P	P	P	P	P	P							25.2.C
	Mature adult retirement quarters										C		C	P	P						
	Model homes	C	C	C	C	C	C	C	C	C		C	C								
	Single-family dwellings having either party walls or walled courtyards										P	P									
	Site-built, site-delivered dwelling units, single-family									P											
	Temporary real estate offices	P	P	P	P	P	P	P	P	P	P	P	P								25.1.Q
PUBLIC, INSTITUTIONAL, AND CIVIC USES																					
Public, Institutional, Civic	Business schools or similar private schools														C	P	P				
	Cemetery, including funeral chapel		C															C			
	Community buildings and recreational facilities, private, not-for-profit, such as athletic fields and boy's clubs	C	C	C	C	C	C	C	C	C			C	C	C						C
	Community buildings other than hospitals, parks, and playgrounds												P		C	P	P				
	Flood control facilities and water recharge areas																				C
	General aviation airstrip	P																			

TABLE 23-1: PERMITTED USES																					
USE CATEGORY	SPECIFIC USE TYPE	Single-Family									Multi-Family				Commercial			Other			ADDL REGS
		R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	S D H 6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	P O S	
	Golf course (except miniature golf course or commercial driving range)	C	C	C	C	C	C	C	C												24.6 25.1.J
	Golf driving range																C				
	Hospitals																C				
	Municipal services														P	P	P		P		
	Museum														C	P	P				
	New utility poles and above ground wires	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	25.1.N
	Community-owned recreation facilities and buildings other than hospitals	P	P	P	P	P	P	P	P	P											
	Fire stations and rescue facilities															P	P	P		P	25.1.I
	Post office (substation)														P	P	P				
	Private college or university having a regular curriculum																		P		
	Private garages											P	P								
	Private schools having a curriculum equivalent to public schools																		P		
	Private tennis courts (unlighted)	P	P	P	P	P	P	P	P				P								
	Public parks and recreational facilities																			P	
	Public swimming pools, tennis courts or sport courts													C						P	25.2.D
	Religious institution	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		25.1.A
	Tennis courts (lighted) and sports clubs	C	C	C	C	C	C	C	C												25.1.R
	Transit center																C				

TABLE 23-1: PERMITTED USES																							
USE CATEGORY	SPECIFIC USE TYPE	Single-Family									Multi-Family				Commercial			Other			ADDL REGS		
		R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	S D H 6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	P O S			
	Utilities either publicly or privately owned																C	C	C				
COMMERCIAL USES																							
Automobile Related	Parts store																C	P	P				25.1.B
	Sales																		C				
	Car rental establishments																		C	C			25.1.C
	Car washes/detailing																		C	C			25.1.G
	Gas stations and/or automotive service																		C	C			25.1.G
Food and Beverage Related	Bakery																P	P	P				
	Bars and cocktail lounges with live entertainment or patron dancing																			C			
	Bars and cocktail lounges without live entertainment or patron dancing																			P			
	Candy shop																P	P	P				
	Concession facilities																					P	
	Grocery store																P	P	P				23.8.A
	Ice cream parlor																P	P	P				
	Restaurant, cafe, or delicatessen without entertainment/alcohol																P	P	P		A		23.8.E 25.1.O
	Restaurant, cafe, or delicatessen with outside seating																P	P	P		A		23.8.E 25.1.O
Restaurant, cafe, or delicatessen with entertainment/alcohol																C	C	C				25.1.O	

TABLE 23-1: PERMITTED USES																					
USE CATEGORY	SPECIFIC USE TYPE	Single-Family									Multi-Family				Commercial			Other			ADDL REGS
		R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	S D H 6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	P O S	
Manufacturing and Processing	Art needlework, hand weaving, tapestries, books (hand binding and tooling), jewelry, medical, dental, and drafting instruments, optical goods and equipment, watches, clocks, and other similar precision instruments, small electrical or electronic apparatus, musical instruments, games or toys																			P	
	Broadcasting station and studio, radio or television (excluding towers and communication facilities)																P	P		P	
	Business and professional offices (including medical and dental)													P	P	P	P	P		P	
	Optician																P	P			
	Office, laboratory and manufacturing uses which do not pose a danger to the health and safety in surrounding areas and which do not create any excessive traffic, offensive noise, vibration, smoke, radioactivity, electromagnetic interference, dust, odor, heat or glare and which, by reason of high value in relation to size and weight of merchandise received and shipped, generate a minimum of truck traffic																				P
Office, laboratory and manufacturing uses which do pose a danger and create negative impacts (per above)																				C	
Retail Sales	Antique store																P	P	P		

TABLE 23-1: PERMITTED USES																					
USE CATEGORY	SPECIFIC USE TYPE	Single-Family									Multi-Family				Commercial			Other			ADDL REGS
		R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	S D H 6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	P O S	
	Art gallery												C	C	P	P	P				
	Bicycle shop														P	P	P				
	Book or specialty paper store														P	P	P				
	Camera store														P	P	P				
	Clothing store															P	P				
	Convenience uses (not specifically addressed elsewhere)														C	C	C				25.1.G
	Craft shop															P	P	P			
	Drug store															P	P	P			23.8.A
	Fabric store															P	P	P			
	Florist															P	P	P			
	Furniture store																P	P			
	General merchandising, including variety and specialty stores															P	P	P		A	23.8.E
	Gift/Hobby shop															P	P	P			
	Hardware store															P	P	P			23.8.A
	Video store															P	P	P			
Service Related	Appliance repair shop																P	P			
	Banks or financial institutions													C		P	P	P		A	
	Barber or beauty shop or day spa															P	P	P			
	Blueprinting, printing, lithograph, publishing or photostating														P	P	P		P		
	Clinic with urgent care facilities																C	P			
	Dry cleaners and laundromats, excluding industrial cleaning and dyeing plants															P	P	P		A	

TABLE 23-1: PERMITTED USES																					
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		R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	S D H 6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	P O S	
	Communications, informational, and other technical service																			P	
	Day nursery or preschool (drop-off > 100' from residential district)													C	C	P	P	P	P	A	
	Day nursery or preschool (drop-off ≤ 100' from residential district)													C	C	C	C	C	P	C	
	Funeral chapel and mortuary																P	P			
	Indoor recreation, health spa, health studio or fitness center															P	P	P		P	25.1.K
	Hospital for animals including boarding and lodging															P	P	P			25.1.L
	Mail service															P	P	P			
	Pet grooming															P	P	P			
	Private clubs with entertainment/alcohol																	C			
	Private clubs without entertainment/alcohol																	P	P		
	Rehabilitative care facility													C	C	P					
	Self storage																	C		C	
	Sexually-oriented businesses																				
	Shoe repair shop															P	P	P			
	Skilled nursing care facility													C	C	P					
	Studio for professional work or teaching of any form of commercial or fine arts													P	P	P	P	P			
	Telephone answering service																P	P		P	
	Theater																C	P			

TABLE 23-1: PERMITTED USES																						
USE CATEGORY	SPECIFIC USE TYPE	Single-Family									Multi-Family				Commercial			Other			ADDL REGS	
		R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	S D H 6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	P O S		
	Utility payment store															P	P	P				
Visitor Accommodation	Boarding house or lodging house											C	C	C							25.1.T	
	Guest ranches											P									25.1.T	
	Hotels/motels											P				C	P				25.1.T	
	Resorts											P									25.1.T	
	Short-term rental properties												C	C	C							
	Timeshare units												C	C	C							25.1.S
AGRICULTURE USES																						
Agriculture	Farms and ranches	C	P	C	C	C	C	C	C													
	Marketing of products raised on the premises		P																		25.1.M	
	Plant nursery															C	C	P				
OTHER USES																						
Other	Antennas	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		25.1.F	
	Major communications facilities	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	25.1.F	
	Minor communications facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	25.1.F	
	Motion picture production																			P		
ACCESSORY USES																						
Accessory Uses	Accessory buildings and uses	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	25.2	

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Section 23.4 Table of Dimensional Requirements

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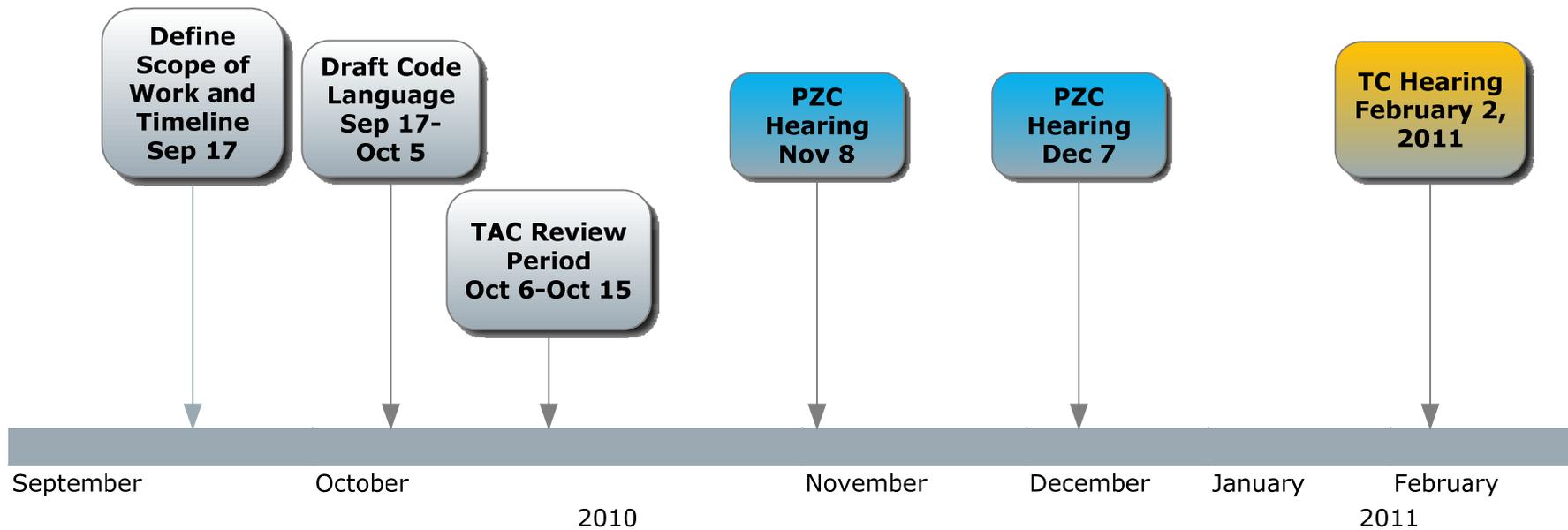
Change Maximum Floor Area Ratio from .2 TO .25

Section 23.4 Table of Dimensional Requirements

Zoning District	Minimum Property Size	Yard Setbacks (feet)			Maximum Building Height	Min. Open Space	Max. Floor Area Ratio	Addl Regs
		Front	Side	Rear				
CN	0 acres	20*	0-50*	0-50*	25 feet or 2 stories	25%	.2 .25	23.8.A
C-1	5 acres	20	0-50*	0-50*	25 feet or 2 stories	20%	.30	23.8.B
C-2	10 acres	20	0-50*	0-50*	30 feet or 2 stories	20%	.40	23.8.C
PS	5 acres (schools only)	*	*	*	1 story and 24-45 feet *	25%		23.8.D
T-P	3 acres	3:1*	0-50*	0-50*	34 feet *	25%	.50*	23.8.E
POS		0-50*	0-50*	0-50*	1 story and 25-45 feet *	*	.15*	23.8.G

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C-N Code Update Project Timeline



January 14, 2011

Jan Miller Kleiner
2410 E. Camino La Zorra
Tucson, AZ 85718

Mr. Matt Michels
Senior Planner
Department of Infrastructure, Planning Division
Town of Oro Valley
11000 N. La Canada Drive
Oro Valley, AZ
Via email: mmichels@orovalleyaz.gov

RE: Revision to Neighborhood Commercial "CN" Zoning Code

Mr. Michels:

On behalf of my family, I wish to express strong support for the proposed modification to the Neighborhood Commercial "CN" zoning code that was approved by the Planning & Zoning Commission on December 7, 2010, and will be considered by Oro Valley Town Council on February 2, 2011.

We own the CN-zoned parcel located on the west side of Oracle Road, extending from Linda Vista Boulevard northwards to Desert Sky Road. My family has owned this parcel for some fifty years. We have worked closely with you and town staff during the past several years to secure approval for the parcel's master development plan. We endorse the proposed modifications to the CN zoning code. Please let me know if I can add further details in this regard.

Sincerely,



Jan Miller Kleiner

Rio Linda Vista, L.L.C.

Via E-mail: mmichels@orovalleyaz.gov

January 14, 2011

Matt Michels, AICP
Senior Planner
Department of Infrastructure Services, Planning Division
11000 N. La Canada Drive
Town of Oro Valley, Arizona

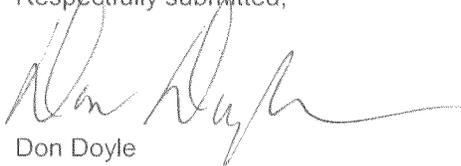
RE: Proposed Revisions to Neighborhood Commercial "CN" Zoning Code

Mr Michels:

In September 2006, Rio Linda Vista, LLC, teamed up with the owners to pursue development and marketing alternatives for the "CN"-zoned parcel located on the west side of Oracle Road, between Linda Vista Boulevard and Desert Sky Road. Since that time we have worked closely with the owners and the Town of Oro Valley to achieve a mutually acceptable master development plan for the parcel.

Please accept this letter of our support for the proposed modification to the Neighborhood Commercial "CN" zoning code already approved by the Planning & Zoning Commission on December 7, 2010, and scheduled for consideration by the Oro Valley Town Council on February 2, 2011.

Respectfully submitted,



Don Doyle
Member

TOWN OF ORO VALLEY

PLANNING & ZONING COMMISSION

MEETING DATE: November 8, 2010

TO: PLANNING & ZONING COMMISSION

FROM: David A. Williams, AICP, Planning Division Manager

SUBJECT: Public Hearing: Amendment to Neighborhood Commercial (C-N) Zoning District provisions in the Oro Valley Zoning Code Revised (OVZCR), OV710-005.

SUMMARY

This item is an update to Section 23.8.A, Neighborhood Commercial development standards, Section 23.1.B.14: Purpose of Districts, and Table 23-1, Table of Permitted Uses, in the Oro Valley Zoning Code Revised (OVZCR). The update to the Neighborhood Commercial (C-N) zoning district is an item on the Planning Division's 2009-2011 work plan. Inconsistencies have been identified between the purpose statements in the General Plan and Zoning Code and the existing development standards of the C-N zoning district. Specifically the design standards and lack of multi-modal integration standards within the existing neighborhood commercial code is in some cases inconsistent with the zoning district purpose statements.

The stated purpose of the C-N district in Section 23.1.B.14 of Zoning Code is:

This district provides small office and service centers within walking/biking distance or a short drive from adjacent neighborhoods. The center shall be designed to fit into and reflect the architecture of the adjacent neighborhoods, serve as a neighborhood activity center, and provide a combination of uses that offer basic goods and services that meet the daily needs of the nearby residents.

Sites should be designed to accommodate multiple, small uses as opposed to a single, large use. C-N zoning may be found along multi-use paths, near parks, immediately between or among higher density residential developments and municipal service sites. It is most appropriate at the intersection of collectors or a collector and an arterial other than Oracle Road.

Staff proposes to modify the purpose statement to clarify that a combination of uses, including retail, office, and multi-family residential is enabled and anticipated in the C-N district and that the development should "fit" into the neighborhood but do not necessarily need to emulate the architecture of adjacent residential areas. Please refer to the attached draft for the proposed language.

The stated purpose of the Neighborhood Commercial and Office (NCO) land use designation in the General Plan is:

This designation denotes commercial and office areas located with good arterial access (i.e., at the intersection of arterial roadways or along Oracle Road) that are close to residential areas. Within these areas, uses such as grocery stores, drugstores, and offices tend to serve the surrounding neighborhoods and are integrated with those neighborhoods. Offices include professional offices, tourism-related businesses, and services. The recommended maximum FAR in the NCO designation is that of the C-1 zoning district.

TOWN OF ORO VALLEY

PLANNING & ZONING COMMISSION STAFF REPORT

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The aim of this code update is to revise the C-N zoning district development standards to be more consistent with the aforementioned purpose statements while at the same time offering additional development flexibility as appropriate to allow C-N property owners to efficiently respond to market demand. Staff recognizes that Oro Valley is a predominantly low-density suburban community and that urban style neighborhood commercial would likely be viewed as inappropriate and undesirable at this juncture. Therefore, a number of typical neighborhood commercial design standards found in other jurisdictions, including increased building height (3 stories or more) and increased development intensity (significantly higher Floor Area Ratio (FAR)) have been omitted from this code update. However, this code update furthers the community's goal of providing well designed neighborhood activity centers.

There are currently only four (4) parcels with existing C-N zoning. One is developed (Canada Crossroads at La Canada and Lambert); two have approved development plans (Oracle Vista Centre at Oracle and Linda Vista and the Garden Gate Nursery property near Oracle and Hardy); and one is has in undeveloped without an approved development plan (the Rancho Del Cobre commercial block on the southeast corner of Tangerine and La Cholla). Please see attached *Existing C-N Properties* map for reference.

Based on the limited applicability of the revised code to properties with existing C-N zoning and given the limitations of applying new regulations imposed by state law as a result of Proposition 207 (AKA the "Private Property Rights Protection Act"; A.R.S. §12-1131 through 12-1138), staff proposes the following options:

1. The existing C-N code will remain in effect for the four (4) properties with existing C-N zoning, but would apply to properties that rezone to C-N in the future.
2. Properties with existing C-N zoning could "opt in" to the new code if they wish with a waiver stating that they forfeit any future claims under Prop 207.

SCOPE OF WORK

1. Evaluate Permitted (P) and Conditional (C) uses for consistency with intent of C-N and NCO designations:
 - Integrate appropriate uses that are equally compatible as uses currently permitted
2. Evaluate C-N development standards for appropriate neighborhood scale and compatibility:
 - Integrate form-based approach to emphasize design and form over segregation of uses
 - Review appropriateness of standards for setbacks, buffer yards, building height, Floor Area Ratio (FAR), design, architecture

DISCUSSION

The changes proposed are intended to introduce elements of form-based code to emphasize design excellence over mere segregation of uses. The concept of a form-based code is to place form over function, rather than the other way around. While this code update maintains a list of permitted and conditional uses, it encourages a form that provides a more attractive, accessible, diverse "neighborhood activity center" rather than a fully automobile-oriented strip development.

The revised C-N development standards are intended to encourage a product that resembles the best neighborhood scale, pedestrian friendly commercial centers in the region, including Casas Adobes Plaza and Broadway Village. Both of these centers exemplify the type of unique, upscale, aesthetically pleasing form envisioned by the General Plan and Zoning Code. Several seemingly minor but important design elements

TOWN OF ORO VALLEY

PLANNING & ZONING COMMISSION STAFF REPORT

Page 3 of 6

help to achieve their attractive form-chiefly, locating the buildings further to the front of the property with the primary parking areas behind the buildings, and providing well-designed landscaped courtyards and pedestrian paths to provide visual interest and a pedestrian friendly ambiance. Their use of traditional architectural design themes and indigenous materials further enhance the centers attractiveness and market acceptance.

This code update maintains and in some cases strengthens requirements to mitigate the secondary effects of neighborhood commercial uses, such as traffic, noise, light, etc. However, it is also the intent of this code update to raise the design bar while minimizing incompatibilities.

The proposed standards should lead to better community acceptance of development proposals, which saves time and resources by the applicant and staff and results in "win-win" outcomes for residents and developers.

Finally, staff proposes additional regulations on the development of multi-family residential on C-N properties, which is currently permitted. The intent is to encourage the integration of multiple uses on the site.

General Plan Conformance

This code update has been drafted with consideration of the applicable General Plan goals and policies. Following is a list of noteworthy criteria (*in italics*) followed by staff commentary.

Land Use Element-Key Policy Issues:

Maintaining low-density character while permitting diversity of development types. Oro Valley's predominant development pattern provides for large areas of homogeneous housing separated from services and other types of housing. Some aspects of this pattern of development are not conducive to pedestrian access to services, efficient infrastructure investment, or diverse social interaction. In some cases, this development pattern could result in increased environmental impacts, traffic congestion, and monotony in residential subdivision design, and strip development that is oriented to the automobile.

This code update, with its emphasis on pedestrian and bicycle connectivity and "neighborhood activity center" design concepts rather than strip development, attempts to address some of these aforementioned issues.

Policy 1.3.1 *The Town shall encourage the location of residential neighborhoods close to activity centers compatible with residential uses, and vice versa.*

Well designed neighborhood commercial centers can serve as compatible activity centers that provide needed neighborhood services and amenities while reducing dependence on the automobile.

Policy 1.3.3 *The Town shall encourage the establishment of new commercial uses in areas so designated on the land use map near new residential neighborhoods with the type, scale, and potential for buffering to be taken into account*

TOWN OF ORO VALLEY

PLANNING & ZONING COMMISSION STAFF REPORT

While there are currently only three (3) undeveloped neighborhood commercial zoned properties in the Town, there are a number of properties with the General Plan NCO designation that could be rezoned in the future. The proposed code provides additional standards and guidance to address the "type, scale, and potential for buffering". Please refer to the attached *Map of Existing Neighborhood Commercial Office General Plan Designations*.

- Policy 1.3.4 *The Town shall encourage clustering of commercial developments at specific nodes or villages that are planned with strict aesthetic and design guidelines. The Town shall discourage strip commercial developments and free-standing pads.*

The proposed code contains development standards that discourage strip developments and requires a greater level of design integration with adjacent residential neighborhoods.

- Policy 1.3.6 *The Town shall encourage new developments to incorporate accommodations for non-motorized travel in their design.*

The proposed code requires pedestrian and bicycle connections with adjacent neighborhoods, subject to HOA approval.

- Policy 1.4.8 *The Town shall continue to require adequate buffering of commercial and employment uses from adjacent neighborhoods, with special consideration being given to placing office or other less intense uses adjacent to the residential areas.*

The existing screening and buffer yard requirements required by the Zoning Code have been maintained and guidance has been provided to placement of multi-family residential to the back of the property to provide a transition between commercial and lower-density residential.

- Policy 7.2.1 *The Town shall encourage the development of a variety of types of homes to accommodate the varied needs of residents, including single-family attached and detached, townhomes, small apartments (3-4 units), condominiums, active retirement communities and congregate housing, with accessible options integrated among all types to accommodate the special needs of elderly or disabled residents.*

The C-N district currently provides opportunities for multi-family housing development, including apartments, condominiums, and townhomes. The proposed code provides standards that require physical and functional integration of residential and commercial uses. Further, the proposed code adds independent living facilities, skilled nursing care facilities, and rehabilitative care facilities as permitted uses since their impacts and character are similar to those of other currently allowed uses, including multi-family residential.

- Policy 7.2.4 *The Town shall recognize the housing needs of the Town's elderly and disabled populations by encouraging housing development oriented to these special needs groups.*

Senior housing, including independent living and skilled nursing care facilities, is currently limited to multi-family residential districts, typically with a conditional use permit. The market demand for senior housing is high and will continue to grow as the population ages. Allowing senior housing in the C-N zoning district provides opportunities for property owners to respond to market demand with a use that often produce less noise, traffic, and other impacts than other allowed uses allowed in C-N such as retail or restaurants.

Policy 7.3.1 *To the extent feasible, given the high land costs, the Town shall encourage the development of a variety of residential choices consistent with the Land Use Element to meet the housing needs of employees of existing and future Oro Valley employers.*

The proposed code provides enhanced development standards for multi-family residential within the C-N district and encourages live-work townhomes as an option. This arrangement supports a jobs-housing balance and may provide a useful housing option for small businesses.

Input and Response

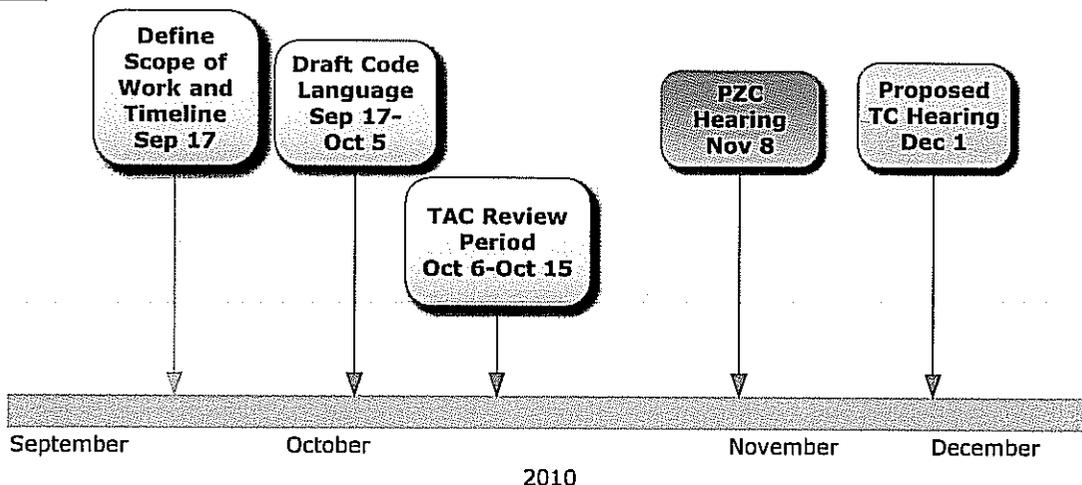
A Technical Advisory Committee (TAC) was formed to review the draft code. The TAC was composed of the following members. In addition, citizen input has been received.

- Technical Advisory Committee:
 - Rick Kleiner, PICOR Commercial Real Estate Brokerage
 - Keri Silvyn, Lewis and Roca
 - Walter Hoge, Rio West Development & Construction
 - Amanda Jacobs, OV Economic Development
 - Joe Andrews, OV Legal Department

The primary feedback received related to the desire to avoid increasing exactions and complexity to the development review process that would require additional time and resources to gain approval. Additional focus was given to providing sufficient flexibility within the code to allow C-N property owners to efficiently respond to market demand.

Since C-N zoning is typically found adjacent to residential, the Town's obligation is to ensure that development is compatible with adjacent uses and that negative externalities such as traffic, noise, and light are adequately mitigated. The code amendment aims to find an equilibrium that reduces negative impacts while maximizing benefits to neighbors and commercial property owners.

Project Timeline



PUBLIC NOTICE AND COMMENT

This project has been noticed in accordance with Town procedures, which includes the following:

- Notification of all property owners with C-N zoning
- Homeowners Association mailing
- Notice in The Daily Territorial newspaper
- Post at Town Hall and on website

No comments have been received to date.

SUMMARY OF FACTORS

Findings For:

- Proposed development standards are more congruent with intent of the C-N zoning district
- Proposed code emphasizes neighborhood scale and increases architectural and functional compatibility with adjacent residential areas
- Proposed code provides more flexibility to allow uses that are similarly compatible as existing permitted uses

Factors Against:

- None

RECOMMENDATION

Staff recommends approval of the proposed C-N zoning code update as shown in Exhibit "A".

SUGGESTED MOTIONS

The Planning and Zoning Commission may wish to consider one of the following motions:

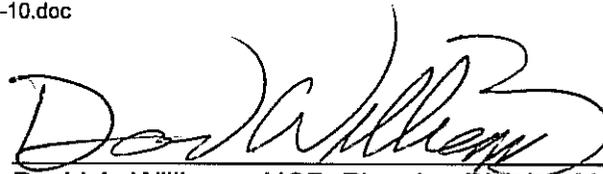
I move to recommend that the Town Council [approve, approve with conditions, continue, or deny]

Amendment to Neighborhood Commercial (C-N) Zoning District provisions in the Oro Valley Zoning Code Revised (OVZCR), OV710-005, as shown in Exhibit "A".

ATTACHMENTS

1. Exhibit "A", Draft Code Revision
2. Map of Existing C-N Zoned Properties
3. Map of Vacant Neighborhood Commercial Office Properties

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David A. Williams, AICP, Planning Division Manager

MINUTES
ORO VALLEY PLANNING AND ZONING COMMISSION
SPECIAL MEETING
November 8, 2010
ORO VALLEY COUNCIL CHAMBERS
11000 N. LA CAÑADA DRIVE

CALL TO ORDER AT OR AFTER 6:00 P.M.

Chairman Reddin called the meeting to order at 6:00 p.m.

ROLL CALL

PRESENT: Clark Reddin, Chairman
Alan Caine, Commissioner
Robert Swope, Commissioner
John Buette, Commissioner
Mark Napier

EXCUSED: Robert La Master, Commissioner

3. [Public Hearing: Amendment to Neighborhood Commercial \(C-N\) Zoning District Development Standards and Table of Permitted Uses, Section 23.8.A and Table 23-1, Table of Permitted Uses, in the Oro Valley Zoning Code Revised \(OVZCR\).](#)

Matt Michels, OV Senior Planner, presented the following:

- Oro Valley Zoning Districts
- Scope of Work/Focus Areas
- Overview of Code Update
- Technical Advisory Committee
- Commercial Site Design
- Residential
- Architecture
- Existing C-N Zoning
- Vacant NCO Property per General Plan
- Project Timeline
- Findings/Recommendation

Commissioner Swope asked Mr. Michels if he could elaborate on input that was received.

Mr. Michels said as far as written statements the Town has exchanged some emails back and forth with Mr. Adler. We went methodically through our draft and identified areas to integrate the input Mr. Adler provided. Mr. Adler provided

the only formal input. Our Technical Advisory Committee staff members did provide redlines for guidance.

Commissioner Caine asked why the existing code and the draft copy excluded Oracle Rd.

Mr. Michels said Oracle Rd. is a state highway.

Commissioner Caine asked if it was a good idea to exclude Oracle Rd. from the wording of the code.

Mr. Michels responded the Town is not advocating additional commercial corridor neighborhoods along Oracle Rd.

Mr. Williams added the discussion is very much open in terms of the proper locations for commercial neighborhood sites. The reason we have recommended Oracle Rd. not be included is because it is a regional facility and the opportunity for properties along Oracle Rd. is much greater than just neighborhood serving.

Commissioner Caine asked if the Town is trying to discourage using this particular zoning code for more appropriate codes that would apply to those developments.

Mr. Williams agreed, but added the Town would be open minded to possible sights on Oracle Rd. that C-N would apply.

Commissioner Swope said looking at the small neighborhood developments at the southwest corner of La Canada and Naranja, what we are imposing here is a little more intense. He asked if the Town is promoting neighborhood commercial development to a higher intensity of a more community related facility than a neighborhood related facility.

Mr. Michels agreed that La Canada and Naranja have the characteristics within what we have proposed. The overall development and intensity, the amount of lot coverage, floor area, and building height would not change the character of the development. He added things as simple as pushing the building a little further back and making the primary entrance towards the rear would provide a sense of a neighborhood facility with emphasis on form.

Chairman Reddin asked if there are more uses to the zoning code by adding in the multi-family.

Mr. Michels clarified that we are not really adding. The concept of mixed use as the Town proposed is drawing on the uses that already exist such as multi-family allowance, office and retail. We are trying to provide additional guidance in order to integrate or blend that is more appealing.

Commissioner Swope said he was unable to find the language that referenced service and delivery in the existing code.

Mr. Michels apologized that he had neglected to put it in all caps. He said it would be added.

Commissioner Swope went on to say that was he not sure if we are supposed to be addressing issues of commercial establishments of operations. If in fact

this is a neighborhood commercial facility and open until midnight and opens at 6:00 a.m. are we opening up a new issue.

Mr. Williams fully agreed with Commissioner Swope's comments and shared his concern and suggested this paragraph not be included. The hours of operation need to be addressed with a conditional use permit. To try and broadcast one set of times and include retail and restaurants is not something we want to do. Commissioner Caine asked if the original wording would still be appropriate. Mr. Michels said the existing verbiage really didn't address anything about retail. The service and delivery operations are already spelled out. The current code is silent as far as retail and hours of operations.

Commissioner Caine asked what the new changes would be.
Mr. Williams said we will strike the first sentence in paragraph b.

Commissioner Buette asked if there has been any discussion about the R6 zone into this C-N designation.

Mr. Michels said the focus has been on neighborhood commercial for this particular code update.

Commissioner Buette asked if it would be appropriate to have that discussion.

Mr. Williams said the Town's intent is to exam all of our commercial districts. Some dialog has taken place with interested citizens with suggestions on how to approach this. The idea is to modernize the Town's approach to commercial developments to enable mixed use developments.

Bill Adler, OV resident, said one of the problems with this proposed code, which is a problem with our current code, is there is no proportionality between the permitted uses. We need a commercial code that is form based and not function based. He request staff return with a solution to the proportionality issue or form issue and revise the purpose statement.

Rick Kleiner, non-resident, a member of the Technical Advisory Committee that provide input on neighborhood commercial zoning stated he is in support of the proposed modifications, mixed use and removing the barriers presently in place.

Commissioner Swope asked if staff could respond to Mr. Adler's comment about proportionality and if it has been addressed.

Mr. Michels said if the intent is mixed use we need something to lead to that proportionality. Mr. Michels referenced page 1 of the draft, section 23.8.a, number 1d, proposing multi-family residential units comprise no more than fifty percent of the total gross floor area of the development. This is the only explicit provision.

Commissioner Caine asked how it would be accomplished and still have flexibility.

Mr. Michels proposed flexibility and the ability to sit down early in the process with developers to negotiate with enough guidance.

Mr. Williams added that the intent to not allow these commercial sites to become completely residential. The Town periodically is under pressure to convert industrial and commercial property to roof tops because the market absorbs those quicker and easily.

Chairman Reddin asked if this is only adopted through rezoning.

Mr. Michels said correct, as we proposed two paths one with rezoning and the other for existing properties.

Commissioner Swope commented that he would like to continue this item for more deliberation on the part of staff regarding the proportionality issue.

MOTION: A motion was made by Commissioner Swope and seconded by Mark Napier Napier continue the amendment to Neighborhood Commercial (C-N) Zoning District Development Standards and Table of Permitted Uses, Section 23.8.A and Table 23-1, Table of Permitted Uses, in the Oro Valley Zoning Code Revised (OVZCR).

Commissioner Swope commented that there is concern regarding how to deal with developers, encourage them and have guidelines to work with. Having read the draft he is not convinced the issue is addressed.

Commissioner Caine requested the Town take the next month to improve the document.

Mr. Williams agreed he would feel more comfortable coming back before the Planning Commission for more discussion.

Commissioner Buette commented that it would be very useful to have input from the developers.

Commissioner Napier commented that Town staff has done an outstanding job putting forth their concept, but like the idea of moving it forward for a month to allow staff to place final touches on it.

Chairman Reddin requested that multi-use needs to be defined differently than multi-family. He is struggling with proportionality and how to implement it effectively. He likes the concept of blending C-N's and buffer commercial areas to create more of a community verses developers with different agendas.

MOTION carried, 5-0.

TOWN OF ORO VALLEY

PLANNING & ZONING COMMISSION

MEETING DATE: December 7, 2010

TO: PLANNING & ZONING COMMISSION

FROM: David A. Williams, AICP, Planning Division Manager

SUBJECT: Public Hearing: Amendment to Neighborhood Commercial (C-N) Zoning District provisions in the Oro Valley Zoning Code Revised (OVZCR), OV710-005.

SUMMARY

The Planning and Zoning Commission (P&ZC) held a public hearing on November 8, 2010 to review updated draft standards for the C-N district. The Commission discussed the proposed amendments to the Neighborhood Commercial (C-N) zoning standards, including the two issues addressed below.

An updated draft of the proposed code amendment is attached (Exhibit "A").

P&ZC Input and Response

The Planning and Zoning Commission provided feedback and asked for clarification on the proposed C-N code update at the November 8 meeting.

1. *How can we ensure proportionality between uses (i.e. office, retail, residential)?*

The intent is to *encourage* mixed use development and not stifle the development of beneficial development projects. The primary concern for mixed use is the form and function of the development. The proportion of uses is best left to market demands and individual development proposals. The Town should avoid prescribing mixtures of uses except as needed to avoid unwanted development patterns such as the conversion of commercial and mixed-use areas to strictly residential use.

The draft code contains a provision that residential units may comprise no more than 50% of the total gross floor area or site area of the development, with the provision that additional residential use may be approved by the Town. This requirement is intended to avoid the use of neighborhood commercial properties solely or predominantly for residential use.

2. *The retail sales hours of operation section (Section 23.8.A.5.b) needs to be reviewed.*

This section has been stricken as none of the other commercial districts (C-1, C-2, or T-P) specifically address retail hours of operation and a single standard (i.e. 6:00 a.m. to midnight) does not adequately address the needs of the full range of retail and restaurant users who may locate within C-N. Restrictions to hours of operation, based on nuisance generation by the development (i.e. noise, outdoor activities, etc) may result from Town review of individual development proposals. However, no restrictions are intended as part of the C-N zoning district standards.

PUBLIC NOTICE AND COMMENT

This public hearing was continued to the December 7 meeting by the Commission. No additional comment has been received.

TOWN OF ORO VALLEY

PLANNING & ZONING COMMISSION STAFF REPORT

Page 2 of 2

SUMMARY OF FINDINGS

Findings For:

- Proposed development standards are more consistent with intent of the C-N zoning district
- Proposed code emphasizes neighborhood scale and increases architectural and functional compatibility with adjacent residential areas
- Proposed code provides more flexibility to allow a compatible mixture of uses

Factors Against:

- None

RECOMMENDATION

Staff recommends adoption of the proposed C-N zoning code update as shown in Exhibit "A".

SUGGESTED MOTIONS

The Planning and Zoning Commission may wish to consider one of the following motions:

I move to recommend that the Town Council [adopt, adopt with conditions, or deny] an amendment to Neighborhood Commercial (C-N) Zoning District provisions in the Oro Valley Zoning Code Revised (OVZCR), OV710-005, as shown in Exhibit "A".

ATTACHMENTS

1. November 8, 2010, P&ZC Report
2. Exhibit "A", Draft Code Revision

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MINUTES
ORO VALLEY PLANNING AND ZONING COMMISSION
REGULAR MEETING
December 7, 2010
ORO VALLEY COUNCIL CHAMBERS
11000 N. LA CAÑADA DRIVE

[CALL TO ORDER AT OR AFTER 6:00 P.M.](#)

Chairman Reddin called the meeting to order at 6:00 P.M.

[ROLL CALL](#)

PRESENT:

Clark Reddin, Chairman
Alan Caine, Commissioner
Robert La Master, Commissioner
Robert Swope, Commissioner
John Buette, Commissioner
Mark Napier, Commissioner

3. [Public Hearing: Zoning Code Amendment to C-N Neighborhood Commercial District, Section 23.8.A, C-N portion of Tables 23-1, Permitted Uses, and Table 23.4, Dimensional Requirements, in the Oro Valley Zoning Code Revised \(OVZCR\), OV710-005.](#)

Matt Michels, senior planner presented the following: - P&Z Input & Response
- Findings/Recommendation
- Project Timeline

Commissioner Caine commented that section 23.8.A.5.B had been struck out and 28.A.5.b was added, went on to ask where the change came from.

Mr. Michels replied that they were added due to the issue of regulating the nuisance generation.

Commissioner Napier asked why 5c, page 4 of 7 was excluded from this draft.

Mr. Michels said staff didn't want to get parcel specific.

Commissioner Swope addressed the ordinance language, on page 5 item b. It states "parking placed in the front of the building shall be accessed from a single access lane or may be provided on-street in front of the building". Commissioner Swope asked if the Town is encouraging on street parking in this situation.

Paul Keesler, OV Permitting Manager, replied no, there is no parking on major collectors. The language has the engineering approval and flexibility will be given where flexibility is reasonable.

Chairman Reddin asked could if the same consideration be applied to interior roads.

Mr. Keesler answered correct.

Commissioner Swope referred to page 6, and noted that the previous draft

mentioned residential units should be placed to the rear of property adjacent to other residentially zoned properties to provide a transition. This is not in the current draft and asked why.

Mr. Michels said the reason for that was internal discussion of the realm of incompatible uses. Often times neighbors especially single family residents feel that multi family residents would be a worst neighbor or undesirable rather than a office building or small scale retail.

Commissioner Swope asked if the current amendment is more flexible.

Mr. Michels said yes

Mr. Williams added, with the understanding that any nuisances or incompatibilities be addressed in the site design review process.

Commissioner Swope asked if office and multi-family residential have been designated as secondary and zeroing in on one secondary use multi-family residential and ignoring the others, could we end up with a development that we necessarily don't want.

Mr. Michels said staff didn't make restrictions on office percentages because staff is not comfortable with making a proportionality judgment of what may or may not provide the services intended.

Commissioner Swope asked then why do we have the fifty percent limitation on residential.

Mr. Williams responded that staff does not want residential to take over commercial properties and lose our commercial properties to residential. The restriction on residential was reasonable and appropriate for OV, especially in this stage of development. Office development is typically a good neighbor for residential and fits in residential neighborhoods and does not bring the negative issues that retail often does.

Commissioner Caine asked why the property can't be rezoned.

Mr. Williams said that would be an option.

Chair Reddin asked how staff came up with the fifty percent. Chair Reddin stated that fifty percent is not the wrong number and a way to look at this is a community within a community. Proportionality is important, but it is more important to get mixed use in there.

Mr. Williams said given that it is CN and the intent is neighborhood. Maybe the addition to the draft should include it not solely office rather than a particular threshold or number.

Walter Hoge, non-OV resident, commented he supports the CN zoning district modifications.

Bill Adler, OV resident, said the draft ordinance suggests the Town will consider mixed use and market demand, but is not defined. If you don't define the intent of the Town on mixed use and market demand, you forfeit the ability to manage this process. An amendment to the code to define what the community intent in regards to mixed use is needed.

MOTION: A motion was made by Commissioner Caine and seconded by Commissioner La Master to Recommend Approval to the Town Council to adopt an amendment to Neighborhood Commercial (C-N) Zoning District provisions in the Oro Valley Zoning Code Revised, OV710-005, as shown in Exhibit "A".

Discussion:

Commissioner Swope requested staff try to address the issue of proportionality and add terminology in the ordinance that solely would be permitted.

Chair Reddin would like to add, "Or no use can be more than seventy percent".

Mr. Andrews asked Commissioner Swope if he would like to have the previous motion amended such that you would not be allowing the entire site to be considered office without a percentage or was he saying he would like to discuss it further to define a proportion.

MOTION: A motion was made by Commissioner Swope amend the motion on the table to include the issue of proportionality with a broader term of simply not allowing one use only.

Mr. Williams commented that staff would not limit retail. Retail would be one hundred percent of the site, but the concern he is hearing is about office taking over the whole site.

Chair Reddin asked how mixed use is monitored after it is built.

Mr. Keesler said later on as businesses come and businesses go there will be tenant improvements. Tenant improvements review will be done and the nature of the business will be known. If there is a proportionality issue staff will check during the review.

Commissioner LaMaster commented that he understands the restrictions on residential. Residential use is more of a nuisance to an existing neighborhood. The Town runs the risk of too much proportionality. The Town could be faced with empty space in a building that can not be leased because there is arbitrarily restriction.

Commissioner Swope commented we are not encouraging simple use, this was to be a multi use development without prescriptive percentages.

Mr. Williams added staff can add text to the intent for the purpose of this district to clarify; the words mixed use are not in the language. Staff can address this in the intent section and on page one of seven, add a statement that this district is intended to contain a mixture of uses.

MOTION: A motion was made by Commissioner Caine and seconded by Commissioner La Master recommend that the Town Council adopt an amendment to Neighborhood Commercial (C-N) Zoning District provisions in the Oro Valley Zoning Code Revised, OV710-005, as shown in Exhibit "A" and subject to the addition of language to the purpose the intent statement regarding the mixture of uses and prohibiting sole uses other than retail and addition to section 23.8.A that there be a mixture of uses and the project may not be solely comprised of office use.

MOTION carried, 6-0.

DRAFT



Item #: 4.

Town Council Regular Session

Date: 02/02/2011

Requested by: Daniel G. Sharp, Police Chief **Submitted By:** Colleen Muhr, Police Department

Department: Police Department

Information

SUBJECT:

RESOLUTION NO. (R) 11-11 DECLARING THAT A CERTAIN DOCUMENT ENTITLED CHAPTER 8, BUSINESS REGULATIONS, ARTICLE 8-5, PAWNBROKERS, SECONDHAND DEALERS AND SCRAP METAL DEALERS, ATTACHED HERETO AS EXHIBIT "A", AND FILED WITH THE TOWN CLERK AS A PUBLIC RECORD

RECOMMENDATION:

Staff recommends approval of RESOLUTION NO. (R) 11-11.

EXECUTIVE SUMMARY:

The Town of Oro Valley, Arizona, serves public notice that a certain document entitled Chapter 8, Business Regulations, Article 8-5, "Pawnbrokers, Secondhand Dealers and Scrap Metal Dealers", three copies of which are on file in the Town Clerk's Office, is hereby declared to be a public record, and referenced copies are ordered to remain on file with the Town Clerk.

BACKGROUND OR DETAILED INFORMATION:

Attached is a proposed ordinance dealing with Pawnbrokers, Secondhand Dealers and Scrap Metal Dealers failing and/or neglecting to report items they receive to the Town of Oro Valley's Chief of Police.

The Oro Valley Police Department is aware of several documented cases where stolen property was recovered and returned to the rightful owner when such practices were used. It is imperative that the police department is proactive and attempts to prevent such activities from occurring.

FISCAL IMPACT:

N/A

SUGGESTED MOTION:

I MOVE to adopt RESOLUTION NO. (R) 11-11, DECLARING THAT A CERTAIN DOCUMENT ENTITLED CHAPTER 8, BUSINESS REGULATIONS, ARTICLE 8-5, PAWNBROKERS, SECONDHAND DEALERS AND SCRAP METAL DEALERS, ATTACHED HERETO AS EXHIBIT "A", AND FILED WITH THE TOWN CLERK AS A PUBLIC RECORD.

Attachments

Link: [Resolution 11-11 Pawn Brokers](#)

RESOLUTION NO. (R) 11-11

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT ENTITLED CHAPTER 8, BUSINESS REGULATIONS, ARTICLE 8-5, PAWNBROKERS, SECONDHAND DEALERS AND SCRAP METAL DEALERS, ATTACHED HERETO AS EXHIBIT "A", AND FILED WITH THE TOWN CLERK

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, that certain document entitled Chapter 8, Business Regulations, Article 8-5, "Pawnbrokers, Secondhand Dealers and Scrap Metal Dealers", three copies of which are on file in the Office of the Town Clerk, is hereby declared to be a public record, and said copies are ordered to remain on file with the Town Clerk.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Oro Valley, Arizona this 2nd day of February, 2011.

TOWN OF ORO VALLEY

Dr. Satish I. Hiremath, Mayor

ATTEST:

APPROVED AS TO FORM:

Julie K. Bower, Town Clerk

Tobin Rosen, Town Attorney

Date: _____

Date: _____

EXHIBIT “A”

Chapter 8, Business Regulations

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Article 8-5

PAWNBROKERS, SECONDHAND DEALERS AND SCRAP METAL DEALERS

Sections:

- 8-5-1 Definitions
- 8-5-2 Duty to report receipt of articles to police
- 8-5-3 Contents of report to police
- 8-5-4 Duty to report / Photos Required
- 8-5-5 Forms of reports; when due
- 8-5-6 Requirements; record of transactions; police department hold on property
- 8-5-7 Prohibited acts
- 8-5-8 Violations; penalties
- 8-5-9 Scope
- 8-5-10 Property to be disposed of
- 8-5-11 Initiation of petition
- 8-5-12 Service of the petition; notice of hearing
- 8-5-13 Claimant's rights
- 8-5-14 Hearing officer
- 8-5-15 Conduct of hearing
- 8-5-16 Judicial review
- 8-5-17 Release of property
- 8-5-18 Limited effect of hearing officer decision
- 8-5-19 Provisions severable
- 8-5-20 Grounds for denial and revocation of license
- 8-5-21 Revocation hearing

8-5-1 Definitions

For the purposes of this Article:

A. The following terms shall have the meanings given in Section 44-1621, Arizona Revised Statutes: identification document, loan, pawn ticket, pawn transaction, pawnbroker, pawnshop, pledged goods, pledgor, reportable transaction, and transaction date.

B. "Jewelry" includes gold, platinum, silver, gold-filled or plated ware, diamonds and other precious or semiprecious stones whether mounted or unmounted, cultured pearls, and watches, clocks and goods, wares and other merchandise commonly classified as jewelry and commonly offered for sale in jewelry stores.

C. "Pawn" means to hold or retain an item for a period of ninety (90) days allowing the customer to reclaim the item. The customer has the right to reclaim the item from the dealer within this ninety (90) day period. After the ninety (90) day period the item may be sold or otherwise disposed of by the dealer who has lawfully acquired the property.

D. "Purchase" means to buy an item for an agreed upon price. The purchaser understands the item must be held for twenty (20) days before changing the status.

E. "Secondhand dealer" means every person engaged in, conducting, managing or carrying on the business of buying, selling or otherwise dealing in secondhand goods, wares, merchandise or other articles, including, but not limited to: scrap metals, coins, gems or semiprecious stones, serialized electronics and appliances, jewelry, precious metals purchased from any person other than the original manufacturer or authorized distributor selling the same for money, credit or exchange, sports or other sports related equipment, serialized automobile tire rims, serialized tools, serialized musical instruments, serialized optical and photographic equipment, compact discs, digital video discs, all goods and articles which bear a serial number, owner applied number or have a fair market value in excess of one hundred dollars (\$100.00). A secondhand dealer means any person engaged in the described business whether such business be the principal or sole business so carried on, managed or conducted, or be merely incidental to, in connection with or a branch or department of some other business. This definition includes scrap metal dealers. This definition does not include organizations that are recognized as not-for-profit under the laws of this state or any other state.

F. "Scrap metal" includes any ferrous or nonferrous metals as defined in Section 44-1641 of the Arizona Revised Statutes, any insulated or uninsulated metallic cable, and any other materials commonly known as "scrap metal" including iron, copper, brass, lead, zinc, tin, steel, aluminum, metallic cables and wires and other like materials, except used food and beverage containers.

G. "Scrap metal dealer" means each person or business entity including all employees of the person or business entity, engaged in the business of purchasing, trading, bartering or otherwise receiving secondhand or castoff material of any kind, except used food and beverage containers, which is defined in this section or commonly known as scrap metal. This term includes automotive recyclers as defined and licensed pursuant to Title 28 of the Arizona Revised Statutes when such recycler engages in the activity defined in this subsection.

8-5-2 Duty to report receipt of articles to police

A. A pawnbroker shall make and deliver to the Chief of Police, or his/her designee, a true, complete and accurate report of each article the pawnbroker receives through a reportable transaction, as provided by Section 44-1625, Arizona Revised Statutes. In addition, pawnbrokers shall be required to report to any other site (Leads Online, etc.) that the Chief of Police or his/her designee requires.

B. It shall be unlawful for any secondhand dealer, including any scrap metal dealer, or any employee or agent thereof to fail, neglect or refuse to deliver to the Chief of Police, or his/her designee, within five (5) business days after the receipt thereof, a full, true and complete report of any of the following enumerated goods, wares, merchandise or other articles received at the secondhand or scrap metal dealer's place of business on deposit or by purchase, trade, consignment or otherwise:

1. Coins.
2. Gems or semiprecious stones.
3. Serialized electronics, appliances, and optical or photographic equipment.
4. Jewelry.

5. Precious metals purchased from any person other than the original manufacturer or authorized distributor selling the same for money, credit or exchange.
6. Serialized automobile tire rims.
7. All tools, including, but not limited to, hand tools, power tools, meters, gauges, tool attachments and ladders.
8. Serialized musical instruments.
9. Compact discs, digital video discs, expanded memory cards and game cards, video games and game cards where the total value of the transaction exceeds ten dollars (\$10.00). Transactions shall not be split into smaller portions for the purpose of avoiding the reporting requirements of this Section.
10. Scrap metal.
11. Bicycles.
12. Golf clubs and other sports related equipment.
13. Ballistic vests, bulletproof vests and body armor.
14. All goods and articles which bear a serial number, owner applied number, or have a fair market value in excess of one hundred dollars (\$100.00).
15. Collectible goods and articles which contain autographs, limited edition designations and number sequences.

8-5-3 Contents of report to police

The report required by Section 8-5-2 shall be developed and maintained by the Town and include at least all of the following:

1. The last, first and middle name of the pledgor or seller.
2. The permanent address and telephone number, if applicable, of the pledgor or seller.
3. The physical description of the pledgor or seller, including height, weight, hair and eye color, sex, race, date of birth, prominent scars and other distinguishing features.
4. The number and type of identification document presented by the pledgor or seller; and, for scrap metals, the number and state of issuance of the license on the vehicle used to deliver the scrap metal.
5. An accurate, legible description of each item pledged or sold, including the manufacturer's name, model number, serial number, caliber, size, type of item and any owner applied number, inscription or monogram; and, for scrap metals, the description and weight of the scrap metal received.
6. The pawnbroker's or secondhand dealer's name and address, and the initials or identifying number of the employee who received the item.
7. The date and time of the initial pawn or purchase transaction.
8. The type of transaction and initial pawn ticket number.
9. The amount loaned or paid in the transaction.
10. A fingerprint of the pledgor or seller only as required by state law, and a right index fingerprint of each seller.

The requirements of this section are in addition to those listed in A.R.S. Section 44-1601 *et. seq.*

8-5-4 Duty to report/Photos required

A digital photo of the identification document that the dealer obtains from the seller, and a digital photo of each pawn item shall be placed on top of the report form and submitted with the report.

8-5-5 Form of reports; when due

A. All reports required by Section 8-5-2 shall be written or printed entirely in the English language on forms provided by the Town in a clear and legible manner, and shall be delivered to the Chief of Police, or his/her designee, by electronic means as approved by the Chief of Police, or his/her designee. The fingerprint required by Section 8-5-3 shall be affixed in the manner described on the form provided by the Town. All reports required by section 8-5-2 shall be delivered within five (5) business days after the receipt of an item through a reportable transaction.

B. Each transaction report will include no more than three (3) items. For the purposes of this subsection, multiple nonserialized items of the same type (e.g. rings) that are delivered in a single transaction and that have no owner assigned numbers, engravings, inscriptions, monograms or other unique identifying characteristics, may be considered one item on the report (e.g. "six (6) silver rings").

C. Each transaction report form shall be purchased in advance from the Town's Police Department for three dollars (\$3.00) per form. Upon payment, the report forms will be assigned to the licensee.

8-5-6 Requirements; record of transactions; police department hold on property

A. Every secondhand dealer within the Town shall keep a permanent record at his place of business, in which a complete record of all transactions required to be reported under this article shall be entered in the English language in a clear and legible manner and at the time the transaction takes place. Such record shall contain all the information required to be reported to the Chief of Police, or their designee, under the provisions of sections 8-5-2 and 8-5-3 and shall be retained for no less than two (2) years from the date of the last entry in addition to any information required under A.R.S. § 44-1601 *et.seq.*

B. The record of transactions required by subsection (A) shall be available for inspection by the Chief of Police or his/her designee, during normal business hours.

C. Whenever there exists probable cause to believe that property in the possession of a pawnbroker, secondhand dealer, or other person is stolen, a police officer or person so designated by the Chief of Police, or his/her designee, may place a hold on the property for a period of up to ninety (90) days. When a police officer or designee places a hold on the property, the police officer or designee shall initiate such hold by contacting the pawnbroker or secondhand dealer in person or by telephone and informing the pawnbroker or secondhand dealer of the hold and describing the item or items to be held. Within three (3) days of the initial contact, the police officer or designee shall deliver or mail to the pawnbroker or secondhand dealer a written notice of the hold. The written notice shall include a description of the item or items to be held.

D. Whenever property in the possession of a pawnbroker, secondhand dealer, or other person is subject to a hold and the property is required by a police officer in a criminal investigation or for use as evidence in a criminal proceeding, the pawnbroker,

secondhand dealer, or other person, upon reasonable notice, shall deliver the property to the police officer.

E. The Town's police department may extend a hold placed pursuant to this Section for the purpose of criminal investigation or for use in any judicial proceeding, including that set forth in this article. Any extended hold shall be no longer than is reasonably necessary.

F. Whenever property in the possession of a pawnbroker, secondhand dealer, or other person is subject to a hold and the property is no longer required for the purpose of criminal investigation or any criminal proceeding, and more than one person can reasonably be anticipated to make a claim for possession of the property, the Town's police department may follow the procedures set forth in this Article for disposition of the property within forty five (45) days of the conclusion of the criminal investigation or criminal proceeding.

G. Whenever property that is in the possession of the Town's police department pursuant to the procedures set forth in this Section is no longer required for the purpose of criminal investigation or for use as evidence in any criminal proceeding, the police department may follow the procedures set forth in this Article for disposition of the property within forty-five (45) days of the conclusion of the criminal investigation or proceeding.

8-5-7 Prohibited acts

- A. No pawnbroker, secondhand dealer or any employee or agent thereof shall:
1. Receive any goods, wares, merchandise or other articles that are required to be reported by this Article whether on deposit, in pawn or pledge, or by purchase or otherwise from any person under the age of eighteen (18) years, or from any intoxicated person.
 2. Purchase or otherwise take any goods, wares, merchandise or other articles that are required to be reported by this article without first taking reasonable steps, including requiring the pledgor or seller to produce an identification document as determined acceptable by the Town's police department, to ascertain that such goods, wares, merchandise or other articles are the property of the person offering to deposit, pawn, pledge or sell the same.
 3. Purchase or otherwise take any goods, wares, merchandise or other articles, knowing or having reason to know that such goods, wares, merchandise or other articles are stolen.
 4. Sell, trade, transfer or dispose of any goods, wares, merchandise or other articles that are required to be reported under this Article, except for scrap metal, compact discs, digital video discs, expanded memory cards and game cards until twenty (20) days after filing the report required by Section 8-5-2. For the purposes of this Section, the twenty (20) day retention period begins upon receipt of the transmission of the transaction, as approved by the Chief of Police, or his/her designee.
 5. Sell, trade, transfer or dispose of any goods, wares, merchandise or other articles subject to a police department hold described by Section 8-5-6, except pursuant to a court order, order of a hearing officer issued pursuant

to this article, or upon receipt of a written authorization signed by a police officer.

6. Purchase, receive, sell or transfer any item from which a manufacturer's serial number or model designator has been removed, altered or tampered with. These items shall be reported to the Town's police department.
7. Refuse to permit the Chief of Police, or his/her designee, to enter such business during normal business hours for the purpose of inspecting such goods or records.

B. No secondhand dealer shall sell, trade, transfer, purchase, receive, or otherwise take or dispose of any goods, wares, merchandise or other articles that are required to be reported under this Article without first obtaining the appropriate business and secondhand/pawn licenses from the Town Clerk's Office. In addition, all secondhand dealers, pawnbrokers and scrap metal dealers shall attend and pay for any training required by the Town's police department. Each attendee shall be given a copy of the ordinance after completing the training and acknowledging receipt of the code.

C. In any transaction with a secondhand dealer, no pledgor or seller shall provide false information concerning the pledgor's or seller's name, address, phone number or rightful ownership.

8-5-8 Violations, penalties

Each violation of any provision of this Article shall constitute a Class 1 misdemeanor.

8-5-9 Scope

Property which is in the possession of pawnbrokers, secondhand dealers, the police department or other person, and which has all the characteristics set forth in section 8-5-10, below, shall be disposed of pursuant to this Article.

8-5-10 Property to be disposed of

Property may be disposed of under this article if all of the following requirements are met:

- A. The Town has reason to believe the property was stolen.
- B. The police department has possession of the property or has placed a hold on the property as set forth in Section 8-5-6.
- C. No state court has before it a petition against a suspect alleged to have stolen the property.
- D. Two (2) or more persons are known or believed to have made, or can reasonably be anticipated to make, a claim for possession of the property.
- E. The Town makes no claim to possession of the property.
- F. The property will not be required to be retained for use as evidence in any legal proceeding other than the hearing under this article, and the Town police department has no other lawful reason for holding the property.

8-5-11 Initiation of petition

The Town's police department shall file a petition with a hearing officer designated by the Town Magistrate to determine ownership of the property within forty

five (45) days of the conclusion of the criminal investigation or criminal proceedings involving the property. Such petition shall set forth the following:

1. The facts establishing compliance with Section 8-5-10.
2. The name and address of each person described in Section 8-5-10(D).
3. An accurate description of the property, any identifying marks or serial numbers, the police identification number(s), the location where the property is currently being held, and the person from whom seized, if the property was in fact seized.

8-5-12 Service of the petition; notice of hearing

A. The Town's police department shall serve the petition by personal service or by first class mail, postage prepaid, return receipt requested, upon all persons known to have an interest in the property, each person described and named in Section 8-5-10(D), and, in all cases, the person from whom the property was obtained or who currently possesses the property subject to the Town's police department hold.

B. A copy of Sections 8-5-9 through 8-5-18 of this Article shall be served with each petition.

C. There shall be served with the petition a notice of hearing setting forth the date, time and place for the conduct of the hearing to determine the right of possession to the property. The hearing date shall not be sooner than twenty five (25), nor more than forty five (45), calendar days after the date of service of the petition and notice.

D. Service shall be made to the last known address of all persons included in subsection (A). of this section.

E. Service shall be complete upon receipt. If service is made by certified mail, the return receipt shall be prima facie evidence of service.

F. Proof of service upon each potential claimant shall be delivered to the hearing officer.

8-5-13 Claimant's rights

A. Any person claiming an interest in the property shall be known as a respondent.

B. A respondent or any other person claiming any ownership interest of any kind, or possessory right to the property shall have the right to appear at the hearing and to present any and all evidence in support of such person's claim to the property.

C. Except as provided in Section 8-5-15(B) of this Article, the failure of any person to appear at such hearing shall constitute a waiver of any claim to the property by such person as against the Town, and shall authorize the hearing officer to enter a ruling consistent therewith.

8-5-14 Hearing officer

All petitions filed pursuant to this article shall be filed with and considered by a hearing officer appointed by the Town Magistrate.

8-5-15 Conduct of hearing

A. The hearing shall be conducted informally and the technical rules of evidence shall not apply, provided that the decision of the hearing officer shall in all cases be based upon substantial and reliable evidence. All parties shall have the right to be represented

by counsel, to present evidence and testimony in support of their position and to cross-examine adverse witnesses. All witnesses shall be placed under oath before testifying.

B. The burden of proof shall be by a preponderance of the evidence, and shall at all times be upon the person or persons challenging the possession of the party from whom the property was taken by the Town's police department, even if the party from whom the property was taken does not appear at the hearing. If the property was not seized by the Town's police department, the burden of proof shall at all times be upon the person or persons challenging the party who currently possesses the property subject to the hold.

C. The hearing shall be recorded electronically or by other means.

D. The decision of the hearing officer shall be issued within ten (10) calendar days of the close of the record. The decision shall be in writing, and shall be mailed postage prepaid to each respondent or claimant appearing. A copy of the decision shall also be sent to the Town police department.

E. The decision of the hearing officer shall be final upon issuance. Any appeal must be filed in Superior Court.

8-5-16 Judicial review

A. Any respondent or other party participating in the hearing who is aggrieved by the decision of the hearing officer may seek judicial review by way of special action to the Superior Court.

B. A complaint seeking special action review shall be filed within thirty (30) days of a final decision by the hearing officer.

8-5-17 Release of property

A. Any person prevailing in a hearing or uncontested proceeding administered pursuant to this article shall be entitled to receive the property described in the petition after producing a copy of the decision in their favor and appropriate identification to the property's custodian.

B. A receipt shall be signed evidencing delivery of the property to the person identified in subsection (A) of this Section.

C. Any person with custody of the property described in the petition that is presented with a copy of the hearing officer's decision and appropriate identification shall release the property to the prevailing party.

8-5-18 Limited effect of hearing officer decision

A. Nothing in this Article shall prevent any person from filing an action in a court of appropriate jurisdiction to establish ownership to the property.

8-5-19 Provisions severable

A. If a provision of this Article or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the article that can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

8-5-20 Grounds for denial and revocation of license

A. No license for a secondhand dealer shall be issued or renewed if the applicant or licensee:

1. Is not eighteen (18) years of age or older.
2. Made any false statement or failed to answer any question in the application.
3. While licensed under this article, has had such license revoked within the previous two (2) years.
4. Has been convicted or found responsible of a violation of this article within one (1) year immediately preceding the application.

B. No license shall be issued or renewed if the location of the business is not in conformity with applicable zoning regulations.

C. The Town Clerk shall revoke a license issued under this article for the non-exclusive reasons listed below, which include:

1. The licensee is convicted of or found responsible for two (2) or more violations of this article committed within a one (1) year period.
2. An employee of the licensee is convicted or found responsible for two (2) or more violations of this article committed within a one (1) year period. The licensee shall be notified in writing by the Town's police department whenever an employee is cited for a violation of this article. Notice shall be given to the licensee within ten (10) days of the charge being filed. The provisions of this subsection regarding license suspension shall not apply in the absence of such notification.
3. The applicant or licensee had made false or misleading statements of material fact in the application for the license required by this article, or has entered or given false information in any record or report required by this article to be kept or made by a licensee.

8-5-21 Revocation hearing

A. The Town Clerk, upon notification by the Chief of Police, or his/her designee, that grounds for revocation exist, shall file a written petition for revocation with the Magistrate Court, requesting that a time and place be set for a hearing and specifying the grounds for revocation. Within five (5) days, the Magistrate shall schedule a hearing to be conducted within fifteen (15) days of the receipt of the petition to revoke. The Magistrate shall notify the parties in the manner provided in this article and shall state the grounds relied upon for the proposed revocation. Should the licensee fail to appear at the hearing, a default judgment of revocation shall be entered. A record shall be kept of all proceedings. No license shall be revoked unless grounds therefore are established by a preponderance of the evidence as shown by the record of the hearing. The hearing shall be held in an informal manner as to the order of proceeding and presentation of evidence with a record made. The Arizona Rules of Evidence may apply. However, the Magistrate shall admit evidence over hearsay objections where the proffered evidence has substantial probative value and reliability. Copies of records and documents prepared in the ordinary course of business shall be admitted, but subject to challenge as to weight and authenticity. The Magistrate shall provide the licensee and other parties written notice of the decision within five (5) days, pursuant to subsection (B) of this Section. Revocation of a license shall be affected by the Magistrate's signing of the written notice

of the decision. Appeal of the decision of the Magistrate shall be by way of special action to the Superior Court on the record of the hearing. A licensee's right to do business under authority of the license shall terminate immediately upon giving or mailing to the licensee a copy of a signed decision revoking the license except that the revocation may be stayed by the Superior Court pending a timely appeal of the decision by special action. Such appeal must be filed within ten (10) days after the decision to revoke is signed unless the decision is mailed, in which case the appeal must be filed no later than fifteen (15) days after entry of the decision. The appellee shall bear the cost of preparing the record of appeal. If an appeal is not timely made, the revocation becomes final and the license is terminated.

B. Notices required by this article may be served by certified mail to the licensee's attorney, to the licensee at the address as shown on the business license or by personal service.

C. Upon revocation of a license, all fees or taxes theretofore paid for or on account of any such license shall be forfeited to the Town.



Item #: 5.

Town Council Regular Session

Date: 02/02/2011

Requested by: Daniel G. Sharp, Police Chief **Submitted By:** Colleen Muhr, Police Department

Department: Police Department

Information

SUBJECT:

PUBLIC HEARING - ORDINANCE NO. (O) 11-03 AMENDING THE ORO VALLEY TOWN CODE, ADDING ARTICLE 8-5, PAWNBROKERS, SECONDHAND DEALERS AND SCRAP METAL DEALERS; AND REPEALING ALL RESOLUTIONS, ORDINANCES AND RULES OF THE TOWN OF ORO VALLEY IN CONFLICT HEREWITH

RECOMMENDATION:

Staff recommends approval of ORDINANCE NO. (O) 11-03.

EXECUTIVE SUMMARY:

The proposed amendments to the Town Code were prepared at the request of the Police Department. The attached ordinance is intended to address issues relating to pawnbrokers, secondhand dealers and scrap metal dealers that fail and/or neglect to report items they receive to the Police Chief.

It has become common practice for area residents to sell stolen items to pawnbrokers, secondhand dealers and scrap metal dealers for cash. The stolen items are then resold by the pawnbrokers and/or dealer(s) for a profit. The Police Department is aware of several documented cases where stolen property was recovered and returned to the rightful owner when appropriate reporting measures were taken. The Police Department believes that the proposed amendments to the Town Code are proactive steps that will prevent or minimize such activities from occurring.

BACKGROUND OR DETAILED INFORMATION:

Currently, three established businesses within the town limits are known to conduct transactions that would be affected by this ordinance: Play It Again Sports, Game Stop, and Sheffields Diamonds.

There are also other types of transient businesses which are licensed to conduct activities affected by this ordinance, such as gold and jewelry buyers.

Approval of this ordinance would have the following positive effects:

Residents will be protected as this process will prevent them from potentially purchasing items which have been stolen.

Businesses will benefit as they will be protected from becoming involved with criminal elements.

Customers will be treated fairly as this ordinance is written to ensure uniformity from transient businesses established within town limits.

FISCAL IMPACT:

If the proposed ordinance is approved by Mayor and Council, Oro Valley Police Officers will be authorized to cite violators with a Class 1 Misdemeanor and our Magistrate Court will be authorized to penalize violators of the code accordingly.

SUGGESTED MOTION:

I MOVE to adopt ORDINANCE NO. (O) 11-03, AMENDING THE ORO VALLEY TOWN CODE, ADDING ARTICLE 8-5, PAWNBROKERS, SECONDHAND DEALERS AND SCRAP METAL DEALERS; AND REPEALING ALL RESOLUTIONS, ORDINANCES AND RULES OF THE TOWN OF ORO VALLEY IN CONFLICT HEREWITH.

Attachments

Link: [Ordinance 11-03 Pawn Brokers](#)

ORDINANCE NO. (O) 11-03

AN ORDINANCE OF THE TOWN OF ORO VALLEY, ARIZONA, AMENDING THE ORO VALLEY TOWN CODE CHAPTER 8, BUSINESS REGULATIONS, ADDING ARTICLE 8-5, PAWNBROKERS, SECONDHAND DEALERS AND SCRAP METAL DEALERS; AND REPEALING ALL RESOLUTIONS, ORDINANCES AND RULES OF THE TOWN OF ORO VALLEY IN CONFLICT THEREWITH

WHEREAS, the Town of Oro Valley is a political subdivision of the State of Arizona vested with all associated rights, privileges and benefits and is entitled to the immunities and exemptions granted municipalities and political subdivisions under the Constitution and laws of the State of Arizona and the United States; and

WHEREAS, on September 27, 1989, the Town Council adopted a certain document entitled “The Code of the Town of Oro Valley, Arizona”; and

WHEREAS, the Town desires to establish a process for requiring pawnbrokers, secondhand dealers and scrap metal dealers within the Town to report items they receive to the Town of Oro Valley Police Chief; and

WHEREAS, the Mayor and Council have determined that amending Chapter 8, Business Regulations, adding Article 8-5, Pawnbrokers, Secondhand Dealers and Scrap Metal Dealers, is just and appropriate, and is found to be in the best interest of the Town.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Oro Valley, Arizona that the certain document, known as “The Oro Valley Town Code”, Chapter 8, Business Regulations, is amended to add Article 8-5, Pawnbrokers, Secondhand Dealers and Scrap Metal Dealers, as follows:

SECTION 1. Chapter 8, Business Regulations, of the Oro Valley Town Code is amended to add Article 8-5, Pawnbrokers, Secondhand Dealers and Scrap Metal Dealers, as follows, with additions in all CAPS and deletions in ~~strikethrough text~~:

Chapter 8, Business Regulations

...

Article 8-5

PAWNBROKERS, SECONDHAND DEALERS AND SCRAP METAL DEALERS

SECTIONS:

- 8-5-1 DEFINITIONS
- 8-5-2 DUTY TO REPORT RECEIPT OF ARTICLES TO POLICE
- 8-5-3 CONTENTS OF REPORT TO POLICE
- 8-5-4 DUTY TO REPORT / PHOTOS REQUIRED
- 8-5-5 FORMS OF REPORTS; WHEN DUE

8-5-6	REQUIREMENTS; RECORD OF TRANSACTIONS; POLICE DEPARTMENT HOLD ON PROPERTY
8-5-7	PROHIBITED ACTS
8-5-8	VIOLATIONS; PENALTIES
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8-5-1 DEFINITIONS

FOR THE PURPOSES OF THIS ARTICLE:

A. THE FOLLOWING TERMS SHALL HAVE THE MEANINGS GIVEN IN SECTION 44-1621, ARIZONA REVISED STATUTES: IDENTIFICATION DOCUMENT, LOAN, PAWN TICKET, PAWN TRANSACTION, PAWNBROKER, PAWNSHOP, PLEDGED GOODS, PLEDGOR, REPORTABLE TRANSACTION, AND TRANSACTION DATE.

B. “JEWELRY” INCLUDES GOLD, PLATINUM, SILVER, GOLD-FILLED OR PLATED WARE, DIAMONDS AND OTHER PRECIOUS OR SEMIPRECIOUS STONES WHETHER MOUNTED OR UNMOUNTED, CULTURED PEARLS, AND WATCHES, CLOCKS AND GOODS, WARES AND OTHER MERCHANDISE COMMONLY CLASSIFIED AS JEWELRY AND COMMONLY OFFERED FOR SALE IN JEWELRY STORES.

C. “PAWN” MEANS TO HOLD OR RETAIN AN ITEM FOR A PERIOD OF NINETY (90) DAYS ALLOWING THE CUSTOMER TO RECLAIM THE ITEM. THE CUSTOMER HAS THE RIGHT TO RECLAIM THE ITEM FROM THE DEALER WITHIN THIS NINETY (90) DAY PERIOD. AFTER THE NINETY (90) DAY PERIOD THE ITEM MAY BE SOLD OR OTHERWISE DISPOSED OF BY THE DEALER WHO HAS LAWFULLY ACQUIRED THE PROPERTY.

D. “PURCHASE” MEANS TO BUY AN ITEM FOR AN AGREED UPON PRICE. THE PURCHASER UNDERSTANDS THE ITEM MUST BE HELD FOR TWENTY (20) DAYS BEFORE CHANGING THE STATUS.

E. “SECONDHAND DEALER” MEANS EVERY PERSON ENGAGED IN, CONDUCTING, MANAGING OR CARRYING ON THE BUSINESS OF BUYING, SELLING OR OTHERWISE DEALING IN SECONDHAND GOODS, WARES, MERCHANDISE OR OTHER ARTICLES, INCLUDING, BUT NOT LIMITED TO: SCRAP METALS, COINS, GEMS OR SEMIPRECIOUS STONES, SERIALIZED ELECTRONICS AND APPLIANCES, JEWELRY, PRECIOUS METALS PURCHASED FROM ANY PERSON OTHER THAN THE ORIGINAL MANUFACTURER OR AUTHORIZED DISTRIBUTOR SELLING THE SAME

FOR MONEY, CREDIT OR EXCHANGE, SPORTS OR OTHER SPORTS RELATED EQUIPMENT, SERIALIZED AUTOMOBILE TIRE RIMS, SERIALIZED TOOLS, SERIALIZED MUSICAL INSTRUMENTS, SERIALIZED OPTICAL AND PHOTOGRAPHIC EQUIPMENT, COMPACT DISCS, DIGITAL VIDEO DISCS, ALL GOODS AND ARTICLES WHICH BEAR A SERIAL NUMBER, OWNER APPLIED NUMBER OR HAVE A FAIR MARKET VALUE IN EXCESS OF ONE HUNDRED DOLLARS (\$100.00). A SECONDHAND DEALER MEANS ANY PERSON ENGAGED IN THE DESCRIBED BUSINESS WHETHER SUCH BUSINESS BE THE PRINCIPAL OR SOLE BUSINESS SO CARRIED ON, MANAGED OR CONDUCTED, OR BE MERELY INCIDENTAL TO, IN CONNECTION WITH OR A BRANCH OR DEPARTMENT OF SOME OTHER BUSINESS. THIS DEFINITION INCLUDES SCRAP METAL DEALERS. THIS DEFINITION DOES NOT INCLUDE ORGANIZATIONS THAT ARE RECOGNIZED AS NOT-FOR-PROFIT UNDER THE LAWS OF THIS STATE OR ANY OTHER STATE.

F. "SCRAP METAL" INCLUDES ANY FERROUS OR NONFERROUS METALS AS DEFINED IN SECTION 44-1641 OF THE ARIZONA REVISED STATUTES, ANY INSULATED OR UNINSULATED METALLIC CABLE, AND ANY OTHER MATERIALS COMMONLY KNOWN AS "SCRAP METAL" INCLUDING IRON, COPPER, BRASS, LEAD, ZINC, TIN, STEEL, ALUMINUM, METALLIC CABLES AND WIRES AND OTHER LIKE MATERIALS, EXCEPT USED FOOD AND BEVERAGE CONTAINERS.

G. "SCRAP METAL DEALER" MEANS EACH PERSON OR BUSINESS ENTITY INCLUDING ALL EMPLOYEES OF THE PERSON OR BUSINESS ENTITY, ENGAGED IN THE BUSINESS OF PURCHASING, TRADING, BARTERING OR OTHERWISE RECEIVING SECONDHAND OR CASTOFF MATERIAL OF ANY KIND, EXCEPT USED FOOD AND BEVERAGE CONTAINERS, WHICH IS DEFINED IN THIS SECTION OR COMMONLY KNOWN AS SCRAP METAL. THIS TERM INCLUDES AUTOMOTIVE RECYCLERS AS DEFINED AND LICENSED PURSUANT TO TITLE 28 OF THE ARIZONA REVISED STATUTES WHEN SUCH RECYCLER ENGAGES IN THE ACTIVITY DEFINED IN THIS SUBSECTION.

8-5-2 DUTY TO REPORT RECEIPT OF ARTICLES TO POLICE

A. A PAWNBROKER SHALL MAKE AND DELIVER TO THE CHIEF OF POLICE, OR HIS/HER DESIGNEE, A TRUE, COMPLETE AND ACCURATE REPORT OF EACH ARTICLE THE PAWNBROKER RECEIVES THROUGH A REPORTABLE TRANSACTION, AS PROVIDED BY SECTION 44-1625, ARIZONA REVISED STATUTES. IN ADDITION, PAWNBROKERS SHALL BE REQUIRED TO REPORT TO ANY OTHER SITE (LEADS ONLINE, ETC.) THAT THE CHIEF OF POLICE OR HIS/HER DESIGNEE REQUIRES.

B. IT SHALL BE UNLAWFUL FOR ANY SECONDHAND DEALER, INCLUDING ANY SCRAP METAL DEALER, OR ANY EMPLOYEE OR AGENT THEREOF TO FAIL, NEGLECT OR REFUSE TO DELIVER TO THE CHIEF OF POLICE, OR HIS/HER DESIGNEE, WITHIN FIVE (5) BUSINESS DAYS AFTER THE RECEIPT THEREOF, A FULL, TRUE AND COMPLETE REPORT OF ANY OF THE FOLLOWING ENUMERATED GOODS, WARES, MERCHANDISE OR OTHER ARTICLES RECEIVED AT THE SECONDHAND OR SCRAP METAL DEALER'S PLACE OF BUSINESS ON DEPOSIT OR BY PURCHASE, TRADE, CONSIGNMENT OR OTHERWISE:

1. COINS.

2. GEMS OR SEMIPRECIOUS STONES.
3. SERIALIZED ELECTRONICS, APPLIANCES, AND OPTICAL OR PHOTOGRAPHIC EQUIPMENT.
4. JEWELRY.
5. PRECIOUS METALS PURCHASED FROM ANY PERSON OTHER THAN THE ORIGINAL MANUFACTURER OR AUTHORIZED DISTRIBUTOR SELLING THE SAME FOR MONEY, CREDIT OR EXCHANGE.
6. SERIALIZED AUTOMOBILE TIRE RIMS.
7. ALL TOOLS, INCLUDING, BUT NOT LIMITED TO, HAND TOOLS, POWER TOOLS, METERS, GAUGES, TOOL ATTACHMENTS AND LADDERS.
8. SERIALIZED MUSICAL INSTRUMENTS.
9. COMPACT DISCS, DIGITAL VIDEO DISCS, EXPANDED MEMORY CARDS AND GAME CARDS, VIDEO GAMES AND GAME CARDS WHERE THE TOTAL VALUE OF THE TRANSACTION EXCEEDS TEN DOLLARS (\$10.00). TRANSACTIONS SHALL NOT BE SPLIT INTO SMALLER PORTIONS FOR THE PURPOSE OF AVOIDING THE REPORTING REQUIREMENTS OF THIS SECTION.
10. SCRAP METAL.
11. BICYCLES.
12. GOLF CLUBS AND OTHER SPORTS RELATED EQUIPMENT.
13. BALLISTIC VESTS, BULLETPROOF VESTS AND BODY ARMOR.
14. ALL GOODS AND ARTICLES WHICH BEAR A SERIAL NUMBER, OWNER APPLIED NUMBER, OR HAVE A FAIR MARKET VALUE IN EXCESS OF ONE HUNDRED DOLLARS (\$100.00).
15. COLLECTIBLE GOODS AND ARTICLES WHICH CONTAIN AUTOGRAPHS, LIMITED EDITION DESIGNATIONS AND NUMBER SEQUENCES.

8-5-3 CONTENTS OF REPORT TO POLICE

THE REPORT REQUIRED BY SECTION 8-5-2 SHALL BE DEVELOPED AND MAINTAINED BY THE TOWN AND INCLUDE AT LEAST ALL OF THE FOLLOWING:

1. THE LAST, FIRST AND MIDDLE NAME OF THE PLEDGOR OR SELLER.
2. THE PERMANENT ADDRESS AND TELEPHONE NUMBER, IF APPLICABLE, OF THE PLEDGOR OR SELLER.
3. THE PHYSICAL DESCRIPTION OF THE PLEDGOR OR SELLER, INCLUDING HEIGHT, WEIGHT, HAIR AND EYE COLOR, SEX, RACE, DATE OF BIRTH, PROMINENT SCARS AND OTHER DISTINGUISHING FEATURES.
4. THE NUMBER AND TYPE OF IDENTIFICATION DOCUMENT PRESENTED BY THE PLEDGOR OR SELLER; AND, FOR SCRAP METALS, THE NUMBER AND STATE OF ISSUANCE OF THE LICENSE ON THE VEHICLE USED TO DELIVER THE SCRAP METAL.
5. AN ACCURATE, LEGIBLE DESCRIPTION OF EACH ITEM PLEDGED OR SOLD, INCLUDING THE MANUFACTURER'S NAME, MODEL NUMBER, SERIAL NUMBER, CALIBER, SIZE, TYPE OF ITEM AND ANY OWNER

APPLIED NUMBER, INSCRIPTION OR MONOGRAM; AND, FOR SCRAP METALS, THE DESCRIPTION AND WEIGHT OF THE SCRAP METAL RECEIVED.

6. THE PAWNBROKER'S OR SECONDHAND DEALER'S NAME AND ADDRESS, AND THE INITIALS OR IDENTIFYING NUMBER OF THE EMPLOYEE WHO RECEIVED THE ITEM.
 7. THE DATE AND TIME OF THE INITIAL PAWN OR PURCHASE TRANSACTION.
 8. THE TYPE OF TRANSACTION AND INITIAL PAWN TICKET NUMBER.
 9. THE AMOUNT LOANED OR PAID IN THE TRANSACTION.
 10. A FINGERPRINT OF THE PLEDGOR OR SELLER ONLY AS REQUIRED BY STATE LAW, AND A RIGHT INDEX FINGERPRINT OF EACH SELLER.
- THE REQUIREMENTS OF THIS SECTION ARE IN ADDITION TO THOSE LISTED IN A.R.S. SECTION 44-1601 *ET. SEQ.*

8-5-4 DUTY TO REPORT/PHOTOS REQUIRED

A DIGITAL PHOTO OF THE IDENTIFICATION DOCUMENT THAT THE DEALER OBTAINS FROM THE SELLER, AND A DIGITAL PHOTO OF EACH PAWN ITEM SHALL BE PLACED ON TOP OF THE REPORT FORM AND SUBMITTED WITH THE REPORT.

8-5-5 FORM OF REPORTS; WHEN DUE

A. ALL REPORTS REQUIRED BY SECTION 8-5-2 SHALL BE WRITTEN OR PRINTED ENTIRELY IN THE ENGLISH LANGUAGE ON FORMS PROVIDED BY THE TOWN IN A CLEAR AND LEGIBLE MANNER, AND SHALL BE DELIVERED TO THE CHIEF OF POLICE, OR HIS/HER DESIGNEE, BY ELECTRONIC MEANS AS APPROVED BY THE CHIEF OF POLICE, OR HIS/HER DESIGNEE. THE FINGERPRINT REQUIRED BY SECTION 8-5-3 SHALL BE AFFIXED IN THE MANNER DESCRIBED ON THE FORM PROVIDED BY THE TOWN. ALL REPORTS REQUIRED BY SECTION 8-5-2 SHALL BE DELIVERED WITHIN FIVE (5) BUSINESS DAYS AFTER THE RECEIPT OF AN ITEM THROUGH A REPORTABLE TRANSACTION.

B. EACH TRANSACTION REPORT WILL INCLUDE NO MORE THAN THREE (3) ITEMS. FOR THE PURPOSES OF THIS SUBSECTION, MULTIPLE NONSERIALIZED ITEMS OF THE SAME TYPE (E.G. RINGS) THAT ARE DELIVERED IN A SINGLE TRANSACTION AND THAT HAVE NO OWNER ASSIGNED NUMBERS, ENGRAVINGS, INSCRIPTIONS, MONOGRAMS OR OTHER UNIQUE IDENTIFYING CHARACTERISTICS, MAY BE CONSIDERED ONE ITEM ON THE REPORT (E.G. "SIX (6) SILVER RINGS").

C. EACH TRANSACTION REPORT FORM SHALL BE PURCHASED IN ADVANCE FROM THE TOWN'S POLICE DEPARTMENT FOR THREE DOLLARS (\$3.00) PER FORM. UPON PAYMENT, THE REPORT FORMS WILL BE ASSIGNED TO THE LICENSEE.

8-5-6 REQUIREMENTS; RECORD OF TRANSACTIONS; POLICE DEPARTMENT HOLD ON PROPERTY

A. EVERY SECONDHAND DEALER WITHIN THE TOWN SHALL KEEP A PERMANENT RECORD AT HIS PLACE OF BUSINESS, IN WHICH A COMPLETE

RECORD OF ALL TRANSACTIONS REQUIRED TO BE REPORTED UNDER THIS ARTICLE SHALL BE ENTERED IN THE ENGLISH LANGUAGE IN A CLEAR AND LEGIBLE MANNER AND AT THE TIME THE TRANSACTION TAKES PLACE. SUCH RECORD SHALL CONTAIN ALL THE INFORMATION REQUIRED TO BE REPORTED TO THE CHIEF OF POLICE, OR THEIR DESIGNEE, UNDER THE PROVISIONS OF SECTIONS 8-5-2 AND 8-5-3 AND SHALL BE RETAINED FOR NO LESS THAN TWO (2) YEARS FROM THE DATE OF THE LAST ENTRY IN ADDITION TO ANY INFORMATION REQUIRED UNDER A.R.S. § 44-1601 *ET.SEQ.*

B. THE RECORD OF TRANSACTIONS REQUIRED BY SUBSECTION (A) SHALL BE AVAILABLE FOR INSPECTION BY THE CHIEF OF POLICE OR HIS/HER DESIGNEE, DURING NORMAL BUSINESS HOURS.

C. WHENEVER THERE EXISTS PROBABLE CAUSE TO BELIEVE THAT PROPERTY IN THE POSSESSION OF A PAWNBROKER, SECONDHAND DEALER, OR OTHER PERSON IS STOLEN, A POLICE OFFICER OR PERSON SO DESIGNATED BY THE CHIEF OF POLICE, OR HIS/HER DESIGNEE, MAY PLACE A HOLD ON THE PROPERTY FOR A PERIOD OF UP TO NINETY (90) DAYS. WHEN A POLICE OFFICER OR DESIGNEE PLACES A HOLD ON THE PROPERTY, THE POLICE OFFICER OR DESIGNEE SHALL INITIATE SUCH HOLD BY CONTACTING THE PAWNBROKER OR SECONDHAND DEALER IN PERSON OR BY TELEPHONE AND INFORMING THE PAWNBROKER OR SECONDHAND DEALER OF THE HOLD AND DESCRIBING THE ITEM OR ITEMS TO BE HELD. WITHIN THREE (3) DAYS OF THE INITIAL CONTACT, THE POLICE OFFICER OR DESIGNEE SHALL DELIVER OR MAIL TO THE PAWNBROKER OR SECONDHAND DEALER A WRITTEN NOTICE OF THE HOLD. THE WRITTEN NOTICE SHALL INCLUDE A DESCRIPTION OF THE ITEM OR ITEMS TO BE HELD.

D. WHENEVER PROPERTY IN THE POSSESSION OF A PAWNBROKER, SECONDHAND DEALER, OR OTHER PERSON IS SUBJECT TO A HOLD AND THE PROPERTY IS REQUIRED BY A POLICE OFFICER IN A CRIMINAL INVESTIGATION OR FOR USE AS EVIDENCE IN A CRIMINAL PROCEEDING, THE PAWNBROKER, SECONDHAND DEALER, OR OTHER PERSON, UPON REASONABLE NOTICE, SHALL DELIVER THE PROPERTY TO THE POLICE OFFICER.

E. THE TOWN'S POLICE DEPARTMENT MAY EXTEND A HOLD PLACED PURSUANT TO THIS SECTION FOR THE PURPOSE OF CRIMINAL INVESTIGATION OR FOR USE IN ANY JUDICIAL PROCEEDING, INCLUDING THAT SET FORTH IN THIS ARTICLE. ANY EXTENDED HOLD SHALL BE NO LONGER THAN IS REASONABLY NECESSARY.

F. WHENEVER PROPERTY IN THE POSSESSION OF A PAWNBROKER, SECONDHAND DEALER, OR OTHER PERSON IS SUBJECT TO A HOLD AND THE PROPERTY IS NO LONGER REQUIRED FOR THE PURPOSE OF CRIMINAL INVESTIGATION OR ANY CRIMINAL PROCEEDING, AND MORE THAN ONE PERSON CAN REASONABLY BE ANTICIPATED TO MAKE A CLAIM FOR POSSESSION OF THE PROPERTY, THE TOWN'S POLICE DEPARTMENT MAY FOLLOW THE PROCEDURES SET FORTH IN THIS ARTICLE FOR DISPOSITION OF THE PROPERTY WITHIN FORTY FIVE (45) DAYS OF THE CONCLUSION OF THE CRIMINAL INVESTIGATION OR CRIMINAL PROCEEDING.

G. WHENEVER PROPERTY THAT IS IN THE POSSESSION OF THE TOWN'S POLICE DEPARTMENT PURSUANT TO THE PROCEDURES SET FORTH IN THIS SECTION IS NO LONGER REQUIRED FOR THE PURPOSE OF CRIMINAL INVESTIGATION OR FOR USE AS EVIDENCE IN ANY CRIMINAL PROCEEDING, THE POLICE DEPARTMENT MAY FOLLOW THE PROCEDURES SET FORTH IN THIS ARTICLE FOR DISPOSITION OF THE PROPERTY WITHIN FORTY-FIVE (45) DAYS OF THE CONCLUSION OF THE CRIMINAL INVESTIGATION OR PROCEEDING.

8-5-7 PROHIBITED ACTS

A. NO PAWNBROKER, SECONDHAND DEALER OR ANY EMPLOYEE OR AGENT THEREOF SHALL:

1. RECEIVE ANY GOODS, WARES, MERCHANDISE OR OTHER ARTICLES THAT ARE REQUIRED TO BE REPORTED BY THIS ARTICLE WHETHER ON DEPOSIT, IN PAWN OR PLEDGE, OR BY PURCHASE OR OTHERWISE FROM ANY PERSON UNDER THE AGE OF EIGHTEEN (18) YEARS, OR FROM ANY INTOXICATED PERSON.
2. PURCHASE OR OTHERWISE TAKE ANY GOODS, WARES, MERCHANDISE OR OTHER ARTICLES THAT ARE REQUIRED TO BE REPORTED BY THIS ARTICLE WITHOUT FIRST TAKING REASONABLE STEPS, INCLUDING REQUIRING THE PLEDGOR OR SELLER TO PRODUCE AN IDENTIFICATION DOCUMENT AS DETERMINED ACCEPTABLE BY THE TOWN'S POLICE DEPARTMENT, TO ASCERTAIN THAT SUCH GOODS, WARES, MERCHANDISE OR OTHER ARTICLES ARE THE PROPERTY OF THE PERSON OFFERING TO DEPOSIT, PAWN, PLEDGE OR SELL THE SAME.
3. PURCHASE OR OTHERWISE TAKE ANY GOODS, WARES, MERCHANDISE OR OTHER ARTICLES, KNOWING OR HAVING REASON TO KNOW THAT SUCH GOODS, WARES, MERCHANDISE OR OTHER ARTICLES ARE STOLEN.
4. SELL, TRADE, TRANSFER OR DISPOSE OF ANY GOODS, WARES, MERCHANDISE OR OTHER ARTICLES THAT ARE REQUIRED TO BE REPORTED UNDER THIS ARTICLE, EXCEPT FOR SCRAP METAL, COMPACT DISCS, DIGITAL VIDEO DISCS, EXPANDED MEMORY CARDS AND GAME CARDS UNTIL TWENTY (20) DAYS AFTER FILING THE REPORT REQUIRED BY SECTION 8-5-2. FOR THE PURPOSES OF THIS SECTION, THE TWENTY (20) DAY RETENTION PERIOD BEGINS UPON RECEIPT OF THE TRANSMISSION OF THE TRANSACTION, AS APPROVED BY THE CHIEF OF POLICE, OR HIS/HER DESIGNEE.
5. SELL, TRADE, TRANSFER OR DISPOSE OF ANY GOODS, WARES, MERCHANDISE OR OTHER ARTICLES SUBJECT TO A POLICE DEPARTMENT HOLD DESCRIBED BY SECTION 8-5-6, EXCEPT PURSUANT TO A COURT ORDER, ORDER OF A HEARING OFFICER ISSUED PURSUANT TO THIS ARTICLE, OR UPON RECEIPT OF A WRITTEN AUTHORIZATION SIGNED BY A POLICE OFFICER.
6. PURCHASE, RECEIVE, SELL OR TRANSFER ANY ITEM FROM WHICH A MANUFACTURER'S SERIAL NUMBER OR MODEL DESIGNATOR HAS

BEEN REMOVED, ALTERED OR TAMPERED WITH. THESE ITEMS SHALL BE REPORTED TO THE TOWN'S POLICE DEPARTMENT.

7. REFUSE TO PERMIT THE CHIEF OF POLICE, OR HIS/HER DESIGNEE, TO ENTER SUCH BUSINESS DURING NORMAL BUSINESS HOURS FOR THE PURPOSE OF INSPECTING SUCH GOODS OR RECORDS.

B. NO SECONDHAND DEALER SHALL SELL, TRADE, TRANSFER, PURCHASE, RECEIVE, OR OTHERWISE TAKE OR DISPOSE OF ANY GOODS, WARES, MERCHANDISE OR OTHER ARTICLES THAT ARE REQUIRED TO BE REPORTED UNDER THIS ARTICLE WITHOUT FIRST OBTAINING THE APPROPRIATE BUSINESS AND SECONDHAND/PAWN LICENSES FROM THE TOWN CLERK'S OFFICE. IN ADDITION, ALL SECONDHAND DEALERS, PAWNBROKERS AND SCRAP METAL DEALERS SHALL ATTEND AND PAY FOR ANY TRAINING REQUIRED BY THE TOWN'S POLICE DEPARTMENT. EACH ATTENDEE SHALL BE GIVEN A COPY OF THE ORDINANCE AFTER COMPLETING THE TRAINING AND ACKNOWLEDGING RECEIPT OF THE CODE.

C. IN ANY TRANSACTION WITH A SECONDHAND DEALER, NO PLEDGOR OR SELLER SHALL PROVIDE FALSE INFORMATION CONCERNING THE PLEDGOR'S OR SELLER'S NAME, ADDRESS, PHONE NUMBER OR RIGHTFUL OWNERSHIP.

8-5-8 VIOLATIONS, PENALTIES

EACH VIOLATION OF ANY PROVISION OF THIS ARTICLE SHALL CONSTITUTE A CLASS 1 MISDEMEANOR.

8-5-9 SCOPE

PROPERTY WHICH IS IN THE POSSESSION OF PAWNBROKERS, SECONDHAND DEALERS, THE POLICE DEPARTMENT OR OTHER PERSON, AND WHICH HAS ALL THE CHARACTERISTICS SET FORTH IN SECTION 8-5-10, BELOW, SHALL BE DISPOSED OF PURSUANT TO THIS ARTICLE.

8-5-10 PROPERTY TO BE DISPOSED OF

PROPERTY MAY BE DISPOSED OF UNDER THIS ARTICLE IF ALL OF THE FOLLOWING REQUIREMENTS ARE MET:

- A. THE TOWN HAS REASON TO BELIEVE THE PROPERTY WAS STOLEN.
- B. THE POLICE DEPARTMENT HAS POSSESSION OF THE PROPERTY OR HAS PLACED A HOLD ON THE PROPERTY AS SET FORTH IN SECTION 8-5-6.
- C. NO STATE COURT HAS BEFORE IT A PETITION AGAINST A SUSPECT ALLEGED TO HAVE STOLEN THE PROPERTY.
- D. TWO (2) OR MORE PERSONS ARE KNOWN OR BELIEVED TO HAVE MADE, OR CAN REASONABLY BE ANTICIPATED TO MAKE, A CLAIM FOR POSSESSION OF THE PROPERTY.
- E. THE TOWN MAKES NO CLAIM TO POSSESSION OF THE PROPERTY.
- F. THE PROPERTY WILL NOT BE REQUIRED TO BE RETAINED FOR USE AS EVIDENCE IN ANY LEGAL PROCEEDING OTHER THAN THE HEARING UNDER THIS ARTICLE, AND THE TOWN POLICE DEPARTMENT HAS NO OTHER LAWFUL REASON FOR HOLDING THE PROPERTY.

8-5-11 INITIATION OF PETITION

THE TOWN'S POLICE DEPARTMENT SHALL FILE A PETITION WITH A HEARING OFFICER DESIGNATED BY THE TOWN MAGISTRATE TO DETERMINE OWNERSHIP OF THE PROPERTY WITHIN FORTY FIVE (45) DAYS OF THE CONCLUSION OF THE CRIMINAL INVESTIGATION OR CRIMINAL PROCEEDINGS INVOLVING THE PROPERTY. SUCH PETITION SHALL SET FORTH THE FOLLOWING:

1. THE FACTS ESTABLISHING COMPLIANCE WITH SECTION 8-5-10.
2. THE NAME AND ADDRESS OF EACH PERSON DESCRIBED IN SECTION 8-5-10(D).
3. AN ACCURATE DESCRIPTION OF THE PROPERTY, ANY IDENTIFYING MARKS OR SERIAL NUMBERS, THE POLICE IDENTIFICATION NUMBER(S), THE LOCATION WHERE THE PROPERTY IS CURRENTLY BEING HELD, AND THE PERSON FROM WHOM SEIZED, IF THE PROPERTY WAS IN FACT SEIZED.

8-5-12 SERVICE OF THE PETITION; NOTICE OF HEARING

A. THE TOWN'S POLICE DEPARTMENT SHALL SERVE THE PETITION BY PERSONAL SERVICE OR BY FIRST CLASS MAIL, POSTAGE PREPAID, RETURN RECEIPT REQUESTED, UPON ALL PERSONS KNOWN TO HAVE AN INTEREST IN THE PROPERTY, EACH PERSON DESCRIBED AND NAMED IN SECTION 8-5-10(D), AND, IN ALL CASES, THE PERSON FROM WHOM THE PROPERTY WAS OBTAINED OR WHO CURRENTLY POSSESSES THE PROPERTY SUBJECT TO THE TOWN'S POLICE DEPARTMENT HOLD.

B. A COPY OF SECTIONS 8-5-9 THROUGH 8-5-18 OF THIS ARTICLE SHALL BE SERVED WITH EACH PETITION.

C. THERE SHALL BE SERVED WITH THE PETITION A NOTICE OF HEARING SETTING FORTH THE DATE, TIME AND PLACE FOR THE CONDUCT OF THE HEARING TO DETERMINE THE RIGHT OF POSSESSION TO THE PROPERTY. THE HEARING DATE SHALL NOT BE SOONER THAN TWENTY FIVE (25), NOR MORE THAN FORTY FIVE (45), CALENDAR DAYS AFTER THE DATE OF SERVICE OF THE PETITION AND NOTICE.

D. SERVICE SHALL BE MADE TO THE LAST KNOWN ADDRESS OF ALL PERSONS INCLUDED IN SUBSECTION (A). OF THIS SECTION.

E. SERVICE SHALL BE COMPLETE UPON RECEIPT. IF SERVICE IS MADE BY CERTIFIED MAIL, THE RETURN RECEIPT SHALL BE PRIMA FACIE EVIDENCE OF SERVICE.

F. PROOF OF SERVICE UPON EACH POTENTIAL CLAIMANT SHALL BE DELIVERED TO THE HEARING OFFICER.

8-5-13 CLAIMANT'S RIGHTS

A. ANY PERSON CLAIMING AN INTEREST IN THE PROPERTY SHALL BE KNOWN AS A RESPONDENT.

B. A RESPONDENT OR ANY OTHER PERSON CLAIMING ANY OWNERSHIP INTEREST OF ANY KIND, OR POSSESSORY RIGHT TO THE PROPERTY SHALL HAVE

THE RIGHT TO APPEAR AT THE HEARING AND TO PRESENT ANY AND ALL EVIDENCE IN SUPPORT OF SUCH PERSON'S CLAIM TO THE PROPERTY.

C. EXCEPT AS PROVIDED IN SECTION 8-5-15(B) OF THIS ARTICLE, THE FAILURE OF ANY PERSON TO APPEAR AT SUCH HEARING SHALL CONSTITUTE A WAIVER OF ANY CLAIM TO THE PROPERTY BY SUCH PERSON AS AGAINST THE TOWN, AND SHALL AUTHORIZE THE HEARING OFFICER TO ENTER A RULING CONSISTENT THEREWITH.

8-5-14 HEARING OFFICER

ALL PETITIONS FILED PURSUANT TO THIS ARTICLE SHALL BE FILED WITH AND CONSIDERED BY A HEARING OFFICER APPOINTED BY THE TOWN MAGISTRATE.

8-5-15 CONDUCT OF HEARING

A. THE HEARING SHALL BE CONDUCTED INFORMALLY AND THE TECHNICAL RULES OF EVIDENCE SHALL NOT APPLY, PROVIDED THAT THE DECISION OF THE HEARING OFFICER SHALL IN ALL CASES BE BASED UPON SUBSTANTIAL AND RELIABLE EVIDENCE. ALL PARTIES SHALL HAVE THE RIGHT TO BE REPRESENTED BY COUNSEL, TO PRESENT EVIDENCE AND TESTIMONY IN SUPPORT OF THEIR POSITION AND TO CROSS-EXAMINE ADVERSE WITNESSES. ALL WITNESSES SHALL BE PLACED UNDER OATH BEFORE TESTIFYING.

B. THE BURDEN OF PROOF SHALL BE BY A PREPONDERANCE OF THE EVIDENCE, AND SHALL AT ALL TIMES BE UPON THE PERSON OR PERSONS CHALLENGING THE POSSESSION OF THE PARTY FROM WHOM THE PROPERTY WAS TAKEN BY THE TOWN'S POLICE DEPARTMENT, EVEN IF THE PARTY FROM WHOM THE PROPERTY WAS TAKEN DOES NOT APPEAR AT THE HEARING. IF THE PROPERTY WAS NOT SEIZED BY THE TOWN'S POLICE DEPARTMENT, THE BURDEN OF PROOF SHALL AT ALL TIMES BE UPON THE PERSON OR PERSONS CHALLENGING THE PARTY WHO CURRENTLY POSSESSES THE PROPERTY SUBJECT TO THE HOLD.

C. THE HEARING SHALL BE RECORDED ELECTRONICALLY OR BY OTHER MEANS.

D. THE DECISION OF THE HEARING OFFICER SHALL BE ISSUED WITHIN TEN (10) CALENDAR DAYS OF THE CLOSE OF THE RECORD. THE DECISION SHALL BE IN WRITING, AND SHALL BE MAILED POSTAGE PREPAID TO EACH RESPONDENT OR CLAIMANT APPEARING. A COPY OF THE DECISION SHALL ALSO BE SENT TO THE TOWN POLICE DEPARTMENT.

E. THE DECISION OF THE HEARING OFFICER SHALL BE FINAL UPON ISSUANCE. ANY APPEAL MUST BE FILED IN SUPERIOR COURT.

8-5-16 JUDICIAL REVIEW

A. ANY RESPONDENT OR OTHER PARTY PARTICIPATING IN THE HEARING WHO IS AGGRIEVED BY THE DECISION OF THE HEARING OFFICER MAY SEEK JUDICIAL REVIEW BY WAY OF SPECIAL ACTION TO THE SUPERIOR COURT.

B. A COMPLAINT SEEKING SPECIAL ACTION REVIEW SHALL BE FILED WITHIN THIRTY (30) DAYS OF A FINAL DECISION BY THE HEARING OFFICER.

8-5-17 RELEASE OF PROPERTY

A. ANY PERSON PREVAILING IN A HEARING OR UNCONTESTED PROCEEDING ADMINISTERED PURSUANT TO THIS ARTICLE SHALL BE ENTITLED TO RECEIVE THE PROPERTY DESCRIBED IN THE PETITION AFTER PRODUCING A COPY OF THE DECISION IN THEIR FAVOR AND APPROPRIATE IDENTIFICATION TO THE PROPERTY'S CUSTODIAN.

B. A RECEIPT SHALL BE SIGNED EVIDENCING DELIVERY OF THE PROPERTY TO THE PERSON IDENTIFIED IN SUBSECTION (A) OF THIS SECTION.

C. ANY PERSON WITH CUSTODY OF THE PROPERTY DESCRIBED IN THE PETITION THAT IS PRESENTED WITH A COPY OF THE HEARING OFFICER'S DECISION AND APPROPRIATE IDENTIFICATION SHALL RELEASE THE PROPERTY TO THE PREVAILING PARTY.

8-5-18 LIMITED EFFECT OF HEARING OFFICER DECISION

A. NOTHING IN THIS ARTICLE SHALL PREVENT ANY PERSON FROM FILING AN ACTION IN A COURT OF APPROPRIATE JURISDICTION TO ESTABLISH OWNERSHIP TO THE PROPERTY.

8-5-19 PROVISIONS SEVERABLE

A. IF A PROVISION OF THIS ARTICLE OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCES IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THE ARTICLE THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS ARTICLE ARE SEVERABLE.

8-5-20 GROUNDS FOR DENIAL AND REVOCATION OF LICENSE

A. NO LICENSE FOR A SECONDHAND DEALER SHALL BE ISSUED OR RENEWED IF THE APPLICANT OR LICENSEE:

1. IS NOT EIGHTEEN (18) YEARS OF AGE OR OLDER.
2. MADE ANY FALSE STATEMENT OR FAILED TO ANSWER ANY QUESTION IN THE APPLICATION.
3. WHILE LICENSED UNDER THIS ARTICLE, HAS HAD SUCH LICENSE REVOKED WITHIN THE PREVIOUS TWO (2) YEARS.
4. HAS BEEN CONVICTED OR FOUND RESPONSIBLE OF A VIOLATION OF THIS ARTICLE WITHIN ONE (1) YEAR IMMEDIATELY PRECEDING THE APPLICATION.

B. NO LICENSE SHALL BE ISSUED OR RENEWED IF THE LOCATION OF THE BUSINESS IS NOT IN CONFORMITY WITH APPLICABLE ZONING REGULATIONS.

C. THE TOWN CLERK SHALL REVOKE A LICENSE ISSUED UNDER THIS ARTICLE FOR THE NON-EXCLUSIVE REASONS LISTED BELOW, WHICH INCLUDE:

1. THE LICENSEE IS CONVICTED OF OR FOUND RESPONSIBLE FOR TWO (2) OR MORE VIOLATIONS OF THIS ARTICLE COMMITTED WITHIN A ONE (1) YEAR PERIOD.
2. AN EMPLOYEE OF THE LICENSEE IS CONVICTED OR FOUND RESPONSIBLE FOR TWO (2) OR MORE VIOLATIONS OF THIS ARTICLE COMMITTED WITHIN A ONE (1) YEAR PERIOD. THE LICENSEE SHALL

BE NOTIFIED IN WRITING BY THE TOWN'S POLICE DEPARTMENT WHENEVER AN EMPLOYEE IS CITED FOR A VIOLATION OF THIS ARTICLE. NOTICE SHALL BE GIVEN TO THE LICENSEE WITHIN TEN (10) DAYS OF THE CHARGE BEING FILED. THE PROVISIONS OF THIS SUBSECTION REGARDING LICENSE SUSPENSION SHALL NOT APPLY IN THE ABSENCE OF SUCH NOTIFICATION.

3. THE APPLICANT OR LICENSEE HAD MADE FALSE OR MISLEADING STATEMENTS OF MATERIAL FACT IN THE APPLICATION FOR THE LICENSE REQUIRED BY THIS ARTICLE, OR HAS ENTERED OR GIVEN FALSE INFORMATION IN ANY RECORD OR REPORT REQUIRED BY THIS ARTICLE TO BE KEPT OR MADE BY A LICENSEE.

8-5-21 REVOCATION HEARING

A. THE TOWN CLERK, UPON NOTIFICATION BY THE CHIEF OF POLICE, OR HIS/HER DESIGNEE, THAT GROUNDS FOR REVOCATION EXIST, SHALL FILE A WRITTEN PETITION FOR REVOCATION WITH THE MAGISTRATE COURT, REQUESTING THAT A TIME AND PLACE BE SET FOR A HEARING AND SPECIFYING THE GROUNDS FOR REVOCATION. WITHIN FIVE (5) DAYS, THE MAGISTRATE SHALL SCHEDULE A HEARING TO BE CONDUCTED WITHIN FIFTEEN (15) DAYS OF THE RECEIPT OF THE PETITION TO REVOKE. THE MAGISTRATE SHALL NOTIFY THE PARTIES IN THE MANNER PROVIDED IN THIS ARTICLE AND SHALL STATE THE GROUNDS RELIED UPON FOR THE PROPOSED REVOCATION. SHOULD THE LICENSEE FAIL TO APPEAR AT THE HEARING, A DEFAULT JUDGMENT OF REVOCATION SHALL BE ENTERED. A RECORD SHALL BE KEPT OF ALL PROCEEDINGS. NO LICENSE SHALL BE REVOKED UNLESS GROUNDS THEREFORE ARE ESTABLISHED BY A PREPONDERANCE OF THE EVIDENCE AS SHOWN BY THE RECORD OF THE HEARING. THE HEARING SHALL BE HELD IN AN INFORMAL MANNER AS TO THE ORDER OF PROCEEDING AND PRESENTATION OF EVIDENCE WITH A RECORD MADE. THE ARIZONA RULES OF EVIDENCE MAY APPLY. HOWEVER, THE MAGISTRATE SHALL ADMIT EVIDENCE OVER HEARSAY OBJECTIONS WHERE THE PROFFERED EVIDENCE HAS SUBSTANTIAL PROBATIVE VALUE AND RELIABILITY. COPIES OF RECORDS AND DOCUMENTS PREPARED IN THE ORDINARY COURSE OF BUSINESS SHALL BE ADMITTED, BUT SUBJECT TO CHALLENGE AS TO WEIGHT AND AUTHENTICITY. THE MAGISTRATE SHALL PROVIDE THE LICENSEE AND OTHER PARTIES WRITTEN NOTICE OF THE DECISION WITHIN FIVE (5) DAYS, PURSUANT TO SUBSECTION (B) OF THIS SECTION. REVOCATION OF A LICENSE SHALL BE AFFECTED BY THE MAGISTRATE'S SIGNING OF THE WRITTEN NOTICE OF THE DECISION. APPEAL OF THE DECISION OF THE MAGISTRATE SHALL BE BY WAY OF SPECIAL ACTION TO THE SUPERIOR COURT ON THE RECORD OF THE HEARING. A LICENSEE'S RIGHT TO DO BUSINESS UNDER AUTHORITY OF THE LICENSE SHALL TERMINATE IMMEDIATELY UPON GIVING OR MAILING TO THE LICENSEE A COPY OF A SIGNED DECISION REVOKING THE LICENSE EXCEPT THAT THE REVOCATION MAY BE STAYED BY THE SUPERIOR COURT PENDING A TIMELY APPEAL OF THE DECISION BY SPECIAL ACTION. SUCH APPEAL MUST BE FILED WITHIN TEN (10) DAYS AFTER THE DECISION TO REVOKE IS SIGNED UNLESS THE DECISION IS

MAILED, IN WHICH CASE THE APPEAL MUST BE FILED NO LATER THAN FIFTEEN (15) DAYS AFTER ENTRY OF THE DECISION. THE APPELLEE SHALL BEAR THE COST OF PREPARING THE RECORD OF APPEAL. IF AN APPEAL IS NOT TIMELY MADE, THE REVOCATION BECOMES FINAL AND THE LICENSE IS TERMINATED.

B. NOTICES REQUIRED BY THIS ARTICLE MAY BE SERVED BY CERTIFIED MAIL TO THE LICENSEE'S ATTORNEY, TO THE LICENSEE AT THE ADDRESS AS SHOWN ON THE BUSINESS LICENSE OR BY PERSONAL SERVICE.

C. UPON REVOCATION OF A LICENSE, ALL FEES OR TAXES THERETOFORE PAID FOR OR ON ACCOUNT OF ANY SUCH LICENSE SHALL BE FORFEITED TO THE TOWN.

SECTION 2. All Oro Valley Ordinances, Resolutions, or Motions and parts of Ordinances, Resolutions, or Motions of the Council in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by Mayor and Town Council, the Town of Oro Valley, Arizona, this 2nd day of February, 2011.

TOWN OF ORO VALLEY

Dr. Satish I. Hiremath, Mayor

ATTEST:

APPROVED AS TO FORM:

Julie K. Bower, Town Clerk

Tobin Rosen, Town Attorney

Date: _____

Date: _____



Item #: 6.

Town Council Regular Session

Date: 02/02/2011

Requested by: Jerene Watson, Town Manager **Submitted By:** Kevin Burke, Town Manager's Office

Department: Town Manager's Office

Information

SUBJECT:

PUBLIC HEARING - ORDINANCE NO. (O) 11-04 AMENDING ORO VALLEY TOWN CODE CHAPTER 3, ADMINISTRATION, ARTICLE 3-6, ADVISORY BOARDS; REPEALING ALL RESOLUTIONS, ORDINANCES, AND RULES OF THE TOWN OF ORO VALLEY IN CONFLICT THEREWITH; PRESERVING THE RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS THAT HAVE ALREADY BEGUN THEREUNDER

RECOMMENDATION:

Staff recommends adoption of Ordinance No. (O) 11-04.

EXECUTIVE SUMMARY:

Advisory boards and commissions are created by the Town Council under the authority of Town Code Article 3-6. Because boards and commissions are created by Town Council action, they may be reformed, terminated, or otherwise changed by action of the Mayor and Councilmembers.

Beginning September 2010 the Council embarked on a process of evaluating several public bodies, including the Parks and Recreation Advisory Board, the Art Review Commission, the Finance and Bond Committee and the Development Review Board for the intent of modernizing those which would continue. On December 1, 2010, after an extensive process that involved Council subcommittee meetings and meetings with stakeholders, the Council enacted significant changes to Town advisory boards, including amendments to the Appendices of the Town Council Parliamentary Rules and Procedures and Code of Conduct, elimination of the Finance and Bond Committee, and replacement of the Development Review Board and the Art Review Commission with a new board, the Conceptual Design Review Board.

Many changes were made effective on that date by Resolution of the Council. Other modernizations require changes to Town Code Article 3-6, and were therefore scheduled for public hearing on this date. Changes to Article 3-6 include the following:

1. Elimination of Section 3-6-3 Extension of Term of Advisory Board - Boards were originally created with the expectation that they would expire after two years, subject to extension by the Council. In practice, the advisory boards have become standing public bodies that play a vital and continuing role in the function of the organization. Therefore, provisions related to the term of advisory boards are unnecessary and are proposed for elimination. This does not alter the ability of the Council to reform, terminate, or otherwise change advisory boards.

2. Amend Section 3-6-4 to state that all advisory boards shall conduct their meetings in accordance with Town Council Parliamentary Rules and Procedures and Code of Conduct. Several of the boards have adopted their own rules and procedures. This change simply codifies that in the event board-adopted rules should conflict with provisions of the Council Parliamentary Rules and Procedures, the Council Rules shall prevail.

3. Section 3-6-7 is amended to read Parks, Recreation, Library and Cultural Resources. Two enumerated powers and duties of the Parks Board are removed, reducing the burden on staff and allowing the board to focus on core responsibilities.

Additional changes to the Town Code implementing the new Conceptual Design Review Board will be scheduled for public hearing at a later date.

BACKGROUND OR DETAILED INFORMATION:

N/A

FISCAL IMPACT:

N/A

SUGGESTED MOTION:

I MOVE to adopt Ordinance No. (O) 11-04, Amending Oro Valley Town Code Chapter 3, Administration, Article 3-6, Advisory Boards.

Attachments

Link: [Ordinance 11-04 Advisory Boards](#)

ORDINANCE NO. (O) 11-04

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, AMENDING ORO VALLEY TOWN CODE, CHAPTER 3, ADMINISTRATION, ARTICLE 3-6, ADVISORY BOARDS; REPEALING ALL RESOLUTIONS, ORDINANCES, AND RULES OF THE TOWN OF ORO VALLEY IN CONFLICT THEREWITH; PRESERVING THE RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS THAT HAVE ALREADY BEGUN THEREUNDER

WHEREAS, Oro Valley is a political subdivision of the State of Arizona, is vested with all rights, privileges, and benefits and entitled to the immunities and exemptions granted municipalities and political subdivisions under the Constitution and laws of the State of Arizona and the United States; and

WHEREAS, on September 27, 1989, the Mayor and Council adopted Ordinance No. (O) 89-21, adopting that certain document entitled “Oro Valley Town Code, Chapter 3, Administration”; and

WHEREAS, on May 5, 1993, the Mayor and Council adopted Ordinance No. (O) 93-08, creating Article 3-6, Advisory Boards; and

WHEREAS, the Town desires to amend Article 3-6 to update and streamline the advisory boards process.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and the Council of the Town of Oro Valley, Arizona, that the certain document known as the “Oro valley Town Code”, Chapter 3, Article 3-6 is amended as follows:

SECTION 1. Oro Valley Town Code, Chapter 3, Article 3-6 is hereby amended as follows with additions in ALL CAPS and deletions in ~~strikethrough text~~.

Article 3-6 ADVISORY BOARDS

Sections:

- [3-6-1](#) Creation and Duties
- [3-6-2](#) Term of Office and Membership
- ~~[3-6-3](#) Extension of Term of Advisory Board~~ RESERVED
- [3-6-4](#) Officers Designated, Meetings, and Rules of Procedure
- [3-6-5](#) Limitation of Authority
- [3-6-6](#) Liaison
- [3-6-7](#) Powers and Duties of the Parks and Recreation Advisory Board
- [3-6-8](#) Oro Valley Water Utility Commission
- [3-6-9](#) Art Review Commission

3-6-1 Creation and Duties

The Town Council may create from time to time advisory boards of three, five or seven members who are residents of the Town for the purpose of examining areas dealing with subject matters as defined by the Council by board name and Council designation of areas for board study. The board shall submit recommendations for the Council's information and possible action.

3-6-2 Term of Office and Membership

~~Such boards shall be created for terms not exceeding two years which terms may be shortened, ended, or extended by action of the council.~~ Members of the A board shall serve at the pleasure of the Council for a term not exceeding ~~two~~ THREE years. Any vacancy shall be filled by the Council for an unexpired term. Members shall serve without compensation and shall be residents of the Town and not members of any other town body.

3-6-3 Extension of Term of Advisory Board

~~In the event the board sends a letter of intent of desire to continue to the town council three months prior to its expiration date, the council shall consider an extension of the term. In the event of extension of a board's time, the council shall advertise for other board members to volunteer for positions on the board and additionally consider existing board members should they send to the council letters of intent as to their desire to remain on the board. RESERVED~~

3-6-4 Officers Designated, Meetings, and Rules of Procedure

The board shall elect its own officers annually and ~~may~~ SHALL conduct its meetings in accordance with Roberts Rules of Order AND TOWN COUNCIL PARLIAMENTARY RULES AND PROCEDURES AND CODE OF CONDUCT as may be amended by the Council for the use of all commissions and boards and shall adhere to all open meetings laws of the State of Arizona. Board meetings shall be regularly scheduled, legally noticed and held once a month. Special meetings may be called by the chair with at least 24 hours notice or by any three board members with at least 48 hours notice under the same conditions as set forth for the Mayor and Council under Section 2-4-2 of the Oro Valley Town Code. Agendas shall be posted and meeting minutes taken and both shall be filed with the Town Clerk.

3-6-5 Limitation of Authority

Advisory boards shall not have authority to commit the Town of Oro Valley to any agreements with public or private organizations or discuss financial arrangements.

3-6-6 Liaison

The Town Manager or his OR HER designee from the Town staff shall serve as an ex-officio non-voting member of the board to facilitate reports to the Council and shall attend such meeting as he/ OR she deems necessary or as a function of the board's agenda.

3-6-7 Powers and Duties of the Parks and Recreation Advisory Board

1. To act in an advisory capacity to the Town Council in matters pertaining to parks and recreation, parks design, open space and trail use (prior to the review comments being submitted to other Boards, Commissions or the Council). The Board's powers shall be limited to an advisory role with the ~~Parks and Recreation~~ PARKS RECREATION LIBRARY & CULTURAL RESOURCES Director and/or the Town Council and shall not provide directions to Town employees regarding the activities of staff, parks operations or recreation programs.
2. As with any Board, Commission or Committee, all requests for use of any Town staff time and resources must be approved by the Town Manager or his OR HER designee.
3. Give advice to the Town Council and ~~Parks and Recreation~~ THE PARKS RECREATION LIBRARY & CULTURAL RESOURCES Director for general priorities at budget time for those items (other than administrative functions as determined by the Town Manager and the Department Head) relating to park development and recreation programs. This involves a yearly review and update of the five-year plan for park land acquisition and capital improvements as prepared by the ~~Parks and Recreation~~ PARKS RECREATION LIBRARY & CULTURAL RESOURCES Director.
4. Give due attention and study to the recreation, open space, trails and park services as they affect the residents of Oro Valley.
5. Make policy recommendations, keeping in mind that the final adoption of the policy is the prerogative of the Council.
- ~~6. Make initial contact for soliciting funds after being so directed and approved to do so by the Town Council; again keeping in mind that the Council makes the final determination for any acceptance or rejection in these areas.~~
- ~~7. Interact with the Town of Oro Valley Arts Advisory Board on all matters relating to parks and recreation matters in regards to areas of mutual concern.~~

...

SECTION 2. All Oro Valley ordinances, resolutions, or motions and parts of ordinances, resolutions or motions of the Council in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Oro Valley, Arizona this 2nd day of February, 2011.

TOWN OF ORO VALLEY

Dr. Satish I. Hiremath, Mayor

APPROVED AS TO FORM:

Tobin Rosen, Town Attorney

ATTEST:

Julie K. Bower, Town Clerk

Date: _____

Date: _____



Item #: 7.

Town Council Regular Session

Date: 02/02/2011

Requested by:

David Williams, Planning Division Manager

Submitted By:

David Williams, Development Infrastructure Services

Department:

Development Infrastructure Services

Information

SUBJECT:

DISCUSSION AND POSSIBLE ACTION TO INITIATE A ZONING CODE AMENDMENT TO REQUIRE PUBLIC NOTICE OF PLANNING AND ZONING ADMINISTRATOR INTERPRETATIONS OF THE ZONING CODE

RECOMMENDATION:

This is a Council-initiated agenda item; therefore staff does not have a recommendation at this time.

EXECUTIVE SUMMARY:

Mayor Hiremath and Councilmember Gillaspie have requested this agenda item. This potential zoning code amendment would create a requirement to publish official zoning code interpretations. If initiated, staff will prepare an amendment for public hearing before the Planning and Zoning Commission and the Town Council.

BACKGROUND OR DETAILED INFORMATION:

N/A

FISCAL IMPACT:

If approved, the proposed zoning code amendment would require publication or notification of additional documents. The fiscal impact will likely be less than \$1,000 annually. Depending on the type of notice required, (display ads vs. other methods) the fiscal impact will vary. However, if Council desires, our Town website could be utilized for the notification which would result in no increased cost to the Town.

SUGGESTED MOTION:

I MOVE to initiate an amendment to the Oro Valley Zoning Code to add a requirement for public notification of Planning and Zoning Administrator interpretations of the zoning code.
