AGENDA

TUSAYAN PLANNING AND ZONING COMMISSION REGULAR MEETING

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

Tuesday, June 27, 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, June 27, 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**

CHAIR ROBERT GOSSARD	**COMMISSIONER CLAYANN COOK**
VICE CHAIR JANET ROSENER	**COMMISSIONER ANAVON HARRIS**
	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**

   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 and Zoning)
   Section 7 (Enforcement)
   Section 20 (Administration)
   Section 21 (Tusayan Area Plan)

7. **ACTION ITEMS**

   A. **Consideration, discussion, and possible acceptance of resignation of Commissioner Elizabeth Hearne**

B. **Consideration, discussion, and possible approval of Resolution 2017-03 amending Tusayan Zoning Code Section 14, Resolution 2017-04 amending Tusayan Zoning Code Section 15, and Resolution 2017-05 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 June, 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.

Robert Gossard, Chair **Date**

ATTEST:

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 18th day of April, 2017

Melissa M. Drake, Town Clerk

ITEM

No. 6 & 7B

Date: June 27, 2017

To: Planning and Zoning Commission

From: Planning staff

Subject: Resolution No.2017-03 (Zone Amendment No. 2017-03)

Recommendation: That the Planning and Zoning Commission adopt Resolution No. 2017-03; a Resolution of the Planning and Zoning Commission of the Town of Tusayan recommending that the Town Council amend Ordinance No. 2012-04 by approving Zone Amendment No. 2017-03.

The following reflects changes in Section 14 of the Zoning Ordinance. All wording/numbers that are struck-through are to be eliminated, all wording/numbers in bold italicized print are to be added, and all other wording/numbers remain unchanged.

§ 14: SPECIAL USES AND CONDITIONS

§ 14.0: GENERAL

The provisions of this section shall apply to the uses and conditions hereinafter enumerated. Where this section prescribes regulations more restrictive than the zone in which a use or conditional use is permitted, the provisions of this section shall apply. ~~(Ord. 2012-04, passed 12-5-2012)~~

§ 14.1: TEMPORARY USES

A. All time requirements are consecutive days per calendar year unless specifically stated otherwise. Only one (1) temporary use permit is to be issued for a parcel at any one time. Permits shall not have overlapping time frames.

B. 1. Special events shall include such outdoor activities as:

a. Transient amusement activities (carnivals, circuses).

b. Tent revivals, seasonal festivals.

c. Outdoor sales events (sidewalk, parking lot sales).

d. Outdoor arts and crafts shows, exhibits (arts, crafts, RV, boat).

2. Events shall be limited to a maximum of five (5) times per calendar year, not to exceed a maximum duration of five (5) days per event.

C. Christmas tree sales lots, subject to not more than forty (40) days of site occupation and operation per year.

D. Campaign offices, subject to not more than seventy (70) continuous days of site

occupation and operation.

E. Religious, patriotic, historic or similar displays or exhibits within yards, parking areas or landscaped areas, subject to not more than thirty (30) days of display in any one (1) year period for each exhibit.

F. Contractor's office and storage yards on the site of an active construction project.

G. ~~Manufactured home residences or trailers~~ ***Watchman's quarters*** for security purposes on the site of an active construction site of major development projects, but for not more than a ~~total of~~ twelve (12) months***, unless otherwise granted a time extension by the Planning and Zoning Commission***.

H. Stands for the sale of jewelry, furs, rugs and similar home-type products, subject to not more than thirty (30) days per year.

I. Stands for the sale of produce, subject to not more than thirty (30) days per year. ***However***, ~~the provisions of this division (I) do~~ ***this provision does*** not apply to the sale of produce raised on the premises.

J. Temporary retail food sales, subject to not more than thirty (30) days per year. This shall include stands for sales at one-day special events.

K. Establishment of batch plants in conjunction with road construction projects, subject to Planning and Zoning Commission approval.

L. Temporary occupancy may be issued for a recreational vehicle ~~or a travel trailer in the G, AR, RR or MHP Zone~~ ***in a single family residential zone district*** for a period not to exceed one hundred (100) ~~consecutive~~ days per calendar year; provided that the lot ~~or parcel~~ is not already occupied by a ~~dwelling or other~~ residential structure.

~~(M) Upon the issuance of a building permit, temporary occupancy of a recreational vehicle or a travel trailer in the G,AR, or RR Zone for a period not to exceed six months; provided that, the lot or parcel is not already occupied by a dwelling or other residential structure. The temporary use permit may be renewed only if the building permit is issued for a dwelling, and if the building permit remains active.~~

M. ***A Temporary Use Permit may be issued for a recreational vehicle, or other temporary living quarters, in a single family residential zone district, for a period up to six (6) months from the date a building permit has been issued for construction of a permanent residence on the same lot as the temporary living quarters. An extension of time may be granted by the Planning and Zoning Commission upon its determination that additional time is necessary for completion of the permanent residence. Once the permanent residence is completed, occupancy of the temporary living quarters is no longer permitted.***

N. Metal storage containers, refer to § 14.7 ***of this Code***.

O. Temporary banner signs and community banner signs not permitted elsewhere in this Code, subject to Planning and Zoning Commission approval. The maximum length of

time for any such sign shall be sixty (60) days. For guidance in the determination of size, number of signs, height, location and other criteria, the Commission shall refer to ~~those parts of~~ § 16 (Signs) of this Code. ~~that deals with banner signs.~~

P. Additional uses determined to be similar to the foregoing in the manner prescribed in § 20.1-1 (Determination of Similar Uses) may be granted permits by the Town Manager ***for permitted uses, and by*** the Planning and Zoning Commission ***for conditionally permitted uses.*** ~~(Ord. 2012-04, passed 12-5-2012)~~

§ 14.1-1: PERMITS AND BONDS

A. A~~ll~~ temporary use shall be subject to the ~~issuance~~ ***approval*** of a Temporary Use Permit ***by*** ~~Issuance may be through the action of the Town Manager or~~ the Planning and Zoning Commission. The Commission may approve, conditionally approve, or deny the application for a Temporary Use Permit. Upon application for a Temporary Use Permit, ***the applicant must complete and submit to the Town's its form entitled "Application for a Temporary Use Permit" accompanied by the applicable fee as set forth by resolution of the Town Council.*** ~~written authorization of the property owner for the property on which the temporary use is proposed shall be provided. Said authorization shall include reference to the requested use and acknowledgment of proposed time frame for operation of said use.~~

B. Prior to the issuance of a Temporary Use Permit, ***if applicable***, a cash bond shall be deposited with the Town. This deposit shall be used to defray the costs to ~~of~~ cleanup ~~of~~ the property by the Town in the event the permittee fails to do same. ~~(Ord. 2012-04, passed 12-5-2012)~~

§ 14.1-2: PERFORMANCE STANDARDS

A. General: Approval of a Temporary Use Permit application shall require compliance with the following performance standards, and any further conditions deemed necessary by the ~~Town Manager, his or her designee or~~ Planning and Zoning Commission in order to reduce possible detrimental effects to surrounding developments, and to protect the public health, safety and welfare.

B. Noise: Noise shall not be generated by any use to the point of disturbing the peace, quiet, and comfort of neighboring residences or businesses. The permit application shall clearly identify all ~~of the~~ potential sources of excessive noise, and ***address*** the measures proposed by the applicant to control ***any such*** excessive noise. The Town may require additional measures to control excessive noise including a curfew.

C. Parking: Adequate parking shall be provided. All parking shall be located on the same property as the temporary use; public rights-of-way shall not be used for parking.

D. Location: No permit shall be issued for a use the location of which is deemed to be potentially hazardous to the public. This includes, but is not limited to, heavily congested and/or trafficked areas where the use may impede or inconvenience the public. No use shall be permitted in a public right-of-way.

E. Sanitation: All requirements of the County Health Department and/or other regulatory health authorities shall be met. Provisions for disposal of solid waste shall be required for all uses.

F. Signs: One (1) freestanding or wall-mounted sign not exceeding six (6) square feet in area and ~~six (6)~~ ***four (4)*** feet in height is permitted. A diagram of the sign indicating size, text, and location on-site is required. Color and materials shall be reviewed by Town staff. No off- site sign is permitted. Additional signing may be permitted at the discretion of the Planning and Zoning Commission.

G. Lighting: ~~All~~ Lighting sources shall be aimed or shielded so that the direct illumination shall be confined to the property boundaries of the light source a***s set forth in § 17 (Lighting) of this Code.*** The operation of searchlights or similar lighting sources is prohibited.

~~H. Other Permits. Any required Health Department and Sheriff's office permits or licenses shall be obtained.~~

H. Other permits: Any permits or licenses required by the Health Department, or Sheriff's Department, shall be obtained prior to establishment of the proposed use.

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

§ 14.1-3: APPEAL

If a ***Temporary Use*** Permit is denied by the ~~Town Manager~~ ***Planning and Zoning Commission,*** the applicant may appeal ~~his or her~~ ***the*** decision ***in writing,*** within ***fifteen (15)*** ~~30~~ days, to the ~~Planning and Zoning Commission~~ ***Board of Adjustment***. The decision of the ~~Commission~~ ***Board of Adjustment*** shall be final ~~15 days from the date of the decision unless an appeal is filed. The Commission's decision may be appealed within 15 calendar days to the Town Council by the applicant or any other person~~ as prescribed in § 20.6 (Appeals: ~~Town Council Review~~ ***Board of Adjustment).*** ~~(Ord. 2012-04, passed 12-5-2012)~~

§ 14.1-4: EXTENSION OR MODIFICATION OF LIMITATIONS

Upon written application, the ~~Town Manager~~ ***Planning and Zoning Commission*** may extend the time within which temporary uses may be operated ~~(up to a period of 90 days),~~ or may modify the limitations under which such uses may be conducted if the ~~Town Manager~~ Commission determines that such extension or modification is in accord with the purposes of ~~the zoning regulations~~ ***this Code.*** ~~(Ord. 2012-04, passed 12-5-2012)~~

§ 14.1-5: CONDITION OF SITE FOLLOWING TEMPORARY USES

Each site occupied by a temporary use shall be left free of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used only in accord with the provisions of the ~~zoning regulations~~ ***this Code.*** ~~(Ord. 2012-04, passed 12-5-2012)~~

§ 14.2: HOME OCCUPATIONS

Home occupations, where permitted by the provisions of this Code, shall be subject to the approval of the Town Manager, and shall comply with the following regulations.

A. 1. A home occupation shall be conducted in a dwelling, and shall be clearly incidental to the use of the structure as a dwelling.

2. In no way shall the appearance of the structure or the premises be so altered, or the conduct of the occupation within the structure be such that the structure or premises may be reasonably recognized as serving a non-residential use (either by

color, materials or construction, lighting, signs, sounds or noises, vibrations, display of equipment and the like).

3. No one other than a resident of the dwelling shall be employed in the conduct of a home occupation.

4. No motor or mechanical equipment shall be permitted other than normally incidental to the ***residential*** use.

5. The use shall not generate pedestrian or vehicular traffic beyond that normal to the district in which it is located.

6. No storage of materials and/or supplies, including vehicles or equipment used in the occupation, indoors or outdoors, shall be permitted which will be hazardous to surrounding neighbors or detrimental to the residential character of the neighborhood.

7. No building or space outside of the main building shall be used for home occupational purposes, except approved agricultural/horticultural related activities.

8. There shall be no use of utilities or community facilities beyond that normal to the use of the property for residential purposes.

9. A home occupation shall not create any radio or television interference or noise audible beyond the boundaries of the site.

10. No smoke, odor, liquid, or solid waste shall be emitted.

11. There shall be no outdoor storage or display of materials or equipment maintained on the premises.

12. The conduct of the home occupation shall not interfere with the maintenance of the required off-street parking spaces on the property.

13. The application shall be subject to review each year by the Town Manager. Violation of any criteria listed above shall result in cancellation of the home occupation permit.

B. A decision of the Town Manager regarding the approval, disapproval or conditions imposed may be appealed in writing to the ~~Planning and Zoning Commission~~ ***Board of Adjustment*** within fifteen (15) days of notice of the decision.

C. ~~The Planning and Zoning Commission shall review newly issued home occupation permits on a regular basis. (Ord. 2012-04, passed 12-5-2012)~~

§ 14.3: ~~COTTAGE INDUSTRIES~~ *RESERVED*

~~Cottage industries may be permitted subject to the granting of a conditional use permit by the Planning and Zoning Commission and, if approved, shall comply with the following restrictions.~~

~~(A) The entrepreneur of the cottage industry shall reside on the property.~~

~~(B) The number of persons employed in connection with the cottage industry and who are not residents of the dwelling shall not exceed three.~~

~~(C) The cottage industry may be conducted either within the dwelling or an accessory structure, or both; provided that, not more than 50% of the combined floor area shall be used in the conduct of the cottage industry.~~

~~(D) One non illuminated sign not exceeding six square feet in area and six feet in height shall be permitted. Colors of sign background, sign lettering and support structure shall be earth tones complementary to the natural surroundings.~~

~~(E) Adequate off street parking shall be provided according to the provisions of § 15. There shall be a maximum of five parking spaces.~~

~~(F) Any outdoor storage shall be as permitted in the underlying zone or as specified by the Commission. Outdoor storage shall be completely enclosed with a solid six foot high fence or wall.~~

~~(G) Parking of commercial vehicles shall be as permitted in the underlying zone.~~

~~(H) Property for which a conditional use permit for a cottage industry is approved shall front on and have direct access on a road accepted for maintenance by the town or other governmental agency.~~

~~(I) Outdoor lighting shall conform to § 17.~~

~~(J) Direct sales of products is allowed if such sales are specifically provided for in the use permit.~~

~~(K) The business shall not generate any noise, vibration, smoke, dust, odor, heat, glare or electrical interference with radio or television reception that would exceed that normally produced by a dwelling unit.~~

~~(L) The Commission may grant a conditional use permit for up to three years. If all requirements of this section and of the use permit have been consistently met, and if no complaints have been filed with the town, the use permit may be renewed for up to five years. (Ord. 2012-04, passed 12-5-2012)~~

§ 14.4: BED AND BREAKFAST ESTABLISHMENTS

Bed and breakfast establishments, where permitted by the provisions of this Code through the issuance of a Conditional Use Permit, shall be subject to the approval of the Planning and Zoning Commission and shall comply with the following regulations.

~~A. All provisions of §14.2(A) pertaining to home occupations shall met.~~

A. Applicants for a ***Conditional*** Use Permit shall be the property owners.

~~B. No more than two bedrooms shall be used at any one time.~~

B. No more than five (5) boarders may be accommodated at any one time.

C. The maximum duration of stay of any one guest shall be ten (10) days.

D. ~~The~~ Boarders must enter through the main entrance of the dwelling to get to their rooms, with no ~~separate~~ ***other*** entrances allowed.

E. All parking must be accommodated on site.

F. ~~The Conditional Use Permit shall have a time limit of two years, after which time the Town Manager and the Commission shall review compliance with the conditions listed above. Compliance shall result in automatic renewal for another two year period, while violation shall result in suspension~~ ***Continued failure to comply with conditions of approval of a Conditional Use Permit may result in*** suspension and revocation of the Conditional Use Permit in accordance with § 20.3-14 ***(Suspension and Revocation)*** of this Code.

G. For the use of two (2) ***or more*** bedrooms, State and County Health Department approval and permits are required.

H. ~~State business and sales tax licenses are also required.~~ ***In addition to a Town business license and sales tax, any State business license or sales tax may also be required.*** ~~(Ord. 2012-04, passed 12-5-2012)~~

§ 14.5: WIRELESS TELECOMMUNICATION FACILITIES

A. Purpose: The purpose of this section is to establish a process, rules and standards for the construction of wireless telecommunication facilities to:

1. To protect and promote the public health, safety and welfare;
2. To provide guidelines for the siting and design of wireless communication facilities;
3. To protect the town's environmental resources and to minimize adverse impacts on visual resources;
4. To ensure that wireless telecommunication facilities are compatible with adjacent land uses;
5. To minimize the number of towers by encouraging the joint use (co-location) of facilities and by maximizing the use of existing towers and structures;
6. To allow competition in telecommunications service; and
7. To enhance the ability to provide wireless telecommunication services to Town residents, businesses and visitors.

B. Definitions:

Antenna: Any exterior device for transmitting and receiving wireless communication that is mounted on a tower, building, or structure, and that is used to send and receive signals for cellular telephone, personal communication service (PCS), mobile radio, paging, wireless Internet access and similar communication services. Antennas may include panels, microwave dishes, satellite dishes, whip antennas or other devices that may be affixed to a tower, pole or other structure.

Antenna, Attached: An antenna mounted on the exterior of an existing building, silo, smokestack, water tower, utility or power pole, existing wireless communication tower, or an alternative support structure.

Antenna, Concealed (Stealth): An antenna with a support structure that screens or camouflages the presence of antennas and/or towers from public view in a manner appropriate to the site's context and surrounding environment. Examples include human-made trees, flagpoles that do not exceed ten (10) feet above the maximum allowable building height for the zone, utility poles, light poles, water tanks, steeples and architectural and facade features.

Co-Location: Use by two or more wireless communication providers on the same tower or other alternative structure.

Height: The vertical distance from the pre-existing grade at the base of the tower to the highest point of the tower including antennas.

Tower: A self-supporting structure such as a lattice tower or monopole, a guyed tower, or a structure affixed to, or mounted on, an existing or newly constructed building or other permanent structure, together with associated equipment, designed to support one (1) or more antenna.

Wireless Telecommunication Facilities: Any combination of one (1) or more antennas, towers and/or structures with equipment used for the transmission of wireless communication.

C. Where Allowed: ***Placement of a*** Wireless telecommunication facility requires the granting of a Conditional Use Permit by the Planning and Zoning Commission except as specified in division (H) below. ~~Facilities are preferred in the industrial (M-1-10,000, M-2-6,000 and MP) and commercial (CG-10,000, CH-10,000 and CN-2/A) zones, but are also permitted with a conditional use permit in the AR, RR, G, PRD, PC, PS, OS, RC, P and MR zones. Facilities are not permitted in the Residential (RS-6,000, RS-10,000 and the like, RM-10/A, RM-20/A, MHP and RMH) Zones.~~

D. Preferred Facilities:

1. Site location and development of wireless telecommunication facilities shall, as much as possible, preserve the existing character of the surrounding land uses and buildings, and the aesthetic visual character of the area. ~~If technically feasible, new facilities shall use the most preferred facility type. The order of preference for new facilities is as follows (from most preferred to least preferred):~~

   ~~a. Co-location on an existing tower;~~

   ~~b. Antennas attached to existing structures such as buildings, light poles, utility poles;~~

   ~~c. Concealed or camouflaged facilities;~~

   ~~d. New sites on previously disturbed areas;~~

~~e. New towers/facilities under one hundred (100) feet in commercial or Industrial zone districts;~~

~~f. New towers/facilities one hundred (100) feet to one hundred seventy five (175) feet in commercial or industrial zone districts;~~

~~g. New towers/facilities under one hundred (100) feet in G, AR or RR Zones;~~

~~h. New towers/facilities one hundred (100) feet to 199 feet in G Zones~~

~~i. New towers/facilities 100 feet to 150 feet in AR or RR Zones; and~~

~~j. New tower in other zones as described in division (C) above.~~

2. New facilities shall use the most preferred facility type and location where technically feasible, even if it results in an increase in the number of facilities or a higher cost. A lesser-preferred facility type may be permitted only if the applicant presents substantial evidence to show that it will have a lesser visual impact, or is more technically necessary than the use of more preferred facilities.

E. ~~Disfavored Facilities:~~ ***Undesirable Locations***

1. Any site that is within a State or Federal designated scenic corridor such as Highway 64.

2. Any site within a visual corridor or scenic vista, for example along a ridgeline exposed to view from highway travelers, or to residential areas, along a public trail, in a park or recreation area, unless the facility blends with the surrounding natural and human-made environment;

3. Sites adjacent to, or very close to, residential areas; and

4. Sites adjacent to, or very close to, sacred sites.

F. Performance Standards and Design Requirements:

1. Height: New facilities shall not exceed ~~199~~ ***two hundred (200)*** feet in height.

2. Setbacks: The setback for towers is one hundred-five (105) percent of the tower height from all property lines so that in case of collapse or failure the tower would be contained on the property. Setbacks may be allowed to extend onto adjacent properties if there are dedicated fall zone easements. The setbacks may be reduced if a registered engineer can certify that in case of failure the tower would be contained on site. In commercial and industrial zone districts, the setbacks may be reduced to thirty (30) percent of the tower height if a registered engineer can prove that, in case of failure, the tower would be contained on site. Guys and accessory buildings must meet the setbacks of the underlying zoning classification. Facilities that are located on new or replaced utility poles, street lights, or traffic signal poles, are exempt from the setback requirements.

3. Color and Materials: Towers and attached antennas must be painted or coated in a color that blends with the surrounding environment. Muted colors, earthtones

and subdued hues, such as gray, shall be used. All associated structures such as equipment buildings, including the roofs, shall be painted with ~~earthtone~~ colors ***that match or are compatible with the color of the tower.***

4. Fencing: New towers, other than flagpoles, utility poles, or other camouflaged facilities, shall be fenced to prevent trespass.

5. Lighting: Lighting on any new tower is prohibited unless required by the Federal Aviation Administration or by other applicable State or Federal requirements. Motion detector security lighting may be approved if the lights are fully shielded. Any outdoor lighting requires a separate lighting permit ***and shall be consistent with the reqirements of § 17 (Lighting) of this Code***.

6. Landscaping: Perimeter landscaping may be required as a condition of approval of the facility, depending on the location. Existing vegetation shall be preserved to the maximum extent possible.

7. Signs: No advertising is permitted anywhere upon, or attached to, the facility. Signage is limited to small non-illuminated warning and identification signs.

8. Permits: A building permit is required for the construction of any new tower, and for accessory structures.

9. Storage: Long-term vehicle storage and other outdoor storage are prohibited.

~~10. Term of Conditional Use Permit. The Conditional Use Permit shall have a time limit of no more than five years. Prior to the end of the five year period, the applicant and/or structure owner shall be responsible for submitting a new application for renewal. The applicant shall demonstrate that changes in technology have not eliminated the need for the facility as approved. Renewal of a conditional use permit shall be based on compliance with the conditions of approval.~~

G. Application Process: Prior to the submittal of a Conditional Use Permit application, the applicant shall schedule a pre-application conference with Town staff. Staff will review the ordinance requirements and submittal requirements to ensure a complete application. In addition, for facilities located within one-half (1/2) mile of a residential area, the applicant shall hold a neighborhood meeting prior to the submittal of an application. Staff will attend the meeting and utilize the comments of neighbors in the analysis presented to the Planning and Zoning Commission. The requirement for a neighborhood meeting may be waived by the Town Manager. The application shall include all of the requirements for any conditional use permit, including fifteen (15) copies of a detailed site plan and elevations, landscape, and fencing plans and the like, plus the following.

1. Site Plan: The site plan shall show existing improvements on the property, adjacent roads and access roads, parking, fencing, lighting, existing trees that will be retained and those that will be removed, setbacks from all property lines and all proposed improvements including those on the ground.

2. Elevation Drawings: ***If drawings are submitted in place of photos***, ~~the drawings~~ ***they*** shall show the tower and proposed attached antenna(s), as well as proposed

structures on the ground. Materials and colors shall be indicated and color samples shall be provided.

3. Photo Images: ***If photos are submitted in place of drawings,*** photo simulations of the proposed facility from each direction shall be provided showing the tower, all antennas, structures, and equipment facilities, demonstrating the true impact of the facility on the surrounding visual environment. Town staff will assist in specifying recommended vantage points and the requested number of photo simulations at the pre-application conference.

4. Communication Plan: Each applicant shall provide a plan of its facilities to the Town prior to, or in conjunction with, any application for the installation of a wireless telecommunication facility. The plan shall cover the entire Town extending five (5) miles beyond the Town limits. The plan shall include the following. These shall be in general terms, and are not meant to require submittal or confidential or proprietary information.

   a. All of the applicant's existing wireless facilities by size, type, and coverage area.

   b. All presently anticipated future service areas, anticipated dates of development, and types and heights of facilities desired for each of the service areas.

   c. The various types of wireless telecommunication facilities used by the applicant to furnish service, and when they are used. This includes drawings providing the sizes and shapes of the antennas and other equipment, as well as written materials describing their application.

   d. The applicant's policy direction for the mitigation and/or reduction of existing and proposed towers to avoid the proliferation of such facilities.

   e. The applicant's policy direction on the mitigation and/or reduction of the negative visual impacts created by new towers, including any proposals to conceal or disguise such facilities designed to be architecturally and/or environmentally compatible with their surroundings.

   f. The applicant's policy direction on co-location of antennas on their own facilities, on facilities from other applicants or tower companies, or on other structures that provide the verticality required for the antennas. ~~and~~

   g. Designation of an agent (contact person) of the applicant who is authorized to receive communications and notices pursuant to this section.

5. Written Narrative: A written narrative shall be submitted with the application explaining why the proposed site has been chosen, why the proposed telecommunication facility is necessary, why the requested height was chosen, ability of the facility to accommodate other providers, and any other information requested at the pre-application conference.

6. Existing Structures: Evidence shall be submitted demonstrating that no existing

verticality can be utilized within the targeted search area, defined generally as a one (1) mile radius, to meet the applicant's requirements.

7. Property Owner List: A typewritten list of the names and addresses of all property owners, keyed to assessor's parcel numbers, within five hundred (500) feet of the outside boundaries of the subject property for towers up to ninety-nine (99) feet ***high***, and within one thousand (1,000) feet for towers from one hundred (100) feet to ~~one hundred-ninety nine (199) feet.~~***two hundred (200) feet high.***

8. Evidence of Notification: For facilities within one quarter (1/4) mile of residential areas, defined as neighborhoods or subdivisions, evidence of notification of property owners within one quarter (1/4) mile, a map indicating tower site and residential area, and evidence of neighborhood meeting including sign-in sheet and a description of how the design addresses the residents' concerns.

H. Exemptions: This Code does not apply to HAM radio towers, which are regulated elsewhere in this ~~zoning~~ Code, or to satellite dishes for television reception at individual single-family residences. In addition, a Conditional Use Permit is not required to co-locate additional antennas on already approved towers unless it results in a substantial change in the approval, such as an increase in tower height. A Conditional Use Permit is not required for attached antennas where the height of the structure the antenna is being attached to is not increased. Examples would be antennas on existing utility or light poles, water towers or on the fascia of existing buildings. A Conditional Use Permit is also not required for a stealth design that meets the height restriction of the zone in which the tower is proposed to be located. Co-locations are subject to the same conditions of approval as the original Conditional Use Permit.

I. Abandonment: The provisions of § 19 (Non-Conforming Situations), shall apply to wireless telecommunications facilities. Pursuant to § 19.11, a tower shall be considered abandoned and the use discontinued if it is not ***being*** utilized (i.e., ~~there are~~ no providers/antennas on the tower) for a continuous period of one hundred-eighty (180) days.

J. Obsolescence and Removal: In addition to all other remedies available to the Town, ~~of Tusayan~~, if a facility is abandoned pursuant to division (I) above and § 19 of this ~~zoning~~ Code, or if a facility becomes obsolete due to changing technology, it shall be the responsibility of the tower owner and/or property owner to remove the tower, and to restore the site to its original condition within sixty (60) days. If the tower is not removed within this sixty (60) day period, the Town may notify the tower owner that it will contract for removal at the cost of the owner. ~~(Ord. 2012-04, passed 12-5-2012)~~

§ 14.6: GROUP HOMES FOR THE HANDICAPPED

A. Purpose: The purpose of these regulations is to permit handicapped persons to reside in single-family residential neighborhoods in compliance with the Fair Housing Act, while preserving the residential character of the neighborhood.

B. Zoning Confirmation: Prior to registration, a request for zoning confirmation may be submitted to the Town Manager, or ***his/her*** designee, to confirm that the proposed location of the group home is permitted under this section.

C. Standards: Group homes for the handicapped shall be located, developed, and operated in compliance with the following standards.

1. Separation: The minimum separation between group homes shall be one thousand two hundred (1,200) feet, as measured from the closest property lines. No separation is required when group homes are separated by a utility right-of-way of at least three hundred (300) feet in width, or by a freeway, arterial street, canal or railroad.

2. Occupancy: The number of residents, excluding staff, shall not exceed ten (10).

3. Exterior Appearance; There shall be no sign or other exterior indication of a group home visible from a street.

4. Compliance With All Applicable Building and Fire Safety Regulations: If a group home has one (1) or more non-ambulatory residents, Building Code requirements in addition to those applicable to group homes with no non-ambulatory residents, shall apply.

5. Licensing: Group homes shall comply with applicable licensing requirements.

6. Parking: Any ***required*** parking for the group home shall be on site ***in accordance with § 15 (Off-Street Parking) of this Code.***

7. Tenancy: No group home shall house any person whose tenancy would constitute a direct threat to the health or safety of other individuals, or would result in substantial physical damage to the property of others.

D. Additional Requirements of State Law: Notwithstanding the foregoing, if the State has adopted laws or rules for the regulation of a specific type of home, such as a group home for the developmentally disabled pursuant to A.R.S. § 36-582 or an assisted living home pursuant to A.R.S. Title 36, Ch. 4, then any such State Law or rule shall apply in addition to the conditions listed herein, and shall preempt any conflicting condition listed herein.

E. Request for Accommodation:

1. If a group home owner believes any requirement of this ~~zoning~~ Code prevents the establishment of a group home in an economically viable manner, the owner shall submit a written request for accommodation and the reasons why the accommodation is required. The written request shall contain sufficient facts to allow a~~n individualized~~ determination of the group home's needs to address ***both*** safety and welfare concerns, and to assure compliance with this section. The Town ~~staff~~ ***Manager*** shall review the written request and determine:

   a. Whether an accommodation should be made pursuant to the requirements of the Fair Housing Act; and

   b. If so, the nature of the accommodation taking into consideration the requirements of the Fair Housing Act, public safety and welfare concerns, and the residential character of the neighborhood.

2. The accommodation shall be made only to the extent necessary to comply with the Fair Housing Act. ~~(Ord. 2012-04, passed 12-5-2012)~~

§ 14.7: METAL STORAGE CONTAINERS ~~BOXES~~

A. The purpose of this section is to establish the criteria, process, rules, and standards for the use of metal storage containers~~. boxes.~~

B. Metal Storage Containers are defined as prefabricated, portable metal containers used for storage of personal property.

C. Temporary uses in the ~~G, AR, RR and RS zones~~ ***single family residential zone districts.***

1. Upon the issuance of a ~~building permit~~ ***Temporary Use Permit***, two (2) one hundred sixty (160) square foot metal storage containers may be established with ~~a no fees~~ ~~temporary use permit~~ no fees required. A Temporary Use Permit is required prior to the storage containers being located on site, and may be issued for up to eighteen (18) months at a time. Temporary use permits may be renewed ~~so~~ ***as*** long as a building permit ***for construction, or major renovation, of the principal residential dwelling*** remains in active status.

2. For non-permit projects (emergency situations related to fire, ~~or~~ flood, or remodels), two (2) one hundred sixty (160) square foot metal storage containers may be established, with a Temporary Use Permit for up to nine (9) months. Emergency related projects are subject to a no fee permit. Temporary use permits may be renewed for an additional nine (9) month period.

3. Metal storage containers shall be located at least ten (10) feet from the front and street side property lines, and shall meet side and rear setback requirements for the zoning district in which they are located. Exceptions may be granted by the Town Manager in an emergency situation for a maximum of ninety (90) days.

4. There shall be no utilities installed within, ***or to,*** the metal storage container.

5. Any deviations from these standards may be approved through ~~the issuance~~ approval or conditional approval of a Conditional Use Permit.

D. Temporary uses in the ~~CG, CH, M1 and M2 Zones~~ ***multiple family, commercial, and industrial zone districts.***

1. Upon the issuance of a ~~building permit~~ ***Temporary Use Permit***, metal storage containers may be established ***on site while construction of a principal use is on-going.*** ~~with a temporary use permit.~~ The no fee Temporary Use Permit is required prior to the storage container being located on site, and may be issued for up to eighteen (18) months at a time. Temporary use permits may be renewed ~~so~~ ***as*** long as the building permit remains in active status.

~~2. For non-permit projects metal storage containers may be established with a temporary use permit for up to six months.~~

2. Metal storage containers are required to meet all development standards of the zone district in which they are located including setbacks, building separation,

and structural height. Exceptions may be granted by the Town Manager in an emergency situation for a maximum of ninety (90) days.

3. There shall be no utilities installed within, ***or to,*** the metal storage container.

E. Permanent uses in the ***rural residential zone districts.*** ~~G, AR, RR and RS Zones.~~

1. One (1) one hundred sixty (160) square foot metal storage container may be established with an approved building permit, subject to the following standards.

   a. There shall be no signage on the metal storage container.

   b. The only utilities permitted shall be electricity for lights and outlets (i.e. there shall be no plumbing or mechanical). The addition of electricity requires an electric permit.

   c. All containers shall be painted and maintained in either the ***color of the*** primary structure ~~color~~ or a pre-approved earth tone color consistent with the surrounding terrain ~~prior to~~ ***upon*** placement ***of the container.***

   d. Metal storage containers are required to meet all development standards of the zone district in which they are located, including setbacks, building separation, and structure height.

   e. Use of the ~~unit~~ ***container*** is ***only*** for the storage of personal effects ~~owned by~~ ***of*** the property owner or tenant. There shall be no commercial use of the ~~unit~~ ***container*** (e.g., rental of the unit to people not residing on the property).

   f. The ~~unit~~ ***container*** shall not be used ~~for residential use~~ ***as a residence,*** or for the ~~keeping~~ ***housing*** of animals.

   g. Nothing shall be stored on top of, ~~the unit~~ ***or outside of, the container.***

2. Any deviations from these standards may be approved through the ~~issuance~~ ***approval or conditional approval*** of a Conditional Use Permit.

3. Metal storage containers existing prior to the adoption of this Code will have until ~~1-1-2009~~ ***January 1, 2018*** to meet these requirements.

F. Permanent uses in ~~the CG and CH Zones~~ ***commercial and industrial zone districts.***

1. ~~The equivalent of~~ Two (2) ~~320 square foot~~ metal storage containers ~~e.g.,~~ eight (8) feet by twenty (20) feet, ~~containers~~ or one (1) ***storage container*** eight (8) feet by forty (40) feet) ~~container~~ may be established with an approved building permit, subject to the following standards.

   a. There shall be no signage on the metal storage containers.

   b. Electric utility may be permitted as part of the building permit.

   c. All containers shall be painted and maintained either the ***color of the*** primary structure ~~color~~ or a pre-approved earth tone color consistent with

the surrounding terrain ~~prior to~~ ***upon*** placement ***of the container(s)***.

d. Metal storage containers are required to meet all development standards of the zone district in which they are located, including setbacks.

2. Any deviations from these standards may be approved through the ~~issuance~~ ***approval or conditional approval*** of a Conditional Use Permit.

3. Metal storage containers existing prior to the adoption of this Code will have until ~~1-1-2009~~ ***January 1, 2018*** to meet these requirements.

~~G. Permanent uses in the M1 and M2 Zones.~~

~~1. Metal storage containers are permitted with an approved building permit, subject to the following standards.~~

~~a. There shall be no signage on the metal storage containers.~~

~~b. Electric utility may be permitted as part of the building permit.~~

~~c. All containers shall be painted and maintained either the primary structure color or a pre-approved earthtone color consistent with the surrounding terrain prior to placement.~~

~~d. Metal storage containers are required to meet all development standards of the zoning district in which they are located including setbacks.~~

~~2. Any deviations from these standards may be approved through the issuance of a conditional use permit.~~

~~3. Metal storage containers existing prior to the adoption of this code will have until 1-1-2009 to meet these requirements. (Ord. 2012-04, passed 12-5-2012)~~

§ 14.8: ACCESSORY WIND ENERGY SYSTEMS

A. Purpose: The purpose of this section is to establish a process, rules, and standards for the construction and operation of accessory wind energy systems used primarily for on-site power consumption.

B. Definitions:

Accessory Wind Energy System: A system designed as a secondary use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption. The system consists of a wind turbine and associated controls, and may include a tower.

Hub Height: The distance measured from ground level to the center of the turbine hub.

Total Height: The distance measured from ground level to the blade extended at its highest point.

Wind Turbine: A device which converts the kinetic energy of the wind into a useable form of electrical energy.

C. Where Allowed:

1. Accessory wind energy systems shall be considered a permitted use in all zone districts ***except in a single family residential zone district where the lot is less***

than one (1) acre in size. ~~the following zoned areas G, AR, RR, RS, RM, PC, PRD, PS, RC, CG, CH, MR, MP, M1 and M2 Zones that are a minimum of one acre in size.~~ Roof mounted systems may be permitted in any of the aforementioned zoned areas that are a minimum of one-half (1/2) acre in size.

2. Any deviation from the required standards of this Code may be approved through the issuance of a Conditional Use Permit.

D. Performance Standards and Design Requirements:

1. The requirements of this Code shall apply to all accessory wind energy systems proposed after the effective date of this Code.

2. All accessory wind energy systems shall conform to applicable industry standards, including those of the American National Standards institute.

3. Minimum parcel size of one (1) acre is required for the installation of an accessory wind energy system.

4. No more than two (2) systems are permitted per parcel.

5. Maximum height shall be that of the underlying zone district measured from preexisting natural grade to the center of the turbine hub for horizontal and vertical systems.

6. Setback requirements shall be one hundred (100) percent of the total height of the accessory wind energy system from all property lines, access easements, residential structures and public electric power or telephone lines. No part of the wind system structure, including guy wire anchors, may extend into the minimum setback area of the underlying zone district, or into any access or utility easements.

7. All portions of the energy system shall be a non-reflective, non-obtrusive color, subject to the approval of the Town Manager. The appearance of the turbines, towers, and any other related components shall be maintained throughout the life of the wind energy facility pursuant to industry standards.

8. Systems shall not be used for displaying any advertising.

9. Systems shall not be illuminated unless required by a State or Federal agency.

10. The electrical collection system shall be placed underground within the interior of each parcel. The collection system may be placed overhead near sub-stations or points of interconnection to the electric grid. All grid connected systems shall have a completed contractual agreement with the local utility prior to the issuance of a building permit.

11. Accessory wind energy systems shall be designed, installed and operated so that noise generated by the system shall not exceed fifty (50) decibels (50 dBA), as measured from the nearest property line, except during short-term events including utility outages and severe wind storms.

12. Building permits shall be obtained for any accessory wind energy system prior to installation.

E. Obsolescence and Removal: If the accessory wind energy system remains non-functional or inoperative for a continuous period of one hundred twenty (120) days, the system shall be deemed to be abandoned, and shall constitute a public nuisance. The owner shall remove the abandoned system at his/her ~~or their~~ expense after a demolition permit has been obtained. Removal includes the entire structure, including foundations to below natural grade, and transmission equipment. ~~(Ord. 2012-04, passed 12-5-2012)~~

§ 14.9: MEDICAL MARIJUANA DISPENSARIES, ~~AND~~ OFF-SITE CULTIVATION, AND INFUSION FACILITIES

A. Purpose: The purpose of this section is to establish a process, rules, and standards for the construction, establishment, and operation of medical marijuana dispensaries, and off-site cultivation and infusion facilities, pursuant to A.R.S. § 36-2806.01.

B. Definitions:

Medical Marijuana: All parts of any plant of the genus cannabis whether growing or not, and the seeds of such plant that may be administered to treat or alleviate a qualifying patient's debilitating medical condition, or symptoms associated with the patient's debilitating medical condition.

Medical Marijuana Dispensary: A not-for-profit entity defined in A.R.S. § 36-2801(11) that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells or dispenses marijuana, or related supplies, and educational materials to qualifying patients or their designated caregivers.

Medical Marijuana Infusion Facility: A facility that incorporates medical marijuana by means of cooking, blending, or incorporation into consumable/edible goods.

Medical Marijuana Off-Site Cultivation Location: A building, structure, or premises associated with, but separate from, a medical marijuana dispensary where cultivation, storage, infusion and/or manufacture of medical marijuana products is accomplished.

C. Where Allowed:

1. Medical marijuana dispensaries shall be considered a permitted use in ***commercial zone districts*** ~~and in the PC (Planned Community Zone District CG-10,000 (Commercial General) and CH-10,000 (Commercial Heavy) Zones or in the PC (Planned Community) Zone in areas designated for development, subject to CG-10,000 and CH-10,000~~ ***subject to the following performance standards and design requirements listed in subsection D. below.*** ~~uses and development standards, subject to the following performance standards and design requirements.~~

2. Medical marijuana off-site cultivation and infusion facilities shall be considered permitted uses in the ***industrial zone districts*** ~~and in the PC Zone District when part of the adopted M-1-10,000 (Light Industrial), and M-2-6,000 (Heavy Industrial) Zones or in the PC (Planned Community) Zone in areas designated for development,~~ subject to the ***districts'*** ~~M-1-10,000 and M-2-6,000 uses and~~

development standards, ***and*** subject to the following performance standards and design requirements ***listed in subsection D. below.*** Off-site cultivation and infusion facilities shall be ~~considered~~ ***subject to an approved Conditional Use Permit*** ~~conditional uses~~ in the ***commercial zone districts.*** ~~CH-10,000 (Commercial Heavy) Zone or in the PC (Planned Community) Zone in areas designated for development, subject to CH-10,000 uses and development standards.~~

D. Performance Standards and Design Requirements:

1. Medical marijuana dispensaries shall be located in a permanent building, and may not locate in a trailer, cargo container, or motor vehicle.

2. Medical marijuana dispensaries shall have a single secure entrance, and shall implement appropriate security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana pursuant to A.R.S. § 36-2806(C).

3. Medical marijuana dispensaries shall be a maximum of two thousand five hundred (2,500) gross square feet.

4. Medical marijuana dispensaries and cultivation/infusion facilities shall not be located within five hundred (500) feet of a public or private preschool, kindergarten, elementary, secondary or high school, place of worship or public park existing before the date of application for the medical marijuana dispensary or cultivation/infusion facility. This distance shall be measured in a straight line from the exterior walls of the building, or portion thereof, in which the business is conducted, or proposed to be conducted, to the property line of the protected use.

5. Medical marijuana dispensaries and cultivation/infusion facilities shall not be located within five hundred (500) feet of another medical marijuana dispensary or cultivation or infusion facility. This distance shall be measured in a straight line between the exterior walls of the building, or portions thereof, in which the businesses are conducted or proposed to be conducted.

6. Any medical marijuana dispensaries and cultivation/infusion facilities lawfully operating shall not be rendered in violation of these provisions by the subsequent location of a public or private preschool, kindergarten, elementary, secondary or high school, place of worship or public park.

7. Retail sales and dispensing of medical marijuana and related products is prohibited at off-site medical marijuana cultivation and infusion facilities.

8. Operating hours of medical marijuana dispensaries are limited to 8:00 a.m. to 8:00 p.m.

9. Drive-through services are prohibited.

10. There shall be no emission of dust, fumes, vapors, odors, or hazardous waste into the environment from any facility where medical marijuana cultivation or infusion occurs.

11. Marijuana remnants and byproducts shall be secured and properly disposed of, and shall not be placed within the facility's exterior refuse containers.

12. Medical marijuana cultivation and infusion may occur within a medical marijuana dispensary. Otherwise, a medical marijuana dispensary may have one (1) additional location where cultivation, infusion and production of medical marijuana products occur pursuant to A.R.S. § 36-2804(B)(1)(b)(ii).

E. Permits Required:

1. Where medical marijuana dispensaries and cultivation/infusion facilities are classified as a permitted use, an administrative permit shall be obtained prior to establishment of the use. To obtain an administrative permit, an applicant must comply with divisions (E)(3) through (E)(10) below.

2. Where medical marijuana cultivation/infusion facilities are classified as a conditional use, a Conditional Use Permit shall be obtained prior to establishment of the use. The ~~standard~~ Conditional Use Permit application procedures and requirements shall be met, along with additional requirements contained herein.

3. The applicant shall provide the name and location of the medical marijuana dispensary. For an off-site cultivation and/or infusion facility, the applicant shall provide the name and location of the dispensary with which it is associated.

4. If the applicant is not the property owner, the application shall include both the applicant's and property owner's signatures.

5. The applicant shall provide a copy of their dispensary registration certificate issued by ADHS pursuant to A.R.S. § 36-2804(B), and a copy of the operating procedures adopted pursuant to A.R.S. § 36-2804(B)(1)(c) along with a site plan, floor plan, and security plan.

6. If the dispensary and/or cultivation/infusion facility is proposed to be located in an existing building, the applicant shall obtain a building permit for change of occupancy with plans prepared by a professional architect registered in the State.

7. A medical marijuana dispensary or infusion facility that incorporates medical marijuana by means of cooking, blending, or incorporation into consumable/edible goods, shall obtain applicable food service permits from the County Health Department.

8. If the measured distance is within twenty-five (25) feet of the required limits identified in divisions (D)(4) and (D)(5) above, a survey sealed by a registered land surveyor may be required, at the discretion of the Town Manager, and at the applicant's expense, to verify the required separation.

9. Permit fees shall be as stipulated in the fee schedule adopted by resolution of the Town Council in effect at the time of application.

10. Permits may be denied if the applicant, in the reasonable opinion of the Town Manager, is failing to comply with any applicable state or local law or regulation.

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

Attachment:

Resolution No. 2017-03

RESOLUTION NO. 2017-03

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. 2017-03

WHEREAS, the Planning and Zoning Commission has, at its regularly scheduled meeting held on June 27, 2017, studied and considered Resolution No. 2017-03 (Zone Amendment No. 2017-03), 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. 2017-03 (Resolution No. 2017-03) was held by the Planning and Zoning Commission during its regularly scheduled meeting on June 27, 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 Tusayan, in a regular session assembled on the 27th day of June, 2017, resolved to approve Resolution No. 2017-03, a Resolution of the Planning and Zoning Commission recommending that the Town Council amend Ordinance No. 2012-04 as follows:

SECTION I: <u>REVISIONS</u>

§ 14.0: GENERAL

The provisions of this section shall apply to the uses and conditions hereinafter enumerated. Where this section prescribes regulations more restrictive than the zone in which a use or conditional use is permitted, the provisions of this section shall apply.

§ 14.1: TEMPORARY USES

A. All time requirements are consecutive days per calendar year unless specifically stated otherwise. Only one (1) temporary use permit is to be issued for a parcel at any one time. Permits shall not have overlapping time frames.

B. 1. Special events shall include such outdoor activities as:

a. Transient amusement activities (carnivals, circuses).

b. Tent revivals, seasonal festivals.

c. Outdoor sales events (sidewalk, parking lot sales).

d. Outdoor arts and crafts shows, exhibits (arts, crafts, RV, boat).

2. Events shall be limited to a maximum of five (5) times per calendar year, not to exceed a maximum duration of five (5) days per event.

C. Christmas tree sales lots, subject to not more than forty (40) days of site occupation and operation per year.

D. Campaign offices, subject to not more than seventy (70) continuous days of site occupation and operation.

E. Religious, patriotic, historic or similar displays or exhibits within yards, parking areas or landscaped areas, subject to not more than thirty (30) days of display in any one (1) year period for each exhibit.

F. Contractor's office and storage yards on the site of an active construction project.

G. Watchman's quarters for security purposes on the site of an active construction site of major development projects, but for not more than twelve (12) months, unless otherwise granted a time extension by the Planning and Zoning Commission.

H. Stands for the sale of jewelry, furs, rugs and similar home-type products, subject to not more than thirty (30) days per year.

I. Stands for the sale of produce, subject to not more than thirty (30) days per year. However, this provision does not apply to the sale of produce raised on the premises.

J. Temporary retail food sales, subject to not more than thirty (30) days per year. This shall include stands for sales at one-day special events.

K. Establishment of batch plants in conjunction with road construction projects, subject to Planning and Zoning Commission approval.

L. Temporary occupancy may be issued for a recreational vehicle in a single family residential zone district for a period not to exceed one hundred (100) days per calendar year; provided that the lot is not already occupied by a residential structure.

M. A Temporary Use Permit may be issued for a recreational vehicle, or other temporary living quarters, in a single family residential zone district, for a period up to six (6) months from the date a building permit has been issued for construction of a permanent residence on the same lot as the temporary living quarters. An extension of time may be granted by the Planning and Zoning Commission upon its determination that additional time is necessary for completion of the permanent residence. Once the permanent residence is completed, occupancy of the temporary living quarters is no longer permitted.

N. Metal storage containers, refer to § 14.7 of this Code.

O. Temporary banner signs and community banner signs not permitted elsewhere in this Code, subject to Planning and Zoning Commission approval. The maximum length of time for any such sign shall be sixty (60) days. For guidance in the determination of size, number of signs, height, location and other criteria, the Commission shall refer to § 16 (Signs) of this Code.

P. Additional uses determined to be similar to the foregoing in the manner prescribed in § 20.1-1 (Determination of Similar Uses) may be granted permits by the Town Manager for permitted uses, and by the Planning and Zoning Commission for conditionally permitted uses.

§ 14.1-1: PERMITS AND BONDS

A. A temporary use shall be subject to the approval of a Temporary Use Permit by the Planning and Zoning Commission. The Commission may approve, conditionally approve, or deny an application for a Temporary Use Permit. Upon application for a Temporary Use Permit, the applicant must complete and submit to the Town its form entitled "Application for a Temporary Use Permit" accompanied by the applicable fee as set forth by resolution of the Town Council.

B. Prior to the issuance of a Temporary Use Permit, if applicable, a cash bond shall be deposited with the Town. This deposit shall be used to defray the costs to cleanup the property by the Town in the event the permittee fails to do same.

§ 14.1-2: PERFORMANCE STANDARDS

A. General: Approval of a Temporary Use Permit application shall require compliance with the following performance standards, and any further conditions deemed necessary by the Planning and Zoning Commission in order to reduce possible detrimental effects to surrounding developments, and to protect the public health, safety and welfare.

B. Noise: Noise shall not be generated by any use to the point of disturbing the peace, quiet, and comfort of neighboring residences or businesses. The permit application shall clearly identify all potential sources of excessive noise, and address the measures proposed by the applicant to control any such excessive noise. The Town may require additional measures to control excessive noise including a curfew.

C. Parking: Adequate parking shall be provided. All parking shall be located on the same property as the temporary use; public rights-of-way shall not be used for parking.

D. Location: No permit shall be issued for a use the location of which is deemed to be potentially hazardous to the public. This includes, but is not limited to, heavily congested and/or trafficked areas where the use may impede or inconvenience the public. No use shall be permitted in a public right-of-way.

E. Sanitation: All requirements of the County Health Department and/or other regulatory health authorities shall be met. Provisions for disposal of solid waste shall be required for all uses.

F. Signs: One (1) freestanding or wall-mounted sign not exceeding six (6) square feet in area and four (4) feet in height is permitted. A diagram of the sign indicating size, text, and location on-site is required. Color and materials shall be reviewed by Town staff. No off- site sign is permitted. Additional signing may be permitted at the discretion of the Planning and Zoning Commission.

G. Lighting: Lighting sources shall be aimed or shielded so that the direct illumination shall be confined to the property boundaries of the light source as set forth in § 17 (Lighting) of this Code. The operation of searchlights or similar lighting sources is prohibited.

H. Other Permits: Any permits or licenses required by the Health Department, or Sheriff's Department, shall be obtained prior to establishment of the proposed use.

§ 14.1-3: APPEAL

If a Temporary Use Permit is denied by the Planning and Zoning Commission, the applicant may appeal the decision in writing, within fifteen (15) days, to the Board of Adjustment. The decision of the Board of Adjustment shall be final as prescribed in § 20.6 (Appeals: Board of Adjustment).

§ 14.1-4: EXTENSION OR MODIFICATION OF LIMITATIONS

Upon written application, the Planning and Zoning Commission may extend the time within which temporary uses may be operated, or may modify the limitations under which such uses may be conducted if the Commission determines that such extension or modification is in accord with the purposes of this Code.

§ 14.1-5: CONDITION OF SITE FOLLOWING TEMPORARY USES

Each site occupied by a temporary use shall be left free of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used only in accord with the provisions of the this Code.

§ 14.2: HOME OCCUPATIONS

Home occupations, where permitted by the provisions of this Code, shall be subject to the approval of the Town Manager, and shall comply with the following regulations.

A. 1. A home occupation shall be conducted in a dwelling, and shall be clearly incidental to the use of the structure as a dwelling.

2. In no way shall the appearance of the structure or the premises be so altered, or the conduct of the occupation within the structure be such that the structure or premises may be reasonably recognized as serving a non-residential use (either by color, materials or construction, lighting, signs, sounds or noises, vibrations, display of equipment and the like).

3. No one other than a resident of the dwelling shall be employed in the conduct of a home occupation.

4. No motor or mechanical equipment shall be permitted other than normally incidental to the residential use.

5. The use shall not generate pedestrian or vehicular traffic beyond that normal to the district in which it is located.

6. No storage of materials and/or supplies, including vehicles or equipment used in the occupation, indoors or outdoors, shall be permitted which will be hazardous to surrounding neighbors or detrimental to the residential character of the neighborhood.

7. No building or space outside of the main building shall be used for home occupational purposes, except approved agricultural/horticultural related

activities.

8. There shall be no use of utilities or community facilities beyond that normal to the use of the property for residential purposes.

9. A home occupation shall not create any radio or television interference or noise audible beyond the boundaries of the site.

10. No smoke, odor, liquid, or solid waste shall be emitted.

11. There shall be no outdoor storage or display of materials or equipment maintained on the premises.

12. The conduct of the home occupation shall not interfere with the maintenance of the required off-street parking spaces on the property.

13. The application shall be subject to review each year by the Town Manager. Violation of any criteria listed above shall result in cancellation of the home occupation permit.

B. A decision of the Town Manager regarding the approval, disapproval or conditions imposed may be appealed in writing to the Board of Adjustment within fifteen (15) days of notice of the decision.

§ 14.3: RESERVED

§ 14.4: BED AND BREAKFAST ESTABLISHMENTS

Bed and breakfast establishments, where permitted by the provisions of this Code through the issuance of a Conditional Use Permit, shall be subject to the approval of the Planning and Zoning Commission and shall comply with the following regulations.

A. Applicants for a Conditional Use Permit shall be the property owners.

B. No more than five (5) boarders may be accommodated at any one time.

C. The maximum duration of stay of any one (1) guest shall be ten (10) days.

D. Boarders must enter through the main entrance of the dwelling to get to their rooms, with no other entrances allowed.

E. All parking must be accommodated on site.

F. Continued failure to comply with conditions of approval of a Conditional Use Permit may result in suspension and revocation of the Conditional Use Permit in accordance with § 20.3-14 (Suspension and Revocation) of this Code.

G. For the use of two (2) or more bedrooms, State and County Health Department approval and permits are required.

H. In addition to a Town business license and sales tax, any State business license or sales tax may also be required.

§ 14.5: WIRELESS TELECOMMUNICATION FACILITIES

A. Purpose: The purpose of this section is to establish a process, rules and standards for the construction of wireless telecommunication facilities to:

1. To protect and promote the public health, safety and welfare;
2. To provide guidelines for the siting and design of wireless communication facilities;
3. To protect the town's environmental resources and to minimize adverse impacts on visual resources;
4. To ensure that wireless telecommunication facilities are compatible with adjacent land uses;
5. To minimize the number of towers by encouraging the joint use (co-location) of facilities and by maximizing the use of existing towers and structures;
6. To allow competition in telecommunications service; and
7. To enhance the ability to provide wireless telecommunication services to Town residents, businesses and visitors.

B. Definitions:

Antenna: Any exterior device for transmitting and receiving wireless communication that is mounted on a tower, building, or structure, and that is used to send and receive signals for cellular telephone, personal communication service (PCS), mobile radio, paging, wireless Internet access and similar communication services. Antennas may include panels, microwave dishes, satellite dishes, whip antennas or other devices that may be affixed to a tower, pole or other structure.

Antenna, Attached: An antenna mounted on the exterior of an existing building, silo, smokestack, water tower, utility or power pole, existing wireless communication tower, or an alternative support structure.

Antenna, Concealed (Stealth): An antenna with a support structure that screens or camouflages the presence of antennas and/or towers from public view in a manner appropriate to the site's context and surrounding environment. Examples include human-made trees, flagpoles that do not exceed ten (10)feet above the maximum allowable building height for the zone, utility poles, light poles, water tanks, steeples and architectural and façade features.

Co-Location: Use by two or more wireless communication providers on the same tower or other alternative structure.

Height: The vertical distance from the pre-existing grade at the base of the tower to the highest point of the tower including antennas.

Tower: A self-supporting structure such as a lattice tower or monopole, a guyed tower, or a structure affixed to, or mounted on, an existing or newly constructed building or

other permanent structure, together with associated equipment, designed to support one (1) or more antenna.

Wireless Telecommunication Facilities: Any combination of one (1) or more antennas, towers and/or structures with equipment used for the transmission of wireless communication.

C. Where Allowed: Placement of a Wireless telecommunication facility requires the granting of a Conditional Use Permit by the Planning and Zoning Commission except as specified in division (H) below.

D. Preferred Facilities:

1. Site location and development of wireless telecommunication facilities shall, as much as possible, preserve the existing character of the surrounding land uses and buildings, and the aesthetic visual character of the area.

2. New facilities shall use the most preferred facility type and location where technically feasible, even if it results in an increase in the number of facilities or a higher cost. A lesser-preferred facility type may be permitted only if the applicant presents substantial evidence to show that it will have a lesser visual impact, or is more technically necessary than the use of more preferred facilities.

E. Undesirable Locations:

1. Any site that is within a State or Federal designated scenic corridor such as Highway 64.

2. Any site within a visual corridor or scenic vista, for example along a ridgeline exposed to view from highway travelers, or to residential areas, along a public trail, in a park or recreation area, unless the facility blends with the surrounding natural and human-made environment;

3. Sites adjacent to, or very close to, residential areas; and

4. Sites adjacent to, or very close to, sacred sites.

F. Performance Standards and Design Requirements:

1. Height: New facilities shall not exceed two hundred (200) feet in height.

2. Setbacks: The setback for towers is one hundred-five (105) percent of the tower height from all property lines so that in case of collapse or failure the tower would be contained on the property. Setbacks may be allowed to extend onto adjacent properties if there are dedicated fall zone easements. The setbacks may be reduced if a registered engineer can certify that in case of failure the tower would be contained on site. In commercial and industrial zone districts, the setbacks may be reduced to thirty (30) percent of the tower height if a registered engineer can prove that, in case of failure, the tower would be contained on site. Guys and accessory buildings must meet the setbacks of the underlying zoning classification. Facilities that are located on new or replaced utility poles, street

lights, or traffic signal poles, are exempt from the setback requirements.

3. Color and Materials: Towers and attached antennas must be painted or coated in a color that blends with the surrounding environment. Muted colors, earth tones and subdued hues, such as gray, shall be used. All associated structures such as equipment buildings, including the roofs, shall be painted with colors that match, or are compatible with, the color of the tower.

4. Fencing: New towers, other than flagpoles, utility poles, or other camouflaged facilities, shall be fenced to prevent trespass.

5. Lighting: Lighting on any new tower is prohibited unless required by the Federal Aviation Administration, or by other applicable State or Federal requirements. Motion detector security lighting may be approved if the lights are fully shielded. Any outdoor lighting requires a separate lighting permit and shall be consistent with the requirements of § 17 (Lighting) of this Code.

6. Landscaping: Perimeter landscaping may be required as a condition of approval of the facility, depending on the location. Existing vegetation shall be preserved to the maximum extent possible.

7. Signs: No advertising is permitted anywhere upon, or attached to, the facility. Signage is limited to small non-illuminated warning and identification signs.

8. Permits: A building permit is required for the construction of any new tower, and for accessory structures.

9. Storage: Long-term vehicle storage and other outdoor storage are prohibited.

G. Application Process: Prior to the submittal of a Conditional Use Permit application, the applicant shall schedule a pre-application conference with Town staff. Staff will review the ordinance requirements and submittal requirements to ensure a complete application. In addition, for facilities located within one-half (1/2) mile of a residential area, the applicant shall hold a neighborhood meeting prior to the submittal of an application. Staff will attend the meeting and utilize the comments of neighbors in the analysis presented to the Planning and Zoning Commission. The requirement for a neighborhood meeting may be waived by the Town Manager. The application shall include all of the requirements for any conditional use permit, including fifteen (15) copies of a detailed site plan and elevations, landscape, and fencing plans and the like, plus the following.

1. Site Plan: The site plan shall show existing improvements on the property, adjacent roads and access roads, parking, fencing, lighting, existing trees that will be retained and those that will be removed, setbacks from all property lines, and all proposed improvements including those on the ground.

2. Elevation Drawings: If drawings are submitted in place of photos, they shall show the tower and proposed attached antenna(s), as well as proposed structures on the ground. Materials and colors shall be indicated and color samples shall be provided.

3. Photo Images: If photos are submitted in place of drawings, photo simulations of the proposed facility from each direction shall be provided showing the tower, all

antennas, structures, and equipment facilities, demonstrating the true impact of the facility on the surrounding visual environment. Town staff will assist in specifying recommended vantage points and the requested number of photo simulations at the pre-application conference.

4. Communication Plan: Each applicant shall provide a plan of its facilities to the Town prior to, or in conjunction with, any application for the installation of a wireless telecommunication facility. The plan shall cover the entire Town extending five (5) miles beyond the Town limits. The plan shall include the following. These shall be in general terms, and are not meant to require submittal or confidential or proprietary information.

   a. All of the applicant's existing wireless facilities by size, type, and coverage area.

   b. All presently anticipated future service areas, anticipated dates of development, and types and heights of facilities desired for each of the service areas.

   c. The various types of wireless telecommunication facilities used by the applicant to furnish service and when they are used. This includes drawings providing the sizes and shapes of the antennas and other equipment as well as written materials describing their application.

   d. The applicant's policy direction for the mitigation and/or reduction of existing and proposed towers to avoid the proliferation of such facilities.

   e. The applicant's policy direction on the mitigation and/or reduction of the negative visual impacts created by new towers, including any proposals to conceal or disguise such facilities designed to be architecturally and/or environmentally compatible with their surroundings.

   f. The applicant's policy direction on co-location of antennas on their own facilities, on facilities from other applicants or tower companies, or on other structures that provide the verticality required for the antennas.

   g. Designation of an agent (contact person) of the applicant who is authorized to receive communications and notices pursuant to this section.

5. Written Narrative: A written narrative shall be submitted with the application explaining why the proposed site has been chosen, why the proposed telecommunication facility is necessary, why the requested height was chosen, ability of the facility to accommodate other providers, and any other information requested at the pre-application conference.

6. Existing Structures: Evidence shall be submitted demonstrating that no existing verticality can be utilized within the targeted search area, defined generally as a one (1) mile radius, to meet the applicant's requirements.

7. Property Owner List: A typewritten list of the names and addresses of all property owners, keyed to assessor's parcel numbers, within five hundred (500)

feet of the outside boundaries of the subject property for towers up to ninety-nine (99) feet high, and within one thousand (1,000) feet for towers from one hundred (100) feet to two hundred (200) feet high.

8. Evidence of Notification: For facilities within one quarter (1/4) mile of residential areas, defined as neighborhoods or subdivisions, evidence of notification of property owners within one quarter (1/4) mile, a map indicating tower site and residential area, and evidence of neighborhood meeting including sign-in sheet and a description of how the design addresses the residents' concerns.

H. Exemptions: This Code does not apply to HAM radio towers, which are regulated elsewhere in this Code, or to satellite dishes for television reception at individual single-family residences. In addition, a Conditional Use Permit is not required to co-locate additional antennas on already approved towers unless it results in a substantial change in the approval, such as an increase in tower height. A Conditional Use Permit is not required for attached antennas where the height of the structure the antenna is being attached to is not increased. Examples would be antennas on existing utility or light poles, water towers or on the fascia of existing buildings. A Conditional Use Permit is also not required for a stealth design that meets the height restriction of the zone in which the tower is proposed to be located. Co-locations are subject to the same conditions of approval as the original Conditional Use Permit.

I. Abandonment: The provisions of § 19 (Non-Conforming Situations), shall apply to wireless telecommunications facilities. Pursuant to § 19.11, A tower shall be considered abandoned and the use discontinued if it is not being utilized (i.e., no providers/antennas on the tower) for a continuous period of one hundred-eighty (180) days.

J. Obsolescence and Removal: In addition to all other remedies available to the Town, if a facility is abandoned pursuant to division (I) above and §19 of this Code, or if a facility becomes obsolete due to changing technology, it shall be the responsibility of the tower owner and/or property owner to remove the towe,r and to restore the site to its original condition within sixty (60) days. If the tower is not removed within this sixty (60) day period, the Town may notify the tower owner that it will contract for removal at the cost of the owner.

§ 14.6: GROUP HOMES FOR THE HANDICAPPED

A. Purpose: The purpose of these regulations is to permit handicapped persons to reside in single-family residential neighborhoods in compliance with the Fair Housing Act, while preserving the residential character of the neighborhood.

B. Zoning Confirmation: Prior to registration, a request for zoning confirmation may be submitted to the Town Manager, or his/her designee, to confirm that the proposed location of the group home is permitted under this section.

C. Standards: Group homes for the handicapped shall be located, developed, and operated in compliance with the following standards.

1. Separation: The minimum separation between group homes shall be one thousand two hundred (1,200) feet, as measured from the closest property lines. No

separation is required when group homes are separated by a utility right-of-way of at least three hundred (300) feet in width, or by a freeway, arterial street, canal or railroad.

2. Occupancy: The number of residents, excluding staff, shall not exceed ten (10).

3. Exterior Appearance: There shall be no sign or other exterior indication of a group home visible from a street.

4. Compliance With All Applicable Building and Fire Safety Regulations: If a group home has one (1) or more non-ambulatory residents, Building Code requirements in addition to those applicable to group homes with no non-ambulatory residents, shall apply.

5. Licensing: Group homes shall comply with applicable licensing requirements.

6. Parking: Any required parking for the group home shall be on site in accordance with § 15 (Off-Street Parking) of this Code.

7. Tenancy: No group home shall house any person whose tenancy would constitute a direct threat to the health or safety of other individuals, or would result in substantial physical damage to the property of others.

D. Additional Requirements of State Law: Notwithstanding the foregoing, if the State has adopted laws or rules for the regulation of a specific type of home, such as a group home for the developmentally disabled pursuant to A.R.S. § 36-582 or an assisted living home pursuant to A.R.S. Title 36, Ch. 4, then any such State Law or rule shall apply in addition to the conditions listed herein, and shall preempt any conflicting condition listed herein.

E. Request for Accommodation:

1. If a group home owner believes any requirement of this ~~zoning~~ Code prevents the establishment of a group home in an economically viable manner, the owner shall submit a written request for accommodation and the reasons why the accommodation is required. The written request shall contain sufficient facts to allow a determination of the group home's needs to address both safety and welfare concerns, and to assure compliance with this section. The Town Manager shall review the written request and determine:

   a. Whether an accommodation should be made pursuant to the requirements of the Fair Housing Act; and

   b. If so, the nature of the accommodation taking into consideration the requirements of the Fair Housing Act, public safety and welfare concerns, and the residential character of the neighborhood.

2. The accommodation shall be made only to the extent necessary to comply with the Fair Housing Act.

§ 14.7: METAL STORAGE CONTAINERS

A. The purpose of this section is to establish the criteria, process, rules, and standards for the use of metal storage containers.

B. Metal Storage Containers are defined as prefabricated, portable metal containers used for storage of personal property.

C. Temporary uses in the single family residential zone districts.

1. Upon the issuance of a Temporary Use Permit, two (2) one hundred sixty (160) square foot metal storage containers may be established with no fees required. A Temporary Use Permit is required prior to the storage containers being located on site, and may be issued for up to eighteen (18) months at a time. Temporary use permits may be renewed as long as a building permit for construction, or major renovation, of the principal residential dwelling remains in active status.

2. For non-permit projects (emergency situations related to fire, flood, or remodels), two (2) one hundred sixty (160) square foot metal storage containers may be established, with a Temporary Use Permit for up to nine (9) months. Emergency related projects are subject to a no fee permit. Temporary use permits may be renewed for an additional nine (9) month period.

3. Metal storage containers shall be located at least ten (10) feet from the front and street side property lines, and shall meet side and rear setback requirements for the zoning district in which they are located. Exceptions may be granted by the Town Manager in an emergency situation for a maximum of ninety (90) days.

4. There shall be no utilities installed within, or to, the metal storage container.

5. Any deviations from these standards may be approved through approval or conditional approval of a Conditional Use Permit.

D. Temporary uses in the multiple family, commercial, and industrial zone districts.

1. Upon the issuance of a Temporary Use Permit, metal storage containers may be established on site while construction of a principal use is on-going. The no fee Temporary Use Permit is required prior to the storage container being located on site, and may be issued for up to eighteen (18) months at a time. Temporary use permits may be renewed as long as the building permit remains in active status.

2. Metal storage containers are required to meet all development standards of the zone district in which they are located including setbacks, building separation, and structural height. Exceptions may be granted by the Town Manager in an emergency situation for a maximum of ninety (90) days.

3. There shall be no utilities installed within, or to, the metal storage container.

E. Permanent uses in the rural residential zone districts.

1. One (1) one hundred sixty (160) square foot metal storage container may be established with an approved building permit, subject to the following standards.

a. There shall be no signage on the metal storage container.

b. The only utilities permitted shall be electricity for lights and outlets (i.e. there shall be no plumbing or mechanical). The addition of electricity requires an electric permit.

c. All containers shall be painted and maintained in either the color of the primary structure or a pre-approved earth tone color consistent with the surrounding terrain upon placement of the container.

d. Metal storage containers are required to meet all development standards of the zone district in which they are located, including setbacks, building separation, and structure height.

e. Use of the container is only for the storage of personal effects of the property owner or tenant. There shall be no commercial use of the container (e.g., rental of the unit to people not residing on the property).

f. The container shall not be used as a residence, or for the housing of animals.

g. Nothing shall be stored on top of, or outside of, the container.

2. Any deviations from these standards may be approved through the approval or conditional approval of a Conditional Use Permit.

3. Metal storage containers existing prior to the adoption of this Code will have until January 1, 2018, to meet these requirements.

F. Permanent uses in commercial and industrial zone districts.

1. Two (2) metal storage containers eight (8) feet by twenty (20) feet or one (1) storage container eight (8) feet by forty (40) feet) may be established with an approved building permit, subject to the following standards.

a. There shall be no signage on the metal storage containers.

b. Electric utility may be permitted as part of the building permit.

c. All containers shall be painted and maintained either the color of the primary structure or a pre-approved earth tone color consistent with the surrounding terrain upon placement of the container(s).

d. Metal storage containers are required to meet all development standards of the zone district in which they are located, including setbacks.

2. Any deviations from these standards may be approved through the approval or conditional approval of a Conditional Use Permit.

3. Metal storage containers existing prior to the adoption of this Code will have until January 1, 2018, to meet these requirements.

§ 14.8: ACCESSORY WIND ENERGY SYSTEMS

A. Purpose: The purpose of this section is to establish a process, rules, and standards for the

construction and operation of accessory wind energy systems used primarily for on-site power consumption.

B. Definitions:

Accessory Wind Energy System: A system designed as a secondary use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption. The system consists of a wind turbine and associated controls, and may include a tower.

Hub Height: The distance measured from ground level to the center of the turbine hub.

Total Height: The distance measured from ground level to the blade extended at its highest point.

Wind Turbine: A device which converts the kinetic energy of the wind into a useable form of electrical energy.

C. Where Allowed:

1. Accessory wind energy systems shall be considered a permitted use in all zone districts except in a single family residential zone district where the lot is less than one (1) acre in size. Roof mounted systems may be permitted in any of the aforementioned zoned areas that are a minimum of one-half (1/2) acre in size.

2. Any deviation from the required standards of this Code may be approved through the issuance of a Conditional Use Permit.

D. Performance Standards and Design Requirements:

1. The requirements of this Code shall apply to all accessory wind energy systems proposed after the effective date of this Code.

2. All accessory wind energy systems shall conform to applicable industry standards, including those of the American National Standards institute.

3. Minimum parcel size of one (1) acre is required for the installation of an accessory wind energy system.

4. No more than two (2) systems are permitted per parcel.

5. Maximum height shall be that of the underlying zone district measured from preexisting natural grade to the center of the turbine hub for horizontal and vertical systems.

6. Setback requirements shall be one hundred (100) percent of the total height of the accessory wind energy system from all property lines, access easements, residential structures and public electric power or telephone lines. No part of the wind system structure, including guy wire anchors, may extend into the minimum setback area of the underlying zone district, or into any access or utility easements.

7. All portions of the energy system shall be a non-reflective, non-obtrusive color,

subject to the approval of the Town Manager. The appearance of the turbines, towers, and any other related components shall be maintained throughout the life of the wind energy facility pursuant to industry standards.

8. Systems shall not be used for displaying any advertising.

9. Systems shall not be illuminated unless required by a State or Federal agency.

10. The electrical collection system shall be placed underground within the interior of each parcel. The collection system may be placed overhead near sub-stations or points of interconnection to the electric grid. All grid connected systems shall have a completed contractual agreement with the local utility prior to the issuance of a building permit.

11. Accessory wind energy systems shall be designed, installed and operated so that noise generated by the system shall not exceed fifty (50) decibels (50 dBA), as measured from the nearest property line, except during short-term events including utility outages and severe wind storms.

12. Building permits shall be obtained for any accessory wind energy system prior to installation.

E. Obsolescence and Removal: If the accessory wind energy system remains non-functional or inoperative for a continuous period of one hundred twenty (120) days, the system shall be deemed to be abandoned, and shall constitute a public nuisance. The owner shall remove the abandoned system at his/her expense after a demolition permit has been obtained. Removal includes the entire structure, including foundations to below natural grade, and transmission equipment.

§ 14.9: MEDICAL MARIJUANA DISPENSARIES, OFF-SITE CULTIVATION, AND INFUSION FACILITIES

A. Purpose: The purpose of this section is to establish a process, rules, and standards for the construction, establishment, and operation of medical marijuana dispensaries, and off-site cultivation and infusion facilities, pursuant to A.R.S. §3 6-2806.01.

B. Definitions:

Medical Marijuana: All parts of any plant of the genus cannabis whether growing or not, and the seeds of such plant that may be administered to treat or alleviate a qualifying patient's debilitating medical condition, or symptoms associated with the patient's debilitating medical condition.

Medical Marijuana Dispensary: A not-for-profit entity defined in A.R.S. § 36-2801(11) that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells or dispenses marijuana, or related supplies, and educational materials to qualifying patients or their designated caregivers.

Medical Marijuana Infusion Facility: A facility that incorporates medical marijuana by means of cooking, blending, or incorporation into consumable/edible goods.

Medical Marijuana Off-Site Cultivation Location: A building, structure, or premises

associated with, but separate from, a medical marijuana dispensary where cultivation, storage, infusion and/or manufacture of medical marijuana products is accomplished.

C. Where Allowed:

1. Medical marijuana dispensaries shall be considered a permitted use in commercial zone districts subject to the following performance standards and design requirements listed in subsection D. below.

2. Medical marijuana off-site cultivation and infusion facilities shall be considered permitted uses in the industrial zone districts subject to the districts' development standards, and subject to the following performance standards and design requirements listed in subsection D. below. Off-site cultivation and infusion facilities shall be subject to an approved Conditional Use Permit in the commercial zone districts.

D. Performance Standards and Design Requirements:

1. Medical marijuana dispensaries shall be located in a permanent building, and may not locate in a trailer, cargo container, or motor vehicle.

2. Medical marijuana dispensaries shall have a single secure entrance, and shall implement appropriate security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana pursuant to A.R.S. § 36-2806(C).

3. Medical marijuana dispensaries shall be a maximum of two thousand five hundred (2,500) gross square feet.

4. Medical marijuana dispensaries and cultivation/infusion facilities shall not be located within five hundred (500) feet of a public or private preschool, kindergarten, elementary, secondary or high school, place of worship or public park existing before the date of application for the medical marijuana dispensary or cultivation/infusion facility. This distance shall be measured in a straight line from the exterior walls of the building, or portion thereof, in which the business is conducted, or proposed to be conducted, to the property line of the protected use.

5. Medical marijuana dispensaries and cultivation/infusion facilities shall not be located within five hundred (500) feet of another medical marijuana dispensary or cultivation or infusion facility. This distance shall be measured in a straight line between the exterior walls of the buildings, or portions thereof, in which the businesses are conducted or proposed to be conducted.

6. Any medical marijuana dispensaries and cultivation/infusion facilities lawfully operating shall not be rendered in violation of these provisions by the subsequent location of a public or private preschool, kindergarten, elementary, secondary or high school, place of worship or a public park.

7. Retail sales and dispensing of medical marijuana and related products is prohibited at off-site medical marijuana cultivation and infusion facilities.

8. Operating hours of medical marijuana dispensaries are limited to 8:00 a.m. to 8:00

p.m.

9. Drive-through services are prohibited.

10. There shall be no emission of dust, fumes, vapors, odors, or hazardous waste into the environment from any facility where medical marijuana cultivation or infusion occurs.

11. Marijuana remnants and byproducts shall be secured and properly disposed of, and shall not be placed within the facility's exterior refuse containers.

12. Medical marijuana cultivation and infusion may occur within a medical marijuana dispensary. Otherwise, a medical marijuana dispensary may have one (1) additional location where cultivation, infusion and production of medical marijuana products occur pursuant to A.R.S. § 36-2804(B)(1)(b)(ii).

E. Permits Required:

1. Where medical marijuana dispensaries and cultivation/infusion facilities are classified as a permitted use, an administrative permit shall be obtained prior to establishment of the use. To obtain an administrative permit, an applicant must comply with divisions (E)(3) through (E)(10) below.

2. Where medical marijuana cultivation/infusion facilities are classified as a conditional use, a Conditional Use Permit shall be obtained prior to establishment of the use. The Conditional Use Permit application procedures and requirements shall be met, along with additional requirements contained herein.

3. The applicant shall provide the name and location of the medical marijuana dispensary. For an off-site cultivation and/or infusion facility, the applicant shall provide the name and location of the dispensary with which it is associated.

4. If the applicant is not the property owner, the application shall include both the applicant's and property owner's signatures.

5. The applicant shall provide a copy of their dispensary registration certificate issued by ADHS pursuant to A.R.S. §3 6-2804(B), and a copy of the operating procedures adopted pursuant to A.R.S. § 36-2804(B)(1)(c) along with a site plan, floor plan, and security plan.

6. If the dispensary and/or cultivation/infusion facility is proposed to be located in an existing building, the applicant shall obtain a building permit for change of occupancy with plans prepared by a professional architect registered in the State.

7. A medical marijuana dispensary or infusion facility that incorporates medical marijuana by means of cooking, blending, or incorporation into consumable/edible goods, shall obtain applicable food service permits from the County Health Department.

8. If the measured distance is within twenty-five (25) feet of the required limits identified in divisions (D)(4) and (D)(5) above, a survey sealed by a registered

land surveyor may be required, at the discretion of the Town Manager, and at the applicant's expense, to verify the required separation.

9. Permit fees shall be as stipulated in the fee schedule adopted by resolution of the Town Council in effect at the time of application.

10. Permits may be denied if the applicant, in the reasonable opinion of the Town Manager, is failing to comply with any applicable state or local law or regulation.

SECTION II: SEVERABILITY

If any section, subsection, subdivision, sentence, phrase or portion of Resolution No. 2017-03 (Zone Amendment 2017-03) or the application to any person or place is held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this zone amendment. The Planning and Zoning Commission declares that it would have recommended adoption of these revisions to Ordinance No. 2012-04 and each section, subsection, sentence, clause, or phrase of this zone amendment in spite of the fact that one or more of the same be declared unconstitutional or invalid.

SECTION III: ADMINISTRATIVE REVISIONS

The Zoning Administrator of the Town of Tusayan is hereby given the authority to make any non-substantive changes to the Zoning Ordinance. These non-substantive changes will include such things as grammatical errors, error in mathematical calculations, erroneous references from one section of the Code to another section, changes in formatting, or any other such changes provided a report is given to the Planning and Zoning Commission and the Town Council indicating which changes are to be made.

PASSED AND ADOPTED THIS 27th DAY OF JUNE, 2017.

_____

Rob Gossard, Chairman

ATTEST

_____

Melissa M. Drake, Town Clerk

CERTIFICATION

I, Melissa M. Drake, hereby certify that the foregoing Resolution No. 2017-03 was passed and adopted by the Planning and Zoning Commission of the Town of Tusayan at a regularly scheduled meeting on the 27th day of June, 2017, by the following vote:

AYES:
ABSENT:
NOES:
ABSTENTIONS:

_____

Melissa M. Drake, Town Clerk

Date: June 27, 2017

To: Planning and Zoning Commission

From: Planning staff

Subject: Resolution No.2017-04 (Zone Amendment No. 2017-04)

Recommendation: That the Planning and Zoning Commission adopt Resolution No. 2017-04; a Resolution of the Planning and Zoning Commission of the Town of Tusayan recommending that the Town Council amend Ordinance No. 2012-04 by approving Zone Amendment No. 2017-04.

The following reflects changes in Section 15 of the Zoning Ordinance. All wording/numbers that are struck-through are to be eliminated, all wording/numbers in bold italicized print are to be added, and all other wording/numbers remain unchanged.

§ 15: OFF-STREET PARKING

§ 15.0: PURPOSE

In order to alleviate or to prevent traffic congestion and shortage of curb spaces, off-street parking facilities shall be provided ~~incidental to~~ ***for*** new uses, ~~and~~ major alterations, or enlargement of existing uses. The number of parking spaces prescribed in this section shall be in proportion to the need for such facilities created by the particular type of use. Off-street parking shall be laid out in a manner that will ensure its usefulness, protect the public safety and, where appropriate, insulate surrounding land uses from its impacts.
~~(Ord. 2012-04, passed 12-5-2012)~~

§ 15.1: BASIC REQUIREMENTS FOR OFF-STREET PARKING

A. Off-street parking shall be provided for any ~~new~~ ***newly constructed*** building, ~~constructed~~, for any new use established, for any addition or enlargement ~~of~~ ***to*** an existing building ~~or use~~, ~~and~~ for a~~ny~~ change in the occupancy of a~~ny~~ building, or the manner in which a~~ny~~ use is conducted that would result in additional parking spaces being required, subject to the provisions of this section.

B. No existing use of land or structure shall be deemed to be non-conforming solely because of the lack of off-street parking facilities prescribed in this section; provided that, facilities being used for off-street parking on the effective date of this ~~zoning~~ Code shall not be reduced in capacity to less than the minimum standards prescribed in this section.

C. For additions or enlargements of existing buildings or uses, or any change of occupancy or manner of operation that would increase the number of parking spaces required, the additional parking shall be required only for such addition, enlargement or change, and not for the entire building or use; provided that, no additional parking shall be required where the total number of spaces prescribed for the addition, enlargement or change is less than ***ten (10) percent*** ~~10%~~ of the number of spaces prescribed for the use as conducted prior to such addition, enlargement or change.

D. Parking required by this section for any building or use shall not be considered as providing parking for any other building or use, except ~~where a joint parking facility serves more than one building or use or where the Planning and Zoning Commission determines that overlapping parking requirements will not conflict with each other~~. ***as provided in § 15.2 of this Code.***

E. ~~All~~ Off-street parking spaces and areas required by this section shall be maintained for the duration of the use requiring such ***off-street parking spaces and*** areas.

F. Required off-street parking spaces and areas shall not be used for the sale, display or repair of motor vehicles or ***any*** other goods and services.

G. No use shall be required to provide more spaces than prescribed by this section or prescribed by a~~ny~~ Conditional Use Permit. ~~(Ord. 2012-04, passed 12-5-2012)~~

§ 15.2: <u>ADJUSTMENTS TO OFF-STREET PARKING REQUIREMENTS</u>

A. The Planning and Zoning Commission shall have the authority to approve a request for a parking adjustment under the following conditions:

1. A credit may be given for on-street parking spaces that are adjacent to the frontage of the designated site towards the total number of required off-street parking spaces provided that such on-street parking spaces remain available for public parking during normal business hours.

2. No on-street parking spaces located within fifteen (15) feet of a stop-sign or corner radius shall be counted.

3. No on-street parking spaces located in front of a bus stop shall be counted.

B. <u>Notice</u>: Notice of an application for a parking adjustment shall be published in a newspaper of general circulation not less than fifteen (15) days prior to the date set for the Commission hearing consistent with § 20.5 (Public Hearing Time and Notice) of this Code.

C. <u>Finding for Approval</u>: The Planning and Zoning Commission, in approving a parking adjustment shall find as follows:

1. The proposed parking modification and use of the structure is necessary or desirable for the development of the community, is in harmony with the various elements and objectives of the General Plan, and is not detrimental to existing uses or to uses specifically permitted in the affected zone district.

2. That the required parking cannot be provided without the approval of the requested adjustment.

3. That approval of the parking adjustment will not harm the integrity of the on-site structure or the surrounding neighborhood.

§ 15.3: SHARED PARKING

A. A maximum reduction of thirty (30) percent of the minimum parking requirements for individual uses may be granted by the Town Manager, where joint use of parking facilities or other factors will mitigate peak parking demand.

1. A request for parking reductions, resulting from joint usage, shall include information listed in subsection a. and b. listed below:

a. Documentation and quantification of proposed land uses and anticipated functional relationships between the parking needs of the different land uses shall be provided.

b. Adjustments shall take into account calculations of the number of off-street parking spaces required for each land use within the area proposed for joint parking. Other elements to be considered include seasonal adjustments for parking demand and a determination of the mode of transit used in reaching or departing the area being considered.

2. In granting parking reductions for shared use of parking facilities, the Town Manager shall make one or more of the following findings:

a. The report justifies the requested parking reduction based upon the presence of two (2) or more adjacent land uses which, because of the substantially different operating hours or different peak parking characteristics, will allow joint use of the same parking facilities.

b. The report indicates there are public transportation facilities and/or pedestrian circulation opportunities that justify the requested reduction of parking facilities.

c. The report finds that the use otherwise adheres to the parking standards in this Chapter.

d. The report finds that clustering different land uses actually requires reduced parking spaces by serving multiple trip purposes to that area.

3. As a condition of approval of the reduction in required parking, the Town Manager may require the granting of reciprocal access and parking agreements with surrounding properties through the creation of a legal instrument, in a form acceptable to the Town Attorney, to assure the permanent continuation of the circumstances under which the parking reductions were granted.

§ 15.4: OFF-SITE PARKING FACILITIES

A. Required parking for a development may be provided off-site under certain instances. Requests for off-site parking facilities shall meet the following requirements:

1. Proximity of the off-site parking facilities; and

2. Ease of pedestrian access to the off-site parking facility; and

3. The type of use which the off-site parking is intended to serve, recognizing that such facilities are generally not appropriate for high-turnover uses; and

4. The need for locating parking facilities off-site, and the resulting design benefits of the off-site parking, if any.

B. As a condition of granting approval to the development of off-site parking facilities, the applicant and other involved parties shall be required to sign a legal agreement, acceptable to

the Town Attorney, ensuring the continued availability of the off-street parking facilities for the use they are intended to serve.

§ 15.5: DESIGN STANDARDS FOR OFF-STREET PARKING AREAS

A. Each automobile off-street parking space shall consist of a rectangular area not less than nine (9) feet wide by nineteen (19) feet long, together with drives, aisles, turning and maneuvering areas having access at all times to a public street or alley. All parallel parking spaces shall be a minimum of eight (8) feet wide by twenty-four (24) feet long.

B. Each off-street parking area shall provide an area or areas for landscaping equivalent to ~~ten~~ ***five (5)*** square feet for each parking space. Such landscaping shall be provided along the periphery of the parking area and shall consist of trees, plants ~~materials~~, ***and inorganic materials***; provided, however, that such landscaped area shall include at least one (1) minimum fifteen (15) gallon tree for each ~~ten~~ ***fifteen (15)*** parking spaces. In addition, one (1) minimum fifteen (15) gallon tree shall be provided in the interior portions of the parking area for each ten-thousand (10,000) square feet of parking area. Required landscaped yard or setback areas shall not be construed as satisfying any portion of the landscaped area required by this section unless authorized and accepted as such by the Planning and Zoning Commission.

C. Any unused parking space resulting from the design of the parking area shall be used for landscape purposes.

D. Required landscaped areas shall be provided with a permanent and adequate means of irrigation and shall be adequately maintained.

E. ~~All~~ Off-street parking areas, except for single-family dwellings and ~~two-family dwellings~~ ***duplexes*** shall be constructed and maintained to provide the following:

1. Grading, drainage, and a minimum of two (2) inches of asphaltic concrete paving over a four (4) inch aggregate base or other acceptable paving design prepared by a registered professional engineer to the specifications of the Town Engineer unless a paving waiver is approved by the Planning and Zoning Commission.~~or a variance is granted by the Hearing Officer.~~

~~2. Internal spacing, circulation and dimensions as indicated on the sample parking lot plan at the end of this section;~~

2. Bumpers, wheel stops, parking space markings, and other vehicular controls to the specifications of the Town Manager or ***his/her*** designee, ***shall be provided.***.

3. Lighting shall comply with the provisions of § 17 of this Code~~. may be required to the specifications of the Tow Manager or designee. In all cases, such lighting shall be arranged and shielded so that direct rays do not shine onto adjacent property and so that no light is projected above the horizontal;~~

4. Drainage shall be provided to the specifications of the ~~Town staff~~ ***Building Official or Town Engineer.***

5. Parking lot turn-outs shall be a minimum of one-hundred (100) feet from the nearest street intersection.

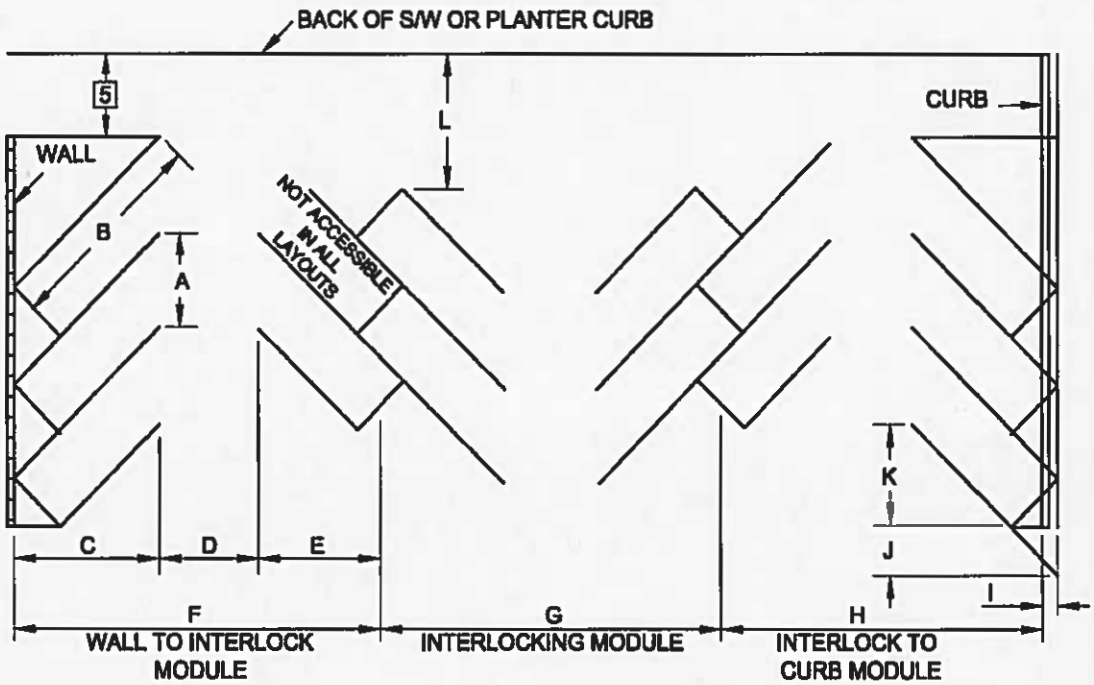
F. ~~Parking area design dimensions shall be as follows. (See sample parking lot plan.) set forth in Table 15.D below. In the event practical difficulties and hardships result from the strict enforcement of the following standards due to existing permanent buildings or an irregularly shaped parcel, an administrative variance by the Town Manager may be given for Standards Nos. 1 through 4 inclusive, not to exceed 10%. Note: The number in the left hand column of the following listing refers to the numbers on the attached sample parking lot plot plan.~~

F. Parking area design and dimensions shall be as set forth in Table 15.A below. In the event practical difficulties and hardships result from strict enforcement of the standards in Table 15.A, due to existing buildings or an irregularly shaped lot, an administrative variance by the Town Manager may be given for standards contained in this section, provided it does not exceed ten (10) percent of the requirements.

~~***TABLE 15.D.***~~

~~1.~~	~~30 degrees~~	~~45 degrees~~	~~60 degrees~~	~~90 degrees~~
~~2.~~	~~16 feet~~	~~17 feet~~	~~18 feet~~	~~18 feet~~
~~3.~~	~~14 feet~~	~~16 feet~~	~~19 feet~~	~~24 feet~~
~~4.~~	~~46 feet~~	~~50 feet~~	~~55 feet~~	~~60 feet~~
~~5~~	~~14 feet for one way traffic; 24 feet for two way traffic (2 way aisles shall be permitted only on 90 degree parking designs).~~			
~~6.~~	~~Islands shall have a maximum length of 180 feet.~~			
~~7.~~	~~Islands shall have a minimum width of 5 feet. The minimum average width of islands at the extremities of 90 degree parking islands shall be 5 feet.~~			
~~8.~~	~~Curbs shall be installed at a minimum of 5 feet from walls, fences, buildings or other structures. This requirement excepts driveways that are not a part of the maneuvering area for parking. A curb shall be installed a minimum of 3 feet from the edge of driveways that are parallel to block walls or fences.~~			
~~9.~~	~~Curb radius shall be *no less than three (3) foot.* 3 foot minimum.~~			
~~10.~~	~~Driveway widths shall be 24 feet minimum and constructed to town standards.~~			
~~11.~~	~~The first parking space shall be ten (10) feet minimum distance from front and street side property lines.~~			
~~12.~~	~~Walk openings 4 feet wide shall be permitted in the island every 5 spaces.~~			
~~13.~~	~~Parking stall length may include allowance for vehicle overhang of a curb or planter area up to a maximum of three (3) feet.~~			
~~14.~~	~~All parallel parking stalls shall be a minimum of 8 feet x 24 feet.~~			

TABLE 15.A



PARKING ANGLE & STALL WIDTH	STALL WIDTH PARRELL TO AISLE (A)	STALL LENGTH OF LINE (B)	STALL DEPTH PERPEND-ICULAR TO WALL (C)	AISLE WIDTH (D)	STALL DEPTH TO INTER-LOCK (E)	WALL TO INTER-LOCK (F)	INTER-LOCK TO INTER-LOCK (G)	INTER-LOCK TO CURB (H)	WALL TO WALL (2C+D)	BUMPER OVER-HANG (I)	OFFSET (J)	SET-BACK (K)	CROSS-AISLE ONE-WAY (L)	CROSS-AISLE ONE-WAY (L)
30°														
8.0'	16.0	29.9'	14.9'	13.0'	11.5'	39.4'	36.0'	37.8'	42.8'	1.6'	4.0'	13.9'	14.0'	24.0'
9.0'	18.0'	35.6'	17.8'	12.0'	13.9'	43.7'	39.8'	42.1'	47.6'	1.6'	4.5'	17.3'	14.0'	24.0'
45°														
8.0'	11.3'	24.0'	17.0'	13.0'	14.2'	44.2'	41.4'	42.4'	47.0'	1.8'	5.7'	11.3'	14.0'	24.0'
9.0'	12.7'	29.0'	20.5'	12.0'	17.3'	49.8'	46.6'	48.0'	53.0'	1.8'	6.4'	14.1'	14.0'	24.0'
90°														
8.0'	8.0'	16.0'	16.0'	24.0'	16.0'	56.0'	56.0'	53.5'	56.0'	2.5'	0.0'	0.0'	14.0'	24.0'
9.0'	9.0'	18.0'	19.0'	24.0'	20.0'	62.0'	62.0'	59.5'	62.0'	2.5'	0.0'	0.0'	14.0'	24.0'

1. Markings in parking lot shall be painted in a manner consistent with town requirements.
2. Minimum 2-way drive aisle widths shall be 24' unless backing width governs (see note 3).
3. Aisle width (D) is minimum 1-way aisle width for backing purposes.
4. Minimum drive entrance shall be 12' (one-way) or 24' (two-way).
5. Caution must be taken to ensure that vehicles do not back up over sidewalks.
6. Islands shall have a maximum length of 180'

G. Where off-street parking facilities are provided, but not ~~required by~~ addressed in ***this*** ~~§ 15~~, ***section***, such facilities shall comply with the development standards ~~of this section~~ ***contained herein.***

~~H. Loading spaces shall be provided to the specifications of the Town Manager or designee.~~

H. Parking for the handicapped shall be provided in accordance with the requirements set forth in A.R.S. § 34-405-C ***as follows: Each handicapped parking space shall be a minimum of fourteen (14) feet wide, lined to provide a nine (9) foot wide parking area and a five (5) foot wide loading area and shall be a minimum of nineteen (19) feet in length. If two (2) handicapped spaces are located adjacent to each other, they may share the five (5) foot wide loading area resulting in a width of twenty-three (23) feet for the two (2) spaces.***

~~I. Parking for the handicapped shall be provided in accordance with the requirements of A.R.S §34.405.C.~~

I. Not more than fifty (50) percent of the total number of parking spaces shall be designed for compact and sub-compact vehicles. Such space shall be a minimum of eight (8) feet wide by sixteen (16) feet long.

J. Motorcycle parking spaces shall have a minimum usable area of fifty-six (56) square feet.

~~K. At the discretion of the Town Manager or designee, off street parking facilities providing more than 40 parking spaces may contain an on-site traffic circulation and parking plan to accommodate both full size and compact car spaces. Said optional parking plans shall meet the following criteria.~~

~~1. Not more than 40% of the total number of parking spaces shall be designed for compact and sub-compact vehicles.~~

~~2. Compact spaces must be designed for 90 degree parking and located opposite a 45 degree or 30 degree full sized aisle and parking stall.~~

~~3. Compact car parking spaces shall measure at least eight feet by 15 feet in size.~~

K. At the discretion of the Town Manager, ~~or designee,~~ designated bus parking may be required for uses subject to tour bus traffic. Where ~~required~~ ***provided,*** minimum dimensions for bus parking spaces shall be ***twelve*** (12) feet ***wide*** by ***forty-two*** (42) feet ***long*** for angle parking, and ten (10) feet ***wide*** by ~~48~~ ***fifty-five (55) feet long*** for parallel parking.

L. Parking areas serving facilities that make use of shopping carts including, but not limited to, supermarkets, drug stores, and lumber/hardware stores, shall contain shopping cart storage areas. The dimensions and locations of such storage area for the proposed use shall be approved by the Zoning Administrator.

M. Driveway dimensions for multiple family residential dwellings and non-residential uses shall be in conformance with Table 15.B below:

TABLE 15.B
Driveway Dimensions for Multi-Family Dwellings and Non-Residential Uses

Driveway Dimension	
Width, excluding flares or curb radius	
Minimum (one-way)	*12 feet*
Minimum (two-way)	*24 feet*
Maximum	*36 feet*
*Turn radius**	
Minimum	*15 feet*
Maximum	*50 feet*
*Minimum Spacing***	
From side property line	*5 feet*
From street corner	*15 feet*

* ***On-site driveway exposed to entry or exit by right turning vehicles (applicable only to driveways with curb radius.***

** ***Minimum spacing is measured along the curb line from the top of driveway to the side property line, or the beginning of the intersection.***

Note: A larger dimension may be required for emergency vehicle access. The Fire Chief and/or the Town Engineer shall determine the dimensions that may be required.

§ 15.6: PARKING SPACES REQUIRED

A. *General*

~~1. In the CN Zone, off-street parking for a shopping center shall be provided on the same site at a ratio of five spaces for each 1,000 square feet of gross floor area.~~

~~2~~*1.* In all residential zones ***districts,*** ~~for residential uses,~~ off-street parking shall be provided in accordance with § 10.2.C. of this Code

~~3~~*2.* In all other zone ***districts*** ~~and for all other uses,~~ off-street parking shall be provided in accordance with the standards prescribed in ~~§15.2(B)~~ ***this section.*** The requirement for any use not specifically listed shall be determined by the Town Manager ~~or designee~~ on the basis of ~~the~~ requirements for similar uses.

~~4.~~*3.* Where application of the off-street parking requirements result in a fractional number of spaces, a fraction of one-half or greater shall be resolved to the next higher whole number.

~~5. All required off street parking spaces shall be located on the same lot as the use to be served unless a joint parking facility or parking district is established and approved by the Planning and Zoning Commission.~~

B. ~~*Schedule of*~~ ***Off-street parking requirements as set forth in Table 15.C below.***

TABLE 15.C

USE	MINIMUM OFF-STREET PARKNG REQUIRED
Art gallery	1 space for each 250 square feet of ~~gross~~ ***UFA***
Automobile, boat, camper or similar vehicle sales, display or rental uses	1 space for each 500 square feet of gross floor area, but not less than 5 spaces
Automobile car wash	Spaces or reservoir parking equal to 5 times the capacity of the car wash
Bank, financial institution, public or private utility office	1 space for each 200 square feet of ***UFA*** ~~gross floor area~~
Barber or beauty shop	1 space for each 200 square feet of UFA plus one space for each employee on the largest shift. ~~gross floor area~~
USE	MINIMUM OFF-STREET PARKING REQUIRED
Bed and breakfast	1 space for each guest room, plus 2 spaces for permanent residents
Boarding or rooming house	1 space for each guest room ~~or guest dwelling~~ ***plus 1 space for each employee on the largest shift.***
Bowling alleys	3 spaces for each alley
Camp	1 space for each employee on largest shift, plus 1 space for each camp vehicle normally parked on the premises plus 1 visitor space for each 10 campers
Church, chapel or mortuary	1 space for each 3 seats in the main assembly room; or 1 space for each 20 square feet in the main assembly room
Cleaning or laundry use or similar personal service use	1 space for each 250 square feet of gross floor area
Clubs or lodges	1 space for each 3 seats in the main assembly room; or 1 space for each 20 square feet in the main assembly room
College or university, including auditoriums, stadiums and housing facilities; vocational schools	0.75 space for each full-time equivalent student, less the number of spaces provided for on-campus housing facilities according to this schedule
Commercial service uses, repair shops, garages, wholesale uses	1 space for each 200 square feet of gross floor area (including display)
Community center	1 space for each 250 square feet of gross floor area or 1 space for each 4 patrons to the maximum capacity, plus 1 space for each employee on the largest shift
Contractor's yard	2 spaces, plus one space for each employee
Convalescent home	1 space for each 3 patient beds
Convenience markets	1 space for each 200 square feet of ~~gross floor area~~ ***UFA plus***

	1 space for each employee on the largest shift
USE	**MINIMUM OFF-STREET PARKING REQIRED**
Country club, recreational use, or swim club	1 space for each 3 persons based on the maximum anticipated capacity of all facilities capable of simultaneous use as determined by the Town Manager
Day nursery or nursery school	1 space for each staff member, plus 1 space for each 10 students
Dormitories and other student housing	2 spaces for each 3 guest rooms
Drive-in restaurants	1 space for each 100 square feet of ~~gross floor area~~ ***UFA,*** but not less than 10 spaces for each such establishment
Elementary or junior high school	2 spaces for each teaching station
Fire station	1 space for each 200 square feet of gross floor area
Food store, supermarket or similar use	1 space for each 150 square feet of ~~gross floor area~~ ***UFA*** ~~(including display)~~ plus one space for each employee on the largest shift
Furniture or appliance stores	1 space for each 750 square feet of sales display area
Government buildings	1 space for each 200 square feet of ***UFA*** ~~in addition to the parking required for employees~~ plus one space for each employee on the largest shift
High school, including auditoriums and stadiums on site	7 spaces for each teaching station
Horse stable	1 space for each employee plus 1 space for each 4 stalls
Hospital	1 space for each 2 patient beds
Hotels and motels	1 space for each guest room ***plus 1 space for each employee on the largest shift***
Kennel	1 space for each employee, plus 1 space for each 1,000 square feet, but no less than 4 spaces
Manufacturing or industrial uses, including office or other incidental operations on the site	2 parking spaces for each 3 employees, but in no event less than 2 spaces for each 1,000 square feet of gross floor area
Medical or dental office	5 spaces for each doctor
Mineral extraction operations	1 space for each employee on the maximum ***largest*** shift
Other business, technical service, administrative or professional office or commercial building	1 space for each 250 square feet of ~~gross floor area~~ ***UFA***
Plant nursery, garden shop	5 spaces, plus additional space for each 1,000 square feet of sales or display area
Post office	1 space for each employee, plus 1 space for each 500 square

	feet of ~~gross floor area~~ ***UFA***
USE	**MINIMUM OFF-STREET PARKING REQUIRED**
Recycling center	1 space for each employee, plus 1 space for each ~~500~~ ***1,000*** square feet of gross floor area
Restaurant, cocktail lounge or similar use for sale or consumption of food or beverage	1 space for each 100 square feet of ~~gross floor area~~ ***UFA*** (including outdoor dining areas), but not less than 10 spaces for each such establishment
Retail, general	1 space for each 200 square feet of ~~gross floor area~~ ***UFA plus 1 space for each employee on the largest shift***
Retail, outdoor	1 space for each 500 square feet of open sales and display area, plus 1 space for each employee
Retail, showroom	1 space for each 500 square feet of showroom/display area, plus 1 space for each employee ~~additional parking required for associated warehouse area~~
Self-service storage	2 spaces, plus 1 space for each 100 units
Service station	5 spaces
Shopping Centers	***1 space per 200 sq. ft. of UFA plus 1 for each employee***
Skating rinks	1 space for each 3 seats; or 1 space for each 50 square feet of rink area
Theater or auditorium not on a school site	1 space for each 3 seats in main assembly room; or 1 space for each 20 square feet in main assembly room
Warehouse and distribution industry	2 parking spaces for each 3 employees ***on the largest shift***, but in no event less than 1 space for each 2,000 square feet for the first 20,000 square feet of floor area; 1 space for each 4,000 square feet of floor area ~~of the remaining building area. If there is more than 1 shift, the number of employees on the largest shift may be used in determining parking requirements~~

Note: ***Usable Floor Area (UFA) means usable floor area for the primary use of the building, excluding bathrooms, storage areas, hallways, and so on.***

C. Tour bus parking. For hotels and motels with more than sixty (60) guest rooms, parking for up to four (4) tour buses will be allowed in lieu of automobile parking spaces at a ratio of one (1) tour bus space for every sixteen (16) automobile parking spaces; provided that, in no event shall the number of automobile parking spaces be less than seventy-five (75) percent of that otherwise required. Additional tour bus parking spaces may be provided, but no additional credit will be given.

D. ***Loading Spaces***
There shall be provided on the same lot with each commercial and industrial building or structure, adequate space for off-street loading, unloading and the maneuvering of commercial

vehicles. There shall be no loading or uloading of commercial vehicles on public streets. Off-street maneuvering space shall be provided so that no backing onto a public street is required.

E. ***Hours of Operation: On-site operations shall prohibit non-emergency loading and unloading of materials, exterior maintenance, refuse removal and other activities between the hours of 7:00 p.m. and 7:00 a.m. daily.***

F. ***No loading docks or service bays shall be visible from an arterial street or State highway.***

Attachment:
Resolution No. 2017-04

RESOLUTION NO. 2017-04
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. 2017-04

WHEREAS, the Planning and Zoning Commission has, at its regularly scheduled meeting held on June 27, 2017, studied and considered Resolution No. 2017-04 (Zone Amendment No. 2017-04), 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. 2017-04 (Resolution No. 2017-04) was held by the Planning and Zoning Commission during its regularly scheduled meeting on June 27, 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 Tusayan, in a regular session assembled on the 27th day of June, 2017, resolved to approve Resolution No. 2017-04, a Resolution of the Planning and Zoning Commission recommending that the Town Council amend Ordinance No. 2012-04 as follows:

SECTION I: <u>REVISIONS</u>

§ 15.0: **PURPOSE**

In order to alleviate or to prevent traffic congestion and shortage of curb spaces, off-street parking facilities shall be provided for new uses, major alterations, or enlargement of existing uses. The number of parking spaces prescribed in this section shall be in proportion to the need for such facilities created by the particular type of use. Off-street parking shall be laid out in a manner that will ensure its usefulness, protect the public safety and, where appropriate, insulate surrounding land uses from its impacts.

§ 15.1: **BASIC REQUIREMENTS FOR OFF-STREET PARKING**

A. Off-street parking shall be provided for any newly constructed building, for any new use established, for any addition or enlargement to an existing building, for change in the occupancy of a building, or the manner in which a use is conducted that would result in additional parking spaces being required, subject to the provisions of this section.

B. No existing use of land or structure shall be deemed to be non-conforming solely because of the lack of off-street parking facilities prescribed in this section; provided that, facilities being used for off-street parking on the effective date of this Code shall not be reduced in capacity to less than the minimum standards prescribed in this section.

C. For additions or enlargements of existing buildings or uses, or any change of occupancy or manner of operation that would increase the number of parking spaces required, the additional parking shall be required only for such addition, enlargement or change, and not for the entire building or use; provided that, no additional parking shall be required where the total number of spaces prescribed for the addition, enlargement or change is less than ten (10) percent of the number of spaces prescribed for the use as conducted prior to such addition, enlargement or change.

D. Parking required by this section for any building or use shall not be considered as providing parking for any other building or use, except as provided in §15.2 of this Code.

E. Off-street parking spaces and areas required by this section shall be maintained for the duration of the use requiring such off-street parking spaces and areas.

F. Required off-street parking spaces and areas shall not be used for the sale, display or repair of motor vehicles or any other goods and services.

G. No use shall be required to provide more spaces than prescribed by this section or prescribed by a the conditions of a Conditional Use Permit.

§ 15.2: ADJUSTMENTS TO OFF-STREET PARKING REQUIREMENTS

A. The Planning and Zoning Commission shall have the authority to approve a request for a parking adjustment under the following conditions:

1. A credit may be given for on-street parking spaces that are adjacent to the frontage of the designated site towards the total number of required off-street parking spaces, provided that such on-street parking spaces remain available for public parking during normal business hours.

2. No on-street parking spaces located within fifteen (15) feet of a stop-sign or corner radius shall be counted.

3. No on-street parking spaces located in front of a bus stop shall be counted.

B. Notice: Notice of an application for a parking adjustment shall be published in a newspaper of general circulation not less than fifteen (15) days prior to the date set for the Commission hearing consistent with § 20.5 (Public Hearing Time and Notice) of this Code.

C. Finding for Approval: The Planning and Zoning Commission, in approving a parking adjustment shall find as follows:

1. The proposed parking modification and use of the structure is necessary or desirable for the development of the community, is in harmony with the various elements and objectives of the General Plan, and is not detrimental to existing uses or to uses specifically permitted in the affected zone district.

2. That the required parking cannot be provided without the approval of the requested adjustment.

3. That approval of the parking adjustment will not harm the integrity of the on-site structure or the surrounding neighborhood.

§15.3: SHARED PARKING

A. A maximum reduction of thirty (30) percent of the minimum parking requirements for individual uses may be granted by the Town Manager, where joint use of parking facilities or other factors will mitigate peak parking demand.

1. A request for parking reductions resulting from joint usage shall include information listed in subsections a. and b. listed below:

   a. Documentation and quantification of proposed land uses, and anticipated functional relationships between the parking needs of the different land uses shall be provided.

   b. Adjustments shall take into account calculations of the number of off-street parking spaces required for each land use within the area proposed for joint parking. Other elements to be considered include seasonal adjustments for parking demand and a determination of the mode of transit used in reaching or departing the area being considered.

2. In granting parking reductions for shared use of parking facilities, the Town Manager shall make one or more of the following findings:

   a. The report justifies the requested parking reduction based upon the presence of two (2) or more adjacent land uses which, because of the substantially different operating hours or different peak parking characteristics, will allow joint use of the same parking facilities.

   b. The report indicates there are public transportation facilities and/or pedestrian circulation opportunities that justify the requested reduction of parking facilities.

   c. The report finds that the use otherwise adheres to the parking standards in this section.

   d. The report finds that clustering different land uses actually requires reduced parking spaces by serving multiple trip purposes to that area.

3. As a condition of approval of the reduction in required parking, the Town Manager may require the granting of reciprocal access and parking agreements with surrounding properties through the creation of a legal instrument, in a form acceptable to the Town Attorney, to assure the permanent continuation of the circumstances under which the parking reductions were granted.

§ 15.4: OFF-SITE PARKING FACILITIES

A. Required parking for a development may be provided off-site under certain instances. Requests for off-site parking facilities shall meet the following requirements:

   1. Proximity of the off-site parking facilities;

   2. Ease of pedestrian access to the off-site parking facility;

   3. The type of use which the off-site parking is intended to serve, recognizing that such facilities are generally not appropriate for high-turnover uses; and

   4. The need for locating parking facilities off-site, and the resulting design benefits of the off-site parking, if any.

B. As a condition of granting approval to the development of off-site parking facilities, the applicant and other involved parties shall be required to sign a legal agreement, acceptable to the Town Attorney, ensuring the continued availability of the off-street parking facilities for the use they are intended to serve.

§ 15.5: DESIGN STANDARDS FOR OFF-STREET PARKING AREAS

A. Each automobile off-street parking space shall consist of a rectangular area not less than nine (9) feet wide by nineteen (19) feet long, together with drives, aisles, turning and maneuvering areas having access at all times to a public street or alley. All parallel parking spaces shall be a minimum of eight (8) feet wide by twenty-four (24) feet long.

B. Each off-street parking area shall provide an area or areas for landscaping equivalent to five (5) square feet for each parking space. Such landscaping shall be provided along the periphery of the parking area and shall consist of trees, plants, and inorganic materials; provided, however, that such landscaped area shall include at least one (1) minimum fifteen (15) gallon tree for each fifteen (15) parking spaces. In addition, one (1) minimum fifteen (15) gallon tree shall be provided in the interior portions of the parking area for each ten-thousand (10,000) square feet of parking area. Required landscaped yard or setback areas shall not be construed as satisfying any portion of the landscaped area required by this section, unless authorized and accepted as such by the Planning and Zoning Commission.

C. Any unused parking space resulting from the design of the parking area shall be used for landscape purposes.

D. Required landscaped areas shall be provided with a permanent and adequate means of irrigation, and shall be adequately maintained.

E. Off-street parking areas, except for single-family dwellings and duplexes, shall be constructed and maintained to provide the following:

1. Grading, drainage, and a minimum of two (2) inches of asphaltic concrete paving over a four (4) inch aggregate base or other acceptable paving design prepared by a registered professional engineer to the specifications of the Town Engineer, unless a paving waiver is approved by the Planning and Zoning Commission.

2. Bumpers, wheel stops, parking space markings, and other vehicular controls to the specifications of the Town Manager, or his/her designee, shall be provided.

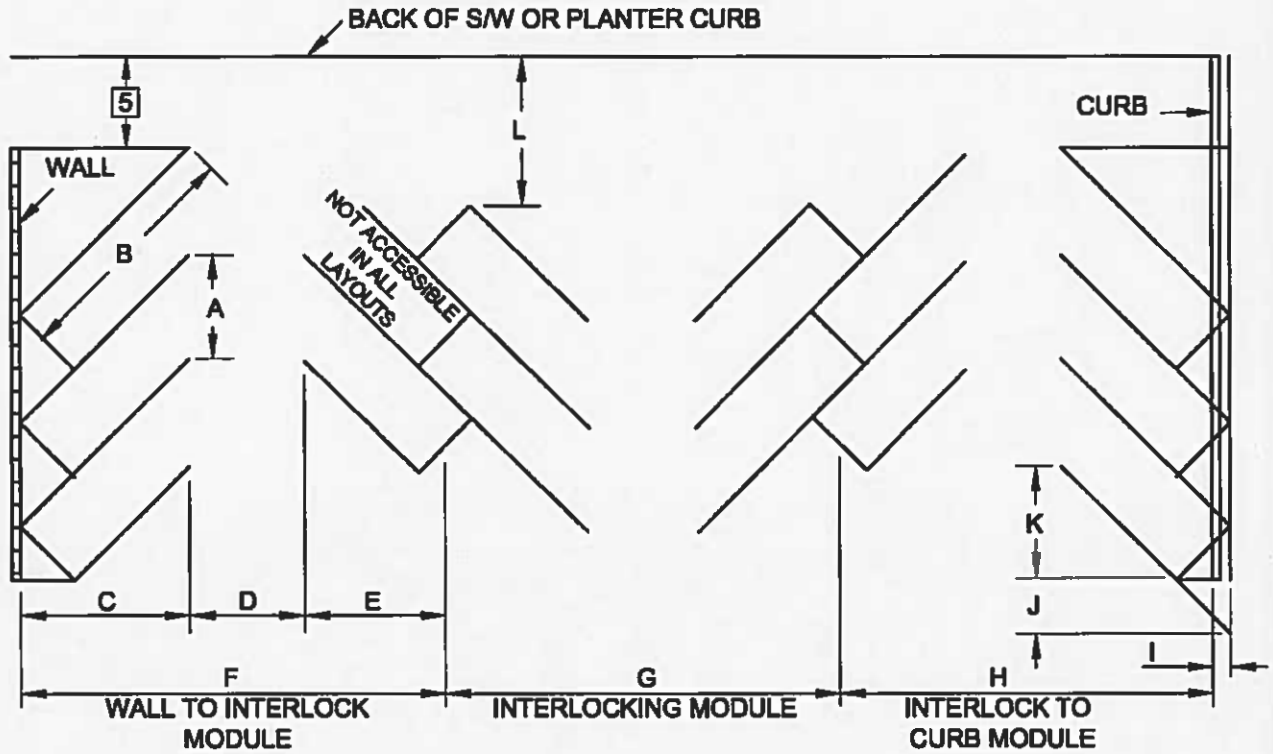
3. Lighting shall comply with the provisions of §17 of this Code.

4. Drainage shall be provided to the specifications of the Building Official or Town Engineer.

5. Parking lot turn-outs shall be a minimum of one-hundred (100) feet from the nearest street intersection.

F. Parking area design and dimensions shall be as set forth in Table 15.A. In the event practical difficulties and hardships result from strict enforcement of the standards in Table 15.A due to existing buildings or an irregularly shaped lot, an administrative variance by the Town Manager may be given for standards contained in this section, provided it does not exceed ten (10) percent of the requirements.

TABLE 15.A



PARKING ANGLE & STALL WIDTH	STALL WIDTH PARRELL TO AISLE (A)	STALL LENGTH OF LINE (B)	STALL DEPTH PERPEND-ICULAR TO WALL (C)	AISLE WIDTH (D)	STALL DEPTH TO INTER-LOCK (E)	WALL TO INTER-LOCK (F)	INTER-LOCK TO INTER-LOCK (G)	INTER-LOCK TO CURB (H)	WALL TO WALL (2C+D)	BUMPER OVER-HANG (I)	OFFSET (J)	SET-BACK (K)	CROSS-AISLE ONE-WAY (L)	CROSS-AISLE ONE-WAY (L)
30°														
8'	16'	23'	15'	13'	12'	39'	36'	38'	42'	2'	4'	14'	14'	24'
9'	18'	36'	18'	12'	14'	44'	40'	42'	48'	2'	5'	17'	14'	24'
45°														
8'	11'	24'	17'	13'	14'	44'	41'	42'	47'	2'	6'	11'	14'	24'
9'	13'	29'	21'	12'	17'	50'	47'	48'	53'	2'	6'	14'	14'	24'
90°														
8'	8'	16'	16'	24'	16'	56'	56'	54'	56'	3'	0'	0'	14'	24'
9'	9'	19'	19'	24'	20'	62'	62'	60'	62'	3'	0'	0'	14'	24'

1. Markings in parking lot shall be painted in a manner consistent with town requirements.
2. Minimum 2-way drive aisle widths shall be 24' unless backing width governs (see note 3).
3. Aisle width (D) is minimum 1-way aisle width for backing purposes.
4. Minimum drive entrance shall be 12' (one-way) or 24' (two-way).
5. Caution must be taken to ensure that vehicles do not back up over sidewalks.
6. Islands shall have a maximum length of 180'

G. Where off-street parking facilities are provided, but not addressed in this section, such facilities shall comply with the development standards contained herein.

H. Parking for the handicapped shall be provided in accordance with the requirements set forth in A.R.S. § 34-405-C as follows: Each handicapped parking space shall be a minimum of fourteen (14) feet wide, lined to provide a nine (9) foot wide parking area and a five (5) foot wide loading area and shall be a minimum of nineteen (19) feet in length. If two (2) handicapped spaces are located adjacent to each other, they may share the five (5) foot wide loading area resulting in a width of twenty-three (23) feet for the two (2) spaces.

I. Not more than fifty (50) percent of the total number of parking spaces shall be designed for compact and sub-compact vehicles. Such space shall be a minimum of eight (8) feet wide by sixteen (16) feet long.

J. Motorcycle parking spaces shall have a minimum usable area of fifty-six (56) square feet.

K. At the discretion of the Town Manager, designated bus parking may be required for uses subject to tour bus traffic. Where provided, minimum dimensions for bus parking spaces shall be twelve (12) feet wide by forty-two (42) feet long for angle parking, and ten (10) feet wide by fifty-five (55) feet long for parallel parking.

L. Parking areas serving facilities that make use of shopping carts including, but not limited to, supermarkets, drug stores, and lumber/hardware stores, shall contain shopping cart storage areas. The dimensions and locations of such storage area for the proposed use shall be approved by the Zoning Administrator.

M. Driveway dimensions for multiple family residential dwellings and non-residential uses shall be in conformance with Table 15.B below:

TABLE 15.B
Driveway Dimensions for Multi-Family Dwellings and Non-Residential Uses

Driveway Dimension	
Width, excluding flares or curb radius	
Minimum (one-way)	12 feet
Minimum (two-way)	24 feet
Maximum	36 feet
Turn radius*	
Minimum	15 feet
Maximum	50 feet
Minimum Spacing**	
From side property line	5 feet
From street corner	15 feet

* On-site driveway exposed to entry or exit by right turning vehicles (applicable only to driveways with curb radius).

** Minimum spacing is measured along the curb line from the top of driveway to the side property line, or the beginning of the intersection.

Note: A larger dimension may be required for emergency vehicle access. The Fire Chief and/or the Town Engineer shall determine dimensions that may be required.

§ 15.6: PARKING SPACES REQUIRED.

A. General:

1. In all residential zones districts, off-street parking shall be provided in accordance with § 10.2.C. of this Code

.

2. In all other zone districts, off-street parking shall be provided in accordance with the standards prescribed in this section. The requirement for any use not specifically listed shall be determined by the Town Manager on the basis of requirements for similar uses.

3. Where application of the off-street parking requirements result in a fractional number of spaces, a fraction of one-half or greater shall be resolved to the next higher whole number.

B. Off-street parking requirements as set forth in Table 15.C. below.

TABLE 15.C.

USE	MINIMUM OFF-STREET PARKNG REQUIRED
Art gallery	1 space for each 250 square feet of UFA
Automobile, boat, camper or similar vehicle sales, display or rental uses	1 space for each 500 square feet of gross floor area, but not less than 5 spaces
Automobile car wash	Spaces or reservoir parking equal to 5 times the capacity of the car wash
Bank, financial institution, public or private utility office	1 space for each 200 square feet of UFA
Barber or beauty shop	1 space for each 200 square feet of UFA plus 1 space for each employee on the largest shift.
Bed and breakfast	1 space for each guest room, plus 2 spaces for permanent residents
Boarding or rooming house	1 space for each guest room plus 1 space for each employee on the largest shift.
Bowling alleys	3 spaces for each alley
Camp	1 space for each employee on largest shift, plus 1 space for each camp vehicle normally parked on the premises plus 1 visitor space for each 10 campers
Church, chapel or mortuary	1 space for each 3 seats in the main assembly room; or 1 space for each 20 square feet in the main assembly room
Cleaning or laundry use or similar personal service use	1 space for each 250 square feet of gross floor area

USE	MINIMUM OFF-STREET PARKNG REQUIRED
Clubs or lodges	1 space for each 3 seats in the main assembly room; or 1 space for each 20 square feet in the main assembly room
College or university, including auditoriums, stadiums and housing facilities; vocational schools	0.75 space for each full-time equivalent student, less the number of spaces provided for on-campus housing facilities according to this schedule
Commercial service uses, repair shops, garages, wholesale uses	1 space for each 200 square feet of gross floor area (including display)
Community center	1 space for each 250 square feet of gross floor area or 1 space for each 4 patrons to the maximum capacity, plus 1 space for each employee on the largest shift
Contractor's yard	2 spaces, plus 1space for each employee
Convalescent home	1 space for each 3 patient beds
Convenience markets	1 space for each 200 square feet of UFA plus 1 space for each employee on the largest shift
Country club, recreational use, or swim club	1 space for each 3 persons based on the maximum anticipated capacity of all facilities capable of simultaneous use as determined by the Town Manager
Day nursery or nursery school	1 space for each staff member, plus 1 space for each 10 students
Dormitories and other student housing	2 spaces for each 3 guest rooms
Drive-in restaurants	1 space for each 100 square feet of UFA, but not less than 10 spaces for each such establishment
Elementary or junior high school	2 spaces for each teaching station
Fire station	1 space for each 200 square feet of gross floor area
Food store, supermarket or similar use	1 space for each 150 square feet of UFA plus 1 space for each employee on the largest shift
Furniture or appliance stores	1 space for each 750 square feet of sales display area
Government buildings	1 space for each 200 square feet of UFA plus 1 space for each employee on the largest shift
High school, including auditoriums and stadiums on site	7 spaces for each teaching station
Horse stable	1 space for each employee plus 1 space for each 4 stalls
Hospital	1 space for each 2 patient beds
Hotels and motels	1 space for each guest room plus 1 space for each employee on the largest shift
Kennel	1 space for each employee, plus 1 space for each 1,000 square feet, but no less than 4 spaces

USE	MINIMUM OFF-STREET PARKNG REQUIRED
Manufacturing or industrial uses, including office or other incidental operations on the site	2 parking spaces for each 3 employees, but in no event less than 2 spaces for each 1,000 square feet of gross floor area
Medical or dental office	5 spaces for each doctor
Mineral extraction operations	1 space for each employee on the maximum largest shift
Other business, technical service, administrative or professional office or commercial building	1 space for each 250 square feet of UFA
Plant nursery, garden shop	5 spaces, plus additional space for each 1,000 square feet of sales or display area
Post office	1 space for each employee, plus 1 space for each 500 square feet of UFA
Recycling center	1 space for each employee, plus 1 space for each 1,000 square feet of gross floor area
Restaurant, cocktail lounge or similar use for sale or consumption of food or beverage	1 space for each 100 square feet of UFA (including outdoor dining areas), but not less than 10 spaces for each such establishment
Retail, general	1 space for each 200 square feet of UFA plus 1 space for each employee on the largest shift
Retail, outdoor	1 space for each 500 square feet of open sales and display area, plus 1 space for each employee
Retail, showroom	1 space for each 500 square feet of showroom/display area, plus 1 space for each employee
Self-service storage	2 spaces, plus 1 space for each 100 units
Service station	5 spaces
Shopping Centers	1 space per 200 sq. ft. of UFA plus 1 for each employee
Skating rinks	1 space for each 3 seats; or 1 space for each 50 square feet of rink area
Theater or auditorium not on a school site	1 space for each 3 seats in main assembly room; or 1 space for each 20 square feet in main assembly room
Warehouse and distribution industry	2 parking spaces for each 3 employees on the largest shift, but in no event less than 1 space for each 2,000 square feet for the first 20,000 square feet of floor area; 1 space for each 4,000 square feet of floor area

Note: Usable Floor Area (UFA) means usable floor area for the primary use of the building, excluding bathrooms, storage areas, hallways, and so on.

C. Tour Bus Parking: For hotels and motels with more than sixty (60) guest rooms, parking for up to four (4) tour buses will be allowed in lieu of automobile parking spaces at a ratio of one (1) tour bus space for every sixteen (16) automobile parking spaces; provided that, in no event shall the number of automobile parking spaces be less than seventy-five (75) percent of that otherwise required. Additional tour bus parking spaces may be provided, but no additional credit will be given.

D. Loading Spaces
There shall be provided on the same lot with each commercial and industrial building or structure, adequate space for off-street loading, unloading and the maneuvering of commercial vehicles. There shall be no loading or unloading of commercial vehicles on public streets. Off-street maneuvering space shall be provided so that no backing onto a public street is required.

E. Hours of Operation: On-site operations shall prohibit non-emergency loading and unloading of materials, exterior maintenance, refuse removal and other activities between the hours of 7:00 p.m. and 7:00 a.m. daily.

F. No loading docks or service bays shall be visible from an arterial street or state highway.

SECTION II: SEVERABILITY

If any section, subsection, subdivision, sentence, phrase or portion of Resolution No. 2017-04 (Zone Amendment 2017-04) or the application to any person or place is held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this zone amendment. The Planning and Zoning Commission declares that it would have recommended adoption of these revisions to Ordinance No. 2012-04 and each section, subsection, sentence, clause, or phrase of this zone amendment in spite of the fact that one or more of the same be declared unconstitutional or invalid.

SECTION III: ADMINISTRATIVE REVISIONS

The Zoning Administrator of the Town of Tusayan is hereby given the authority to make any non-substantive changes to the Zoning Ordinance. These non-substantive changes will include such things as grammatical errors, error in mathematical calculations, erroneous references from one section of the Code to another section, changes in formatting, or any other such changes provided a report is given to the Planning and Zoning Commission and the Town Council indicating which changes are to be made.

PASSED AND ADOPTED THIS 27th DAY OF JUNE, 2017.

_____

Rob Gossard, Chairman

ATTEST

_____

Melissa M. Drake, Town Clerk

CERTIFICATION

I, Melissa M. Drake, hereby certify that the foregoing Resolution No. 2017-04 was passed and adopted by the Planning and Zoning Commission of the Town of Tusayan at a regularly scheduled meeting held on the 27th day of June, 2017, by the following vote:

AYES:

ABSENT:

NOES:

ABSTENTIONS:

_____

Melissa M. Drake, Town Clerk

Date: June 27, 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. 2017-05; 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.

§ 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 ***Town*** Council.
~~(Ord. 2012-04, passed 12-5~~

§ 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)~~

§ 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 this ~~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/her 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/her 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.***

§ <u>20: ADMINISTRATION</u>

~~**§ 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. <u>Application</u>: 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. 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 § 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 zone 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., § 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 § 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 § 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 §20.5 of this Code.*

4. *In addition to § 20.5 of this Code, A.R.S. § 9-462.04 and A.R.S. § 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.*

~~§ 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 §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 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 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. ***<u>Cancellation of a Temporary Land Use/Occupancy Permit</u>***

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 U***se 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~~ *EXHIBITS* 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 evaluate~~ion of~~ the project.

H. ***<u>Acceptance of Conditions</u>: 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. ***<u>Revisions/Modifications</u>: Requests to revise or modify an approved Conditional Use Permit may be requested by the applicant, or by the Planning and Zoning Commission.***

J. ***<u>Revision/Modification Request by Applicant</u>: 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, 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 § 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 § 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 ration 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

§ 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~~ *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 T~~usayan 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:~~

~~*Proposed Zone Described in*~~	~~*Alternate Zones That May be*~~
~~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 (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*** ~~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 (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. ~~(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 (1) 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.

§ 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 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) ~~$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, ***or Zoning Administrator,*** 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, ***or Zoning Administrator,*** 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***or Zoning Administrator,*** 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~~ *EXHIBITS* 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 (as set forth in §20.8)*** 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, ***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)~~ ***fifteen (15)*** 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 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, ***or 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 ***M***ap 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 s ection 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) ~~%~~ 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. ~~(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)~~

§ 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: AMENDMENTSTO 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.

Attachment:
Resolution No. 2017-05

RESOLUTION NO. 2017-05

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 June 27, 2017, studied and considered Resolution No. 2017-05 (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. 2017-05) was held by the Planning and Zoning Commission during its regularly scheduled meeting on June 27, 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 Tusayan, in a regular session assembled on the 27th day of June, 2017, resolved to approve Resolution No. 2017-05, a Resolution of the Planning and Zoning Commission recommending that the Town Council amend Ordinance No. 2012-04 as follows:

SECTION 1: REVISIONS

§ 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 Town Council.

§ 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.

§ 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 this Code. Likewise, it shall be in violation of this Code to erect, construct, reconstruct, alter, 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 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 does not meet the standards of this 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 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.

§ 7.1: HEARING OFFICER

A. The Town Council shall appoint the Town Manager, or his/her designee, 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.

§ 20: ADMINISTRATION

§ 20.1 DETERMINATION OF SIMILAR USE

§ 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. 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 § 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 zone 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 conditionally permitted uses.

§ 20.1-2: DETERMINATION BY THE 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.

§ 20.2: CITIZEN PARTICIPATION

§ 20.2-1: PURPOSE

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.

§ 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., § 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 § 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 § 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 § 20.5 of this Code.

4. In addition to § 20.5 of this Code, A.R.S. § 9-462.04 and A.R.S. § 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.

§ 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 §2.6 of this Code.

§ 20.2-4: TEMPORARY 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. <u>Cancellation of a Temporary Land Use/Occupancy Permit</u>

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 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.

§ 20.3-2: APPLICATION: DATA AND EXHIBITS 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.

§ 20.3-3 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.

§ 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.

§ 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.

§ 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 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.

§ 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 § 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.

§ 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 § 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.

§ 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.

§ 20.3-10: DETERMINATION BY THE ~~TOWN COUNCIL~~ *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.

§ 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, or a Certificate of Occupancy is issued for the structure which was the subject of the Conditional Use Permit, 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.

§ 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 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 Town staff, shall be permitted without the granting of a new Conditional Use Permit.

§ 20.3-13: MODIFICATION OF CONDITIONAL USE PERMIT

§ 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).

§ 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 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 (Board of Adjustment Action on Appeal) shall apply.

§ 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.

§ 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.

§ 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.

§ 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 Code, in accordance with the procedures prescribed in this 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.

§ 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.

§ 20.4-4: APPLICATION: DATA AND EXHIBITS 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.

§ 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.

§ 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).

§ 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.

§ 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.

§ 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.

§ 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.

§20.4-11: ACTION BY THE TOWN COUNCIL

A. The Town Council shall hold at least one (1) public hearing on an application 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, 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.

§ 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.

§ 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.

§ 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.

§ 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. 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. 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 (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 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 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 either subsection D. 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.

§ 20.6: APPEALS: BOARD OF ADJUSTMENT REVIEW

§ 20.6-1: APPEAL OF DECISION

Where this Code provides for appeal to the Board of Adjustment of a decision by the Planning and Zoning Commission, or the Zoning Administrator, 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.

§ 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.

§ 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, or the Zoning Administrator, 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, or Zoning Administrator, 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.

§ 20.7: VARIANCES AND APPEALS

§ 20.7-1: PURPOSES AND AUTHORIZATION

A. Variances from the terms of the 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 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 conditions that will assure that the adjustment

authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity 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 variances 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.

§ 20.7-2: APPLICATION: DATA AND EXHIBITS 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 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 Board of Adjustment, and should cite the specific decision or action being appealed, as well as the reasons and justification for the appeal.

§ 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.

§ 20.7-4: PUBLIC HEARING

A. The Board of Adjustment shall hold a public hearing on an application for a variance, 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 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.

§ 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.

§ 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 (as defined in §20.8) shall act on the application. The Board of Adjustment may, by resolution, grant, 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, 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 Board of Adjustment, and shall make such order, requirement, decision, or determination as is necessary.

§ 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, 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 ***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 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.

§ 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.

§ 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 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.

§ 20.7-10: APPEALS OF DECISIONS BY THE BOARD OF ADJUSTMENT

A decision of the Board of Adjustment on a variance, an appeal of a decision made by the Zoning Administrator 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.

§ 20.7-11: EFFECTIVE DATE OF VARIANCE

A decision of the Board of Adjustment on a variance shall be final fifteen (15) 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.

§ 20.7-12: LAPSE OF VARIANCE

A. A Variance shall lapse and 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.

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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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, or the Planning and Zoning Commission.

§ 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.

§ 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 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 ordinance;

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, 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.

§ 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 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.

§ 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, 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.

§ 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 (1) regulation applicable to the same site, or for similar adjustments on two (2) or more adjacent sites having the same characteristics.

§ 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.

§ 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 an additional finding that the property cannot otherwise meet the minimum site area requirement of its current zoning classification.

§ 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, the applicant may file for a Variance in accordance with § 20.7 (Variances).

§ 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 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.

§ 21: 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.

§ 21.2: AMENDMENTSTO THE GENERAL PLAN

A. The General Plan, or any part 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. Amendment to the General Plan, or any part 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 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 the Zoning Ordinance shall be adopted by the Town Council until the Council has first adopted the appropriate amendment to the General Plan.

SECTION II: SEVERABILITY

If any section, subsection, subdivision, sentence, phrase or portion of Resolution No. 2017-05 (Zone Amendment 2017-02) or the application to any person or place is held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this zone amendment. The Planning and Zoning

Commission declares that it would have recommended adoption of these revisions to Ordinance No. 2012-04 and each section, subsection, sentence, clause, or phrase of this zone amendment in spite of the fact that one or more of the same be declared unconstitutional or invalid.

SECTION III: ADMINISTRATIVE REVISIONS

The Zoning Administrator is hereby given the authority to make any non-substantive changes to the Zoning Ordinance. These non-substantive changes will include such things as grammatical errors, error in mathematical calculations, erroneous references from one section of the Code to another section, changes in formatting, or any other such changes provided a report is given to the Planning and Zoning Commission and the Town Council indicating which changes are to be made.

PASSED AND ADOPTED THIS 27th DAY OF JUNE, 2017.

_____

Rob Gossard, Chairman

ATTEST

_____

Melissa Drake, Town Clerk

CERTIFICATION

I, Melissa Drake, hereby certify that the foregoing Resolution No. 2017-05 was passed and adopted by the Planning and Zoning Commission of the Town of Tusayan at a regularly scheduled meeting held on the 27th day of June, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

_____

Melissa Drake, Town Clerk

ITEM

No. 7A

Gmail

Tusayan Town clerk <tusayanclerk@gmail.com>

Resignation

1 message

Beth Hearne <bheame@grandcanyonsquire.com> Tue, May 9, 2017 at 8:06 AM
To: "tusayantownmanager@gmail.com" <tusayantownmanager@gmail.com>, "tusayanclerk@gmail.com" <tusayanclerk@gmail.com>

Elizabeth C. Hearne

PO Box 3237

Grand Canyon,

Arizona 86023

Dear Town Council and PZ Commission,

With great reluctance I am submitting my resignation from the Tusayan Planning and Zoning Commission effective May 9, 2017.

My association with the Town of Tusayan has been a pleasant one, however due to a growing time requirement in other areas; I feel that I can no longer serve on the Planning and Zoning Commission to the best of my ability.

Working with you all has been a great pleasure and I extend my good wishes to the Town Council and the Planning /Zoning Commission for the town future success.

Sincerely,

Elizabeth C. Hearne