

## AGENDA

### TUSAYAN PLANNING AND ZONING COMMISSION MEETING

PURSUANT TO A.R.S. § 38-431.02 & §38-431.03

Tuesday, May 16, 2017 at 6pm

TUSAYAN TOWN HALL BUILDING

845 Mustang Drive, Tusayan Arizona

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Tusayan Planning and Zoning Commission, the Tusayan Town Council, and to the general public that the commission will hold a meeting open to the public on Tuesday, May 16, 2017 at the Tusayan Town Hall Building. The commission may change, in its discussion, the order in which any agenda items are discussed during the course of the meeting.

Persons with a disability may request a reasonable accommodation by contacting the Town Manager (928) 638-9909 as soon as possible.

As a reminder, if you are carrying a cell phone, electronic pager, computer, two-way radio, or other sound device, we ask that you silence it at this time to minimize disruption of today's meeting.

### PLANNING AND ZONING COMMISSION AGENDA

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE
2. ROLL CALL -  
VICE CHAIR JANET ROSENER  
COMMISSIONER ANAVON HARRIS  
CHAIR ROBERT GOSSARD  
COMMISSIONER CLAYANN COOK  
COMMISSIONER BETH HEARNE
3. CALL TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA  
*Members of the public may address the Commission on items not on the printed agenda. The Commission may not discuss, consider or act upon any matter raised during public comment. Comments will be limited to three minutes per person.*
4. CEREMONIAL AND/OR INFORMATIONAL MATTERS - None
5. CONSENT AGENDA  
Approval of the Minutes of the Meeting held on 4/18/17
6. PUBLIC HEARING
  - A. The Commission will hear public comment concerning revisions to the following Sections of the Town's Zoning Ordinance:  
Section 1 (Purpose and Scope)  
Section 5 (Effects of Zoning)  
Section 7 (Enforcement)  
Section 20 (Administration)  
Section 21 (Tusayan Area Plan)
7. ACTION ITEMS
  - A. Consideration, discussion, and possible approval of amending Tusayan Zoning Code sections 1, 5, 7, 20, and 21.
8. MOTION TO ADJOURN

### CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at the General Store in Tusayan, Arizona on this \_\_\_\_\_ day of April, 2017 at \_\_\_\_\_ am pm in accordance with the statement filed by the Tusayan Town Council.

\_\_\_\_\_  
Signature of person posting the agenda

**ITEM**

**No. 5**

**TUSAYAN PLANNING AND ZONING COMMISSION**  
PURSUANT TO A.R.S. 38-431.02 & 38-431.03  
WEDNESDAY, April 18, 2017 at 6:00 pm  
TUSAYAN TOWN HALL  
845 Mustang Drive, Tusayan, Arizona

**PLANNING AND ZONING COMMISSION MEETING SUMMARIZED MINUTES**

**1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Chair Gossard called the meeting to order at 6:30 pm and the Pledge of Allegiance was recited.

**2. ROLL CALL**

Upon roll call, the following were present:

**CHAIR ROBERT GOSSARD**  
**VICE CHAIR JANET ROSENER**  
**COMMISSIONER CLAYANN COOK** – arrived at 6:48pm  
**COMMISSIONER ANAVON HARRIS**  
**COMMISSIONER BETH HEARNE** – excused

Also present were:

Eric Duthie, Town Manager  
Lawrence Tomasello, Town Planning  
Melissa Drake, Town Clerk

**3. CALL TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA**

None

**4. CEREMONIAL AND/OR INFORMATIONAL MATTERS**

None

**5. CONSENT AGENDA**

**Approval of the Minutes of the Meeting held on 3/6/17**

Vice Chair Rosener noted that the start time listed in the minutes was incorrect. She stated that it should be corrected to 1:01pm.

Vice Chair Rosener made a motion to approve the Consent Agenda as corrected. Commissioner Harris seconded the motion and it passed on unanimous vote.

## 6. PUBLIC HEARINGS

- A. Zone Amendment No. 2017-01: to consider establishing a maximum height limitation in the G, AR, RR, RS-6,000, RS-10,000, RS-18,000, RS-36,000, RM-10/A, RM-20/A, CN-2/A, CG-10,000, CH-10,000, MP-20,000, M-1-10,000, M-2-6,000, MHP, PRD, PC, and RMH, zone districts in the Town to a height of 65 feet, provided that said height limit may be exceeded upon approval of a conditional use permit, and provided that any such height limit be subject to requirements of the Federal Aviation Administration**

Manager Duthie noted that a letter was received today from Grand Canyon National Park with concerns regarding

Clarinda Vail spoke on behalf of Red Feather Properties and the Thurston Trust opposing this change. She read a letter from their attorney, Carolyn Oberholtzer, outlining negative issues relating to an increased height limit in Town. She handed out the letter with a drawing depicting the possible change. She also spoke personally opposing the change, opposing the possibility of unlimited height in a Conditional Use Permit, and asked why the Town is proposing it.

Alicyn Gitlin, representing the Grand Canyon Chapter of the Sierra Club, spoke to the Commission opposing the height limit change. She stated that this change would be irrevocable. Ms. Gitlin stated that the Sierra Club opposition is based on the change creating increased light pollution and increased water needs.

**Commissioner Cook arrived at 6:48pm.**

Clarinda Vail stated that the Town should look at the FAA's "crash maps" of the area before making a decision.

- B. Conditional Use Permit No. 2017-01; a request to continue the existing location of the COMMNET Four Corners, LLC wireless communication tower and appurtenant uses generally located on a 0.15 acre portion of a 29 acre parcel west of Highway 64, and west of the Grand Canyon Squire Inn along the north boundary of the Grand Canyon Airport and further identified as Assessor's Parcel No. 502-17-023D**

There were no public comments.

## 7. ACTION ITEMS

- A. Consideration, discussion, and possible approval of Resolution No. 2017-01; a resolution of the Planning and Zoning Commission of the Town of Tusayan recommending that the Town Council amend Ordinance no. 2012-04 (Zoning Ordinance) of the Town Code by approving Zone Amendment No. 2017-01, establishing a maximum height limitation in the G, AR, RR, RS-6,000, RS-10,000, RS-18,000, RS-36,000, RM-10/A, RM-20/A, CN-2/A, CG-10,000, CH-10,000, MP-20,000, M-1-10,000, M-2-6,000, MHP, PRD, PC, and RMH, zone districts in the Town to a height of 65 feet, provided that said height limit may be exceeded upon approval of a conditional use permit, and provided that any such height limit be subject to requirements of the Federal Aviation Administration**

Chair Gossard asked Alicyn Gitlin at what height a light on a building in Tusayan would be visible in Grand Canyon National Park. Ms. Gitlin stated that the Sierra Club nor the National Park has been able to determine that number yet but there are some structures at the airport which are visible from the North Rim.

Chair Gossard asked how parking would be increased to accommodate and increased capacity. He also stated that this would impact the charm of our Town and he still wishes to be able to see trees over buildings in Town. The Commission discussed this topic.

Manager Duthie stated that this item came to the Commission at the request of Stilo Development. There was no agreement or promise for approval, only that it would be placed on an agenda for the Commission and the Town Council. Town Planner Lawrence Tomasello listed a recommendation for approval in his Staff Report as a standard since the change is possible.

Mr. Tomasello further explained the Zone Amendment process and this particular amendment. He and Manager Duthie discussed this item with the Commission.

Manager Duthie stated that Tusayan Fire Chief Greg Brush stated that their truck has a 75-foot aerial ladder at its vertical position so the reachable height would be determined by how close the truck can park to the building.

Mr. Tomasello stated that all zoning requirements, including parking requirements, would still be applicable so a taller building may be required to have underground parking.

The Commission reviewed each Zone in the Town Zoning Ordinance and made the following changes:

- Multiple Family Zones changed to 65 feet
- CG-10000 and CH-10000 changed to 65 feet
- PC changed to 65 feet

Commissioner Cook made a motion to approve the Resolution as amended. Vice Chair Rosener seconded the motion and it passed on a vote of 3 to1 with Commissioner Harris voting "Nay."

**B. Consideration, discussion, and possible approval of Resolution No. 2017-02; a resolution of the Planning and Zoning Commission of the Town of Tusayan approving Conditional Permit No. 2017-01; a request to continue the existing location of the COMMNET Four Corners, LLC wireless communication tower and appurtenant uses generally located on a 0.15 acre portion of a 29 acre parcel west of Highway 64, and west of the Grand Canyon Squire Inn along the north boundary of the Grand Canyon Airport and further identified as Assessor's Parcel No. 502-17-023D**

Planner Tomasello reviewed the Conditional Use Permit as issued previously by Coconino County, prior to the incorporation of the Town. He stated that he recommended approval with the 9 conditions outlined in the staff report.

John Marriott from COMMNET spoke to the Commission. He stated that AT&T and T-Mobile phone services use the tower in question.

Manager Duthie stated that a member of the Town Council requested that new towers (not this one) be required to have a more aesthetic design.

Commissioner Cook made a motion to approve Resolution No. 2017-02, ; a resolution of the Planning and Zoning Commission of the Town of Tusayan approving Conditional Permit No. 2017-01; a request to continue the existing location of the COMMNET Four Corners, LLC wireless communication tower and appurtenant uses generally located on a 0.15 acre portion of a 29 acre parcel west of Highway 64, and west of the Grand Canyon Squire Inn along the north boundary of the Grand Canyon Airport and further identified as Assessor's Parcel No. 502-17-023D. Commissioner Harris seconded the motion and it passed on unanimous vote.

Manager Duthie stated that the next meeting will be May 16, 2017

**8. MOTION TO ADJOURN**

Commissioner Cook made a motion to adjourn at 8:15 pm. Commissioner Harris seconded the motion and it passed unanimously.

**ATTEST:**

\_\_\_\_\_  
**Robert Gossard, Chair**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Melissa M. Drake, Town Clerk**

**CERTIFICATION**

State of Arizona     )  
                                  ) ss.  
Coconino County     )

**I, Melissa Drake, do hereby certify that I am the Town Clerk of the Town of Tusayan, County of Coconino, State of Arizona, and that the above minutes are a true and correct summary of the meeting of the Planning and Zoning Commission of the Town of Tusayan held on April 18, 2017. I further certify that the meeting was duly called and held, and that a quorum was present.**

**DATED this 18<sup>th</sup> day of April, 2017**

\_\_\_\_\_  
**Melissa M. Drake, Town Clerk**

**ITEM**

**No. 6**

**TOWN OF TUSAYAN NOTICE OF PUBLIC HEARING  
OF THE PLANNING AND ZONING COMMISSION**

Notice is hereby given that on May 16, 2017, the Planning and Zoning Commission of the Town of Tusayan will hold a public hearing to consider revisions to the following Sections of the Town's Zoning Ordinance:

1. Section 1 (Purpose and Scope);
2. Section 5 (Effects of Zoning);
3. Section 7 (Enforcement);
4. Section 20 (Administration); and
5. Section 21 (Tusayan Area Plan)

The Planning and Zoning Commission will meet at 6:00 p.m., on May 16, 2017, at the Town Hall located at 845 Mustang Drive, Tusayan, Arizona to act upon these issues

Said public hearing is open to the public, and all persons are invited to attend and will be given full opportunity to be heard. Any person wishing to be heard, or wishing to present evidence for or against this project, is hereby notified and directed to either appear at the time and place aforesaid, or send written comments to the Town Manager/Town Clerk. All written comments must be received by the Town Clerk on or before May 16, 2017, for the Planning and Zoning Commission public hearing.

Respectfully

Eric Duthie, Town Manager

cc: Melissa Drake, Town Clerk

Published: April 19, 2017 in the Williams Grand Canyon News

**Date:** May 16, 2017  
**To:** Planning and Zoning Commission  
**From:** Planning Staff  
**Subject:** Proposed Revisions to the Zoning Ordinance

**Recommendation:**

The Planning and Zoning Commission, by motion, adopt Resolution No. 2017-02; a Resolution of the Planning and Zoning Commission of the Town of Tusayan recommending that the Town Council amend Ordinance No. 2012-04 (Zoning Ordinance) of the Town Code by approving Zone Amendment No. 2017-02.

**Project Analysis:** Listed below are the draft revisions to Sections 1, 5, 7, 20, and 21 of the Town's Zoning Ordinance. Wording that is struck-through is to be eliminated, wording that is to be added is indicated in bold, italicized print, and all other wording remains unchanged.

**SECTION 1: PURPOSE AND SCOPE**

**§ 1 PURPOSE AND SCOPE**

For the purpose of implementing the goals, objectives and policies of the ~~Tusayan Area Plan~~ *General Plan* to promote and protect the public health, safety and welfare of the people of Tusayan, and to provide for the social, physical and economic advantages resulting from comprehensive and orderly planned use of land resources, a zoning ordinance establishing classifications of zones, and regulations within those zones, hereby is established and adopted by the Mayor and Council.

~~(Ord. 2012-04, passed 12-5~~

**SECTION 5: EFFECTS OF ZONING**

**§ 5 EFFECTS OF ZONING**

- A. **Application of Provisions:** The provisions of this Code governing the use of land, buildings and structures, the size of yards abutting buildings and structures, the height and bulk of buildings, the density of population, the number of dwelling units per acre, standards of performance and other provisions hereby are declared to be in effect upon all land included within the boundaries of each and every zone established by the Code.
  
- B. **Buildings Under Construction:** Any building or structure for which a building permit has been issued, and which is still valid under the provisions of earlier ordinances of the town or county which are in conflict with this code, nevertheless may be continued and completed in accordance with the plans and specifications upon which the permit was issued.

**C. Adoption of Zone Maps: All zones and boundaries of said zones and each of them hereby are established and adopted as shown, delineated and designated on the Official Zoning Map of the Town, which Map, together with all notations, references, data, zone boundaries, and other information are a part of this Code as though fully set forth herein and adopted concurrently herewith.**

~~(Ord. 2012-04, passed 12-5-2012)~~

## **SECTION 7: ENFORCEMENT**

### **§ 7.0 ENFORCEMENT**

- A. It shall be unlawful, and considered a public nuisance per se, to make use of any lot, parcel or piece of property in such a way as to conflict with the provisions of the **Zoning** Code. Likewise, it shall be in violation of this **Zoning** Code to erect, construct, reconstruct, alter or use a building or any other structure, or to use real property that does not conform to the criteria set forth in this **Zoning** Code. ~~The Tusayan Town Council, Town Attorney, Town Marshal, Town Clerk, Town Manager, or his designee, and all officials charged with the issuance of licenses or permits~~ shall enforce the provisions of this **Zoning** Code. Any permit, certificate, or license issued in conflict with the provisions of this **Zoning** Code shall be void. To provide for ~~the~~ enforcement of this **Zoning** Code, the Town may withhold all building permits and/or Conditional Use Permits for properties on which a use of the property, building or any other structure exists which does not meet the standards of this **Zoning** Code.
- B. A Zoning Enforcement Officer shall investigate and report on all notices of zoning violations. The Town Council shall appoint a Hearing Officer to hear and determine zoning violations. Individuals determined by the Hearing Officer to be violating any provisions of this **Zoning** Code shall be responsible for a zoning violation that is punishable by a civil sanction not to exceed the equivalent of a maximum fine of a Class 2 misdemeanor for each violation pursuant to A.R.S. § 9-240.

~~(Ord. 2012-04, passed 12-5-2012)~~

### **§ 7.1 HEARING OFFICER**

- A. The Town Council shall ~~periodically~~ appoint *the Town Manager, or his designee,* **a as the** Hearing Officer to hear and determine Zoning Code and other Code violations *of the Town, The Hearing Officer shall not be a member of any town board or commission and shall not be an employee of the town in any other capacity, except if the town elects to employ a person to be the town's Hearing Officer.* The Hearing Officer may have other responsibilities pursuant to other sections of this Code, but shall not be the ~~Zoning Administrator~~ **Town Planner**.

## **SECTION 20: ADMINISTRATION**

### ~~§ 20.1 DETERMINATION AS TO USES NOT LISTED.~~

### **§ 20.1 DETERMINATION OF SIMILAR USE**

#### **§ 20.1-1 PURPOSE AND INITIATION**

~~(A) In order to ensure that the zoning regulations will permit all similar uses in each zone,~~

~~the Planning and Zoning Commission, upon its own initiative or upon written request shall determine whether a use not specifically listed as a permitted or conditional use in any zone shall be deemed a permitted use or a conditional use in any one or more zones on the basis of similarity to uses specifically listed.~~

*A. Application: When a proposed use of property is not expressly authorized as a permitted use, or as a conditional use by the regulations of the applicable zone district, an application may be submitted to the Town Manager, or his/her designee, for a land use interpretation to determine whether or not the proposed use is similar to those uses permitted or conditionally permitted in the applicable zone district. The fee for a determination of similar use shall be as set forth by resolution of the Town Council.*

~~(B) The procedures of this section shall not be substituted for the amendment procedure as a means of adding new uses to the list of permitted or conditional uses.~~

*B. Basis for Determination of Similar Use: The Town Manager, or his/her designee, shall make an investigation to compare the nature and characteristic of the proposed use with those specifically listed, and shall report his/her determination to the Planning and Zoning Commission. The Commission's determination of similar uses shall be made no less than fifteen (15) days from the date of decision by the Town Manager unless an appeal (subject to the provisions of Section 20.6) is filed. The fee for an appeal shall be as set forth by resolution of the Town Council. However, there shall be no fee if an appeal is initiated by the Board of Adjustment. An investigation by the Board of Adjustment shall be based on the following criteria.*

- 1. The use resembles, or is of the same basic nature as a use or uses expressly authorized in the applicable zone district in terms of the effects of the use on the surrounding areas, such as traffic impacts, noise, dust, odors, vibrations, and appearance.*
- 2. The use is consistent with the stated purpose of the applicable district.*
- 3. The procedures of this section shall not be substituted for the amendment procedure as a means of adding new uses to the list of permitted or conditional uses.*

~~(Ord. 2012-04, passed 12-5-2012)~~

### ~~§ 20.1-2 APPLICATION~~

~~Application for determination of similar uses shall be made in writing to the Town Manager or designee and shall include a detailed description of the proposed use and such other information as may be required by the Town Manager or designee to facilitate the determination.~~

~~(Ord. 2012-04, passed 12-5-2012)~~

### ~~§ 20.1-3 INVESTIGATION AND REPORT~~

~~The Town Manager or designee shall make such investigations of the application as necessary to compare the nature and characteristics of the proposed use with those uses specifically listed and shall make a report of his or her findings to the Planning and Zoning Commission.~~

(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.1-4 DETERMINATION**

The determination of the Planning and Zoning Commission shall be final 15 days from the date of the decision unless an appeal is filed.

(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.1-5 APPEAL TO TOWN COUNCIL**

A decision of the Planning and Zoning Commission may be appealed within 15 days to the Town Council by the applicant or any other person, as prescribed in § 20.6, Appeals: Town Council Review, or by any member of the Town Council; without fee

(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.1-62 DETERMINATION BY TOWN COUNCIL BOARD OF ADJUSTMENT**

The ~~Town Council~~ *Board of Adjustment* shall make a determination as prescribed in § 20.6-3, ~~Town Council~~ (*Board of Adjustment* Action on Appeal), if an appeal has been filed within the prescribed fifteen (15) day appeal period. The decision of the ~~Town Council~~ *Board of Adjustment* shall be final.

(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.2 CITIZEN PARTICIPATION**

##### **§ 20.2-1 PURPOSE**

In order to maximize the opportunity for citizen involvement in the rezoning ~~and conditional use permit~~ process that is described in the following sections, and to resolve any neighborhood issues at an early stage in the process, the following requirements shall be included in the public hearing process.

(Ord. 2012-04, passed 12-5-2012)

##### **§ 20.2-2 CITIZEN PARTICIPATION PLAN**

- (A) ~~Every zone change and conditional use permit application shall include a citizen participation plan that must be implemented prior to the first public hearing.~~
- (B) ~~The purpose of the citizen participation plan is to achieve the following:~~
  - (1) ~~Ensure that applicants pursue early and effective citizen participation in conjunction with their applications, giving them the opportunity to understand and try to mitigate any real or perceived impacts their application may have on the community or on the neighborhood;~~
  - (2) ~~Ensure that the citizens and property owners of Tusayan have an adequate opportunity to learn about applications that may affect them and to work with applicants to resolve concerns at an early stage of the process; and~~
  - (3) ~~Facilitate ongoing communication between the applicant, interested citizens and property owners, town staff and elected officials throughout the application review process.~~
- (C) ~~The citizen participation plan is not intended to produce complete consensus on all applications, but to encourage applicants to be good neighbors and to allow for informed decision-making.~~
- (D) ~~At a minimum, the citizen participation plan shall include the following:~~

- (1) ~~Which residents, property owners, interested parties and public and private agencies may be affected by the application;~~
  - (2) ~~How those interested in and potentially affected by an application will be notified that an application has been made;~~
  - (3) ~~How those interested and potentially affected parties will be informed of the substance of the zone change, amendment or development proposed by the application;~~
  - (4) ~~How those interested and affected parties will be provided an opportunity to discuss the applicant's proposal with the applicant and express any concerns, issues or problems they may have with the proposal in advance of the public hearing;~~
  - (5) ~~The applicant's schedule for completion of the citizen participation plan; and~~
  - (6) ~~How the applicant will keep the town staff informed on the status of citizen participation efforts.~~
- E) ~~Applicants must conduct a neighborhood community meeting prior to submitting an application for a zone change or a conditional use permit.~~
- (1) ~~The meeting must be conducted in the general vicinity of the property involved in the application. The meeting serves as a forum for information exchange between applicants and affected members of the public.~~
  - (2) ~~An applicant may make a written request and receive a written determination whether, due solely to impractical circumstances, the requirement for a community meeting should be waived by the Town Manager. At a minimum the request must explain why the applicant's citizen participation plan provides other adequate, alternative opportunities for citizens to express any concerns, problems or issues they may have with the proposal in advance of the public hearing. The Town Manager shall make his or her determination a part of the written record in the case.~~
- F) ~~The level of citizen interest and area of involvement will vary depending on the nature of the application and the location of the site. The target area for notification will be determined by the applicant after consultation with town staff. At a minimum, the target area shall include the following:~~
- (1) ~~Property owners within the public hearing notice area required by other sections of this ordinance;~~
  - (2) ~~The head of any property owners' association within the notice area required by other sections of this zoning code;~~
  - (3) ~~Other potentially affected property owners outside of the legal notice area as determined by town staff; and~~
  - (4) ~~Other interested parties who have requested that they be placed on a list of interested parties maintained by the town staff.~~
- G) ~~These requirements apply in addition to any notice provisions required elsewhere in this zoning code.~~
- H) (1) ~~The applicant may submit a citizen participation plan and begin implementation prior to formal application at his, her or their discretion.~~
- (2) ~~This shall not occur until after a pre application meeting and consultation with town staff. (Ord. 2012-04, passed 12-5-2012)~~

## **§ 20.2-2 CITIZEN PARTICIPATION PLAN**

- A. ***General Plan:*** *In compliance with State statutes, the Town Council adopted a General Plan where all procedural requirements for adoption of the General Plan, as set forth in A.R.S., Sections 461.05 and 461.06 have been followed.*

*Nothing therein shall preclude the Town Council from adopting revisions to the General Plan or adopting new Elements to the General Plan in a manner provided by law.*

**B. Zoning:** *The citizen review process and all notification and hearing requirements apply to a zoning ordinance that changes any property from one zone to another, imposes any regulation not previously imposed on a property, or removes or modifies any regulation previously imposed.*

- 1. Notification will be provided to adjacent landowners and potentially affected citizens of the application as provided in Section 20.5 of this Code.*
- 2. The Town will inform adjacent landowners and potentially affected citizens of the substance of the proposed rezoning as provided in Section 20.5 of this Code.*
- 3. Adjacent landowners and other potentially affected citizens will be provided an opportunity to express any issue or concerns with the proposed rezoning before the public hearing as provided in Section 20.5 of this Code.*
- 4. In addition to Section 20.5 of this Code, A.R.S. Section 9-462.04 and A.R.S. Section 9-462-.03, the requirement for a rezoning hearing shall include the following:*
  - a. Notice of the time and place of the public hearing;*
  - b. A general explanation of the matter to be considered; and*
  - c. Location of property affected.*
  - d. A description of the area affected.*

### **§ 20.2-3 CITIZEN PARTICIPATION REPORT**

- ~~(A) — This section applies only when a citizen participation plan is required by this zoning code.~~
- ~~(B) — The applicant shall provide a written report on the results of his, her or their citizen participation effort prior to the notice of public hearing. This report shall be attached to the staff report submitted to the Planning and Zoning Commission.~~
- ~~(C) — At a minimum, the citizen participation report shall include the following information:~~
- ~~(1) — Details of the techniques the applicant used to involve the public, including:~~
    - ~~(a) — Dates and locations of all meetings where citizens were invited to discuss the applicant's proposal;~~
    - ~~(b) — Content, dates mailed and numbers of mailings, including letters, meeting notices, newsletters and other publications;~~
    - ~~(c) — Where residents, property owners and interested parties receiving notices, newsletters or other written materials are located;~~
    - ~~(d) — The number of people that participated in the process; and~~
    - ~~(e) — The percentage of those notified that participated in the process.~~
  - ~~(2) — A summary of concerns, issues and problems expressed during the process;~~

including:

- ~~(a) The substance of the concerns, issues and problems;~~
- ~~(b) How the applicant has addressed or intends to address concerns, issues and problems expressed during the process; and~~
- ~~(c) Concerns, issues and problems the applicant is unwilling or unable to address and why.~~

(Ord. 2012-04, passed 12-5-2012)

### **§ 20.2-3 CLARIFICATION OF AMBIGUITIES**

*If ambiguity arises concerning the appropriate classification of a particular use within the meaning and intent of this Code, or if ambiguity exists with respect to matters of height, yard requirements, area requirements, or district boundaries as set forth herein, it shall be the duty of the Town Manager, or his/her designee to ascertain all pertinent facts and issue an interpretation. The Town Manager's interpretation is subject to the appeal process as defined by Section 2.6 of this Code.*

### **§ 20.2-4 TEMPORARY ~~CONDITIONAL~~ LAND USE AND OCCUPANCY PERMITS**

- A.** *The Zoning Administrator shall review and act upon all requests for temporary occupancy permits, or extensions thereof. The Planning and Zoning Commission shall review and act upon all requests for a Temporary Land Use Permit, or extension thereof, in accordance with the provisions of §2.3 (Conditional Use Permits). The Zoning Administrator, for a Temporary Occupancy Permit, and the Commission, for Temporary Land Use Permit, shall approve, conditionally approve, or deny any such applications subject to the findings and standard conditions set forth in this Code.*
- B.** *Those uses subject to a Temporary Land Use/Occupancy permit include the following:*
  - 1.** *Temporary real estate offices on the site of an approved subdivision where lots, or lots and houses are being offered for sale.*
  - 2.** *Model home(s) on any lot within a tentatively approved subdivision consistent with the provision of the Town's Subdivision Ordinance.*
  - 3.** *Construction trailers, commercial cargo/storage containers, temporary office buildings, security offices on construction sites for which a project has been approved and a building permit or grading permit has been issued by the Town.*
  - 4.** *On-site contractor's yard during the construction phase of an approved project for which a building permit or grading permit has been issued.*
  - 5.** *Commercial cargo/storage containers ("Containers") may be placed by a temporary occupancy permit only in the Commercial and Industrial zone districts of the Town.*

- C. *Those uses subject to a temporary land use permit include the following: In only the commercial and industrial zone districts, placement of temporary buildings, commercial cargo/storage containers, trailers, coaches and similar items may be permitted subject to an approved temporary land use permit.***
- D. *A Temporary Occupancy Permit and a Temporary Land Use Permits shall be issued for a period of time not to exceed five (5) years from the date the permit was first issued. Extensions to such permits may be granted for additional periods of time, each of which shall not exceed twelve (12) months. Temporary Occupancy Permits and Temporary Land Use Permits shall comply with the procedures, findings and conditions specified by this Title.***
- 1. *The Zoning Administrator, for a Temporary Occupancy Permit, or the Planning and Zoning Commission, for a Temporary Land Use Permit, may approve such permits or extensions for shorter periods of time and shall approve such permits subject to conditions where required by this Code, or where it is determined reasonable and necessary to do so.***
  - 2. *Prior to issuing a Temporary Occupancy Permit or a Temporary Land Use Permit for an extension or renewal for the last allowed period of time, the applicant shall submit to and obtain approval by the Zoning Administrator or the Planning and Zoning Commission, as applicable, of a plan to replace the subject temporary use with a legally established permanent use.***
  - 3. *A temporary use or structure that does not have a valid and current permit is hereby declared to be a public nuisance, subject to the enforcement provisions of this Code and other applicable laws.***
  - 4. *A change of ownership or operator of a use or structure, subject to a Temporary Occupancy Permit or a Temporary Land Use Permit shall not affect the time periods established by approval to allow such temporary uses or structures.***
- E. *Cancellation of a Temporary Land Use/Occupancy Permit***
- 1. *Noncompliance with the conditions set forth in approving a Temporary Land Use/Occupancy Permit shall be grounds to cancel and void any such permit by the approving authority consistent with the provisions of §20.3-14 (Suspension and Revocation).***
  - 2. *The Zoning Administrator shall give notice of such an action to the permittee. The permittee may appeal such a decision to the Board of Adjustment by filing an appeal as specified in §20.6 (Appeals).***

## **§ 20.3 CONDITIONAL USE PERMITS**

### **§ 20.3-1 PURPOSE AND INTENT**

In order to give the use regulations the flexibility necessary to achieve the objectives of

this section in certain zones, conditional uses are permitted subject to the granting of a Conditional Use Permit. Because of their unusual characteristics, Conditional Use Permits require special consideration so that they may be located properly with respect to the objectives of the zoning regulations, and with respect to their effects on surrounding properties. In order to achieve these purposes, the Planning and Zoning Commission is empowered to grant and to deny applications for *Conditional Use Permits for such conditional uses* in such zones as are prescribed in the zone regulations, and to impose reasonable conditions upon the granting of a Conditional Use Permit, subject to the right of appeal to the *Town Council Board of Adjustment*.  
(Ord. 2012-04, passed 12-5-2012)

### **§ 20.3-2 APPLICATION: DATA AND MAPS TO BE FURNISHED**

Application for a Conditional Use Permit shall be filed with the Town Manager or *his/her* designee on a form prescribed by the Town, and shall include the following data and ~~maps~~ *exhibits, as well as any information required on the Town's "Application for a Conditional Use Permit."*

- A. Name and address of the applicant.
- B. Statement that the applicant is the plaintiff in any action in eminent domain to acquire the property, or the owner, or the authorized agent of the property on which the use is proposed to be located. This provision shall not apply to a proposed public utility right-of-way.
- C. Address and legal description of the property.
- D. Statement indicating the precise manner of compliance with each of the applicable provisions of this Section, together with any other data pertinent to the findings prerequisite to the granting of a *Conditional Use Permit*, prescribed in § 20.3-7 (*Findings*).
- E. A list of all owners of property located within three hundred (300) feet of the exterior boundaries of the subject property; the list shall be keyed to a map showing the location of these properties.
- F. Plot plans and elevations, fully dimensioned, indicating the type and location of all buildings and structures, parking and landscape areas and signs. Elevation plans shall be of sufficient detail to indicate the type and color of materials to be employed and methods of illumination for signs. Screening, landscape and irrigation plans shall be included in the plans.
- G. Plans and/or a preliminary report describing the proposed provisions for storm drainage, sewage disposal and such other public improvements and utilities as the Town Manager or designee may require in order to ~~give a~~ fully evaluation of the project.
- H. ***Acceptance of Conditions:*** *A Conditional Use Permit shall not become effective for any purpose unless an "Acceptance of Conditions" form has been signed by the applicant and returned to the Zoning Administrator, provided no appeal has been filed with the Board of Adjustment within fifteen (15) days of Commission*

approval.

- I. ***Revisions/Modifications:*** Requests to revise or modify an approved Conditional Use Permit may be requested by the applicant or by the Planning and Zoning Commission.
- J. ***Revision/Modification Request by Applicant:*** A revision or modification to any approved Conditional Use Permit including, but not limited to, change in conditions, expansions, intensification, location, hours of operation, or change of ownership may be requested by the applicant. The applicant shall supply necessary information as determined by the Zoning Administrator to indicate reasons for the requested change. The request for revision or modification shall be processed in the same manner as the original Conditional Use Permit.  
(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.3-3 FEE**

The application shall be accompanied by a fee established by resolution of the Town Council to cover the cost of ~~handling~~ **processing** the application as prescribed in this section.

(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.3-4 PUBLIC HEARING**

The Planning and Zoning Commission shall hold at least one (1) public hearing on each application for a Conditional Use Permit. The hearing shall be set and notice given as prescribed in § 20.5 (Public Hearing Time and Notice). At the public hearing, the Commission shall review the application and ~~drawings~~ **exhibits** submitted therewith, and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained, particularly with respect to the findings prescribed in § 20.3-7.

(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.3-5 INVESTIGATION AND REPORT**

The Town Manager or *his/her* designee shall make an investigation of the application and shall prepare a report thereon, which shall be submitted to the Planning and Zoning Commission and made available to the applicant prior to the public hearing.

(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.3-6 ACTION OF THE PLANNING AND ZONING COMMISSION**

Within twenty-one (21) days following the closing of the public hearing on a Conditional Use Permit application, the Planning and Zoning Commission shall act on the application. The Commission may grant, by resolution, **approval, approval subject to modification of conditions, or denial of the** a Conditional Use Permit. ~~as the permit was applied, for or in modified form, or the application may be denied. A conditional use permit may be revocable, may be granted for a limited time period or may be granted, subject to such conditions as the Commission may prescribe.~~ Conditions may include, but shall not be limited to, drainage, sewage, water and other utility requirements, requiring special yards, open spaces, buffers, fences and walls; requiring installation and maintenance of landscaping; requiring street dedications and improvements; regulation of points of

vehicular ingress and egress; regulation of traffic circulation; regulation of signs; regulation of hours of operation and methods of operating; control of potential nuisances; prescribing standards for maintenance of buildings and grounds; prescription of development schedules and development standards; and such other conditions as the Commission may deem necessary to ensure compatibility of the use with surrounding developments and uses and to preserve the public health, safety, and welfare. The Commission may grant waivers from the Zoning Ordinance in conjunction with the approval of a Conditional Use Permit for such property development standards and performance standards as fences, walls, screening and landscaping, site area including width and depth, front, rear, and side setbacks, lot coverage, height of structures, distance between structures, usable open space, signs, off-street parking facilities, parking lot standards; or frontage on a public street.

#### **§ 20.3-7 FINDINGS**

The Planning and Zoning Commission shall make the following findings before granting a Conditional Use Permit:

- A. The proposed location of the conditional use is in accord with the objectives of this Code and the purpose of the zone in which the site is located;
- B. The proposed location of the Conditional Use *Permit* and the conditions under which it would be operated or maintained, *that* will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity;
- C. The proposed conditional use will comply with each of the applicable provisions of this zoning Code, except for *any* approved *variances in accordance with Section 20.6-3 (Variances and Appeals); and*
- D. The proposed Conditional Use *Permit* is consistent with, and conforms to, the goals, objectives and policies of the ~~Tusayan Area~~ *General Plan*.

~~(Ord. 2012-04, passed 12-5-2012)~~

#### **§ 20.3-8 EFFECTIVE DATE OF THE *CONDITIONAL USE PERMIT***

The decision of the Planning and Zoning Commission shall be final fifteen (15) days from the date of the decision, and upon receipt by the Town Manager or designee of a signed agreement to the conditions of approval *as set forth in Section 20.3-2 (Acceptance of Conditions)*, unless prior to the expiration of said fifteen (15) day period an appeal has been filed with the ~~Town Council~~ *Board of Adjustment*.

~~(Ord. 2012-04, passed 12-5-2012)~~

#### **§ 20.3-9 APPEAL TO ~~TOWN COUNCIL~~ *BOARD OF ADJUSTMENT***

A decision of the Planning and Zoning Commission may be appealed within fifteen (15) days to the ~~Town Council~~ *Board of Adjustment* by the applicant or any other person as prescribed in § 20.6 (~~Appeals: Town Council~~ *Board of Adjustment* Review) or by appeal of an individual member of the Town Council without fee.

~~(Ord. 2012-04, passed 12-5-2012)~~

#### **§ 20.3-10 DETERMINATION BY THE ~~TOWN COUNCIL~~ *BOARD OF ADJUSTMENT***

The ~~Town Council~~ *Board of Adjustment* shall hold a public hearing on a Conditional Use

Permit as prescribed in § 20.6-3 if an appeal has been filed within the prescribed fifteen (15) day appeal period. The decision of the ~~Town Council~~ *Board of Adjustment* shall be final.

~~(Ord. 2012-04, passed 12-5-2012)~~

### § 20.3-11 LAPSE OF CONDITIONAL USE PERMIT

- A. A Conditional Use Permit shall lapse and shall become *null and void* one (1) year following the date on which the *Conditional* Use Permit became effective, unless prior to the expiration of the one (1) year *period*, a building permit is issued and *substantial* construction is commenced and diligently pursued toward completion on the site which was the subject of the *Conditional* Use Permit ~~application~~, or a Certificate of Occupancy is issued for the structure which was the subject of the *Conditional* Use Permit ~~application~~, or the site is occupied if no building permit or Certificate of Occupancy is required; provided that, a *Conditional* Use Permit for a public utility installation may be valid for a longer period if specified by the Planning and Zoning Commission.
- B. A Conditional Use Permit subject to lapse may be renewed; provided that, prior to the expiration date, an application for renewal of the *Conditional* Use Permit is filed with the Commission.
- C. The Planning and Zoning Commission may grant or deny an application for renewal of a Conditional Use Permit. *However, subject to changing conditions, the Commission may modify and/or add new conditions of approval to renewal of the Conditional Use Permit.* ~~subject to the modification of existing conditions of approval and/or the addition of new conditions of approval.~~

~~(D) — A conditional use permit shall also lapse if the use for which the permit is approved is terminated for a period of two years. Recommencement of the use after the two-year period of inactivity shall require filing a new application following the requirements and processes specified in §§ 20.3-2 through 20.3-10.~~

~~(Ord. 2012-04, passed 12-5-2012)~~

### § 20.3-12 PRE-EXISTING CONDITIONAL USES

- A. A Conditional Use *Permit* legally established prior to the effective date of this ~~zoning~~ Code, or prior to the effective date of subsequent amendments to the regulations or zone boundaries, shall be permitted to continue; provided that, it is operated and maintained in accord with the conditions prescribed at the time of its establishment, if any.
- B. Alteration or expansion of a pre-existing Conditional Use *Permit* shall be permitted only upon the granting of a *new Conditional* Use Permit as prescribed in this Section; provided that, alterations not exceeding in value *twenty-five (25) % percent* of the valuation of the existing use or building as determined by the Town staff shall be permitted without the granting of a *new* Conditional Use Permit.

~~(C) — A conditional use permit shall be required for the reconstruction of a structure housing a pre-existing conditional use if the structure is destroyed by fire or other calamity, by act of God or by the public enemy to a greater extent than 50%. The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the structure to~~

~~its condition prior to such damage or partial destruction to the estimated cost of duplicating the entire structure as it existed prior thereto. Estimates for this purpose shall be made by or shall be reviewed and approved by the town staff and shall be based on the minimum cost of construction in compliance with the Building Code.~~  
(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.3-13 MODIFICATION OF CONDITIONAL USE PERMIT**

Sections 20.3-2 through 20.3-11 shall apply to an application for modification, expansion or other change in a Conditional Use *Permit*; provided that minor revisions or modifications may be approved by the Town Manager if he or she determines that the changes would not affect the findings prescribed in § 20.3-7(Findings).  
(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.3-14 SUSPENSION AND REVOCATION**

- A. Upon violation of any applicable provision of this **Zoning** Code or, if granted subject to conditions, upon failure to comply with *said* conditions, a Conditional Use Permit shall be suspended automatically. The Planning and Zoning Commission shall hold a public hearing within sixty (60) days, in accordance with the procedure prescribed in § 20.3-4 (Public Hearing) and if not satisfied that the regulation, general provisions, or conditions are being complied with, may revoke the Conditional Use Permit or take such action as may be necessary to ensure compliance with the regulation, general provisions or condition.
- B. The decision shall become final thirty (30) days following the date on which the *Conditional* Use Permit was revoked unless an appeal has been filed within the prescribed fifteen (15) day appeal period, in which case § 20.6-3 **Town Council** (*Board of Adjustment* action on Appeal) shall apply.

(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.3-15 NEW APPLICATIONS**

Following the denial of a *Conditional* Use Permit application or the revocation of a *Conditional* Use Permit, no *new* application for a *Conditional* Use Permit for the same or substantially the same use on the site shall be filed within one (1) year from the date of denial or revocation of the *Conditional* Use Permit.  
(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.3-16 CONDITIONAL USE PERMIT TO RUN WITH THE LAND**

A *Conditional* Use Permit granted pursuant to the provisions of this Section shall run with the land and shall continue to be valid upon a change in ownership of the site or structure which was the subject of the use permit application.  
(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.3-17 USE PERMIT AND CHANGE OF ZONE FILED CONCURRENTLY**

- A. Application for a Conditional Use Permit may be made at the same time as an application for a change in zone boundaries including the same property, in which case the Planning and Zoning Commission shall hold the public hearing on the zoning reclassification and the *Conditional* Use Permit at the same meeting and may combine the two hearings.
- B. For the purposes of this Section, the date of the Commission decision on the

*Conditional* Use Permit application shall be deemed to be the same as the date of enactment by the Town Council of an ordinance changing the zone boundaries; provided that, if the Town Council modifies a recommendation of the Commission on a zoning reclassification, the *Conditional* Use Permit application shall be reconsidered by the Commission in the same manner as a new application.

(Ord. 2012-04, passed 12-5-2012)

## **§ 20.4 AMENDMENTS**

### **§ 20.4-1 PURPOSE**

The zoning map and zoning regulations may be amended by changing the boundaries of any zone, or by changing any zone regulation, or any other provision of this **Zoning** Code, in accordance with the procedures prescribed in this section.

(Ord. 2012-04, passed 12-5-2012)

### **§ 20.4-2 INITIATION**

- A. A change in the boundaries of any zone *district*, or a change in the regulations of *this Code*, may be initiated by a property owner, or authorized agent of a property owner, by filing an application for a change in zone boundaries as prescribed in this Section.
- B. A change in the boundaries of any zone *district*, or change in the regulations of *this Code*, may be initiated by the *Town Manager*, the Planning and Zoning Commission, or the Town Council.

~~(Ord. 2012-04, passed 12-5-2012)~~

### **§ 20.4-3 CONFORMITY WITH ~~TUSAYAN AREA GENERAL PLAN~~**

An application for a change in zone classification which is not consistent with the land use goals and policies as identified in the ~~Tusayan Area General Plan~~ shall not be processed until an amendment to the ~~Tusayan Area General Plan~~ has been filed *and approved by the Town Council*. ~~as prescribed in § 21, Tusayan Area Plan.~~

~~(Ord. 2012-04, passed 12-5-2012)~~

### **§ 20.4-4 APPLICATION: DATA AND MAPS TO BE FURNISHED**

A property owner desiring to propose a change in the boundaries of the zone in which his or her property is located, or his or her authorized agent, may file with the Town Manager or his/her designee, an application for a change in zone boundaries on the form prescribed by the Town and, *in addition to the information required on the Town's form entitled "Application for Zone Amendment,"* shall include the following data:

- A. Name and address of the applicant;
- B. Signature of the property owners;
- C. Address and legal description of the property;
- D. An accurate scale drawing of the site and the surrounding area showing existing streets and property lines, for a distance determined by the Town staff, necessary to illustrate the relationship to and impact on the surrounding area;
- E. The Town staff may require additional information or maps, if they are necessary, to enable the Commission to determine whether the change is consistent with the objectives of this **zoning** Code. The Town Manager or his/her designee may

- authorize omission of the map required by this section if it is not necessary; and
- F. A list of all owners of properties located within three hundred (300) feet of the exterior boundaries of the subject property; the list shall be keyed to a map showing the location of these properties.

~~(Ord. 2012-04, passed 12-5-2012)~~

#### **§ 20.4-5 FEE**

The application shall be accompanied by a fee established by resolution of the Town Council to cover the cost of processing the application as prescribed in this section.

(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.4-6 PUBLIC HEARING**

The Planning and Zoning Commission shall hold at least one (1) public hearing on each application for a change in zone boundaries, or for a change of the zoning regulations. The hearing shall be set and notice given as prescribed in § 20.5 (Public Hearing Time and Notice).

(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.4-7 INVESTIGATION AND REPORT**

The Town Manager, or his/her designee, shall make an investigation of the application or proposal, and shall prepare a report thereon which shall be submitted to the Planning and Zoning Commission and to the applicant prior to the public hearing.

(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.4-8 PUBLIC HEARING PROCEDURE**

At the public hearing, the Planning and Zoning Commission shall review the application ~~or the proposal~~ *for a proposed zone change* and may ~~receive~~ *require* pertinent evidence as to why or how the proposed change is consistent with the objectives of this ~~zoning~~ Code, the ~~Tusayan Area~~ *General Plan*, and the development policies of the Town.

~~(Ord. 2012-04, passed 12-5-2012)~~

#### **§ 20.4-9 ACTION BY THE PLANNING AND ZONING COMMISSION**

A. Within twenty-one (21) days following the closing of the public hearing, the Planning and Zoning Commission shall make a decision based on the following findings:

1. The change is consistent with the goals, objectives and policies of the ~~Tusayan Area~~ *General Plan* and this ~~zoning~~ Code;
2. The change is in the interest of, or will further the public health, safety, comfort, convenience and welfare; and
3. The change will not adversely affect the established character of the surrounding neighborhood, nor be detrimental to adjacent properties.

B. Based on these findings, the Commission shall recommend *by resolution* that the application be approved, approved in modified form, or denied. Said recommendation shall be transmitted to the Town Council for final hearing and disposition.

~~(Ord. 2012-04, passed 12-5-2012)~~

**§ 20.4-10 ALTERNATE CLASSIFICATION IN LIEU OF PROPOSED CLASSIFICATION**

When the Planning and Zoning Commission determines, following a public hearing on a change in the boundaries of any zone, that a change to a zone classification other than the proposed classification specified in the hearing notice is desirable, the Commission may recommend alternate classifications to a proposed classification. ~~in accord with the following schedule:~~

<i>Proposed Zone Described in</i>	<i>Alternate Zones That May be</i>
AR	Any AR or RR requiring equal or
CG-10,000	CN-2/A
CH-10,000	CG-10,000, CN-2/A
CN-	None
G	None
M-1-10,000	MP-20,000
M-2-6,000	MP-20,000, M-1-
MP-20,000	None
RM-	Any Single-Family
RM-	Any other Residential
RS-10,000	Any Single-Family Zone requiring
RS-18,000	Any Single-Family Zone requiring
RS-36,000	Any Single-Family Zone requiring
RS-	Any other Single-
Special Purpose	None

(Ord. 2012-04, passed 12-5-2012)

**§ 20.4-11 ACTION BY THE TOWN COUNCIL**

- A. The Town Council shall hold at least one public hearing on an application ~~or a proposal~~ *for a change to the zoning regulations or zoning map* within 40 days after receipt of the resolution or report of the Planning and Zoning Commission. The hearing shall be set and notice given as prescribed in § 20.5 (Public Hearing Time and Notice). Within twenty-one (21) days following the closing of a public hearing, the Town Council shall make a decision based on the findings required by § 20.4-9.

- B. If the Town Council finds that the change is consistent with the findings required by § 20.4-9, it shall approve an ordinance amending the zoning map *and/or* zoning regulations, whichever is appropriate.
- C. The Town Council may modify a decision of the Planning and Zoning Commission recommending the granting *or denial of a change to the zoning regulations or zoning map* ~~of an application or adoption of a proposal~~. However, prior to making a final decision ~~on the amendment or proposal~~, the Town Council may, but shall not be required to, submit any or all modifications to the Commission for reconsideration at a public meeting. The Commission may, but is not required to, provide supplemental comments on the modifications to the Town Council. The Town Council may consider any supplemental comments from the Commission before making the findings required by § 20.4-9 and rendering a final decision. Failure of the Commission to report within thirty (30) days after receipt of the Town Council request shall be deemed concurrency.
- D. 1. If the Town Council finds that the change is not consistent with the findings required by § 20.4-9, it shall deny the application or reject the proposal. In accordance with A.R.S. § 9-462 if twenty (20) % percent or more either of the area of the lots included in a proposed change, or of those immediately adjacent in the rear or any side thereof extending one hundred-fifty (150) feet therefrom, or of those directly opposite thereto extending one hundred-fifty (150) feet from the street frontage of the opposite lots, file a protest in writing against a proposed amendment, it shall not become effective, except by the favorable vote of three-fourths of all members of the Town Council. If any members of the Town Council are unable to vote on such a question because of a conflict of interest, then the required number of votes for passage of the question shall be three-fourths (3/4) of the remaining membership of the Town Council; provided that, such required number of votes shall in no event be less than a majority of the full membership of the Town Council.
2. In calculating the owners by number or area, town property and public rights-of-way shall not be included.

~~(Ord. 2012-04, passed 12-5-2012)~~

#### **§ 20.4-12 NEW APPLICATION**

Following the denial of an application for change in zone boundaries or a change in the zoning regulations, an application or request for the same or substantially the same change on the same or substantially same property shall not be filed within one year of the date of denial.

(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.4-13 CONDITIONAL ZONING**

The Town Council may approve a change of zone conditioned on a schedule for development of the specific use or uses for which the rezoning is requested. If, at the expiration of this period, the property has not been improved for the use for which it was conditionally approved, the Town Council, after notification by registered mail to the owner and applicant who requested the rezoning, shall schedule a public hearing to grant

an extension, determine compliance with the schedule for development, or cause the property to revert to its former zoning classification.  
(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.4-14 CHANGE OF ZONE ACCOMPANIED BY A SUBDIVISION PLAT**

When a zone change request is accompanied by a preliminary subdivision plat, the change of zoning shall not vest or become effective until recordation of a final plat.  
(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.5 PUBLIC HEARING TIME AND NOTICE**

- A. The Town Manager shall set the time and place of public hearings required by this code to be held by the Planning and Zoning Commission or Hearing Officer; provided that, the Commission or Hearing Officer may change the time or place of a hearing. However, the Planning and Zoning Commission or Hearing Officer shall hold a public hearing within seventy-five (75) days after the appropriate application has been filed.
- B. The Town Clerk shall set the time and place of public hearings required by this Zoning Code to be held by the Town Council *or the Board of Adjustment*; provided that, the Town Council *or Board of Adjustment* may change the time or place of a hearing. The Town Council shall hold a public hearing on a rezoning request, or an amendment approved by the Commission not less than sixty (60) days after notice of such decision or appeal has been filed with the Town Clerk, unless the applicant or appellant shall consent to an extension of time. Notice of a public hearing shall be given not less than fifteen (15) days, nor more than thirty (30) days, prior to the date of the hearing by publication in a newspaper of general circulation. When the hearing concerns a matter other than an amendment to the text of this **Zoning Code**, the property shall be posted at least fifteen (15) days prior to the hearing. Notices of public hearings before the Planning and Zoning Commission, Hearing Officer, *Board of Adjustment* or Town Council shall be mailed to all persons whose names appear on the latest adopted tax roll of Coconino County as owning property within three hundred (300) feet of the exterior boundaries of the property that is the subject of the hearing.
- C. In proceedings involving one (1) or more of the following proposed changes or related series of changes in the standards governing land uses, notice shall be provided in the manner prescribed by division (D) below:
1. A ten (10) % percent **change or more increase or decrease** in the number of square feet or units that may be developed;
  2. A ten (10) % percent **change or more increase or reduction** in the allowable height of buildings;
  3. A **change in increase or reduction in** the allowable number of stories of buildings;
  4. A ten (10) % percent **change or more increase or decrease** in the setback or open space requirements; and/or

5. A change in ~~increase or reduction in~~ permitted uses.
- D. In proceedings governed by ~~division-subsection~~ C. above, the Town shall provide notice to real property owners pursuant to at least one (1) of the following notification procedures:
1. Notice shall be sent by first class mail to each real property owner, as shown on the last assessment, whose real property is directly governed by the changes;
  2. If the Town issues utility bills or other mass mailings that periodically include notices or other informational or advertising materials, the Town shall include notice of such changes in such utility bills or other mailings; and
  3. The Town shall publish such changes prior to the first hearing on such changes in a newspaper of general circulation in the Town. The changes shall be published in a "display ad" covering not less than one-eighth (1/8) of a full page.
- E. If notice is provided pursuant to ~~divisions subsections~~ D.2. or D.3. above, the Town shall also send notice by first class mail to persons who register their names and addresses with the town as being interested in receiving such notice. The Town may charge a fee not to exceed five (5) ~~\$\$~~ dollars per year for providing this service.
- F. Notwithstanding the notice requirements set forth in subsection C. above, failure of any person or entity to receive notice shall not constitute grounds for any court to invalidate the actions of the Town for which notice was given.

(Ord. 2012-04, passed 12-5-2012)

## § 20.6 APPEALS: ~~TOWN COUNCIL~~ BOARD OF ADJUSTMENT REVIEW

### § 20.6-1 APPEAL OF DECISION OF PLANNING AND ZONING COMMISSION

Where this zoning code provides for appeal to the ~~Town Council~~ Board of Adjustment of a decision of the Planning and Zoning Commission, the appeal shall be made within fifteen (15) days of the date of the decision by filing a letter of appeal with the Town Manager. The appeal shall state in writing the reasons for the appeal.

(Ord. 2012-04, passed 12-5-2012)

### § 20.6-2 FEE

An appeal shall be accompanied by a fee established by resolution of the Town Council to cover the cost of processing the appeal.

(Ord. 2012-04, passed 12-5-2012)

### § 20.6-3 ~~TOWN COUNCIL~~ BOARD OF ADJUSTMENT ACTION ON APPEAL

The ~~Town Council~~ Board of Adjustment shall hold at least one (1) public hearing on a decision of the Planning and Zoning Commission which has been appealed. The hearing shall be held within sixty (60) days from the filing of the appeal; the time and place of the hearing shall be set by notice given as prescribed in § 20.5. The ~~Town Council~~ Board of Adjustment shall render a decision on an appeal within twenty-one (21) days following the

closing of the public hearing on the appeal. Failure of the ~~Town Council Board of Adjustment~~ to act within the time period prescribed by this section shall be deemed approval of the Planning and Zoning Commission action. The ~~Town Council Board of Adjustment~~ may affirm, reverse, or modify a decision of the Planning and Zoning Commission. The decision of the ~~Town Council Board of Adjustment~~ shall be final.  
(Ord. 2012-04, passed 12-5-2012)

## § 20.7 VARIANCES AND APPEALS

### § 20.7-1 PURPOSES AND AUTHORIZATION

- A. Variances from the terms of the zoning Code shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning Code deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification. Any Variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.
- B. The power to grant variances does not extend to use regulations. Flexibility to the zoning regulations is provided in the conditional use provisions of this zoning Code.
- C. The ~~Hearing Officer Board of Adjustment~~ may grant variances to the regulations prescribed by this section, ~~in accord with the procedure prescribed in this section,~~ with respect to fences, walls, hedges, screening and landscaping; site area, width, and depth; front, rear and side yards; coverage, height of structures; distances between structures; usable open space; signs, off-street parking facilities, or frontage on a public street.
- D. The ~~Hearing Officer Board of Adjustment~~ shall hear and decide appeals in which it is alleged that there is an error in an order, requirement, or decision made by the Zoning Administrator *or the Planning and Zoning Commission* in the administration of this zoning Code.

(Ord. 2012-04, passed 12-5-2012)

### § 20.7-2 APPLICATION: DATA AND MAPS TO BE FURNISHED

- A. Application for a variance shall be filed with the Town Manager or *his/her* designee on a form prescribed by the Town and shall include, *in addition to the information requested on the Town's application form entitle "Variance,"* the following data and maps exhibits:
  - 1. Name and address of the applicant(s);
  - 2. Statement that the applicant(s) is the plaintiff in any action in eminent domain to acquire the property, or the owner, or the authorized agent of the owner of the property on which the variance is being requested;
  - 3. Address and legal description of the property;
  - 4. Statement indicating the precise nature of the variance requested and the

practical difficulty, or unnecessary physical hardship inconsistent with the objectives of the zoning regulations, that would result from a strict or literal interpretation and enforcement of the specified regulations, together with any other data pertinent to the findings prerequisite to the granting of a variance, prescribed in § 20.7-7(Findings);

5. An accurate scale drawing of the site and any adjacent property affected showing, when pertinent, the contours at intervals of not more than two (2) feet, and all existing and proposed locations of streets, property lines, uses, structures, driveways, pedestrian walks, off-street parking facilities and landscaped areas;
6. A list of all owners of property located within three hundred (300) feet of the exterior boundaries of the subject property; the list shall be keyed to a map showing the location of these properties; and
7. The Town staff may require additional information or plans, if they are necessary, to enable a determination as to whether the circumstances prescribed for the granting of a variance exist. The Town Manager or *his/her* designee may authorize omission of any or all of the plans and drawings required by this section if they are not necessary.

- B. An appeal from a decision of the Zoning Administrator shall be filed with the ~~Town Hearing Officer~~ *Board of Adjustment*, and should cite the specific decision or action being appealed as well as the reasons and justification for the appeal.

~~(Ord. 2012-04, passed 12-5-2012)~~

### § 20.7-3 FEES

An application for a variance, or an appeal of a decision of the Zoning Administrator *or the Planning and Zoning Commission*, shall be accompanied by a fee established by resolution of the Town Council to cover the cost of handling the variance application as prescribed in this section. ~~or responding to an appeal~~. A single application for a variance may include requests for variances from more than one (1) regulation applicable to the same site, or for similar variances on two (2) or more adjacent sites with similar characteristics.

~~(Ord. 2012-04, passed 12-5-2012)~~

### § 20.7-4 PUBLIC HEARING

- A. The ~~Hearing Officer~~ *Board of Adjustment* shall hold a public hearing on an application for a variance, or an appeal of a decision made by the Zoning Administrator *or the Planning and Zoning Commission*. The hearing shall be set and notice given as prescribed in §20.5 (Public Hearing Time and Notice).
- B. At a public hearing for a variance, the ~~Hearing Officer~~ *Board of Adjustment* shall review the application, statements and drawings submitted therewith, and shall receive pertinent evidence concerning the variance, particularly with respect to the findings prescribed in § 20.7-7 (Findings).
- C. At a public hearing on an appeal from a decision of the Zoning Administrator *or Planning and Zoning Commission*, the ~~Hearing Officer~~ *Board of Adjustment* shall review the written appeal and statements and evidence in support of the appeal.

~~(Ord. 2012-04, passed 12-5-2012)~~

#### **§ 20.7-5 INVESTIGATION AND REPORT**

The Town Manager or *his/her* designee shall make an investigation of each application that is the subject of a public hearing, and shall prepare a report thereon which shall be submitted to the ~~Hearing Officer~~ **Board of Adjustment** and *shall be* made available to the applicant prior to the public hearing.

~~(Ord. 2012-04, passed 12-5-2012)~~

#### **§ 20.7-6 ACTION BY THE HEARING OFFICER BOARD OF ADJUSTMENT**

- A. Within twenty-one (21) days following the close of the public hearing on a Variance application, the ~~Hearing Officer~~ **Board of Adjustment** shall act on the application. The ~~Hearing Officer~~ **Board of Adjustment** may, by resolution, grant, a Variance as ~~the Variance~~ it was applied for, or in a *conditioned or* modified form, or ~~the application may be denied~~ *deny the Variance*.
- B. Within twenty-one (21) days following the close of the public hearing on an appeal from a decision of the Zoning Administrator, the Hearing Officer, *or the Planning and Zoning Commission, the Board of Adjustment* shall reverse, affirm or modify, wholly or partly, any order, requirement, or decision of the Zoning Administrator *or the Planning and Zoning Commission* properly appealed to the ~~Hearing Officer~~ **Board of Adjustment** and *shall* make such order, requirement, decision or determination as is necessary.

~~(Ord. 2012-04, passed 12-5-2012)~~

#### **§ 20.7-7 FINDINGS**

The ~~Hearing Officer~~ **Board of Adjustment** may grant a Variance to a regulation prescribed by this Code with respect to fences, walls, hedges, screening or landscaping; site area, width or depth; front, rear or side yards; coverage, height of structures, distances between structures, usable open space, or frontage on a public street, *parking facilities, or parking lot standards* as the Variance was applied for or in modified form, if, on the basis of the application and the evidence submitted, the ~~Hearing Officer~~ **Board of Adjustment** makes findings of fact that establish that the circumstances prescribed in divisions (A) through (E) ~~(B) or (C) below and in divisions (D) and (E) below~~ do apply.

- A. The strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this ~~zoning~~ Code.
- B. There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other properties in the same zone.
- C. Strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by other owners of other properties in the same zone.
- D. The granting of the Variance as conditioned will not constitute the granting of a special privilege inconsistent with the limitations on other properties in the same zone.

- E. The granting of the Variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

~~(Ord. 2012-04, passed 12-5-2012)~~

#### **§ 20.7-8 SIGNS: ADDITIONAL FINDINGS**

The ~~Hearing Officer~~ *Board of Adjustment* may grant a Variance to a regulation prescribed in this zoning Code with respect to signs as the Variance was applied for or in modified form, if, on the basis of the application and the evidence submitted, the ~~Hearing Officer~~ *Board of Adjustment* makes findings of fact that establish that the circumstances prescribed in § 20.7-7 (Findings) apply and the following circumstances also apply.

- A. The granting of the Variance will not detract from the attractiveness or orderliness of the surrounding neighborhood, or infringe on the similar rights of others.
- B. The granting of the Variance will not create a hazard to public safety.

~~(Ord. 2012-04, passed 12-5-2012)~~

#### **§ 20.7-9 PARKING: ADDITIONAL FINDINGS**

The ~~Hearing Officer~~ *Board of Adjustment* may grant a Variance to a regulation prescribed by this Zoning Code with respect to off-street parking facilities as the Variance was applied for or in modified form, if, on the basis of the application and the evidence submitted, the ~~Hearing Officer~~ *Board of Adjustment* makes findings of fact that establish that the circumstances prescribed in § 20.7-7 (Findings) apply and the following circumstances apply.

- A. Neither present nor anticipated future traffic volumes generated by the use of the site, or the uses of sites in the vicinity, reasonably require strict or literal interpretation and enforcement of the specified regulation.
- B. The granting of the Variance will not result in parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic on the streets.
- C. The granting of the Variance will not create a safety hazard, or any other condition inconsistent with the objectives of this zoning code.

~~(Ord. 2012-04, passed 12-5-2012)~~

#### **§ 20.7-10 APPEALS OF DECISIONS BY ~~HEARING OFFICER~~ BOARD OF ADJUSTMENT**

A decision of the ~~Hearing Officer~~ *Board of Adjustment* on a variance or an appeal of a decision made by the Zoning Administrator, *the Hearing Officer, or the Planning and Zoning Commission* may be appealed within fifteen (15) ~~thirty (30)~~ days to the Board of Adjustment by the applicant or any other aggrieved person.

~~(Ord. 2012-04, passed 12-5-2012)~~

#### **§ 20.7-11 EFFECTIVE DATE OF VARIANCE**

A decision of the ~~Hearing Officer~~ *Board of Adjustment* on a variance shall be final thirty (30) days after the date of the decision, and upon receipt by the Town Manager of a signed agreement to the conditions of approval, unless an appeal has been filed.

~~(Ord. 2012-04, passed 12-5-2012)~~

## § 20.7-12 LAPSE OF VARIANCE

- A. A Variance shall lapse and shall become *null and* void one (1) year following the date on which the Variance became effective, unless prior to the expiration of *the* one (1) year *period*, a building permit is issued and *substantial* construction is commenced and diligently pursued toward completion on the site which was the subject of the Variance application, or a permit is issued authorizing occupancy of the site or structure which was the subject of the Variance application, or the site is occupied if no building permit or certificate of occupancy is required.
- B. A Variance may be renewed for an additional period of one (1) year; provided that, prior to the expiration of one (1) year from the date when the Variance or the renewal became effective, an application for renewal of the Variance is filed with the Town Manager or *his/her* designee.
- C. The ~~Hearing Officer~~ *Board of Adjustment* may grant or deny an application for renewal of a Variance, subject to the modification of existing conditions and/or the addition of new conditions of approval.
- D. A Variance shall also lapse if the use for which the Variance is approved is terminated for a period of one (1) year. Recommencement of the use after the one (1) year period of inactivity shall require filing a new variance application according to the process and requirements listed in §§ 20.7-1 through 20.7-15.

(Ord. 2012-04, passed 12-5-2012)

## § 20.7-13 REVOCATION

A Variance granted by the ~~Hearing Officer~~ *Board of Adjustment* subject to conditions shall be revoked by the ~~Hearing Officer~~ *Board of Adjustment* if the applicant has not complied with the conditions *conditionally approved Variance*. The decision of the ~~Hearing Officer~~ *Board of Adjustment* revoking a Variance shall become effective fifteen (15) days following the date on which it was revoked. ~~unless an appeal has been filed.~~

(Ord. 2012-04, passed 12-5-2012)

## § 20.7-14 NEW APPLICATION

Following the denial or revocation of a Variance application, no application for the same or substantially the same Variance on the site, or substantially the same site, shall be filed within one (1) year from the date of denial or revocation of the Variance.

(Ord. 2012-04, passed 12-5-2012)

## § 20.7-15 VARIANCE RELATED TO PLANS SUBMITTED

Unless otherwise specified at the time a Variance is granted, it shall apply only to the plans and drawings submitted as part of the application.

(Ord. 2012-04, passed 12-5-2012)

## § 20.8 BOARD OF ADJUSTMENT

### § 20.8-1 PURPOSE AND AUTHORITY

Pursuant to A.R.S. § 9-462.06, the Town shall have a Board of Adjustment which shall be appointed by the Town Council. In lieu of appointing a separate Board of Adjustment, the Mayor, with the consent of the Town Council, may establish the Town Council as the Board of Adjustment.

(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.8-2 MEMBERSHIP**

*If the Town Council elects not to serve as the Board of Adjustment*, the members of the Board shall be appointed by the Mayor, subject to the approval of the Town Council. The Board shall consist of five (5) members who shall be residents of the Town. The members of the Board shall serve without compensation.

~~(Ord. 2012-04, passed 12-5-2012)~~

#### **§ 20.8-3 TERM OF OFFICE**

Whenever the Town Council is not serving as the Board, the term of office of the members of the Board shall be two (2) years, with the terms of members so staggered that the terms of no more than four (4) members shall expire in any one (1) year. In the event of a death, resignation or removal from the Board, the vacancy shall be filled by the Council for the unexpired term. Three (3) unexcused absences during a calendar year from any regular or special meeting may be considered inefficiency or neglect of duty, and may be grounds for termination at the will and pleasure of the Town Council.

(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.8-4 ORGANIZATION OF THE BOARD OF ADJUSTMENT**

- A. Whenever the Town Council is serving as the Board, the Mayor and Vice Mayor shall serve as the Chairperson and Vice Chairperson respectively. Otherwise, the Board shall elect a Chairperson and Vice Chairperson from the members of the Board at the first meeting held in each calendar year. The Chairperson shall preside at all meetings. The Vice Chairperson shall perform the duties of the Chairperson in the latter's absence or disability.
- B. Meetings of the Board shall be open to the public, and notice to the public of items on the agenda shall be provided as required by State law and by § 20.5 of this Code. The minutes of the proceedings showing the votes of each member and records of its examinations and other official actions shall be kept and filed in the office of the Town Clerk as a public record.
- C. Three (3) members of the Board shall constitute a quorum for the purpose of transacting business. The affirmative vote of a majority of the Board shall be required to pass a motion. A member may abstain from voting only upon a declaration that he or she has a conflict of interest, in which case such member shall take no part in the deliberation on the matter in question.

(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.8-5 GRANT OF AUTHORITY**

~~Pursuant to A.R.S. § 9-462.06, The Town Board of Adjustment hereby grants authority for hearing and deciding shall hear and decide requests for variances and for appeals of decisions made by the Zoning Administrator, to the Hearing Officer, and the Planning and Zoning Commission. The Board of Adjustment will hear and decide appeals from the decisions of the Zoning Administrator, the Hearing Officer, or the Planning and Zoning Commission on these matters.~~

~~(Ord. 2012-04, passed 12-5-2012)~~

## § 20.8-6 APPEALS OF BOARD OF ADJUSTMENT DECISION

A person aggrieved by a decision of the Board of Adjustment may, at any time within thirty (30) days after the Board has rendered its decision, file a complaint for special action in Superior Court to review the ~~Board or Town Council~~ decision *by the Board of Adjustment.*  
(Ord. 2012-04, passed 12-5-2012)

## § 20.9 ZONING ADMINISTRATOR

### § 20.9-1 ESTABLISHMENT AND PURPOSE

- A. The staff position of Zoning Administrator is hereby created for the administration of this ~~zoning~~ Code. The Zoning Administrator shall possess all powers of a Zoning Administrator under this ~~Zoning~~ Code and State law, and shall perform such duties as are set forth under this ~~zoning~~ Code. The Town Manager, or his/her designee, shall serve as the Zoning Administrator. The Zoning Administrator shall not be the ~~Town~~ Hearing Officer.
- B. The Zoning Administrator shall have the following duties:
1. Establish rules, procedures, and forms to provide for the processing of applications or requests for action under the provisions of this ordinance;
  2. Accomplish all administrative actions required by this ~~zoning~~ Code, including the giving of notice, preparation of reports, receiving and processing appeals, and the acceptance and accounting of fees;
  3. Provide advice and recommendations to the ~~Town~~ Planning and Zoning Commission, Board of Adjustment, Hearing Officer and Town Council with respect to applications and requests for approvals as required by this ~~zoning~~ Code;
  4. Interpret the ~~zoning~~ Code to the public, subject to policies established by the Town Council;
  5. Determine the location of any zoning district boundary shown on the *Official Zoning Map* adopted as part of this ~~zoning~~ Code when such location is in dispute;
  - ~~6. Enforce the provisions of this zoning Code as set forth in §7 of this zoning code; and~~
  6. The Zoning Administrator shall not make any changes in the uses permitted in any zoning classification, or make any changes in the terms of this ~~zoning~~ Code.

(Ord. 2012-04, passed 12-5-2012)

## § 20.10 ADJUSTMENTS

### § 20.10-1 PURPOSE AND AUTHORITY

- A. The purpose of this section is to grant authority to the Town Manager *or his/her designee* to take action on requests for minor modifications or adjustments to certain requirements of this ~~zoning~~ Code when such requests constitute a reasonable

use of property not permissible under a strict literal interpretation of the regulations.

- B. For the purpose of administering this section, an adjustment is any variance to the terms or requirements of this zoning Code, which, if granted, would allow the following:
1. A decrease of not more than ten (10) % percent of the required building site area, width or depth;
  2. A decrease of not more than twenty (20) % percent of the required width of a side yard or the yard between buildings;
  3. A decrease of not more than twenty (20) % of the required front or rear yard;
  4. An increase of not more than twenty (20) % percent in the permitted height of a fence or wall;
  5. An increase of not more than ten (10) % percent of the permitted projection of steps, stairways, landings, eaves, overhangs, masonry chimneys and fireplaces into any required front, rear, side or yard between buildings;
  6. An increase of not more than ten (10) % percent of the permitted height or areas of signs;
  7. A decrease in the number of required parking spaces of not more than ten (10) % percent;
  8. An increase of not more than ten (10) % percent in the maximum allowable lot coverage; and
  9. An increase of not more than ten (10) % percent in the permitted height of buildings.

(Ord. 2012-04, passed 12-5-2012)

**§ 20.10-2 APPLICATION: DATA AND MAPS EXHIBITS TO BE FURNISHED**

Application for an adjustment shall be filed with the Town Manager, or *his/her* designee, on a form prescribed by the Town, and shall include the following data and ~~maps~~-exhibits:

- A. Name and address of the applicant;
- B. Statement that the applicant is the plaintiff in any action in eminent domain to acquire the property, or the owner, or the authorized agent of the owner of the property on which the adjustment is being requested;
- C. Address and legal description of the property;
- D. Statement of the precise nature of the adjustment;
- E. An accurate scale drawing of the site and any adjacent property affected, showing all existing and proposed property lines, locations of structures, parking areas, driveways, other improvements or facilities and landscaped areas;
- F. Other plans, drawings, or information which the staff deems necessary to enable

proper consideration of the application; and

- G. If the request is for a setback reduction, a letter approving the adjustment from the affected adjacent property owner.

(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.10-3 FEES**

The application shall be accompanied by a fee established by resolution of the Town Council to cover the cost of handling the application as prescribed in this Section. A single application may include requests for adjustments from more than one regulation applicable to the same site, or for similar adjustments on two (2) or more adjacent sites having the same characteristics.

(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.10-4 FINDINGS**

In granting an adjustment, the Town Manager shall make findings of fact that establish that the circumstances necessary for granting ~~a such a~~ variance ~~by the Hearing Officer~~, as prescribed in § 20.7-7 (Findings) do apply.

~~(Ord. 2012-04, passed 12-5-2012)~~

#### **§ 20.10-5 SITE AREA: ADDITIONAL FINDINGS**

In order to grant approval of an administrative adjustment allowing a reduction in minimum site area, the Town Manager *or his/her designee* must make ~~the following~~ *an*-additional finding *that* the property cannot otherwise meet the minimum site area requirement of its current zoning classification.

(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.10-6 DECISION OF TOWN MANAGER**

If the Town Manager denies an application for an adjustment, or if the applicant disagrees with the conditions imposed on the granting of an adjustment, ~~if any~~, the applicant may file for a Variance in accordance with § 20.7 (Variances).

(Ord. 2012-04, passed 12-5-2012)

#### **§ 20.11 ANIMAL HUSBANDRY ACTIVITIES OR PROJECTS**

- A. FFA, 4-H or any agricultural or recognized animal husbandry activity or project conducted primarily for educational purposes or school credits may be permitted in any *single family residential zone district*.

- B. The following criteria shall be met.

1. Active membership, including enrollment in the specific livestock project, must be maintained, the project must be operated in compliance with all requirements of the organization having jurisdiction over the project, and verification of such shall be required.
2. The keeping of all animals shall be subject to *The Rules and Regulations of the Coconino County Health Department*, §§ 11-1 (General), 11-2 (Piggeries) and 11-3 (Sanitary Requirements), as applicable.
3. Under this exemption, the setback and number of animals per acre do not apply for animals utilized in animal husbandry projects. However, the

setback exemption shall not apply to any piggery, which is required by *The Rules and Regulations of the Coconino County Department of Public Health* to be located at least three hundred (300) feet from an inhabited house on an adjoining property.

4. An application for the animal husbandry exemption must be approved by the Town Manager before more animals than the number permitted in the zoning district are brought to the property, or before any required setbacks are waived.
5. The setback exemption and/or the number of animals per acre exemption may be revoked by the Town Manager if the animal husbandry activity or project is found to be out of compliance with any rules or regulations of the organization having jurisdiction over the project (i.e., the University of Arizona Cooperative Extension and the like). The finding of said lack of compliance must be made by the organization with jurisdiction.
6. The setback exemption and/or the number of animals per acre exemption may be revoked by the Town Manager if a violation of §§ 11-1, 11-2 or 11-3 of *The Rules and Regulations of the Coconino County Department of Public Health* is found to exist on the property. The finding of a violation ~~must be made~~ *should be verified* by the Coconino County Hearing Officer for Environmental Services.
7. The setback exemption and/or the number of animals per acre exemption may also be revoked by the Town Manager if a violation of A.R.S. § 13-2910, Cruelty to Animals, is found to exist on the property. The finding of a violation must be made by a ~~Justice of the Peace~~ *Law Enforcement Officer*.
8. A revocation of an exemption may be appealed to the Planning and Zoning Commission. A written appeal must be filed within thirty (30) days of the revocation.
9. A decision by the Planning and Zoning Commission may be appealed to the ~~Town Council~~ Board of Adjustment. A written appeal must be filed within fifteen (15) days of the Commission's decision.

~~(Ord. 2012-04, passed 12-5-2012)~~

## **SECTION 21: TUSAYAN AREA GENERAL PLAN**

**§21.1 Applicability of State Law** Except as otherwise specifically provided herein, the provisions of the A.R.S. Title 9 relating to the adoption, amendment, effect and all other aspects of general plans shall apply to the Town.

(Ord. 2012-04, passed 12-5-2012)

### **§ 21.2 Amendments to ~~the~~ *Tusayan Area General Plan***

A. The ~~Tusayan Area General Plan~~, or any part or element thereof, may be amended as frequently in any calendar year as may be determined by the Town Council to be in the public

interest.

- B.
  1. An amendment to the ~~Tusayan Area~~ **General Plan**, or any part or element thereof, may be initiated by:
    - a. The Town Council;
    - b. The Planning and Zoning Commission; ~~or~~
    - c. *The Town Manager; or*
    - d. The owner of the property in question.
  2. However, any amendment initiated by the property owner shall be made by application filed with the Town on a form prescribed by the Town Manager. Such application shall be accompanied by a fee as prescribed by resolution of the Town Council.
- C. Any hearing held in conjunction with an amendment to this **Zoning Code** for the purpose of bringing zoning into consistency with the ~~Tusayan Area~~ **General Plan** may be held at any time after the date on which an amendment to the ~~Tusayan Area~~ **General Plan**, or any part or element thereof has been recommended for adoption by the Planning and Zoning Commission. ~~provided,~~ However, ~~that,~~ no such amendment to the Zoning Ordinance shall be adopted by the Town Council until the Council has first adopted the appropriate amendment to the ~~Tusayan Area~~ **General Plan**.

**ITEM**

**No. 7**

**RESOLUTION NO. 2017-02**

**A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF  
THE TOWN OF TUSAYAN RECOMMENDING THAT THE TOWN  
COUNCIL AMEND ORDINANCE NO. 2012-04 (ZONING ORDINANCE)  
BY APPROVING ZONE AMENDMENT NO. 2017-02**

**WHEREAS**, the Planning and Zoning Commission has, at its regular meeting held on May 16, 2017, studied and considered Resolution No. 2017-02 (Zone Amendment No. 2017-02), a Resolution recommending that the Town Council approve a revision to Ordinance No. 2012-04 (Zoning Ordinance); and

**WHEREAS**, the Planning and Zoning Commission has determined that it is in the best interest of the Town to enact this amendment to the Town's Zoning Ordinance to enhance the quality of life and to protect the health, safety, and welfare of its citizens; and

**WHEREAS**, a timely and properly noticed public hearing upon Zone Amendment No. 2017-02 (Resolution No. 2017-02) was held by the Planning and Zoning Commission during its regularly scheduled meeting on May 16, 2017 at which hearing evidence, oral and documentary, was admitted on behalf of said zone change.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning and Zoning Commission of the Town of Superior, in a regular session assembled on the 16<sup>th</sup> day of May, 2017, resolved to approve Resolution No. 2017-02, a Resolution of the Planning and Zoning Commission recommending that the Town Council amend Ordinance No. 2012-04 as follows:

**SECTION 1: REVISIONS**

**Section 1: Purpose and Scope**

For the purpose of implementing the goals, objectives and policies of the General Plan to promote and protect the public health, safety, and welfare of the people of Tusayan, and to provide for the social, physical and economic advantages resulting from comprehensive and orderly planned use of land resources, a zoning ordinance establishing classifications of zones, and regulations within those zones, hereby is established and adopted by the Mayor and Council.

**Section 5: Effects of Zoning**

- A. **Application of Provisions**: The provisions of this Code governing the use of land, buildings and structures, the size of yards abutting buildings and structures, the height and bulk of buildings, the density of population, the number of dwelling units per acre, standards of performance and other provisions hereby are declared to be in effect upon all land included within the boundaries of each and every zone established by the Code.
- B. **Buildings Under Construction**: Any building or structure for which a building permit has been issued, and which is still valid under the provisions of earlier ordinances of the town or county which are in conflict with this Code, nevertheless may be continued and completed in accordance with the plans and specifications upon which the permit was issued.

- C. **Adoption of Zone Maps:** All zones and boundaries of said zones and each of them hereby, are established and adopted as shown, delineated and designated on the Official Zoning Map of the Town, which Map, together with all notations, references, data, zone boundaries, and other information are a part of this Code as though fully set forth herein and adopted concurrently herewith.

**Section 7: Enforcement**

- A. It shall be unlawful, and considered a public nuisance per se, to make use of any lot, parcel or piece of property in such a way as to conflict with the provisions of this Code. Likewise, it shall be in violation of this Code to erect, construct, reconstruct, alter or use a building or any other structure, or to use real property that does not conform to the criteria set forth in this Code. The Town Manager, or his/her designee, shall enforce the provisions of this Code. Any permit, certificate or license issued in conflict with the provisions of this Code shall be void. To provide for the enforcement of this Code, the Town may withhold all building permits and/or Conditional Use Permits for properties on which a use of the property, building or any other structure exists which do not meet the standards of this Code.
- B. The Zoning Enforcement Officer shall investigate and report on all notices of zoning violations. The Town Council shall appoint a Hearing Officer to hear and determine zoning violations. Individuals determined by the Hearing Officer to be violating any provisions of this Code shall be responsible for a zoning violation that is punishable by a civil sanction not to exceed the equivalent of a maximum fine of a Class 2 misdemeanor for each violation pursuant to A.R.S. § 9-240.

**Section 7.1: Hearing Officer**

- A. The Town Council shall appoint the Town Manager as the Hearing Officer to hear and determine Zoning Code and other Code violations of the Town. The Hearing Officer may have other responsibilities pursuant to other sections of this Code, but shall not be the Town Planner.

**Section 20: Administration**

**Section 20.1-1: Purpose and Initiation**

- A. **Application:** When a proposed use of property is not expressly authorized as a permitted use, or as a conditional use by the regulations of the applicable zone district, an application may be submitted to the Town Manager, or his/her designee, for a land use interpretation to determine whether or not the proposed use is similar to those uses permitted or conditionally permitted in the applicable zone district. The fee for a determination of similar use shall be as set forth by resolution of the Town Council.
- B. **Basis for Determination of Similar Use:** The Town Manager shall make an investigation to his/her determination to the Planning and Zoning Commission. The Commission's determination of similar uses shall be made no less than fifteen (15) days from the date of decision by the Town Manager unless an appeal (subject to the provisions of Section 20.6) to the Board of Adjustment is filed as prescribed in Section 20.6. The fee for an appeal shall be as set forth by resolution of the Town Council. However, there shall be no fee if an appeal is initiated by the Board of Adjustment. An investigation by the Board of Adjustment shall be based on the following criteria.

1. The use resembles or is of the same basic nature as a use or uses expressly authorized in the applicable zone district in terms of the effects of the use on the surrounding areas, such as traffic impacts, noise, dust, odors, vibrations, and appearance.
2. The use is consistent with the stated purpose of the applicable district.
3. The procedures of this section shall not be substituted for the amendment procedure as a means of adding new uses to the list of permitted or conditional uses.

**Section 20.1-2: Determination by Board of Adjustment**

The Board of Adjustment shall make a determination as prescribed in § 20.6-3 (Board of Adjustment Action on Appeal) if an appeal has been filed within the prescribed fifteen (15) day appeal period. The decision of the Board of Adjustment shall be final.

**Section 20.2: Citizen Participation**

**Section 20.2-1: Purposes**

In order to maximize the opportunity for citizen involvement in the rezoning process that is described in the following sections, and to resolve any neighborhood issues at an early stage in the process, the following requirements shall be included in the public hearing process.

**Section 20.2-2: Citizen Participation**

- A. **General Plan:** In compliance with State statutes, the Town Council adopted a General Plan where all procedural requirements for adoption of the General Plan, as set forth in A.R.S., Sections 461.05 and 461.06 have been followed. Nothing therein shall preclude the Town Council from adopting revisions to the General Plan or adopting new Elements to the General Plan in a manner provided by law.
- B. **Zoning:** The citizen review process and all notification and hearing requirements apply to a zoning ordinance that changes any property from one zone to another, imposes any regulation not previously imposed on a property, or removes or modifies any regulation previously imposed.
  1. Notification will be provided to adjacent landowners and potentially affected citizens of the application as provided in Section 20.5 (Public Hearing-Time and Notice) of this Code.
  2. The Town will inform adjacent landowners and potentially affected citizens of the substance of the proposed rezoning as provided in Section 20.5 of this Code.
  3. Adjacent landowners and other potentially affected citizens will be provided an opportunity to express any issue or concerns with the proposed rezoning before the public hearing as provided in Section 20.5 of this Code.
  4. In addition to Section 20.5 of this Code, A.R.S. Section 9-462.04 and A.R.S. Section 9-462-03, the requirement for a rezoning hearing shall include the following:

- a. Notice of the time and place of the public hearing,
- b. A general explanation of the matter to be considered, and
- c. Location of property affected.  
c.  
*A description of the area affected.*

**Section 20.2-3: Clarification of Ambiguities**

If ambiguity arises concerning the appropriate classification of a particular use within the meaning and intent of this Code, or if ambiguity exists with respect to matters of height, yard requirements, area requirements, or district boundaries as set forth herein, it shall be the duty of the Town Manager, or his/her designee to ascertain all pertinent facts and issue an interpretation. The Town Manager's interpretation is subject to the appeal process as defined by Section 2.6 of this Code.

**Section 20.2-4: Temporary Land Use/Occupancy Permits**

- A. The Zoning Administrator shall review and act upon all requests for a Temporary Occupancy Permit, or extensions thereof. The Planning and Zoning Commission shall review and act upon all requests for a Temporary Land Use Permit, or extensions thereof in accordance with the provisions of §2.3 (Conditional Use Permits). The Zoning Administrator, for Temporary Occupancy Permits, and the Commission for Temporary Land Use permits, shall approve, conditionally approve, or deny any such applications subject to the findings and standard conditions set forth in this Code.
- B. Those uses subject to a Temporary Land Use/Occupancy permit include the following:
  1. Temporary real estate offices on the site of an approved subdivision where lots, or lots and houses are being offered for sale.
  2. Model home(s) on any lot within a tentatively approved subdivision consistent with the provision of the Town's Subdivision Ordinance.
  3. Construction trailers, commercial cargo/storage containers, temporary office buildings, security offices on construction sites for which a project has been approved and a building permit or grading permit has been issued by the Town.
  4. On-site contractor's yard during the construction phase of an approved project for which a building permit or grading permit has been issued.
  5. Commercial cargo/storage containers may be placed by a temporary occupancy permit only in the Commercial and Industrial Zone Districts of the Town.
- C. Those uses subject to a Temporary Land Use Permit include the following: In only the commercial and industrial zone districts, placement of temporary buildings, commercial cargo/storage containers, trailers, coaches and similar items may be permitted subject to an approved Temporary Land Use Permit.
- D. A Temporary Occupancy Permit and a Temporary Land Use Permit shall be issued for a

period of time not to exceed five (5) years from the date the permit was first issued. Extensions to such permits may be granted for additional periods of time, each of which shall not exceed twelve (12) months. Temporary Occupancy Permits and Temporary Land Use Permits shall comply with the procedures, findings and conditions specified by this Code.

1. The Zoning Administrator, for a Temporary Occupancy Permit, or the Planning and Zoning Commission, for a Temporary Land Use Permit, may approve such permits or extensions for shorter periods of time, and shall approve such permits subject to conditions where required by this Code or where it is determined reasonable and necessary to do so.
2. Prior to issuing a Temporary Occupancy Permit or a Temporary Land Use Permit for an extension or renewal for the last allowed period of time, the applicant shall submit to and obtain approval by the Zoning Administrator or the Planning and Zoning Commission, as applicable, of a plan to replace the subject temporary use with a legally established permanent use.
3. A temporary use or structure that does not have a valid and current permit is hereby declared to be a public nuisance, subject to the enforcement provisions of this Code and other applicable laws.
4. A change of ownership or operator of a use or structure, subject to a Temporary Occupancy Permit or a Temporary Land Use Permit, shall not affect the time periods established by approval to allow such temporary uses or structures.

**E. Cancellation of a Temporary Land Use/Occupancy Permit**

1. Noncompliance with the conditions set forth in approving a Temporary Land Use/Occupancy Permit shall be grounds to cancel and void any such permit by the approving authority consistent with the provisions of § 20.3-14 (Suspension and Revocation).
2. The Zoning Administrator shall give notice of such an action to the permittee. The permittee may appeal such a decision to the Board of Adjustment by filing an appeal as specified in §20.6 (Appeals).

**Section 20.3: Conditional Use Permits**

**Section 20.3-1: Purpose and Intent**

In order to give the use regulations the flexibility necessary to achieve the objectives of this section, in certain zones, conditional uses are permitted subject to the granting of a Conditional Use Permit. Because of their unusual characteristics, Conditional Use Permits require special consideration so that they may be located properly with respect to the objectives of the zoning regulations, and with respect to their effects on surrounding properties. In order to achieve these purposes, the Planning and Zoning Commission is empowered to grant and to deny applications for Conditional Use Permits in such zones as are prescribed in the zone regulations and to impose reasonable conditions upon the granting of a Conditional Use Permit, subject to the right of appeal to the Board of

Adjustment.

**Section 20.3-2: Application: Data and Maps to be Furnished**

Application for a Conditional Use Permit shall be filed with the Town Manager or his/her designee on a form prescribed by the Town, and shall include the following data and exhibits as well as any information required on the Town's "Application for a Conditional Use Permit."

- A. Name and address of the applicant.
- B. Statement that the applicant is the plaintiff in any action in eminent domain to acquire the property, or the owner, or the authorized agent of the property on which the use is proposed to be located. This provision shall not apply to a proposed public utility right-of-way.
- C. Address and legal description of the property.
- D. Statement indicating the precise manner of compliance with each of the applicable provisions of this section, together with any other data pertinent to the findings prerequisite to the granting of a Conditional Use Permit, prescribed in § 20.3-7 (Findings).
- E. A list of all owners of property located within three hundred (300) feet of the exterior boundaries of the subject property; the list shall be keyed to a map showing the location of these properties.
- F. Plot plans and elevations, fully dimensioned, indicating the type and location of all buildings and structures, parking and landscape areas and signs. Elevation plans shall be of sufficient detail to indicate the type and color of materials to be employed and methods of illumination for signs. Screening, landscape and irrigation plans shall be included in the plans.
- G. Plans and/or a preliminary report describing the proposed provisions for storm drainage, sewage disposal, and such other public improvements and utilities as the Town Manager or designee may require in order to fully evaluate the project.
- H. Acceptance of Conditions: A Conditional Use Permit shall not become effective for any purpose unless an "Acceptance of Conditions" form has been signed by the applicant and returned to the Zoning Administrator, provided no appeal has been filed with the Board of Adjustment within fifteen (15) days of Commission approval.
- I. Revisions/Modifications: Requests to revise or modify an approved Conditional Use Permit may be requested by the applicant or by the Planning and Zoning Commission.
- J. Revision/Modification Request by Applicant: A revision or modification to any approved Conditional Use Permit including, but not limited to, change in conditions, expansions, intensification, location, hours of operation, or change of ownership may be requested by the applicant. The applicant shall supply necessary information as determined by the Zoning Administrator to indicate reasons for the requested change. The request for revision or modification shall be processed in the same manner as the original Conditional Use Permit.

**Section 20.3-3: Fee**

The application shall be accompanied by a fee established by resolution of the Town Council to cover to cost of processing the application as prescribed in this section.

**Section 20.3.4: Public Hearing**

The Planning and Zoning Commission shall hold at least one (1) public hearing on each application for a Conditional Use Permit. The hearing shall be set and notice given as prescribed in § 20.5 (Public Hearing Time and Notice). At the public hearing, the Commission shall review the application and exhibits submitted therewith, and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained, particularly with respect to the findings prescribed in § 20.3-7.

**Section 20.3-5: Investigation and Report**

The Town Manager, or his/her designee, shall make an investigation of the application and shall prepare a report thereon which shall be submitted to the Planning and Zoning Commission and made available to the applicant prior to the public hearing.

**Section 20.3-6: Action of the Planning and Zoning Commission**

Within twenty-one (21) days following the closing of the public hearing on a Conditional Use Permit application, the Planning and Zoning Commission shall act on the application. The Commission may grant, by resolution, approval, approval subject to modification or addition of conditions, or denial of the Conditional Use Permit. Conditions may include, but shall not be limited to, drainage, sewage, water and other utility requirements, requiring special yards, open spaces, buffers, fences and walls; requiring installation and maintenance of landscaping; requiring street dedications and improvements; regulation of points of vehicular ingress and egress; regulation of traffic circulation; regulation of signs; regulation of hours of operation and methods of operating; control of potential nuisances; prescribing standards for maintenance of buildings and grounds; prescription of development schedules and development standards; and such other conditions as the Commission may deem necessary to ensure compatibility of the use with surrounding developments and uses, and to preserve the public health, safety and welfare. The Commission may grant waivers from the Zoning Ordinance in conjunction with the approval of a Conditional Use Permit for such property development standards and performance standards as fences, walls, screening and landscaping; site area including width and depth, front, rear and side setbacks, lot coverage, height of structures, distance between structures, usable open space, signs, off-street parking facilities, parking lot standards, or frontage on a public street.

**Section 20.3-7: Findings**

The Planning and Zoning Commission shall make the following findings before granting a Conditional Use Permit:

- A. The proposed location of the conditional use is in accord with the objectives of this Code and the purpose of the zone in which the site is located;
- B. The proposed location of the Conditional Use Permit, and the conditions under which it would be operated or maintained, will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity;
- C. The proposed conditional use will comply with each of the applicable provisions of this Code, except for any approved variances in accordance with Section 20.6-3 (Variances and Appeals); and
- D. The proposed Conditional Use Permit is consistent with, and conforms to, the goals,

objectives and policies of the General Plan.

**Section 20.3-8: Effective Date of the Conditional Use Permit**

The decision of the Planning and Zoning Commission shall be final fifteen (15) days from the date of the decision, and upon receipt by the Town Manager or designee of a signed agreement to the conditions of approval as set forth in Section 20.3-2 (Acceptance of Conditions), unless prior to the expiration of said fifteen (15) day period an appeal has been filed with the Board of Adjustment.

**Section 20.3-9: Appeal to Board of Adjustment**

A decision of the Planning and Zoning Commission may be appealed within fifteen (15) days to the Board of Adjustment by the applicant or any other person as prescribed in § 20.6 (Appeals: Board of Adjustment Review) or by appeal of an individual member of the Town Council without fee.

**Section 20.3-10: Determination by the Board of Adjustment**

The Board of Adjustment shall hold a public hearing on a Conditional Use Permit as prescribed in § 20.6-3 if an appeal has been filed within the prescribed fifteen (15) day appeal period. The decision of the Board of Adjustment shall be final.

**Section 20.3-11: Lapse of Conditional Use Permit**

- A. A Conditional Use Permit shall lapse and shall become null and void one (1) year following the date on which the Conditional Use Permit became effective, unless prior to the expiration of the one (1) year period, a building permit is issued and substantial construction is commenced and diligently pursued toward completion on the site which was the subject of the Conditional Use Permit application, or a Certificate of Occupancy is issued for the structure which was the subject of the Conditional Use Permit application, or the site is occupied if no building permit or Certificate of Occupancy is required; provided that, a Conditional Use Permit for a public utility installation may be valid for a longer period if specified by the Planning and Zoning Commission.
- B. A Conditional Use Permit subject to lapse may be renewed, provided that prior to the expiration date, an application for renewal of the Conditional Use Permit is filed with the Commission.
- C. The Planning and Zoning Commission may grant or deny an application for renewal of a Conditional Use Permit. However, subject to changing conditions, the Commission may modify and/or add new conditions of approval to renewal of a Conditional Use Permit.

**Section 20.3-12: Pre-existing Conditional Uses**

- A. A Conditional Use Permit legally established prior to the effective date of this Code, or prior to the effective date of subsequent amendments to the regulations or zone boundaries, shall be permitted to continue, provided that, it is operated and maintained in accord with the conditions prescribed at the time of its establishment, if any.
- B. Alteration or expansion of a pre-existing conditional use shall be permitted only upon the granting of a new Conditional Use Permit as prescribed in this section, provided that, alterations not exceeding in value twenty-five (25) percent of the valuation of the existing use or building as determined by the Town staff shall be permitted without the granting of a new Conditional Use Permit.

**Section 20.3-13: Modification of Conditional Use**

Sections 20.3-2 through 20.3-11 shall apply to an application for modification, expansion or other change in a Conditional Use Permit; provided that, minor revisions or modifications may be approved by the Town Manager if he or she determines that the changes would not affect the findings prescribed in § 20.3-7 (Findings).

**Section 20.3-14: Suspension and Revocation**

- A. Upon violation of any applicable provision of this Code or, if granted subject to conditions, upon failure to comply with said conditions, a Conditional Use Permit shall be suspended automatically. The Planning and Zoning Commission shall hold a public hearing within sixty (60) days, in accordance with the procedure prescribed in § 20.3-4 (Public Hearing ) and if not satisfied that the regulation, general provisions, or conditions are being complied with, may revoke the Conditional Use Permit or take such action as may be necessary to ensure compliance with the regulation, general provisions or conditions.
- B. The decision shall become final thirty (30) days following the date on which the Conditional Use Permit was revoked unless an appeal has been filed within the prescribed fifteen (15) day appeal period, in which case § 20.6-3 (Board of Adjustment action on Appeal) shall apply.

**Section 20.3-15: New Applications**

Following the denial of a use permit application or the revocation of a Conditional Use Permit, no new application for a Conditional Use Permit for the same or substantially the same use on the site shall be filed within one (1) year from the date of denial or revocation of the Conditional Use Permit.

**Section 20.3-16: Conditional Use Permit to Run with the Land**

A Conditional Use Permit granted pursuant to the provisions of this section shall run with the land, and shall continue to be valid upon a change in ownership of the site or structure which was the subject of the use permit application.

**Section 20.3-17: Conditional Use Permit and Change of Zone Filed Concurrently**

- A. Application for a Conditional Use Permit may be made at the same time as an application for a change in zone boundaries including the same property, in which case the Planning and Zoning Commission shall hold the public hearing on the zoning reclassification and the Conditional Use Permit at the same meeting and may combine the two hearings.
- B. For the purposes of this section, the date of the Commission decision on the Conditional Use Permit application shall be deemed to be the same as the date of enactment by the Town Council of an ordinance changing the zone boundaries; provided that, if the Town Council modifies a recommendation of the Commission on a zoning reclassification, the Conditional Use Permit application shall be reconsidered by the Commission in the same manner as a new application.

**Section 20.4: Amendments**

**Section 20.4-1: Purpose**

The zoning map and zoning regulations may be amended by changing the boundaries of any zone district, or by changing any regulations of this Code or any other provision of this Code in accordance with the procedures prescribed in this section.

**Section 20.4-2: Initiation**

- A. A change in the boundaries of any zone district, or a change in the regulations of this Code, may be initiated by a property owner, or authorized agent of a property owner, by filing an application for a change in zone boundaries as prescribed in this section.
- B. A change in the boundaries of any zone district, or change in the regulations of this Code, may be initiated by the Town Manager, the Planning and Zoning Commission, or the Town Council.

**Section 20.4-3: Conformity with the General Plan**

An application for a change in zone classification which is not consistent with the land use goals and policies as identified in the General Plan shall not be processed until an amendment to the General Plan has been filed and approved by the Town Council as prescribed in § 21 (General Plan).

**Section 20.4-4: Application: Data and Maps to be Furnished**

A property owner desiring to propose a change in the boundaries of the zone in which his or her property is located, or his or her authorized agent, may file with the Town Manager or his/her designee, an application for a change in zone boundaries on the form prescribed by the Town and, in addition to the information required on the Town's form entitled "Application for Zone Amendment," shall include the following data:

- A. Name and address of the applicant;
- B. Signature of the property owners;
- C. Address and legal description of the property;
- D. An accurate scale drawing of the site and the surrounding area showing existing streets and property lines for a distance determined by the town staff necessary to illustrate the relationship to and impact on the surrounding area;
- E. The Town staff may require additional information or maps if they are necessary to enable the Commission to determine whether the change is consistent with the objectives of this Code. The Town Manager or his/her designee may authorize omission of the map required by this section if it is not necessary; and
- F. A list of all owners of properties located within three hundred (300) feet of the exterior boundaries of the subject property; the list shall be keyed to a map showing the location of these properties.

**Section 20.4-5: Fee**

The application shall be accompanied by a fee established by resolution of the Town Council to cover the cost of processing the application as prescribed in this section.

**Section 20.4-6: Public Hearing**

The Planning and Zoning Commission shall hold at least one (1) public hearing on each application for a change in zone boundaries or for a change of the zoning regulations. The hearing shall be set and notice given as prescribed in § 20.5 (Public Hearing Time and Notice).

**Section 20.4-7: Investigation and Report**

The Town Manager, or his/her designee, shall make an investigation of the application or proposal, and shall prepare a report thereon which shall be submitted to the Planning and Zoning Commission and to the applicant prior to the public hearing.

**Section 20.4-8: Public Hearing Procedure**

At the public hearing, the Planning and Zoning Commission shall review the application for a proposed zone change, and may require pertinent evidence as to why or how the proposed change is consistent with the objectives of this Code, the General Plan and the development policies of the Town.

**Section 20.4-9: Action by the Planning and Zoning Commission**

- A. Within twenty-one (21) days following the closing of the public hearing, the Planning and Zoning Commission shall make a decision based on the following findings:
1. The change is consistent with the goals, objectives and policies of the General Plan and this Code;
  2. The change is in the interest of, or will further the public health, safety, comfort, convenience and welfare; and
  3. The change will not adversely affect the established character of the surrounding neighborhood, nor be detrimental to adjacent properties.
- B. Based on these findings, the Commission shall recommend, by resolution, that the application be approved, approved in modified form, or denied. Said recommendation shall be transmitted to the Town Council for final hearing and disposition.

**Section 20.4-10: Alternate Classification in Lieu of Proposed Classification**

When the Planning and Zoning Commission determines, following a public hearing on a change in the boundaries of any zone, that a change to a zone classification other than the proposed classification specified in the hearing notice is desirable, the Commission may recommend alternate classifications to a proposed classification.

**Section 20.4-11: Action by the Town Council**

- A. The Town Council shall hold at least one (1) public hearing on an application or a proposal for a change to the zoning regulations or zoning map within forty (40) days after receipt of the resolution or report of the Planning and Zoning Commission. The hearing shall be set and notice given as prescribed in § 20.5 (Public Hearing Time and Notice). Within twenty-one (21) days following the closing of a public hearing, the Town Council shall make a decision based on the findings required by § 20.4-9.
- B. If the Town Council finds that the change is consistent with the findings required by § 20.4-9, it shall approve an ordinance amending the zoning map and/or zoning regulations, whichever is appropriate.
- C. The Town Council may modify a decision of the Planning and Zoning Commission recommending the granting or denial of a change to the zoning regulations or zoning map. However, prior to making a final decision on the amendment or proposal, the Town Council may, but shall not be required to, submit any or all modifications to the Commission for

reconsideration at a public meeting. The Commission may, but is not required to, provide supplemental comments on the modifications to the Town Council. The Town Council may consider any supplemental comments from the Commission before making the findings required by § 20.4-9 and rendering a final decision. Failure of the Commission to report within thirty (30) days after receipt of the Town Council request shall be deemed concurrency.

- D. 1. If the Town Council finds that the change is not consistent with the findings required by § 20.4-9, it shall deny the application or reject the proposal. In accordance with A.R.S. § 9-462 if twenty (20) percent or more either of the area of the lots included in a proposed change, or of those immediately adjacent in the rear or any side thereof extending one hundred fifty (150) feet therefrom, or of those directly opposite thereto extending one hundred fifty (150) feet from the street frontage of the opposite lots, file a protest in writing against a proposed amendment, it shall not become effective, except by the favorable vote of three-fourths (3/4) of all members of the Town Council. If any members of the Town Council are unable to vote on such a question because of a conflict of interest, then the required number of votes for passage of the question shall be three-fourths (3/4) of the remaining membership of the Town Council; provided that, such required number of votes shall in no event be less than a majority of the full membership of the Town Council.
2. In calculating the owners by number or area, Town property and public rights-of-way shall not be included.

**Section 20.4-12: New Application**

Following the denial of an application for change in zone boundaries or a change in the zoning regulations, an application or request for the same or substantially the same change on the same or substantially same property shall not be filed within one (1) year of the date of denial.

**Section 20.4-13: Conditional Zoning**

The Town Council may approve a change of zone conditioned on a schedule for development of the specific use or uses for which the rezoning is requested. If, at the expiration of this period, the property has not been improved for the use for which it was conditionally approved, the Town Council, after notification by registered mail to the owner and applicant who requested the rezoning, shall schedule a public hearing to grant an extension, determine compliance with the schedule for development, or cause the property to revert to its former zoning classification.

**Section 20.4-14: Change of Zone Accompanied by a Subdivision Plat**

When a zone change request is accompanied by a preliminary subdivision plat, the change of zoning shall not vest or become effective until recordation of a final plat.

**Section 20.5: Public Hearing Time and Notice**

- A. The Town Manager shall set the time and place of public hearings required by this Code to be held by the Planning and Zoning Commission or Hearing Officer; provided that, the Commission or Hearing Officer may change the time or place of a hearing. However, the Planning and Zoning Commission or Hearing Officer shall hold a public hearing within seventy-five (75) days after the appropriate application has been filed.

- B. The Town Clerk shall set the time and place of public hearings required by this Zoning Code to be held by the Town Council or the Board of Adjustment; provided that, the Town Council or Board of Adjustment may change the time or place of a hearing. The Town Council shall hold a public hearing on a rezoning request, or an amendment approved by the Commission not less than sixty (60) days after notice of such decision or appeal has been filed with the Town Clerk unless the applicant or appellant shall consent to an extension of time. Notice of a public hearing shall be given not less than fifteen (15) days, nor more than thirty (30) days, prior to the date of the hearing by publication in a newspaper of general circulation. When the hearing concerns a matter other than an amendment to the text of this Code, the property shall be posted at least fifteen (15) days prior to the hearing. Notices of public hearings before the Planning and Zoning Commission, Hearing Officer, Board of Adjustment or Town Council shall be mailed to all persons whose names appear on the latest adopted tax roll of Coconino County as owning property within three hundred (300) feet of the exterior boundaries of the property that is the subject of the hearing.
- C. In proceedings involving one or more of the following proposed changes or related series of changes in the standards governing land uses, notice shall be provided in the manner prescribed by division (D) below:
1. A ten (10) percent change in the number of square feet or units that may be developed;
  2. A ten (10) percent change in the allowable height of buildings;
  3. A change in the allowable number of stories of buildings;
  4. A ten (10) percent or more change in the setback or open space requirements; and/or
  5. A change in permitted uses.
- D. In proceedings governed by subsection C. above, the Town shall provide notice to real property owners pursuant to at least one (1) of the following notification procedures:
1. Notice shall be sent by first class mail to each real property owner, as shown on the last assessment, whose real property is directly governed by the changes;
  2. If the Town issues utility bills or other mass mailings that periodically include notices or other informational or advertising materials, the Town shall include notice of such changes in such utility bills or other mailings; and
  3. The Town shall publish such changes prior to the first hearing on such changes in a newspaper of general circulation in the Town. The changes shall be published in a "display ad" covering not less than one-eighth (1/8) of a full page.
- E. If notice is provided pursuant to subsections D.2. or D.3. above, the Town shall also send notice by first class mail to persons who register their names and addresses with the town as being interested in receiving such notice. The Town may charge a fee not to exceed five (5) dollars per year for providing this service.
- F. Notwithstanding the notice requirements set forth in subsection C. above, failure of any person or entity to receive notice shall not constitute grounds for any court to invalidate the

actions of the Town for which notice was given.

**Section 20.6: Appeals: Board of Adjustment Review**

**Section 20.6-1: Appeal of Decision of Planning and Zoning Commission**

Where this Zoning Code provides for appeal to the Board of Adjustment of a decision of the Planning and Zoning Commission, the appeal shall be made within fifteen (15) days of the date of the decision by filing a letter of appeal with the Town Manager. The appeal shall state in writing the reasons for the appeal.

**Section 20.6-2: Fee**

An appeal shall be accompanied by a fee established by resolution of the Town Council to cover the cost of processing the appeal.

**Section 20.6-3: Board of Adjustment Action on Appeal**

The Board of Adjustment shall hold at least one (1) public hearing on a decision of the Planning and Zoning Commission which has been appealed. The hearing shall be held within sixty (60) days from the filing of the appeal; the time and place of the hearing shall be set by notice given as prescribed in §20.5. The Board of Adjustment shall render a decision on an appeal within twenty-one (21) days following the closing of the public hearing on the appeal. Failure of the Board of Adjustment to act within the time period prescribed by this section shall be deemed approval of the Planning and Zoning Commission action. The Board of Adjustment may affirm, reverse, or modify a decision of the Planning and Zoning Commission. The decision of the Board of Adjustment shall be final.

**Section 20.7: Variances and Appeals**

**Section 20.7-1: Purpose and Authorization**

- A. Variances from the terms of this Code shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this Code deprives such property of privileges enjoyed by other property in the vicinity and under an identical zoning classification. Any Variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.
- B. The power to grant Variances does not extend to use regulations. Flexibility to the zoning regulations is provided in the conditional use provisions of this Code.
- C. The Board of Adjustment may grant a Variance to the regulations prescribed by this section, with respect to fences, walls, hedges, screening and landscaping; site area, width, and depth; front, rear and side yards; coverage, height of structures; distances between structures; usable open space; signs, off-street parking facilities or frontage on a public street.
- D. The Board of Adjustment shall hear and decide appeals in which it is alleged that there is an error in an order, requirement, or decision made by the Zoning Administrator or the Planning and Zoning Commission in the administration of this Code.

**Section 20.7-2: Application: Data and Maps to be Furnished**

- A. Application for a Variance shall be filed with the Town Manager, or his/her designee, on a form prescribed by the Town and shall include, in addition to the information requested on the Town's application form entitled "Variance" the following data and exhibits:
1. Name and address of the applicant(s);
  2. Statement that the applicant is the plaintiff in any action in eminent domain to acquire the property, the owner, or the authorized agent of the owner of the property on which the Variance is being requested;
  3. Address and legal description of the property;
  4. Statement indicating the precise nature of the Variance requested and the practical difficulty or unnecessary physical hardship inconsistent with the objectives of the zoning regulations that would result from a strict or literal interpretation and enforcement of the specified regulations, together with any other data pertinent to the findings prerequisite to the granting of a Variance, prescribed in § 20.7-7 (Findings).
  5. An accurate scale drawing of the site and any adjacent property affected showing, when pertinent, the contours at intervals of not more than two (2) feet, and all existing and proposed locations of streets, property lines, uses, structures, driveways, pedestrian walks, off-street parking facilities and landscaped areas;
  6. A list of all owners of property located within three hundred (300) feet of the exterior boundaries of the subject property; the list shall be keyed to a map showing the location of these properties; and
  7. The Town staff may require additional information or plans, if they are necessary, to enable a determination as to whether the circumstances prescribed for the granting of a Variance exist. The Town Manager, or his/her designee, may authorize omission of any or all of the plans and drawings required by this section if they are not necessary.
- B. An appeal from a decision of the Zoning Administrator shall be filed with the Board of Adjustment and should cite the specific decision or action being appealed, as well as the reasons and justification for the appeal.

**Section 20.7-3: Fees**

An application for a Variance, or an appeal of a decision of the Zoning Administrator or the Planning and Zoning Commission, shall be accompanied by a fee established by resolution of the Town Council to cover the cost of handling the Variance application as prescribed in this section. A single application for a Variance may include requests for variances from more than one (1) regulation applicable to the same site, or for similar variances on two (2) or more adjacent sites with similar characteristics.

**Section 20.7-4: Public Hearing**

- A. The Board of Adjustment shall hold a public hearing on an application for a Variance, or an appeal of a decision made by the Zoning Administrator or the Planning and Zoning Commission. The hearing shall be set and notice given as prescribed in § 20.5.

- B. At a public hearing for a Variance, the Board of Adjustment shall review the application, statements and drawings submitted therewith, and shall receive pertinent evidence concerning the Variance, particularly with respect to the findings prescribed in § 20.7-7 (Findings).
- C. At a public hearing on an appeal from a decision of the Zoning Administrator or Planning and Zoning Commission, the Board of Adjustment shall review the written appeal and statements and evidence in support of the appeal.

**Section 20.7-5: Investigation and Report**

The Town Manager, or his/her designee, shall make an investigation of each application that is the subject of a public hearing and shall prepare a report thereon which shall be submitted to the Board of Adjustment and shall be made available to the applicant prior to the public hearing.

**Section 20.7-6: Action by the Board of Adjustment**

- A. Within twenty-one (21) days following the close of the public hearing on a Variance application, the Board of Adjustment shall act on the application. The Board of Adjustment may grant, by resolution, a Variance as it was applied for, or in a conditioned or modified form, or deny the variance.
- B. Within twenty-one (21) days following the close of the public hearing on an appeal from a decision of the Zoning Administrator, the Hearing Officer or the Planning and Zoning Commission, the Board of Adjustment shall reverse, affirm or modify, wholly or partly, any order, requirement or decision of the Zoning Administrator, the Hearing Officer, or the Planning and Zoning Commission properly appealed to the Board of Adjustment, and shall make such order, requirement, decision, or determination as is necessary.

**Section 20.7-7: Findings**

The Board of Adjustment may grant a Variance to a regulation prescribed by this Code with respect to fences, walls, hedges, screening or landscaping; site area, width or depth; front, rear or side yards; coverage, height of structures, distances between structures, usable open space, frontage on a public street, parking facilities, or parking lot standards as the Variance was applied for or in modified form if, on the basis of the application and the evidence submitted, the Board of Adjustment makes findings of fact that establish that the circumstances prescribed in divisions (A) through (E) below apply.

- A. The strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this Code.
- B. There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other properties in the same zone.
- C. Strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same zone.
- D. The granting of the Variance as conditioned will not constitute the granting of a special privilege inconsistent with the limitations on other properties in the same zone.
- E. The granting of the Variance will not be detrimental to the public health, safety or welfare,

or materially injurious to properties or improvements in the vicinity.

**Section 20.7-8: Signs: Additional Findings**

The Board of Adjustment may grant a Variance to a regulation prescribed in this Code with respect to signs as the Variance was applied for or in modified form if, on the basis of the application and the evidence submitted, the Board of Adjustment makes findings of fact that establish that the circumstances prescribed in §20.7-7 (Findings) apply, and the following circumstances also apply.

- A. The granting of the Variance will not detract from the attractiveness or orderliness of the surrounding neighborhood, or infringe on the similar rights of others.
- B. The granting of the Variance will not create a hazard to public safety.

**Section 20.7-9: Parking: Additional Findings**

The Board of Adjustment may grant a Variance to a regulation prescribed by this Code with respect to off-street parking facilities as the Variance was applied for, or in modified form if, on the basis of the application and the evidence submitted, the Board of Adjustment makes findings of fact that establish that the circumstances prescribed in §20.7-7 (Findings) apply, and the following circumstances apply.

- A. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specified regulation.
- B. The granting of the Variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic on the streets.
- C. The granting of the Variance will not create a safety hazard or any other condition inconsistent with the objectives of this Code.

**Section 20.7-10: Appeals of Decisions by Board of Adjustment**

A decision of the Board of Adjustment on appeal of a decision made by the Zoning Administrator, the Hearing Officer, or the Planning and Zoning Commission, may be appealed within fifteen (15) days to the Board of Adjustment by the applicant or any other aggrieved person.

**Section 20.7-11: Effective Date of Variance**

A decision of the Board of Adjustment on a Variance shall be final thirty (30) days after the date of the decision, and upon receipt by the Town Manager of a signed agreement to the conditions of approval, unless an appeal has been filed.

**Section 20.7-12: Lapse of Variance**

- A. A Variance shall lapse and shall become null and void one (1) year following the date on which the Variance became effective unless prior to the expiration of the one (1) year period, a building permit is issued and substantial construction is commenced and diligently pursued toward completion on the site which was the subject of the Variance application, or a permit is issued authorizing occupancy of the site or structure which was the subject of the Variance application, or the site is occupied if no building permit or certificate of occupancy is required.
- B. A Variance may be renewed for an additional period of one (1) year; provided that, prior to

the expiration of one (1) year from the date when the Variance or the renewal became effective, an application for renewal of the Variance is filed with the Town Manager or his/her designee.

- C. The Board of Adjustment may grant or deny an application for renewal of a Variance, subject to the modification of existing conditions and/or the addition of new conditions of approval.
- D. A Variance shall also lapse if the use for which the Variance is approved is terminated for a period of one (1) year. Recommencement of the use after the one (1) year period of inactivity shall require filing a new Variance application according to the process and requirements listed in §§ 20.7-1 through 20.7-15.

**Section 20.7-13: Revocation**

A Variance granted by the Board of Adjustment subject to conditions shall be revoked by the Board of Adjustment if the applicant has not complied with the conditionally approved Variance. The decision of the Board of Adjustment revoking a Variance shall become effective fifteen (15) days following the date on which it was revoked.

**Section 20.7-14: New Application**

Following the denial or revocation of a Variance application, no application for the same or substantially the same Variance on the site or substantially the same site shall be filed within one (1) year from the date of denial or revocation of the Variance.

**Section 20.7-15: Variance Related to Plans Submitted**

Unless otherwise specified at the time a Variance is granted, it shall apply only to the plans and drawings submitted as part of the application.

**Section 20.8: Board of Adjustment**

Pursuant to A.R.S. § 9-462.06, the Town shall have a Board of Adjustment which shall be appointed by the Town Council. In lieu of appointing a separate Board of Adjustment, the Mayor, with the consent of the Town Council, may establish the Town Council as the Board of Adjustment.

**Section 20.8-2: Membership**

If the Town Council elects not to serve as the Board of Adjustment, the members of the Board shall be appointed by the Mayor, subject to the approval of the Town Council. The Board shall consist of five (5) members who shall be residents of the Town. The members of the Board shall serve without compensation.

**Section 20.8-3: Term of Office**

Whenever the Town Council is not serving as the Board, the term of office of the members of the Board shall be two (2) years, with the terms of members so staggered that the terms of no more than four (4) members shall expire in any one (1) year. In the event of a death, resignation or removal from the Board, the vacancy shall be filled by the Council for the unexpired term. Three (3) unexcused absences during a calendar year from any regular or special meeting may be considered inefficiency or neglect of duty, and may be grounds for termination at the will and pleasure of the Town Council.

**Section 20.8-4: Organization of the Board of Adjustment**

- A. Whenever the Town Council is serving as the Board, the Mayor and Vice Mayor shall serve

as the Chairperson and Vice Chairperson respectively. Otherwise, the Board shall elect a Chairperson and Vice Chairperson from the members of the Board at the first meeting held in each calendar year. The Chairperson shall preside at all meetings. The Vice Chairperson shall perform the duties of the Chairperson in the latter's absence or disability.

- B. Meetings of the Board shall be open to the public and notice to the public of items on the agenda shall be provided as required by State law and by § 20.5 of this Code. The minutes of the proceedings showing the votes of each member and records of its examinations and other official actions shall be kept and filed in the office of the Town Clerk as a public record.
- C. Three (3) members of the Board shall constitute a quorum for the purpose of transacting business. The affirmative vote of a majority of the Board shall be required to pass a motion. A member may abstain from voting only upon a declaration that he or she has a conflict of interest, in which case such member shall take no part in the deliberation on the matter in question.

**Section 20.8-5: Grant of Authority**

The Board of Adjustment shall hear and decide requests for variances and for appeals of decisions made by the Zoning Administrator, the Hearing Officer, and the Planning and Zoning Commission.

**Section 20.8-6: Appeals of Board of Adjustment Decision**

A person aggrieved by a decision of the Board of Adjustment may, at any time within thirty (30) days, after the Board has rendered its decision, file a complaint for special action in Superior Court to review the decision by the Board of Adjustment.

**Section 20.9: Zoning Administrator**

**Section 20.9-1: Establishment and Purpose**

- A. The staff position of Zoning Administrator is hereby created for the administration of this Code. The Zoning Administrator shall possess all powers of a Zoning Administrator under this Code and State law, and shall perform such duties as are set forth under this Code. The Town Manager or his/her designee shall serve as the Zoning Administrator. The Zoning Administrator shall not be the Hearing Officer.
- B. The Zoning Administrator shall have the following duties:
  - 1. Establish rules, procedures, and forms to provide for the processing of applications or requests for action under the provisions of this Code;
  - 2. Accomplish all administrative actions required by this Code, including the giving of notice, preparation of reports, receiving and processing appeals, and the acceptance and accounting of fees;
  - 3. Provide advice and recommendations to the Planning and Zoning Commission, Board of Adjustment, Hearing Officer and Town Council with respect to applications and requests for approvals as required by this Code;
  - 4. Interpret the Code to the public, subject to policies established by the Town Council;

5. Determine the location of any zoning district boundary shown on the Official Zoning Map adopted as part of this Code when such location is in dispute;
6. The Zoning Administrator shall not make any changes in the uses permitted in any zoning classification, or make any changes in the terms of this Code.

**Section 20.10: Adjustments**

**Section 20.10.1: Purpose and Authority**

- A. The purpose of this section is to grant authority to the Town Manager, or his/her designee, to take action on requests for minor modifications or adjustments to certain requirements of this Code when such requests constitute a reasonable use of property not permissible under a strict literal interpretation of the regulations.
- B. For the purpose of administering this section, an adjustment is any variance to the terms or requirements of this Code, which, if granted, would allow the following:
  1. A decrease of not more than ten (10) percent of the required building site area, width or depth;
  2. A decrease of not more than twenty (20) percent of the required width of a side yard or the yard between buildings;
  3. A decrease of not more than twenty (20) percent of the required front or rear yard;
  4. An increase of not more than twenty (20) percent in the permitted height of a fence or wall;
  5. An increase of not more than ten (10) percent of the permitted projection of steps, stairways, landings, eaves, overhangs, masonry chimneys and fireplaces into any required front, rear, side or yard between buildings;
  6. An increase of not more than ten (10) percent of the permitted height or areas of signs;
  7. A decrease in the number of required parking spaces of not more than ten (10) percent;
  8. An increase of not more than ten (10) percent in the maximum allowable lot coverage; and
  9. An increase of not more than ten (10) percent in the permitted height of buildings.

**Section 20.10-2: Application: Data and Exhibits to be Furnished**

Application for an adjustment shall be filed with the Town Manager, or his/her designee, on a form prescribed by the Town, and shall include the following data and exhibits:

- A. Name and address of the applicant;
- B. Statement that the applicant is the plaintiff in any action in eminent domain to acquire the property of the owner, or the authorized agent of the owner, of the property on which the adjustment is being requested;
- C. Address and legal description of the property;
- D. Statement of the precise nature of the adjustment;
- E. An accurate scale drawing of the site and any adjacent property affected, showing all existing and proposed property lines, locations of structures, parking areas, driveways, other improvements or facilities, and landscaped areas;
- F. Other plans, drawings or information which the staff deems necessary to enable proper consideration of the application; and
- G. If the request is for a setback reduction, a letter approving the adjustment from the affected adjacent property owner.

**Section 20.10-3: Fees**

The application shall be accompanied by a fee established by resolution of the Town Council to cover the cost of handling the application as prescribed in this section. A single application may include requests for adjustments from more than one regulation applicable to the same site, or for similar adjustments on two (2) or more adjacent sites having the same characteristics.

**Section 20.10-4: Findings**

In granting an adjustment, the Town Manager shall make findings of fact that establish that the circumstances necessary for granting such a variance, as prescribed in § 20.7-7 (Findings), do apply.

**Section 20.10-5: Site Area: Additional Findings**

In order to grant approval of an administrative adjustment allowing a reduction in a minimum site area, the Town Manager, or his/her designee, must make an additional finding that the property cannot otherwise meet the minimum site area requirements of its current zoning classification.

**Section 20.10-6: Decisions of the Town Manager**

If the Town Manager denies an application for an adjustment or, if the applicant disagrees with the conditions imposed on the granting of an adjustment, if any, the applicant may file for a variance in accordance with §20.7 (Variances).

**Section 20.10.7: Animal Husbandry Activities or Projects**

- A. FFA, 4-H, or any other agricultural or recognized animal husbandry activity or project conducted primarily for educational purposes or school credits may be permitted in any single family residential zone district.
- B. The following criteria shall be met.
  - 1. Active membership, including enrollment in the specific livestock project, must be maintained, the project must be operated in compliance with all requirements of the

organization having jurisdiction over the project, and verification of such shall be required.

2. The keeping of all animals shall be subject to *The Rules and Regulations of the Coconino County Health Department*, §§ 11-1 (General), 11-2 (Piggeries) and 11-3 (Sanitary Requirements), as applicable.
3. Under this exemption, the setback and number of animals per acre do not apply for animals utilized in animal husbandry projects. However, the setback exemption shall not apply to any piggery, which is required by *The Rules and Regulations of the Coconino County Department of Public Health* to be located at least three hundred (300) feet from an inhabited house on an adjoining property.
4. An application for the animal husbandry exemption must be approved by the Town Manager before more animals than the number permitted in the zoning district are brought to the property, or before any required setbacks are waived.
5. The setback exemption and/or the number of animals per acre exemption may be revoked by the Town Manager if the animal husbandry activity or project is found to be out of compliance with any rules or regulations of the organization having jurisdiction over the project (i.e., the University of Arizona Cooperative Extension and the like). The finding of said lack of compliance must be made by the organization with jurisdiction.
6. The setback exemption and/or the number of animals per acre exemption may be revoked by the Town Manager if a violation of §§ 11-1, 11-2 or 11-3 of *The Rules and Regulations of the Coconino County Department of Public Health* is found to exist on the property. The finding of a violation should be verified by the Coconino County Hearing Officer for Environmental Services.
7. The setback exemption and/or the number of animals per acre exemption may also be revoked by the Town Manager if a violation of A.R.S. § 13-2910, Cruelty to Animals, is found to exist on the property. The finding of a violation must be made by a Law Enforcement Officer.
8. A revocation of an exemption may be appealed to the Planning and Zoning Commission. A written appeal must be filed within thirty (30) days of the revocation.
9. A decision by the Planning and Zoning Commission may be appealed to the Board of Adjustment. A written appeal must be filed within fifteen (15) days of the Commission's decision.

**Section 21: General Plan**

**Section 21.1: Applicability of State Law**

**Section 21.2: Amendments to the General Plan**

**Section 21.1: Applicability of State Law**

Except as otherwise specifically provided herein, the provisions of the A.R.S. Title 9 relating to the adoption, amendment, effect and all other aspects of general plans shall apply to the Town.

**Section 21.2: Amendments to the General Plan**

A. The General Plan or any part or element thereof, may be amended as frequently in any calendar year as may be determined by the Town Council to be in the public interest.

B. 1. An amendment to the General Plan, or any part or element thereof, may be initiated by:

- a. The Town Council;
- b. The Planning and Zoning Commission;
- c. The Town Manager; or
- d. The owner of the property in question.

2. However, any amendment initiated by the property owner shall be made by application filed with the Town on a form prescribed by the Town Manager. Such application shall be accompanied by a fee as prescribed by resolution of the Town Council.

C. Any hearing held in conjunction with an amendment to this **Zoning** Code for the purpose of bringing zoning into consistency with the General Plan may be held at any time after the date on which an amendment to the General Plan, or any part or element thereof, has been recommended for adoption by the Planning and Zoning Commission. However, no such amendment to this shall be adopted by the Town Council until the Council has first adopted the appropriate amendment to the General Plan.

**PASSED AND ADOPTED THIS 16<sup>th</sup> DAY OF MAY, 2017.**

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Rob Gossard, Chairman

**ATTEST**

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Melissa Drake, Town Clerk

**CERTIFICATION**

I, Melissa Drake, hereby certify that the foregoing Resolution No. 2017-02 was passed and adopted by the Planning and Zoning Commission of the Town of Tusayan at a scheduled meeting held on the 16<sup>th</sup> day of May, 2017, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTENTIONS:**

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Melissa Drake, Town Clerk