



PUBLIC NOTICE

**THE PINETOP-LAKESIDE TOWN COUNCIL
WILL MEET FOR A WORK SESSION ON THURSDAY,
MAY 1, 2025 AT 5:00 P.M. IN THE TOWN COUNCIL CHAMBERS,
325 W. WHITE MOUNTAIN BOULEVARD, LAKESIDE AZ 85929**

AGENDA

1. Call to Order *Mayor Irwin*
 - a) Roll Call (Please sign in)

2. Discussion on Town Code 17.96 FOREST HEALTH AND FIRE PROTECTION. *Town Manager
Johnson &
Community
Development
Director Loyd*

3. Adjournment *Mayor Irwin*

Posted on April 15, 2025 at 12:00 p.m. at the following locations:

Kristi Salskov, CMC
Town Clerk

Town Hall
325 W. White Mountain Blvd.
Lakeside, AZ 85929
Pinetop U.S. Post Office
712 E. White Mountain Blvd.
Pinetop, AZ 85935

Town Website
<https://pinetoplakeside.gov>
Lakeside U.S. Post Office
1815 W. Jackson Lane
Lakeside, AZ 85929



COMMUNITY DEVELOPMENT DEPARTMENT
TRANSMITTAL MEMO

DATE: April 24, 2025
TO: Pinetop-Lakeside Town Council
FROM: Jeremiah Loyd, P.E.
RE: Existing Vs Proposed 17.96 Key Differences

The Community Development Department has the following comments, questions, and requirements in regard to this request:

Overview

The current Town Code Chapter 17.96 relies heavily on the concept of basal area, a somewhat complex metric that involves measuring the diameter of every tree at breast height and applying it to a calculation. This method can be cumbersome and difficult to understand. The chapter also includes implementation timelines outlined in Town Code Section 17.96.100 that were never fully enforced. Currently, the only enforcement occurs during the building permit process, where applicants must submit a tree plan. This plan must show the location of trees within the offsets from a structure, their diameters, and the calculated basal area for each of the three designated zones. For parcels without structures, a 60-square-foot basal area applies to the entire property.

The proposed chapter introduces significant changes by incorporating the International Wildland Urban Interface Code (IWUIC) and additional provisions from the Community Planning Assistance for Wildfire (CPAW) program. To assess fire risk, a new scoring rubric evaluates factors such as fire access, fire flows, land slope, and trees per acre. Applicants scoring between 13-22 points fall into the “high risk” category, while scores between 22-35 points indicate “extreme risk.” Higher risk levels trigger stricter requirements for hardened construction practices. A sliding scale based on risk factors also determines allowable tree density per zone.

To simplify tree evaluation, the proposal supplements the basal area calculation with a more user-friendly metric: trees per acre. Additionally, it introduces new fire safety requirements. Fences located within five feet of a structure must now be made of metal. Structures, patios, and decks must include a minimum of six inches of vertical non-combustible material above the finished and landscaped grade. Deck joists must also be constructed from non-combustible materials.

These updates aim to improve clarity, streamline calculations, and enhance fire safety, ensuring a more practical and enforceable approach to managing vegetation and building practices.

General Comment

For Discussion:

The proposed version of Chapter 17.96 introduces several updates and clarifications that distinguish it from the currently adopted code. One notable difference is that the provisions in the proposed guidelines focus heavily on the use of non-combustible materials and structural fire resistance, such as requirements for Class A-rated roofing, firewall construction near structures, and non-combustible decks and fencing to mitigate fire risks. Conversely, Section 17.96.050 and its related chapters emphasize vegetation management and environmental fire prevention through fuel modification strategies. Both sets of regulations aim to limit the spread of fire, but they do so through using different approaches—one prioritizing built environment resilience and the other emphasizing landscaping and natural area management.

The integration of Section 17.96.050 and its related provisions into the broader fire prevention guidelines enhances the applicability and precision of fuel modification strategies. Both define distinct zones—Zone 1, Zone 2, and Zone 3—and these guidelines establish a spatially tiered approach to mitigating fire risks near structures. This zoning methodology ensures that the intensity and nature of fuel modification efforts correspond to the danger levels associated with proximity to buildings, offering a clearer framework for property owners. Each zone is characterized by specific requirements, such as the removal of ladder fuels, thinning tree canopies, and eliminating combustible materials, which are systematically prioritized to create defensible space and limit fire spread.

Furthermore, the incorporation of credible sources like the Urban-Wildland Interface Code and academic resources underscores the evidence-based foundation of these strategies. This alignment with authoritative practices legitimizes the guidelines, fosters community trust, and encourages informed compliance. The emphasis on proactive measures, such as hydration of vegetation and professional preparation of fuel modification plans for undeveloped parcels, reflects a forward-thinking approach. This ensures that forest health and property safety are maintained.

The comparison between the provisions outlined in the proposed Chapter 17.96.050 and the requirements for non-combustible materials and structures reflects a nuanced approach toward fire prevention and building protection. While the existing code primarily focuses on vegetation management and fuel modification zones to create defensible spaces, the proposed revision centers on non-combustible construction standards as a preventative measure to minimize fire risk.

Both approaches complement each other in their aim to mitigate fire hazards but differ significantly in their focus and methodology. The non-combustible material requirements are fundamentally structural, targeting the direct flammability of buildings and surrounding elements such as fences, decks, and roof assemblies. Key features like Class A-rated roofing materials, non-combustible deck joists, and a six-inch vertical non-combustible barrier above grade highlight the importance of fortifying structures to resist ignition and prevent fire spread.

The existing Chapter 17.96.050 adopted a landscape-focused strategy, emphasizing the management of environmental fuel loads through specific guidelines in three defined zones (Zone 1, 2, and 3). These zones advocate thinning vegetation, removing combustible debris, and maintaining fire-resistant plants to reduce the likelihood of fire reaching structures.

A significant overlap between these strategies lies in their mutual goal of establishing defensible spaces and preventing the direct transmission of fire. For example, both frameworks require the removal of combustible materials beneath and around decks, reinforcing the principle of eliminating potential fire paths. However, the structural guidelines offer a more passive, material-based defense, while the fuel modification zones require ongoing active maintenance and engagement from property owners.

Additionally, the timeline for compliance diverges between these approaches. Structural mandates tend to apply at the time of construction or retrofit, with enduring benefits once implemented. By contrast, the three-zone plan demands regular upkeep, outlining specific obligations for property owners over time to ensure continued effectiveness.

These provisions illustrate a comprehensive fire prevention strategy combining resilient construction practices with proactive land and vegetation management, creating a layered defense system that addresses structural vulnerability and environmental risks. While each framework independently addresses critical aspects of fire safety, their integration strengthens overall preparedness and response capabilities in fire-prone areas.

Key Differences Between Proposed Chapter 17.96 and Existing Chapter 17.96

Building Construction Materials

| *Proposed Chapter 17.96:* The proposal outlines specific requirements for building construction materials, emphasizing durability, sustainability, and compliance with modern architectural standards. |

| *Existing Chapter 17.96:* The existing chapter provides general guidelines but lacks explicit requirements or detailed emphasis on materials. |

Tree Requirements Per Acre vs. Basal Area

| *Proposed Chapter 17.96:* The proposal introduces a standard for the number of trees per acre, aimed at ensuring adequate green coverage for environmental benefits and maintaining ecological balance. |

| *Existing Chapter 17.96:* The existing chapter defines tree requirements in terms of basal area (60 square feet), which focuses on overall tree coverage but does not specify a minimum number of trees. |

TOWN CODE CHAPTER 17.96
FOREST HEALTH AND FIRE PROTECTION

Chapter 17.96 (Current Title)
FOREST HEALTH AND FIRE PROTECTION

Sections:

- 17.96.010 Purpose.**
- 17.96.020 Scope.**
- 17.96.030 Definitions.**
- 17.96.040 Forest health and fire protection.**
- 17.96.050 Fuel modification.**
- 17.96.060 Recommendations for creating survivable space.**
- 17.96.070 Three (3) zone plan for developed parcels and for undeveloped parcels.**
- 17.96.080 Fuel modification plan for undeveloped parcels.**
- 17.96.090 Other landscape or vegetation management plans acceptable.**
- 17.96.100 Time for compliance.**
- 17.96.110 Tree removal.**
- 17.96.120 Fuel modification or removal by the Town.**
- 17.96.130 Enforcement.**
- 17.96.140 Appeals – Forest Health Committee.**

17.96.010 Purpose.

The purpose of this chapter is to protect the health, safety, and welfare of the citizens of Pinetop-Lakeside. The Town also intends to promote the health of the Town's "urban forest" which will help protect residential, commercial, and undeveloped property values, help reduce the threat of wildland fire, and help reduce infestation and disease of the ponderosa pine trees and other coniferous trees within the Town. This chapter establishes requirements and recommendations to help property owners nurture healthy trees and plants while mitigating the risk to life and property from the threat of wildland fire and to help keep the fire on the ground. (Ord. 15-393 § 1 (part); Ord. 10-337 § 2 (Exh. A)(part))

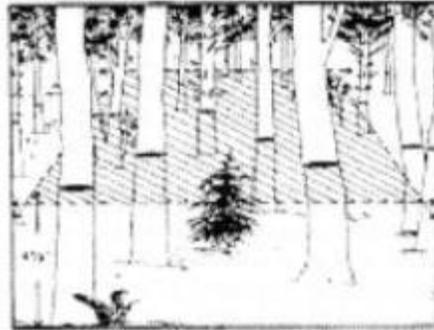
17.96.020 Scope.

This chapter shall apply to all land within the Town. (Ord. 15-393 § 1 (part); Ord. 10-337 § 2 (Exh. A)(part))

17.96.030 Definitions.

The following definitions apply to this chapter:

1. "Basal area" is a measurement of tree density. The basal area is the cross-sectional area of a tree forty-two (42) inches above ground. The basal area of all trees in a given land area describes the degree to which an area is occupied by trees and is generally expressed in square feet per acre. The basal area calculation is: X^2 times 0.005454 where X equals tree diameter in inches at forty-two (42) inches above ground. For example: The basal area of a twelve (12) inch dbh (diameter at breast height) tree = $144 \times 0.005454 = 0.7854$ square feet or $(12 \times 12 = 144 \times 0.005454 = 0.7854$ square feet).



The Concept of Basal Area

Exhibit 1

2. "Canopy closure" is a measurement of tree density. It is an important factor in the initiation of and sustainment of crown fires. "Canopy closure" is the percentage of area above a parcel of land filled with vegetative foliage. Measurements of canopy closure can be made on the ground with a spherical densiometer, sighting periscope or with aerial photography measurement methods.

3. "Survivable space" is the area around a structure that is intentionally maintained to provide a separation of the structure from non-fire-resistant vegetation to help prevent the spread of fire. The Town uses a three (3) zone approach to help create a survivable space around and between neighboring properties. Survivable space refers to structures and property.

4. "Director" means the Director of the Community Development Department of the Town of Pinetop-Lakeside.

5. Forest Health Committee. The Town Council shall serve as the Forest Health Committee until such time as a separate Forest Health Committee is appointed by the Town Council at which time the Council will establish provisions for creation, appointment, term of office, qualifications of members and meetings.

6. "Fuel modification" means changing the type or amount of plant fuels to reduce fire danger.

7. "Ladder fuels" are living or dead trees, bushes and grasses that allow a fire to travel from the ground to the forest or tree canopy. Ladder fuels help convert a ground fire to a crown fire.
8. "Non-fire-resistant vegetation" includes trees and other plant material, dead or alive, which increase the fire danger to unreasonably high levels. The fire danger which results may be due to low moisture content, high levels of oil or pitch, a dense plant structure or other characteristics which make the trees or plants capable of producing or spreading high intensity fire.
9. "Remove or removal" means the actual removal of a tree by digging up, cutting down, or the effective removal through damage. A tree shall be deemed "removed" even if a stump and roots remain.
10. "Responsible person" means the owner and the possessor of land, and includes owners in possession, landlords and lessors, tenants and lessees, real property managers and any other person or entity which has possession, a right to possession or any management or supervisory authority over land. "Responsible person" may be one (1) or more persons, which persons shall be jointly and severally liable and responsible for forest health and fire protection of land within the Town.
11. "Trees" means any self-supporting, woody plant of a species which normally, in the area, grows at maturity to an overall height of not less than ten (10) feet, and is greater than four (4) inches in diameter at a height of four (4) feet six (6) inches from the ground.
12. "Urban-wildland interface" is the area where buildings, structures and people come together and mix with the forest or non-fire-resistant vegetation. (Ord. 15-393 § 1 (part); Ord. 10-337 § 2 (Exh. A)(part))

17.96.040 Forest health and fire protection.

The responsible person shall be responsible for modifying or removing trees, plants and other non-fire-resistant, insect infested, or disease ridden vegetation and debris on the land, and for carrying out such other fuel modification which is necessary to promote forest health and to help prevent the spread of fire to adjacent property by establishing and maintaining survivable space. Fuel modification shall meet the minimum survivable space requirements as described herein. (Ord. 15-393 § 1 (part); Ord. 10-337 § 2 (Exh. A)(part))

17.96.050 Fuel modification.

Fuel modification shall be accomplished to help prevent or significantly limit the spread of fire to or from all buildings and property. The required and recommended fuel modification for each of the three (3)

zones around buildings is set forth in Section [17.96.070](#)(A), (B) and (C) and in the Three (3) Zone Plan Chart, Exhibit 2.

A. General Guidelines.

1. Fire resistant plants used as ground cover, such as green grass, ivy, succulents or other approved fire-resistant ground cover which do not form a means of readily transmitting fire to or from buildings are recommended and encouraged.
2. Coniferous trees within the survivable area should be spaced so that the trees do not unnaturally compete for water and soil nutrients, and should also be spaced so that the horizontal distance between crowns of adjacent coniferous trees or groupings of coniferous trees meets the survivable space guidelines outlined in Section [17.96.070](#)(B)(2)(b) and in the Three (3) Zone Plan Chart, Exhibit 2.
3. Dead wood and vegetative litter shall be regularly removed from the ground and from trees.
4. The concepts and practices recommended by The Urban-Wildland Interface Code, as amended; Firewise Communities; the Arizona Wildfire and Environmental Series of the University of Arizona College of Agriculture and Life Sciences; as well as other programs, lists or publications approved by the Pinetop-Lakeside Town Council ("authoritative sources") shall be made available to the public, to foresters and to others who attempt to comply with this chapter, and they shall be considered authoritative sources for the Forest Health Committee and the municipal court when deciding matters relating to this chapter. Excerpts from any document approved as an "authoritative source" shall be admissible when offered by any party or witness in an appeal or court proceeding relating to this chapter. (Ord. 15-393 § 1 (part); Ord. 10-337 § 2 (Exh. A)(part))

17.96.060 Recommendations for creating survivable space.

Ways to create survivable space include:

- A. Decrease the amount of non-fire-resistant vegetation by reducing the density of trees and plants and creating sufficient space between trees and plants to promote forest and plant health and help reduce the spread of fire.
- B. Increase the amount of unbuilt lot area.
- C. Increase the moisture content of vegetation (adequate watering of trees and plants).
- D. Plant fire-resistant plants.

E. Rearrange existing trees and plants.

F. Thin coniferous trees to achieve an overall average density of not more than sixty (60) square feet basal area (60 sq. ft. B.A.) per acre or canopy closure shall not exceed thirty-three (33%) percent noninclusive of deciduous and non-fire-prone species.

G. Remove all combustible materials and fire-prone vegetation from under decks and porches and within ten (10) feet of buildings.

H. Regular, continued maintenance of the area. (Ord. 15-393 § 1 (part); Ord. 10-337 § 2 (Exh. A)(part))

17.96.070 Three (3) zone plan for developed parcels and for undeveloped parcels.

A three (3) zone approach shall be applied to accomplish the survivable space requirements of this code on all parcels where there is a building or structure and for vacant parcels. (See Exhibit 2.)

A. Zone 1: zero (0) feet to ten (10) feet from buildings, structures, decks, etc.

1. Required Zone 1 Fuel Modification.

a. Remove fuel ladders and eliminate non-fire-resistant brush, leaving fire-resistant low growing specimens.

b. Remove and destroy all insect infested, diseased, and dead trees to prevent spread to healthy vegetation.

c. Remove all dead plant material from the ground which may create fuel ladders or contribute to the spread of fire.

d. Where applicable, trim coniferous trees to where the lowest branches or roofline and a minimum of ten (10) feet from chimneys or other sources of ignition.

e. Remove flammable debris from gutters and roof surfaces.

f. Remove all combustible materials and vegetation from under decks. Non-fire-resistant trees within three (3) feet of buildings, structures and decks should be spaced and pruned to limit ignition from surrounding vegetation and the creation of fuel ladders.

2. Zone 1 Recommended Fuel Modification.

- a. Survivable space should be regularly maintained annually by the property owner.
 - b. Provide adequate hydration for all vegetation.
- B. Zone 2: ten (10) feet to thirty (30) feet from buildings, structures, decks, etc.
 - 1. Required Zone 2 Fuel Modification.
 - a. Remove all ladder fuels and dead material.
 - b. Remove and destroy all insect infested, diseased, and dead trees to prevent spread to healthy vegetation.
 - c. Thin coniferous trees to achieve an overall average density of not more than sixty (60) square feet basal area (60 sq. ft. B.A.) per acre or canopy closure shall not exceed thirty-three (33%) percent noninclusive of deciduous and non-fire-prone species.
 - 2. Recommended Zone 2 Fuel Modification.
 - a. Zone 2 survivable space shall be regularly maintained by the property owner.
 - b. Reduce continuity of fuels by creating clear space around brush or planting groups.
 - c. Control erosion and sedimentation from exposed soils through terracing, gravel beds, rocked or other appropriate ground cover. Emphasis is placed on slopes greater than twenty (20%) percent gradient, in which case additional vegetation treatment may be required.
 - d. Remove all but one (1) inch of pine needle or leaf droppings. It is important to leave a layer of decomposing plant material to maintain adequate moisture levels for further decomposition and plant hydration.
- C. Zone 3: thirty (30) feet from buildings, structures, decks, etc., to property line.
 - 1. Required Zone 3 Fuel Modification.
 - a. Remove all ladder fuels and dead material.
 - b. Thin coniferous trees to achieve an overall average density of not more than sixty (60) square feet basal area (60 sq. ft. B.A.) per acre or canopy closure shall not exceed thirty-three (33%) percent noninclusive of deciduous and non-fire-prone species.

c. Remove and destroy all insect infested, diseased, and dead trees to prevent spread to healthy vegetation.

2. Recommended Zone 3 Fuel Modification.

a. Zone 3 survivable space should be regularly maintained by the property owner.

THREE (3) ZONE PLAN CHART – EXHIBIT 2

Survivable Space Criteria	Required Actions	Recommended Actions	Time for Compliance
Zone 1 (0 to 10 feet from structures)			Within 1 year of enactment (See Section 17.96.100(A))
1. Remove all ladder fuels (see subsection (A)(1)(a) of this section)	X		
2. Reduce flammable vegetation (see subsection (A)(1)(a) of this section)	X		
3. Remove and destroy all insect infested, diseased, and dead trees (see subsection (A)(1)(b) of this section)	X		
4. Remove all dead plant material from ground (see subsection (A)(1)(c) of this section)	X		
5. Prune tree limbs overhanging roof (see subsection (A)(1)(d) of this section)	X		
6. Remove branches within 10 feet of chimney (see subsection (A)(1)(d) of this section)	X		
7. Remove flammable debris from gutters and roof surfaces (see subsection (A)(1)(e) of this section)	X		

THREE (3) ZONE PLAN CHART – EXHIBIT 2

Survivable Space Criteria	Required Actions	Recommended Actions	Time for Compliance
8. Remove all combustible material and vegetation from under decks (see subsection (A)(1)(f) of this section)	X		
9. Regularly maintain survivable space (see subsection (A)(2)(a) of this section)	X		
10. Provide adequate hydration (See subsection (A)(2)(b) of this section)		X	
Zone 2 (10 to 30 feet from structures)			Within 2 years of enactment (see Section 17.96.100(B))
1. Remove all ladder fuels (see subsection (B)(1)(a) of this section)	X		
2. Remove and destroy all insect infested, diseased, and dead trees (see subsection (B)(1)(b) of this section)	X		
3. Regularly maintain survivable space (see subsection (B)(2)(a) of this section)	X		
4. Create separation between trees, tree crowns, grouping of trees and other plants based on fuel type, density, slope and other topographical features (see subsection (B)(1)(c) of this section). Achieve a maximum density of 60 sq. ft. basal area in conifers or conifer crown closure equal to or less than 33%	X		
5. Reduce continuity of fuels by creating clear space around brush or planting groups (see subsection (B)(2)(b) of this section)	X		

THREE (3) ZONE PLAN CHART – EXHIBIT 2

Survivable Space Criteria	Required Actions	Recommended Actions	Time for Compliance
6. Control erosion and sedimentation (see subsection (B)(2)(c) of this section)		X	
7. Remove all but 1 inch of pine needle or leaf droppings (see subsection (B)(2)(d) of this section)		X	
Zone 3 (30 feet to the property line)			Within 4 years of enactment (see Section 17.96.100(C))
1. Remove all ladder fuels (see subsection (C)(1)(a) of this section)	X		
2. Maximum Basal Conifers – 60 sq. ft. Basal Area or conifer crown closure equal to or less than 33%	60 sq. ft. B.A.		
3. Remove and destroy all insect infested, diseased, and dead trees (see subsection (C)(1)(c) of this section)	X		
4. Regularly maintain survivable space (see subsection (C)(2)(a) of this section)	X		

(Ord. 15-393 § 1 (part); Ord. 10-337 § 2 (Exh. A)(part))

17.96.080 Fuel modification plan for undeveloped parcels.

Undeveloped parcels shall meet, at a minimum, Zone 3 standards as defined in Section [17.96.070](#).

The responsible person for parcels of vacant property proposed for development shall prepare a fuel modification plan. This section shall also apply to undeveloped tracts, new subdivisions and parcels or voluntary groupings of parcels.

A. It is recommended that the fuel modification plan be prepared or certified by a professional forester, a certified arborist, or another qualified individual or organization and approved by the Community

Development Director. A fuel modification plan identifies actions necessary to promote forest health and to help prevent the spread of fire to adjacent property by establishing and maintaining survivable space. The plan should include considerations for both wildlife and ground water protection. The action identified by the fuel modification shall be completed prior to the issuance of any building permit or the approval of any maps or plans for subdivisions or property.

B. After a site visit and inspection of the property, the Director may request submission of a fuel modification plan before or as a part of the plans required for plat approval, issuance of a building permit, or, in the case of existing developed areas, for fuel modification required by this chapter.

C. A fuel modification plan shall include at least the following information:

1. A copy of the site plan.
2. Methods and timetables for controlling, changing, or modifying fuels on the property(ies) in a timely and effective manner.
3. Elements of the plan shall include removal of slash, snags, vegetation that may grow into overhead electrical lines, other ground fuels, ladder fuels and dead trees, and the thinning of live trees.
4. Methods and timetables for control and elimination of diseased and/or insect infested vegetation.
5. A plan for the ongoing maintenance of the proposed fuel-reduction and disease and insect infestation control measures. To be considered fuel modification and disease/infestation control for purposes of this code, continuous maintenance of the clearance or control measure is required.
6. When a grouping of parcels in multiple ownership is proposed to achieve compliance with this chapter, the proposed vegetation management plan shall be accepted by all owners of property covered by the plan. (Ord. 15-393 § 1 (part); Ord. 10-337 § 2 (Exh. A)(part))

17.96.090 Other landscape or vegetation management plans acceptable.

Nothing contained in this chapter shall prohibit a property owner(s) from developing a landscape plan or a fuel modification plan that is not in strict accord with the survivable space guidelines established by this chapter, so long as the plan accomplishes the purposes of this chapter and so long as the plan is certified by a professional forester, a certified arborist, or another qualified individual or organization and approved by the Director. (Ord. 15-393 § 1 (part); Ord. 10-337 § 2 (Exh. A)(part))

17.96.100 Time for compliance.

All property subject to this chapter shall be brought into compliance in accordance with the following schedule:

A. Within one (1) year of enactment:

1. Compliance with all requirements of Section [17.96.070](#), Zone 1.

B. Within two (2) years of enactment:

1. Compliance with all requirements of Zones 1 and 2 for property governed by Section [17.96.070](#).
2. Where an undeveloped parcel adjoins a parcel with a building or structure, and the distance from the property line to a structure is less than thirty (30) feet, that portion of the undeveloped parcel that is within thirty (30) feet of a structure shall achieve Zone 2 standards.

C. Within four (4) years of enactment:

1. Compliance with Zone 1, 2 and 3 standards shall be achieved on all property regulated by Section [17.96.070](#).
2. All property regulated by this section shall have trees and other plants modified and maintained in accordance with an acceptable or an approved fuel modification plan.

D. All new residential and commercial construction of any building or structure shall comply with Zone 1, 2, and 3 requirements prior to completion of construction. A certificate of occupancy shall not be issued until the requirements of this chapter are met.

E. All proposed new subdivisions shall provide, as part of the preliminary and final plat approval process, a fuel modification plan meeting the requirements of this chapter. (Ord. 15-393 § 1 (part); Ord. 10-337 § 2 (Exh. A)(part))

17.96.110 Tree removal.

A. Permits for removal of trees in accordance with this chapter shall not be required.

B. All other tree removal shall be in accordance with an approved site or plot plan, or pursuant to other approval by the Director, the Community Development Department, the Planning and Zoning Commission, the Town Council, or other authority of the Town.

C. Removal shall be in accordance with commonly accepted practices and management standards such as those promulgated by the International Society of Arboriculture and the University of Arizona Cooperative Extension.

D. Trees cut down shall be removed from the property within two (2) weeks or cut and stored on the property in a manner which is not a hazard to public health and safety and which shall not encourage the propagation of insects.

E. Trees not properly removed or stored shall be considered a nuisance pursuant to this chapter or Chapter [17.100](#). The Town may remove, abate, enjoin or otherwise cause the removal of such solid waste and all costs of such removal, abatement or injunction of such nuisance or solid waste shall be assessed against the land in accordance with this chapter or Section [17.100.050](#). (Ord. 15-393 § 1 (part): Ord. 10-337 § 2 (Exh. A)(part))

17.96.120 Fuel modification or removal by the Town.

A. In the event that the responsible person does not perform the fuel modification or removal of trees, plants or other vegetation in accordance with the requirements of this chapter, the property shall be a public nuisance, which nuisance may be abated by the Town, and for which the responsible person may be cited, be found responsible or be enjoined by appropriate court proceeding.

B. The cost of any fuel modification, removal, abatement or injunction of such public nuisance, along with any associated legal costs, shall be assessed against the land where the nuisance existed. The Town may record the cost of removal, abatement or injunction as an assessment in the Navajo County Recorder's Office, including the date and amount of the assessment, the legal description of the property and the full name and address of the property owner. Any such assessment is prior and superior to all other liens, obligations, mortgages or other encumbrances except liens for general taxes. A sale of the land to satisfy an assessment obtained under the provisions of this chapter shall be made upon judgment of foreclosure and order of sale. The Town shall have the right to bring an action to enforce the assessment in the Navajo County Superior Court at any time after the recording of the assessment. The failure to enforce the assessment by such legal action shall not affect the assessment's validity. A recorded assessment shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording thereof.

C. Assessments that are imposed under this chapter run against the land until paid, accrue interest at the rate of ten (10%) percent per year or as otherwise prescribed by Arizona Revised Statutes, Title [44](#), Chapter 9, Article 1, Section [44-1201](#); and are due and payable in equal annual installments as follows:

1. Assessments of less than five hundred dollars (\$500.00) shall be paid within one (1) year after the assessment is recorded.
2. Assessments of five hundred dollars (\$500.00) or more but less than one thousand dollars (\$1,000) shall be paid within two (2) years after the assessment is recorded.
3. Assessments of one thousand dollars (\$1,000) or more but less than five thousand dollars (\$5,000) shall be paid within three (3) years after the assessment is recorded.
4. Assessments of five thousand dollars (\$5,000) or more but less than ten thousand dollars (\$10,000) shall be paid within six (6) years after the assessment is recorded.
5. Assessments of ten thousand dollars (\$10,000) or more shall be paid within ten (10) years after the assessment is recorded.

D. Subsequent Assessments. A prior assessment for the purposes provided in this chapter shall not be a bar to a subsequent assessment or assessments for the same or similar purposes; and any number of assessments on the same land may be enforced in the same legal action.

E. Civil Penalty. Any owner, tenant or other responsible person who, after notice as required by Section [17.96.130\(A\)](#), does not perform the fuel modification or removal of trees, plants or other vegetation in accordance with the requirements of this chapter and abate the condition which constitutes a hazard to the public health and safety, by the date stated in the notice, shall be subject to a civil penalty as set forth in Chapter [17.132](#). (Ord. 15-393 § 1 (part); Ord. 10-337 § 2 (Exh. A)(part))

17.96.130 Enforcement.

A. Notice of Civil Violation.

1. Notice of Civil Violation. A written notice of any violation of this chapter shall be delivered to the responsible person. This written notice shall give a minimum of at least thirty (30) additional days before the date set for compliance, and shall include the following information:

- a. The name and address of the responsible person to whom the notice of violation is directed; and
- b. The physical property address or the legal description of the land upon which the violation has occurred or is occurring; and
- c. A description of the violation, including a reference to this chapter by section number; and

- d. A brief statement of the action required to be taken to correct the violation; and
- e. The date before which the corrective action shall be taken, which date shall be at least thirty (30) days after the date of the notice of civil violation; and
- f. The estimated maximum cost of such removal to the Town if the responsible person does not comply.

2. Delivery of Notice. Delivery of a written notice of civil violation may be made by posting the notice at or on the property in a conspicuous place and by any of the following additional methods:

- a. Personal service on the responsible person;
- b. By certified mail to the responsible person at his/her last known residence or business address, or at the address to which the tax bill for the land was last mailed.

3. Recording of Notice. The Town may record the notice of civil violation in the Navajo County Recorder's Office; provided, that if compliance with the notice of civil violation is subsequently satisfied, the Town shall record a release of the notice also.

4. In the event that the notice of violation or assessment is mailed, delivery shall be conclusively presumed to have occurred five (5) days from the date of mailing. In the event of personal service, the date of delivery is the date of such service. In the event of a posting of the notice at or on the property, delivery shall be conclusively presumed to have occurred five (5) days from the date of posting.

B. Continuing Duty to Correct. Payment of a civil monetary penalty pursuant to this chapter does not relieve a responsible person of the duty to correct the violation as ordered by the Town in any notice of civil violation.

C. Civil Court Action. In any civil action brought to enforce the provisions of this chapter, photographic evidence that the public nuisance or other violation of this chapter was present on the land within ten (10) days of preparation of the notice of civil violation shall create a presumption that the defendant is in violation of this chapter.

D. Collection of Civil Monetary Penalty. The Magistrate Court shall have the primary duty to collect civil monetary penalties pursuant to this chapter. In addition, the Town Attorney, on behalf of the Town, is authorized to collect the civil monetary penalties assessed pursuant to this chapter by use of appropriate legal remedies.

E. Enforcement Officers. The Community Development Department and the Police Department are authorized to request compliance with and enforce the provisions of this chapter. In addition, employees of any fire district with authority within the Town boundaries may request compliance with this chapter and may report violations of this chapter to the Director. (Ord. 15-393 § 1 (part); Ord. 10-337 § 2 (Exh. A)(part))

17.96.140 Appeals – Forest Health Committee.

A. Appeals resulting from enforcement of this chapter are heard by the Town Council who shall serve as the Forest Health Committee.

B. The Forest Health Committee will hear appeals resulting from the enforcement of this chapter by the Town staff.

C. The Forest Health Committee shall hear and decide appeals from any order, requirement or decision of the Director of the Community Development Department relating to this chapter.

D. When the Director deems it appropriate, the Director may defer orders, requirements or decisions relating to this chapter to the Forest Health Committee for its consideration or decision. In any such circumstance where the Director elects to defer the Director's decision on an issue or question relating to this chapter, the Forest Health Committee shall meet and hear from both the Director and the responsible person and reach a decision within thirty (30) days from the date the landscaping plan, vegetation management plan or other issue was first presented to the Director.

E. Within ten (10) days from the delivery of a notice of civil violation or the recording of an assessment, the responsible person may appeal the notice of civil violation or assessment to the Forest Health Committee. All such appeals shall be in writing and filed with the Director. Within thirty (30) days of the receipt of the appeal, the Forest Health Committee shall set a time and place for an appeal hearing. Within fifteen (15) days after the conclusion of the appeal hearing the Forest Health Committee shall enter its order affirming, denying or modifying the notice of violation or assessment. In the event that the Forest Health Committee affirms or modifies the notice of violation or assessment, the responsible person shall remove or abate the public nuisance, perform the required fuel modification or otherwise comply with the requirements of this chapter within thirty (30) days of the date of the order. The decision and order of the Forest Health Committee shall be final and binding, and any party wishing to appeal from such order shall do so based upon the record of proceedings of the Forest Health Committee in the Navajo County Superior Court, only. Appeal proceedings in the Navajo County Superior Court or any other court of competent jurisdiction shall not be de novo. (Ord. 15-393 § 1 (part); Ord. 10-337 § 2 (Exh. A)(part))

DRAFT/PROPOSED TOWN CODE CHAPTER 17.96
FOREST HEALTH AND WILDLAND-URBAN INTERFACE FIRE RISK REDUCTION

Chapter 17.96

PROPOSED FOREST HEALTH AND WILDLAND-URBAN INTERFACE FIRE RISK REDUCTION

17.96.010 Purpose.

The purpose of this chapter is to protect the health, safety, and welfare of the citizens of Pinetop-Lakeside. It recognizes that the Town falls within the **Wildland-Urban Interface (WUI)**, surrounded by forested National Forest and White Mountain Apache Reservation lands and considerable forested areas within its boundaries. This chapter promotes the health of the Town's "urban forest" to help protect residential, commercial, and undeveloped property values while reducing the growing threat of catastrophic wildland fire occurrence. This chapter aims to promote individual property owners, neighborhoods, and communities in achieving nationally recognized standards for Fire-Adapted Communities, as outlined in the applicable provisions of the International Wildland-Urban Interface Code (IWUIC, 2018 version) and the recommendations of the *Sitgreaves Communities Wildlife Protection Plan* (2016 version).

This chapter employs a **property risk-based approach** to establish requirements and recommendations for nurturing healthy trees and mitigating wildland fire risk to human life and property. It prescribes mandatory guidelines for modifying conifer fuel and voluntary (and, in higher-risk cases, mandatory) building construction considerations.

17.96.020 Scope.

This chapter applies to all land within the Town's boundaries and any developed area where conditions affecting the combustibility of both wildland and built fuels allow for the ignition and spread of fire through the combined fuel complex, which also encompasses the Town's designated Wildland-Urban Interface (WUI) areas, subject to the provisions of this chapter.

17.96.030 Approach.

This chapter outlines an approach for property owners to assess their property's risk of potential wildfire impact based on a scoring system derived from four hazard factors combined to yield an overall property wildfire risk rating. This rating determines which guidelines to follow when undertaking conifer fuel modification to mitigate the risk and the potential need for mandatory use of fire-resistant building materials in new construction. Fire risk and fuel reduction activities are prescribed in three zones around buildings and homes, which, when implemented, will reduce the risk of wildfire impact. In addressing wildfire risk through fuel modification thinning treatments, forest health will be promoted by reducing competition associated with unnatural, excessive tree densities and insect mortality while increasing resiliency to drought.

17.96.040 Definitions.

The following definitions apply to this chapter:

1. "Basal area" is a measurement of tree density. The basal area is the cross-sectional area of a tree forty-two (42) inches above ground. The basal area of all trees in a given land area describes the degree to which trees occupy an area and is generally expressed in square feet per acre. The basal area calculation is X^2 times 0.005454, where X equals tree diameter in inches at forty-two (42) inches above ground. For example: The basal area of a twelve (12) inch dbh (diameter at breast height) tree = $144 \times 0.005454 = 0.7854$ square feet or $(12 \times 12 = 144 \times 0.005454 = 0.7854$ square feet).

The Concept of Basal Area



Exhibit 1

2. "Canopy closure" is a measurement of tree density. It is an essential factor in initiating and sustaining crown fires. Canopy closure is the percentage of area above a parcel of land filled with vegetative foliage. Measurements of canopy closure can be made on the ground using a spherical densitometer, a sighting periscope, or the aerial photography measurement method.
3. "Defensible space" refers to the area around a structure that is intentionally maintained to separate it from non-fire-resistant vegetation and help prevent the spread of fire. The Town employs a three-zone approach to help create a survivable space around and between neighboring properties. Survivable space refers to structures and property.
4. "Director" means the Director of the Community Development Department of the Town of Pinetop-Lakeside.
5. Forest Health Committee. The Town Council shall serve as the Forest Health Committee until it appoints a separate Forest Health Committee. At this time, the Council will establish provisions for creation, appointment, term of office, qualifications of members, and meetings.
6. "Fuel modification" refers to altering the type or quantity of plant fuels to mitigate fire danger.

7. "IWUIC" refers to the International Wildland Urban Interface Code published by the International Code Council.
8. "Ladder fuels" are living or dead trees, bushes, and grasses that allow a fire to travel from the ground to the forest or tree canopy. Ladder fuels help convert a ground fire to a crown fire.
9. "Non-fire-resistant vegetation" includes trees and other plant materials, both dead and alive, that increase the fire danger to unreasonably high levels. The fire danger may result from low moisture content, high levels of oil or pitch, a dense plant structure, or other characteristics that make the trees or plants more susceptible to producing or spreading high-intensity fires.
10. "Remove or removal" means removing a tree by digging it up, cutting it down, or causing its effective removal through damage. A tree shall be deemed "removed" even if a stump and roots remain.
11. "Responsible person" means the owner and the possessor of land, including owners in possession, landlords and lessors, tenants and lessees, real property managers, and any other person or entity that has possession, a right to possession, or any management or supervisory authority over land. A "Responsible Person" may be one or more persons who shall be jointly and severally liable and responsible for the forest health and fire protection of land within the Town.
12. "Trees" means any self-supporting, woody plant of a species which generally, in the area, grows at maturity to an overall height of not less than ten (10) feet and is greater than four (4) inches in diameter at a height of four (4) feet six (6) inches from the ground.
13. "Urban-wildland interface" is where buildings, structures, and people intersect with or are surrounded by forest or non-fire-resistant vegetation. (Ord. 15-393 § 1 (part); Ord. 10-337 § 2 (Exh. A)(part))

17.96.050 Responsible person.

The responsible person shall oversee the modification or removal of trees, plants, and other non-fire-resistant, insect-infested, or disease-ridden vegetation and debris on the land, as well as carry out any other necessary fuel modification to promote forest health and prevent the spread of fire to adjacent properties by establishing and maintaining defensible space. Fuel modification shall meet the minimum requirements as described in this section.

17.96.060 Property wildfire hazard factors.

Many factors contribute to the relative risk of a property being impacted by a catastrophic wildfire and the likelihood that its building(s) may be successfully defended during such an event. The IWUIC identified *Fire Hazard Severity* as one factor tied to the number of days per year exhibiting critical fire weather; greater than 8 days per year was recognized as an extreme hazard on all slopes within medium- and heavy-fuel models prevalent in the Town. The Town's

frequency of critical fire weather can easily exceed 30 days per year, rendering the Town inherently at a hazard severity and pointing to the need to proactively address other manageable risk factors identified below to reduce the overall wildfire risk. Ignition-resistant construction in accordance with section 501 of the IWUIC & recommendations from the CPAW recommendations within Table 6 may be warranted if the risk factors are significant enough. The risk factors, hazard ratings, and associated points to be tallied to derive overall property risk include:

- A. **Access:** Property access via all-weather roads and driveways is critical to the defense of property and buildings in the event of a wildfire, particularly for fire apparatus and personnel to gain safe, unobstructed access, as specified in the IWUIC (Section 403). Failure to meet minimum access requirements for driveway clearances (width and height) with appropriate turnarounds and turnouts based on driveway distances may limit the successful defense of the property or even preclude defense altogether. Hazard ratings for this factor include:

Access hazard	Does it meet IWUIC requirements?	Overall risk points
Acceptable	Yes	1
Unacceptable	No	10

- B. **Water supply:** In addition to access, an adequate and reliable water supply is also crucial for defending property and buildings against wildfires, particularly when access to fire apparatus is limited. The IWUIC minimum requirements (e.g., an approved hydrant within 1,000 feet of the building) for water sources (Section 402 & 404), whether man-made or natural and a minimum of 1,000 GPM or alternatives as guided by NFPA 1142. relate to the ability to defend buildings in the event of a wildfire successfully. Hazard ratings for this factor include:

Water source hazard	Does it meet IWUIC requirements?	Overall risk points
Acceptable	Yes	1
Unacceptable	No	5

- C. **Slope:** The slope of the terrain associated with a property can significantly affect wildfire behavior and severity, especially during periods of critical fire weather. Wildfire behavior, unpredictability, and intensity can be considerably greater when fires burn up slopes. Recognizing that a property's slope cannot be altered, risk reduction depends on mitigating other risk factors and considering using fire-resistant building materials during construction. Hazard ratings for this factor include:

Slope hazard	Average property slope	Overall risk points
Low	<20%	1

Moderate	21-40%	3
High	41-60%	7
Extreme	>60%	10

- D. **Conifer tree fuel loading:** The density of potentially flammable coniferous trees (e.g., ponderosa pine, spruce, and juniper) on a property affects its risk from wildfire and the intensity with which it can burn. This factor reflects a property’s fuel loading. Properties with multiple age classes of trees (e.g., saplings under a large tree overstory) have the potential for ground fires to “ladder” into the tree canopy from below and become a destructive “crown” fire. Of all the risk factors, conifer tree density is the most manageable by property owners to mitigate overall wildfire risk. Hazard ratings for this factor, based on the number of trees per acre 6 inches dbh and larger, include:

Conifer fuel load hazard	Trees/acre >6” dbh	Overall risk points
Low	<60 trees/acre	1
Moderate	61–80 trees/acre	3
High	81–150 trees/acre	7
Extreme	>150 trees/acre	10

17.96.070 Property overall wildfire risk rating.

The overall wildfire risk rating for each of the four factors described above in 17.96.060 not only reflects the relative risk of being impacted by wildfire but also serves as the basis for conifer fuel modification guidelines established by the zone, determining the necessity of mandatory application of fire-resistant building materials per the IWUIC standards detailed within section 501 during construction. The property's wildfire risk is listed below, using the tallied points assigned to each hazard rating.

A. Wildfire Risk Ratings

Wildfire Risk Rating	With Acceptable access?	Total hazard factor points
Low	Yes	4–8 total points
Moderate	Yes	9–12 total points
High	Yes or No	13–22 total points
Extreme	Yes or No	22–35 total points

17.96.080 Home Ignition Zones for Fuel and Risk Reduction Activities.

Conifer fuel load and wildfire risk reduction activities shall be accomplished within three Home Ignition Zones, each with a different goal. This approach reflects extensive research on home ignition and is considered the most effective means to increase the likelihood of buildings surviving a wildfire (National Fire Protection Association). These zones are the basis for implementing fuel reduction activities, as outlined in Section 17.96.070. The specific distance

and fuel reduction thinning guidelines for each zone, based on the overall property risk rating, are outlined in Section 17.96.090.

- A. **Immediate Zone (0–5 feet** from the furthest attached part of a building/home; zone may extend further for higher risk properties). This zone is considered a non-combustible zone to reduce vulnerability to ignition from flying embers; it may be the most important of the zones in increasing the likelihood of reduced impact from wildfire. It includes the building or home itself and the landscaping immediately surrounding it. Activities that shall be accomplished **annually** (and as needed periodically during the fire season) within this zone include:
1. Clean roofs and gutters of dead leaves, debris, and pine needles that could catch and ignite from embers.
 2. Replace or repair any loose or missing shingles or roof tiles to prevent ember penetration.
 3. Reduce embers that could pass through vents in the eaves by installing or maintaining 1/8-inch metal mesh screening on vent openings.
 4. Clean debris from exterior attic vents and install 1/8-inch metal mesh screening to prevent embers from entering.
 5. Repair or replace damaged or loose window screens and any broken windows. Screen or box-in areas below patios and decks with wire mesh to prevent debris and combustible materials from accumulating.
 6. Move any flammable materials away from wall exteriors – including mulch, flammable plants, leaves, needles, and firewood piles – anything that can burn. Remove anything stored underneath decks or porches.
 7. Maintain bare mineral soil or install a non-combustible surface (e.g., rock, concrete, flagstone, pavers) in this zone and underneath all attachments, projections, and underfloor areas.
- B. **Intermediate Zone (5–30 feet** from building/home). In addition to being the zone with the most intensive thinning and highest spacing distance among trees to limit fire spread to the building/home, it is also where landscaping and “hardscaping” (employing careful landscaping or creating breaks that can help influence and decrease fire behavior) are effective. Activities that shall be accomplished within this zone include:
1. Clear vegetation away from sizeable stationary propane tanks.
 2. Create fuel breaks with driveways, walkways, paths, patios, and decks.
 3. Keep lawns and native grasses mowed to a height of four inches.
 4. Remove ladder fuels so a surface fire cannot reach the crowns. Prune trees up to six to ten feet from the ground; shorter trees should not exceed a thinning of over one-third of the overall tree height.

5. Tree placement should be planned to ensure the mature canopy is at least ten feet away from the edge of the structure.
 6. Trees and shrubs in this zone should be limited to small clusters of a few each to break up the continuity of the vegetation across the landscape.
 7. Remove all dead, dying, and downed debris and plant material.
 8. Clear vegetation to 10 feet from large, stationary propane tanks.
 9. Deciduous trees only should be planted within 30 feet of the edge of a structure. Tree placement should be planned to ensure the conifer mature canopy is no closer than 30 feet to the edge of the structure. Retained mature conifer canopy must be no closer than 10 feet to the edge of a structure. Remove all juniper species within 30 feet of the structure's edge.
- C. **Extended Zone** (30 feet from the building or home to the property line). The goal in this zone is not to eliminate fire but to interrupt its path and keep flames smaller and on the ground. Fuel reduction thinning in this zone is less intensive than in the Intermediate Zone. For many properties in Town, this zone may extend to or even beyond the property boundary, underscoring the benefit of neighbors and neighborhoods working together to develop integrated fuel reduction thinning strategies. Activities that shall be accomplished within this zone include:
1. Dispose of heavy accumulations of ground litter/debris.
 2. Remove dead plant and tree material.
 3. Remove small conifers growing between mature trees.
 4. Remove vegetation adjacent to storage sheds or other outbuildings within this area.

17.96.090 Fuel Modification Guidelines by Zone and Wildlife Risk Rating

This chapter utilizes the Wildfire Risk Ratings (17.96.070) and the Home Ignition Zone concept (17.96.080) to prescribe sliding-scale conifer fuel modification guidelines that mitigate wildfire risk and promote forest health. These guidelines prescribe the recommended conifer tree density (e.g., ponderosa pine) as either trees per acre (TPA) or basal area (BA) and tree spacing within the Intermediate and Extended zones, categorized by wildfire risk rating (below).

Wildfire Risk Rating	Immediate Zone width away from home	Conifer Tree Fuel Modification/Thinning Guidelines			
		Intermediate Zone (Outward to 30 feet)		Extended Zone (30 feet to the property line)	
		Tree density	Tree spacing	Tree density	Tree spacing

Low	5 feet	60 tpa ¹ or <70 BA ²	12-15 feet	70 tpa ¹ or 70-80 BA ²	10-12 feet
Moderate	5 feet	50 tpa or 50-60 BA	15-18 feet	60 tpa or 70-80 BA	12-15 feet
High	10 feet	40 tpa or 40-50 BA	18-20 feet	50 tpa or 50-60 BA	15-18 feet
Extreme	15 feet	<40 tpa or <40 BA	>20 feet	<50 tpa or <50 BA	18-20 feet

¹tpa = trees per acre

²BA = basal area

17.96.100 Special forest management considerations

1. Legacy trees: Special attention should be given to protecting and preserving larger, healthy ponderosa pine trees (e.g., >20 inches dbh) when conducting fuel modification, if practical and without creating a hazard. These trees are special due to their “legacy” status, relative rarity across the Town’s urban forest, and high wildlife and aesthetic value. Smaller understory trees should be removed from below and around these trees (e.g., out to 10 feet beyond their crowns) to reduce competition for water and nutrients, thereby improving the health of the trees and the forest.
2. Tree clumps: Although the spacing guidelines for fuel modification in 17.96.090 are intended for the distances between individual trees, ponderosa pine naturally regenerates and grows in clumps of varying sizes, often within interspersed clumps of different age classes of trees. Leaving lightly thinned (e.g., not dense) clumps of trees (e.g., 4-8 mature trees) is permissible where appropriate; however, it is critical that adequate spacing is left between the clumps to accomplish similar disruption of continuous fuels and modification of advancing fire behavior as with individual tree spacing.
3. Gambel oak: This species is a characteristic and prevalent oak species found within and around the Town’s urban forest; it does not contain the same resinous terpene oils found in conifer species and is generally not considered flammable or contributory to wildfire risk. While benefiting from some thinning, clumps of healthy oaks may be retained on a property. However, it is essential to clear any dead stems and other debris annually and clean up leaf litter, which can be flammable. A continuous oak regeneration understory is also discouraged.
4. Ladder fuels: Efforts should be made to prevent a ground fire from climbing into tree canopies via shrubs and smaller trees where it may become wind-fanned into a crown fire. The *vertical* arrangement of different age classes of conifers, primarily ponderosa pine and junipers, in the exact location contributes to the ladder effect. If different age classes are desired on a property, using a horizontal arrangement within well-spaced clumps is more acceptable. Free

of dead material, healthy Gambel oaks and other mid-story deciduous tree species do not typically contribute to the ladder effect.

5. Landscaping: Fire-resistant plants, such as green grass, ivy, succulents, or other approved fire-resistant ground covers that do not form a means of readily transmitting fire to or from buildings, are recommended and encouraged.
6. Deadwood and Litter: Deadwood and vegetative litter shall be removed from the ground and trees annually.

17.96.120 Special Building Construction Requirements

The IWUIC (Sections 501-507) prescribes the mandatory use of fire-resistant building construction materials within designated Wildland-Urban Interface (WUI) areas. It provides separate guidelines for utilizing “ignition-resistant” materials within “nonconforming” and “conforming” defensible spaces around buildings and homes. Similar to the Home Ignition Zone concept (17.96.080), the requirement for “ignition-resistant” materials in designated Wildland-Urban Interface (WUI) areas is based on extensive research into their value and efficacy in protecting human lives and property.

- A. ***Voluntary Use of Special Building Construction Materials***: The voluntary use and application of the materials described in the IWUIC is encouraged and recommended for all future construction in the Town due to its proven benefit in reducing the impact of wildfire, with the exception that all buildings shall have a roof assembly/construction with a Class A rating.
- B. ***Any section of fencing within ≤ 5 feet of a structure shall be constructed of non-combustible material.***
- C. ***A minimum of 6 inches of vertical non-combustible surface above the finished and landscaped grade, as well as patios and decks, shall be required.***
- D. ***Deck joists must be constructed of non-combustible material, or the horizontal top surface shall be capped with non-combustible material.***

17.96.130 Other landscape or vegetation management plans are also acceptable.

Nothing contained in this chapter shall prohibit a property owner(s) from developing a landscape plan or a fuel modification plan that is not in strict accord with the survivable space guidelines established by this chapter, so long as the plan accomplishes the purposes of this chapter and so long as the plan is certified by a professional forester, a certified arborist, or another qualified individual or organization and approved by the Director. (Ord. 15-393 § 1 (part); Ord. 10-337 § 2 (Ex. A)(part))

17.96.140 Time for compliance.

All property subject to this chapter shall be brought into compliance in accordance with the following schedule:

A. Within one (1) year of enactment:

1. Compliance with all requirements of Section [17.96.080.A](#), Zone 1.

B. Within two (2) years of enactment:

1. Compliance with all requirements of Zones 1 and 2 for property governed by Section [17.96.080.A](#) and [17.96.080.B](#).

2. Where an undeveloped parcel adjoins a parcel with a building or structure, and the distance from the property line to the structure is less than thirty (30) feet, that portion of the undeveloped parcel within thirty (30) feet of the structure shall meet Zone 2 standards.

C. Within four (4) years of enactment:

1. Compliance with Zone 1, 2, and 3 standards shall be achieved on all property regulated by Section [17.96.080](#).

2. All properties regulated by this section shall have trees and other plants modified and maintained in accordance with an acceptable or approved fuel modification plan.

D. All new residential and commercial construction of any building or structure shall comply with Zone 1, 2, and 3 requirements prior to completion of construction. A certificate of occupancy shall not be issued until the requirements of this chapter are met.

E. All proposed new subdivisions shall provide, as part of the preliminary and final plat approval process, a fuel modification plan meeting the requirements of this chapter. (Ord. 15-393 § 1 (part); Ord. 10-337 § 2 (Exh. A)(part))

17.96.150 Tree removal.

A. Permits for the removal of trees in accordance with this chapter shall not be required.

B. All other tree removal shall be in accordance with an approved site or plot plan or pursuant to other approval by the Director, the Community Development Department, the Planning and Zoning Commission, the Town Council, or other authority of the Town.

C. Removal shall be in accordance with commonly accepted practices and management standards such as those promulgated by the International Society of Arboriculture and the University of Arizona Cooperative Extension.

D. Trees cut down shall be removed from the property within two (2) weeks or cut and stored on the property in a manner that is not a hazard to public health and safety and shall not encourage the propagation of insects.

E. Trees not properly removed or stored shall be considered a nuisance pursuant to this chapter or Chapter [17.100](#). The Town may remove, abate, enjoin, or otherwise cause the removal of such solid waste, and all costs of such removal, abatement, or injunction of such nuisance or solid waste shall be assessed against the land in accordance with this chapter or Section [17.100.050](#). (Ord. 15-393 § 1 (part): Ord. 10-337 § 2 (Exh. A)(part))

17.96.160 Fuel modification or removal by the Town.

A. If the responsible person does not perform the fuel modification or removal of trees, plants, or other vegetation in accordance with the requirements of this chapter, the property shall be a public nuisance, which nuisance may be abated by the Town, and for which the responsible person may be cited, be found responsible or be enjoined by an appropriate court proceeding.

B. The cost of any fuel modification, removal, abatement, or injunction of such public nuisance, along with any associated legal fees, shall be assessed against the land where the nuisance existed. The Town may record the cost of removal, abatement, or injunction as an assessment in the Navajo County Recorder's Office, including the date and amount of the assessment, the legal description of the property, and the full name and address of the property owner. Any such assessment is prior and superior to all other liens, obligations, mortgages, or other encumbrances except liens for general taxes. A sale of the land to satisfy an assessment obtained under the provisions of this chapter shall be made upon judgment of foreclosure and order of sale. The Town shall have the right to bring an action to enforce the assessment in the Navajo County Superior Court at any time after the recording of the assessment. The failure to enforce the assessment by such legal action shall not affect the assessment's validity. A recorded assessment shall be prima facie evidence of the truth of all matters recited therein and of the regularity of all proceedings prior to the recording thereof.

C. Assessments that are imposed under this chapter run against the land until paid, accrue interest at the rate of ten (10%) percent per year or as otherwise prescribed by Arizona Revised Statutes, Title [44](#), Chapter 9, Article 1, Section [44-1201](#); and are due and payable in equal annual installments as follows:

1. Assessments of less than five hundred dollars (\$500.00) shall be paid within one (1) year after the assessment is recorded.
2. Assessments of five hundred dollars (\$500.00) or more but less than one thousand dollars (\$1,000) shall be paid within two (2) years after the assessment is recorded.

3. Assessments of one thousand dollars (\$1,000) or more but less than five thousand dollars (\$5,000) shall be paid within three (3) years after the assessment is recorded.
4. Assessments of five thousand dollars (\$5,000) or more but less than ten thousand dollars (\$10,000) shall be paid within six (6) years after the assessment is recorded.
5. Assessments of ten thousand dollars (\$10,000) or more shall be paid within ten (10) years after the assessment is recorded.

D. Subsequent Assessments. A prior assessment for the purposes provided in this chapter shall not be a bar to subsequent assessments for the same or similar purposes. Any assessments on the same land may be enforced using the same legal action.

E. Civil Penalty. Any owner, tenant, or other responsible person who, after notice as required by Section [17.96.170\(A\)](#), does not perform the fuel modification or removal of trees, plants, or other vegetation in accordance with the requirements of this chapter and abate the condition which constitutes a hazard to the public health and safety, by the date stated in the notice, shall be subject to a civil penalty as outlined in Chapter [17.132](#). (Ord. 15-393 § 1 (part); Ord. 10-337 § 2 (Exh. A)(part))

17.96.170 Enforcement.

A. Notice of Civil Violation.

1. Notice of Civil Violation. A written notice of any violation of this chapter shall be delivered to the responsible person. This written notice shall give a minimum of at least thirty (30) additional days before the date set for compliance and shall include the following information:
 - a. The name and address of the responsible person to whom the notice of violation is directed; and
 - b. The physical property address or the legal description of the land upon which the violation has occurred or is occurring; and
 - c. A description of the violation, including a reference to this chapter by section number; and
 - d. A brief statement of the action required to be taken to correct the violation; and
 - e. The date before which the corrective action shall be taken, which date shall be at least thirty (30) days after the date of the notice of civil violation; and

f. The estimated maximum cost of such removal to the Town if the responsible person does not comply.

2. Delivery of Notice. Delivery of a written notice of civil violation may be made by posting the notice at or on the property in a conspicuous place and by any of the following additional methods:

a. Personal service on the responsible person;

b. By certified mail to the responsible person at their last known residence or business address or at the address to which the tax bill for the land was last mailed.

3. Recording of Notice. The Town may record the notice of civil violation in the Navajo County Recorder's Office, provided that if compliance with the notice of civil violation is subsequently satisfied, the Town shall also record a release of the notice.

4. If the notice of violation or assessment is mailed, delivery shall be conclusively presumed to have occurred five (5) days from the date of mailing. In the event of personal service, the date of delivery is the date of such service. In the event of a posting of the notice at or on the property, delivery shall be conclusively presumed to have occurred five (5) days from the posting date.

B. Continuing Duty to Correct. Payment of a civil monetary penalty under this chapter does not relieve a responsible person of the duty to correct the violation as ordered by the Town in any notice of civil violation.

C. Civil Court Action. In any civil action brought to enforce the provisions of this chapter, photographic evidence that the public nuisance or other violation of this chapter was present on the land within ten (10) days of preparation of the notice of civil violation shall create a presumption that the defendant violates this chapter.

D. Collection of Civil Monetary Penalty. The Magistrate Court shall be primarily responsible for collecting civil monetary penalties pursuant to this chapter. In addition, the Town Attorney, on behalf of the Town, is authorized to collect the civil monetary penalties assessed in accordance with this chapter using appropriate legal remedies.

E. Enforcement Officers. The Community Development Department and the Police Department are authorized to request compliance with and enforce the provisions of this chapter. In addition, employees of any fire district with authority within the Town boundaries may request compliance with this chapter and report violations to the Director. (Ord. 15-393 § 1 (part); Ord. 10-337 § 2 (Exh. A)(part))

17.96.180 Appeals – Forest Health Committee.

- A. Appeals resulting from enforcement of this chapter are heard by the Town Council, which shall serve as the Forest Health Committee.

- B. The Forest Health Committee will hear appeals resulting from the enforcement of this chapter by the Town staff.

- C. The Forest Health Committee shall hear and decide appeals from any order, requirement, or decision of the Director of the Community Development Department relating to this chapter.

- D. When the Director deems it appropriate, the Director may defer orders, requirements, or decisions relating to this chapter to the Forest Health Committee for its consideration or decision. In any such circumstance where the Director elects to defer the Director's decision on an issue or question relating to this chapter, the Forest Health Committee shall meet and hear from both the Director and the responsible person and reach a decision within thirty (30) days from the date the landscaping plan, vegetation management plan or other issue was first presented to the Director.

- E. Within ten (10) days from the delivery of a notice of civil violation or the recording of an assessment, the responsible person may appeal the notice of civil violation or assessment to the Forest Health Committee. All such appeals shall be in writing and filed with the Director. Within thirty (30) days of the receipt of the appeal, the Forest Health Committee shall set a time and place for an appeal hearing. Within fifteen (15) days after the conclusion of the appeal hearing, the Forest Health Committee shall enter its order affirming, denying, or modifying the notice of violation or assessment. Suppose the Forest Health Committee affirms or modifies the notice of violation or assessment. In that case, the responsible person shall remove or abate the public nuisance, perform the required fuel modification, or otherwise comply with the requirements of this chapter within thirty (30) days of the date of the order. The decision and order of the Forest Health Committee shall be final and binding, and any party wishing to appeal from such order shall do so based upon the record of the Forest Health Committee proceedings in the Navajo County Superior Court only. Appeal proceedings in the Navajo County Superior Court or any other court of competent jurisdiction shall not be de novo.

DRAFT INTERGOVERNMENTAL AGREEMENT
TIMBER MESA FIRE & MEDICAL DISTRICT – TOWN OF PINETOP-LAKESIDE

INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement (the “**Agreement**”) is made and entered into this day of _____, 2025, by and between the TOWN OF PINETOP-LAKESIDE (the “**Town**”), and the TIMBER MESA FIRE & MEDICAL DISTRICT, a political subdivision of the state of Arizona (“**TMFMD**” or the “**District**” as the context requires). The Town and District individually may be referred to as “**Party**” and collectively may be referred to as the “**Parties**” to this Agreement.

WHEREAS, the Town and the District are both authorized and empowered to enter into this Agreement for purposes of carrying out their mutual responsibility pursuant to Arizona Revised Statutes (A.R.S.) §11-951, §11-952, §48-805, and §48-805.01; and

WHEREAS, the Town and the District seek to cooperate with each other in order to more effectively and economically provide for fire code administration within the Town and the Timber Mesa Fire & Medical District; and

NOW THEREFORE, in consideration of mutual promises and covenants contained herein, the Parties agree as follows:

1. **Purpose.** The purpose of this Agreement is to define the formal process, roles, and responsibilities of the Parties in providing certain fire protection services to the Town (collectively referred to as the “**Services Provided**”). The Services Provided shall include the administration and enforcement of the joint powers, shared by the Town and District, regarding fire and building safety requirements adopted by the Parties. For purposes of this Agreement and application thereof, “**commercial**” properties shall include multi-family dwellings of three units or more and commercial properties; alternatively, “**residential**” property means a dwelling consisting of one- or two-family units including a utility or miscellaneous accessory building or structure to a residence.

2. **Responsibilities and Obligations.**

The Town shall:

- i. **Construction Documents.** Provide the District electronic copies of the *Construction Documents* for all commercial projects applying for a building permit or a certificate of occupancy (“**Permits**” or “**Permit**”). Pursuant to the International Residential Code and the International Building Code adopted by the Town (the “**IRC**” and “**IBC**” respectively), “**Construction Documents**” include all written, graphic, and pictorial documents prepared or assembled for describing the design, location and physical characteristics of the elements of a project necessary for obtaining a Permit.

- ii. Secured Database. Implement a secured database, in collaboration with the District, where the Town may transfer electronic copies of the Construction Documents in a secure and timely manner. After reviewing the Construction Documents, the District will respond to the Town by sending the District's compliance determination over this database for the Town's review.

[We are advised that the software program known as *Citizen Serve* works well for this purpose.]

- iii. Timeframe for Review. Provide the District a **three (3) week** review period, unless otherwise agreed by the respective representatives of the Parties, to review the Construction Documents, perform inspections, and provide the Town with the District's compliance determination before the Town issues a Permit to any property owner ("**Review Period**"). At the conclusion of the Review Period, if the District does not provide the Town with its final determination, the Town may proceed with its Permit process as if the property was in compliance with the International Fire Code ("**Assumed Compliance**").
- iv. Commercial Properties. Not issue a Permit under the IBC, until the District has reviewed and approved the Construction Documents. If the District's compliance determination finds the Construction Documents to be in violation of the IFC, the Town shall withhold such Permits, pursuant to the IBC adopted by the Town, until the requirements of the IFC are satisfied and subsequently approved by the District.

The District shall:

- i. Construction Documents. Review all commercial projects applying for a Permit and timely provide the Town a compliance determination acknowledging whether the Construction Documents comply with the requirements of the IFC. If the District determines that the project does not comply with the IFC, then the District shall share this determination with the Town and coordinate enforcement efforts pursuant to this Agreement.
- ii. Secured Database. Work with the Town to implement a secured database system (such as the Citizen Serve secured database system), where the District may electronically receive the Construction Documents from the Town and transfer the District's compliance determination to the Town in a secure and timely manner.
- iii. Timeframe for Review. Review and provide the District's compliance determination to the Town within **three (3) weeks** of receiving the Construction Documents, unless otherwise agreed by the respective representatives of the Parties. Pursuant to the joint enforcement efforts provided under this

Agreement, the District acknowledges that the Town may proceed with its Permit process under Assumed Compliance if the District does not provide a compliance determination within the Review Period.

- iv. **Commercial Properties.** The District agrees to review and provide the Town its IFC compliance determination for all commercial applications within the Review Period. The District understands that its approval is required for the commercial property to receive a Permit from the Town and therefore agrees to conduct additional compliance determinations and updates to the Town for commercial properties found in violation of the IFC. These additional determinations by the District shall acknowledge whether the violations of the IFC have been corrected and whether the District approves the modified construction project. The District reserves the right to address any IFC violations for commercial properties that receive approval from the Town based on Assumed Compliance.

3. Term. The term of this Agreement shall be effective on the date of its execution and shall continue in effect for a period of two (2) years. Thereafter, this Agreement shall be automatically renewed for successive two (2) year periods unless either Party provides at least ninety (90) days written notice of their intent to not renew this Agreement.

4. Financing. The Parties acknowledge that no additional funding is anticipated to perform the Services Provided in this Agreement. If circumstances were to change, the Parties shall mutually approve the necessary allocation of funds or budget adoption for this Agreement's continued implementation.

5. Liability Insurance. During the life of this Agreement, each Party shall maintain a policy of liability insurance naming the other Party as an additional insured Party in the amount of not less than three million dollars (\$3,000,000) per occurrence with aggregate liability coverage of not less than five million dollars (\$5,000,000). In the alternative, a Party may self-insure in accordance with the above-referenced liability amounts. Each Party shall make available its insurance information, including, but not limited to verification of coverage, to the other Party upon request.

6. Indemnification. The Parties to this Agreement shall indemnify and hold harmless each other and their respective departments, boards, employees, and agents, from any and all claims, liabilities, expenses, or third-party actions resulting from the indemnifying Party's negligence incurred in connection with the performance of its responsibilities under this Agreement, whether said claims, liabilities expenses, or third-party actions arise by act or omissions of that Party, their agents or employees, or whether by the acts or omissions of that Party's

subcontractors, their agents or employees. Nothing herein shall be construed as a waiver by any Party of the right to bring an action for contribution against the other or as against any third person or entity.

7. Workers' Compensation Coverage. All employees of a Party to this Intergovernmental Agreement that work under the jurisdiction of or within the jurisdictional boundaries of another party pursuant to this particular Intergovernmental Agreement, shall be deemed to be an employee of the Party who is his or her primary employer, as provided in A.R.S. § 23-1022(D). The Party and primary employer of such an employee shall be solely liable for payment of workers' compensation benefits for the purposes of this section. Each Party herein shall comply with provisions of AR.S. § 23-1022 (E) by posting the public notice required.

8. Arbitration; Forum; Venue. The Parties hereto expressly covenant and agree that in the event of a dispute arising under this Agreement, the matter shall be put to arbitration under the terms and provisions of the Arizona Arbitration Act. In any event, the parties hereto waive any rights to a trial by jury. Any action brought to interpret or enforce any provision of this Agreement that cannot be administratively resolved, or otherwise related to or arising from this Agreement, will be commenced and maintained in the state or federal courts of the State of Arizona, Navajo County, and each of the Parties, to the extent permitted by law, consents to jurisdiction and venue in such courts for such purposes.

9. Waiver of Attorneys' Fees. The Parties hereto expressly covenant and agree that in the event of litigation or arbitration arising from this Agreement, neither Party shall be entitled to an award of attorneys' fees, either pursuant to the Contract, pursuant to AR.S. §12-341.01(A) and (E), or pursuant to any other state or federal statute.

10. Binding Effect; Beneficiaries. This Intergovernmental Agreement shall be binding upon the Parties and any successor-in-interest. No provision herein is intended to create a third beneficiary interest in any person or entity, including but not limited to the respective employees or agents by either Party.

11. Non-Appropriation. This Agreement shall be subject to available funding for both Parties and nothing in this Agreement shall bind either Party to expenditures in excess of funds appropriated and allotted for the purposes outlined in this Agreement.

12. Waiver. The waiver by one Party of any breach by the other Party regarding any term, covenant, or condition of any permit shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition of the Agreement. No term, covenant, or condition hereof can be waived except by the written consent of the Parties and forbearance or

indulgence by either Party in any regard whatsoever, shall not constitute a waiver of the term, covenant, or condition to be performed by the other Party.

13. Governing Law. This Agreement is executed and delivered in the State of Arizona, and the substantive laws of the State of Arizona (without reference to choice of law principles) will govern their interpretation and enforcement.

14. Amendment and Construction. This Agreement sets forth the entire understanding of the Parties as to the matters set forth herein as of the date of this Agreement and cannot be altered or otherwise amended except pursuant to an instrument in writing signed by the authorized representatives of each of the Parties hereto. This Agreement is intended to reflect the mutual intent of the Parties with respect to the subject matter hereof, and no rule of strict construction shall be applied against any Party.

15. Force Majeure. The Parties shall be excused for delay or failure to perform its obligations under this Agreement, in whole or part, when and to the extent that such delay or failure is a result of scheduling conflicts or causes beyond the control and without the fault or negligence of the Party unable to perform. Such causes include, without limitation, acts of God, acts of the public enemy, acts of the United States government, fire, floods, epidemics, quarantine restrictions or embargo.

16. Relationship. Nothing contained in this Agreement shall create any partnership or joint venture between the Parties. Except as specifically provided hereunder, each Party shall at all times be an independent operator and shall not at any time purport to act as an agent of any other Party, or any of its officers or agents.

17. Severability. If any provision of this Intergovernmental Agreement shall be held to be unconstitutional, invalid, or unenforceable, it shall be deemed severable; however, the remainder of the Intergovernmental Agreement shall not be affected and shall remain in full force and effect.

18. Termination. Either party may terminate their participation in this Agreement, for any reason, effective ninety (90) days from the giving of written notice to the other Party at the following addresses:

If to TOWN:

Town of Pinetop-Lakeside
Attn: Town Manager
325 W. White Mountain Blvd.

If to DISTRICT:

Timber Mesa Fire & Medical
District
Attn: Fire Chief

Lakeside, AZ 85929

3561 E. Deuce of Clubs
Show Low, AZ 85901

Either Party may cancel this Agreement, pursuant to the terms of A.R.S. §38-511. In addition, while not anticipated, pursuant to the provisions of A.R.S. § 11-952(B)(4), in the event of termination, any property contributed by either Party shall be returned to the respective Party.

IN WITNESS WHEREOF, the Parties enter into this Intergovernmental Agreement on the date(s) set forth below.

APPROVALS

DISTRICT

TOWN

_____	_____	_____	_____
Chairman/ Board	Date	Mayor	Date

_____	_____	_____	_____
Clerk/ Board	Date	Clerk	Date

The foregoing agreement has been reviewed by undersigned counsels, who have determined that the Agreement is in proper form and within the powers and authority granted under the laws of this state.

_____	_____	_____	_____
TMFMD Attorney	Date	Town Attorney	Date

DRAFT INTERGOVERNMENTAL AGREEMENT
PINETOP FIRE DISTRICT- TOWN OF PINETOP-LAKESIDE

INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement (the “**Agreement**”) is made and entered into this _____ day of _____, 2025, by and between the TOWN OF PINETOP-LAKESIDE (the “**Town**”), and the PINETOP FIRE DISTRICT, a political subdivision of the state of Arizona (“**PFD**” or the “**District**” as the context requires). The Town and District individually may be referred to as “**Party**” and collectively may be referred to as the “**Parties**” to this Agreement.

WHEREAS, the Town and the District are both authorized and empowered to enter into this Agreement for purposes of carrying out their mutual responsibility pursuant to Arizona Revised Statutes (A.R.S.) §11-951, §11-952, §48-805, and §48-805.01; and

WHEREAS, the Town and the District intend to implement recommendations from the 2019 Community Planning Assistance for Wildfire Program (the “**CPAW**”) prepared by Wildfire Planning International, LCC and Wildland Professional Solutions, Inc.; and

WHEREAS, the Town and the District seek to cooperate with each other in order to more effectively and economically provide for fire code administration within the Town and the Pinetop Fire District; and

NOW THEREFORE, in consideration of mutual promises and covenants contained herein, the Parties agree as follows:

1. **Purpose.** The purpose of this Agreement is to define the formal process, roles, and responsibilities of the Parties in providing certain fire protection services to the Town (collectively referred to as the “**Services Provided**”), including:

- A. Administration and enforcement of the joint powers, shared by the Town and District, regarding fire and building safety requirements adopted by the Parties. The Services Provided herein are different for residential and commercial properties. For purposes of this Agreement and application thereof, “**commercial**” properties shall include multi-family dwellings of three units or more and commercial properties; alternatively, “**residential**” property means a dwelling consisting of one- or two-family units including a utility or miscellaneous accessory building or structure to a residence.
- B. To implement the recommendations from the CPAW through parcel-level wildfire hazard assessments, wildfire compliance inspections, and community development outreach and education.

2. **Responsibilities and Obligations.**

The Town shall:

- i. Construction Documents. Provide the District electronic copies of the *Construction Documents* for all commercial projects applying for a building permit or a

certificate of occupancy (“Permits” or “Permit”). Pursuant to the International Residential Code and the International Building Code adopted by the Town (the “IRC” and “IBC” respectively), “Construction Documents” include all written, graphic, and pictorial documents prepared or assembled for describing the design, location and physical characteristics of the elements of a project necessary for obtaining a Permit.

- ii. Secured Database. Implement a secured database, in collaboration with the District, where the Town may transfer electronic copies of the Construction Documents in a secure and timely manner. After reviewing the Construction Documents, the District will respond to the Town by sending the District’s compliance determination over this database for the Town’s review.

[We are advised that the software program known as *Citizen Serve* works well for this purpose.]

- iii. Timeframe for Review. Provide the District a **three (3) week** review period, unless otherwise agreed by the respective representatives of the Parties, to review the Construction Documents, perform inspections, and provide the Town with the District’s compliance determination before the Town issues a Permit to any property owner (“**Review Period**”). At the conclusion of the Review Period, if the District does not provide the Town with its final determination, the Town may proceed with its Permit process as if the property was in compliance with the International Fire Code (“**Assumed Compliance**”).

- iv. Commercial Properties. Not issue a Permit under the IBC, until the District has reviewed and approved the Construction Documents. If the District’s compliance determination finds the Construction Documents to be in violation of the IFC, the Town shall withhold such Permits, pursuant to the IBC adopted by the Town, until the requirements of the IFC are satisfied and subsequently approved by the District.

As applied to the Wildfire Program, the Town shall:

- v. Authorize the District to (1) conduct wildfire compliance inspections and parcel-level wildfire hazard assessments as deemed necessary by the District or as requested by the Town, and (2) issue stop orders, orders of compliance, red tags, or cease and desist orders, as directed or permitted by the applicable Town Code.
- vi. Encourage Homeowner Associations within the Town of Pinetop-Lakeside to submit their bylaws to the District for review and technical feedback ensuring the bylaws align with best practices for wildfire risk reduction.
- vii. Organize and participate in community outreach programs and educational resources on wildfire planning with the Fire District.

The District shall:

- i. Construction Documents. Review all commercial projects applying for a Permit, and timely provide the Town a compliance determination acknowledging whether the Construction Documents comply with the requirements of the IFC. If the District determines that the project does not comply with the IFC, then the District shall share this determination with the Town and coordinate enforcement efforts pursuant to this Agreement.
- ii. Secured Database. Work with the Town to implement a secured database system (such as the Citizen Serve secured database system), where the District may electronically receive the Construction Documents from the Town and transfer the District's compliance determination to the Town in a secure and timely manner.
- iii. Timeframe for Review. Review and provide the District's compliance determination to the Town within **three (3) weeks** of receiving the Construction Documents, unless otherwise agreed by the respective representatives of the Parties. Pursuant to the joint enforcement efforts provided under this Agreement, the District acknowledges that the Town may proceed with its Permit process under Assumed Compliance if the District does not provide a compliance determination within the Review Period.
- iv. Commercial Properties. The District agrees to review and provide the Town its IFC compliance determination for all commercial applications within the Review Period. The District understands that its approval is required for the commercial property to receive a Permit from the Town, and therefore agrees to conduct additional compliance determinations and updates to the Town for commercial properties found in violation of the IFC. These additional determinations by the District shall acknowledge whether the violations of the IFC have been corrected and whether the District approves the modified construction project. The District reserves the right to address any IFC violations for commercial properties that receive approval from the Town based on Assumed Compliance.

As applied to the Wildfire Program, the District shall:

- v. Where permitted, enforce or cooperate with the Town to enforce compliance by (1) conducting wildfire compliance inspections and parcel-level wildfire hazard assessments as deemed necessary by the District or as requested by the Town, and (2) work with the Town in inspecting residential or commercial buildings for code compliance and, where appropriate, issuing code citations for violations through enforcement measures such as stop orders, orders of compliance, red tags, or cease and desist orders, as directed by the applicable Town Code or Fire Code.
- vi. Organize and participate in community outreach programs and educational resources on wildfire planning with the Town.

- vii. Review and provide feedback on local bylaws of Homeowner Associations within the Town of Pinetop-Lakeside sent to the District to ensure the bylaws align with best practices for wildfire risk reduction.

3. Term. The term of this Agreement shall be effective on the date of its execution and shall continue in effect for a period of two (2) years. Thereafter, this Agreement shall be automatically renewed for successive two (2) year periods unless either Party provides at least ninety (90) days written notice of their intent to not renew this Agreement.

4. Financing. The Parties acknowledge that no additional funding is anticipated to perform the Services Provided in this Agreement. If circumstances were to change, the Parties shall mutually approve the necessary allocation of funds or budget adoption for this Agreement's continued implementation.

5. Liability Insurance. During the life of this Agreement, each Party shall maintain a policy of liability insurance naming the other Party as an additional insured Party in the amount of not less than three million dollars (\$3,000,000) per occurrence with aggregate liability coverage of not less than five million dollars (\$5,000,000). In the alternative, a Party may self-insure in accordance with the above-referenced liability amounts. Each Party shall make available its insurance information, including, but not limited to verification of coverage, to the other Party upon request.

6. Indemnification. The Parties to this Agreement shall indemnify and hold harmless each other and their respective departments, boards, employees, and agents, from any and all claims, liabilities, expenses, or third-party actions resulting from the indemnifying Party's negligence incurred in connection with the performance of its responsibilities under this Agreement, whether said claims, liabilities expenses, or third-party actions arise by act or omissions of that Party, their agents or employees, or whether by the acts or omissions of that Party's subcontractors, their agents or employees. Nothing herein shall be construed as a waiver by any Party of the right to bring an action for contribution against the other or as against any third person or entity.

7. Workers' Compensation Coverage. All employees of a Party to this Intergovernmental Agreement, that work under the jurisdiction of or within the jurisdictional boundaries of another party pursuant to this particular Intergovernmental Agreement, shall be deemed to be an employee of the Party who is his or her primary employer, as provided in A.R.S. § 23-1022(D). The Party and primary employer of such an employee shall be solely liable for payment of workers' compensation benefits for the purposes of this section. Each Party herein shall comply with provisions of AR.S. § 23-1022 (E) by posting the public notice required.

8. Arbitration; Forum; Venue. The Parties hereto expressly covenant and agree that in the event of a dispute arising under this Agreement, the matter shall be put to arbitration under the terms and provisions of the Arizona Arbitration Act. In any event, the parties hereto waive any rights to a trial by jury. Any action brought to interpret or enforce any provision of this Agreement that cannot be administratively resolved, or otherwise related to or arising from this Agreement, will be

commenced and maintained in the state or federal courts of the State of Arizona, Navajo County, and each of the Parties, to the extent permitted by law, consents to jurisdiction and venue in such courts for such purposes.

9. Waiver of Attorneys' Fees. The Parties hereto expressly covenant and agree that in the event of litigation or arbitration arising from this Agreement, neither Party shall be entitled to an award of attorneys' fees, either pursuant to the Contract, pursuant to AR.S. §12-341.01(A) and (E), or pursuant to any other state or federal statute.

10. Binding Effect. This Intergovernmental Agreement shall be binding upon the Parties and any successor-in-interest. No provision herein is intended to create a third beneficiary interest in any person or entity, including but not limited to the respective employees or agents by either Party.

11. Non-Appropriation. This Agreement shall be subject to available funding for both Parties and nothing in this Agreement shall bind either Party to expenditures in excess of funds appropriated and allotted for the purposes outlined in this Agreement.

12. Waiver. The waiver by one Party of any breach by the other Party regarding any term, covenant, or condition of any permit shall not operate as a waiver of any subsequent breach of the same or any other term, covenant or condition of the Agreement. No term, covenant, or condition hereof can be waived except by the written consent of the Parties and forbearance or indulgence by either Party in any regard whatsoever, shall not constitute a waiver of the term, covenant, or condition to be performed by the other Party.

13. Governing Law. This Agreement is executed and delivered in the State of Arizona, and the substantive laws of the State of Arizona (without reference to choice of law principles) will govern their interpretation and enforcement.

14. Amendment and Construction; Severability. This Agreement sets forth the entire understanding of the Parties as to the matters set forth herein as of the date of this Agreement and cannot be altered or otherwise amended except pursuant to an instrument in writing signed by the authorized representatives of each of the Parties hereto. This Agreement is intended to reflect the mutual intent of the Parties with respect to the subject matter hereof, and no rule of strict construction shall be applied against any Party. If any provision of this Intergovernmental Agreement shall be held to be unconstitutional, invalid, or unenforceable, it shall be deemed severable; however, the remainder of the Intergovernmental Agreement shall not be affected and shall remain in full force and effect.

15. Relationship. Nothing contained in this Agreement shall create any partnership or joint venture between the Parties. Except as specifically provided hereunder, each Party shall at all times be an independent operator and shall not at any time purport to act as an agent of any other Party, or any of its officers or agents.

16. Termination. Either party may terminate their participation in this Agreement, for any reason, effective ninety (90) days from the giving of written notice to the other Party at the following addresses:

