

1. Agenda

Documents: [AGENDA OCTOBER 30, 2012.PDF](#)

2. Packet

Documents: [PACKET OCTOBER 30, 2012.PDF](#)

**TOWN OF CHINO VALLEY
BOARD OF ADJUSTMENT**

Meeting Agenda

**Chino Valley South Campus Building
202 N. State Route 89
Chino Valley, AZ 86323
Tuesday October 30, 2012
6:00 pm**

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
- 4. APPROVAL OF MINUTES**
 - 4A. June 11, 2012 (Cannot approve due to lack of quorum)**
- 5. NEW BUSINESS**
 - 5A. Selection of a Chairperson**
 - 5B. Selection of a Vice Chairperson**
 - 5C. Review Rules of Procedure**
- 6. PUBLIC COMMENTS:**
 - 6A. Members of the public may address the Board of Adjustment on items not on the printed agenda. State your name for the record and please observe the time limit of 3 minutes. Be advised that the Board cannot/will not respond to your comments at this time.**
- 7. ADJOURN**

A copy of the agenda and background material provided to the Commissioners is available for public inspection at the Marion Lassa/Chino Valley Library, 1982 N. Voss Drive, Chino Valley, Arizona. Further details may be obtained by contacting Development Services Department at 1982 Voss, Chino Valley, Arizona (928) 636-4427. The Town endeavors to make all public meetings accessible to persons with disabilities. With 72 hours advance notice, special assistance can also be provided for sight and/or hearing impaired persons at public meetings. Please call 636-2646 (voice), 636-1787 (TDD) or use the AZ Statewide Relay Service at 1-800-367-8939 (TDD) to request an accommodation to participate in this meeting.

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**TOWN OF CHINO VALLEY
BOARD OF ADJUSTMENT**
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5A. Selection of a Chairperson

**TOWN OF CHINO VALLEY
BOARD OF ADJUSTMENT**
Chino Valley South Campus Building
202 N. State Route 89
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6:00 pm

5B. Selection of a Vice Chairperson

**TOWN OF CHINO VALLEY
BOARD OF ADJUSTMENT**
Chino Valley South Campus Building
202 N. State Route 89
Chino Valley, AZ 86323
Tuesday October 30, 2012
6:00 pm

5C. Review Rules of Procedure



Fiftieth Legislature - Second Regular Session

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9-462.06. [Board of adjustment](#)

A. The legislative body shall, by ordinance, establish a board of adjustment, which shall consist of not less than five nor more than seven members appointed by the legislative body in accordance with provisions of the ordinance, except that the ordinance may establish the legislative body as the board of adjustment. The legislative body may, by ordinance, delegate to a hearing officer the authority to hear and decide on matters within the jurisdiction of the board of adjustment as provided by this section, except that the right of appeal from the decision of a hearing officer to the board of adjustment shall be preserved.

B. The ordinance shall provide for public meetings of the board, for a chairperson with the power to administer oaths and take evidence, and that minutes of its proceedings showing the vote of each member and records of its examinations and other official actions be filed in the office of the board as a public record.

C. A board of adjustment shall hear and decide appeals from the decisions of the zoning administrator, shall exercise such other powers as may be granted by the ordinance and adopt all rules and procedures necessary or convenient for the conduct of its business.

D. Appeals to the board of adjustment may be taken by persons aggrieved or by any officer, department, board or bureau of the municipality affected by a decision of the zoning administrator, within a reasonable time, by filing with the zoning administrator and with the board a notice of appeal specifying the grounds thereof. The zoning administrator shall immediately transmit all records pertaining to the action appealed from to the board.

E. An appeal to the board stays all proceedings in the matter appealed from, unless the zoning administrator certifies to the board that, in the zoning administrator's opinion by the facts stated in the certificate, a stay would cause imminent peril to life or property. Upon such certification proceedings shall not be stayed, except by restraining order granted by the board or by a court of record on application and notice to the zoning administrator. Proceedings shall not be stayed if the appeal requests relief which has previously been denied by the board except pursuant to a special action in superior court as provided in subsection K of this section.

F. The board shall fix a reasonable time for hearing the appeal, and shall give notice of hearing by both publication in a newspaper of general circulation in accordance with section 9-462.04 and posting the notice in conspicuous places close to the property affected.

G. A board of adjustment shall:

1. Hear and decide appeals in which it is alleged there is an error in an order, requirement or decision made by the zoning administrator in the enforcement of a zoning ordinance adopted pursuant to this article.
2. Hear and decide appeals for variances from the terms of the zoning ordinance only if, because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. Any variance granted is subject to such conditions as will assure that the adjustment 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 located.
3. Reverse or affirm, wholly or partly, or modify the order, requirement or decision of the zoning administrator appealed from, and make such order, requirement, decision or determination as necessary.

H. A board of adjustment may not:

1. Make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the zoning ordinance provided the restriction in this paragraph shall not affect the authority to grant variances pursuant

to this article.

2. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.

I. If the legislative body is established as the board of adjustment, it shall exercise all of the functions and duties of the board of adjustment in the same manner and to the same effect as provided in this section.

J. In a municipality with a population of more than one hundred thousand persons according to the latest United States decennial census, the legislative body, by ordinance, may provide that a person aggrieved by a decision of the board or a taxpayer, officer or department of the municipality affected by a decision of the board may file, at any time within fifteen days after the board has rendered its decision, an appeal with the clerk of the legislative body. The legislative body shall hear the appeal in accordance with procedures adopted by the legislative body and may affirm or reverse, in whole or in part, or modify the board's decision.

K. A person aggrieved by a decision of the legislative body or board or a taxpayer, officer or department of the municipality affected by a decision of the legislative body or board may, at any time within thirty days after the board, or the legislative body, if the board decision was appealed pursuant to subsection J of this section, has rendered its decision, file a complaint for special action in the superior court to review the legislative body or board decision. Filing the complaint does not stay proceedings on the decision sought to be reviewed, but the court may, on application, grant a stay and on final hearing may affirm or reverse, in whole or in part, or modify the decision reviewed.

**BOARD OF ADJUSTMENT
RULES OF PROCEDURE**

ARTICLE I

Name

The name of the Board shall be: the BOARD OF ADJUSTMENT, Town of Chino Valley, Arizona.

ARTICLE II

Purpose

The Board is responsible for acting in accordance with the provisions of the applicable sections of the Arizona Revised Statutes (A.R.S.) 9-462.06 and the Unified Development Ordinance (UDO) of the Town of Chino Valley Section 1.5 (11/7/2002 Ord. 527) for the purpose of taking action on all matters which properly come within the purview of the Board.

ARTICLE III

Powers and Duties

- A. It shall be the duty of the Board of Adjustment to:
1. Hear and decide appeals in which it is alleged there is an error in an order, requirement, or decision made by the Zoning Administrator in the enforcement of the UDO and to reverse or affirm, wholly or partly, or modify the order, requirement, or decision of the Zoning Administrator appealed from, and make such order, requirement, decision, or determination as necessary.
 2. Hear and decide appeals for variances from the terms of the UDO only if, because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the UDO will deprive such property of privileges enjoyed by other property of the same classification in the same zoning classification in the

same zoning districts. Any variances granted is subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the same zoning district in which such property is located.

B. The Board of Adjustment shall not:

1. Make and changes in uses permitted in any zoning classification or zoning district, or make any changes in the terms of the UDO, provided the restrictions in this paragraph shall not affect the authority of granting variances pursuant to this article.
2. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.

ARTICLE IV

Membership

- A. Members shall be appointed by the Chino Valley Town Council in accordance with Town Code and Council Policy.
- B. The Board shall consist of five (5) members.
- C. With the exception of the initial board, term of office shall be three (3) years, unless a vacancy occurs.

ARTICLE V

Vacancies

- A. Board members may resign from their appointed post for any reason. It is requested that thirty (30) days written notice of resignation be given to the Chairperson of the Board.
- B. If any member is absent for more than two (2) consecutive meetings without notifying the Chairperson or the Development Services Director, or is absent for more than thirty percent (30%) of all meetings during any one twelve-month period for any reason, the Board may recommend to the Town Council the termination of the membership of said member.

ARTICLE VI

Officers and their Duties

- A. The Board shall elect from its members a chairperson and vice-chairperson at the first regularly scheduled meeting in October of each year. Term of office for chairperson and vice-chairperson shall be one (1) year. A chairperson shall not serve more than two (2) full one-year terms. In the event of the vacancy of the office of chairperson, the current vice-chairperson shall fulfill the unexpired term of the chairperson and a new vice-chairperson shall be elected at the next meeting of the Board.
- B. The chairperson shall:
 - 1. Preside at all meetings.
 - 2. Coordinate agenda with the Planning and Building Department.
 - 3. Coordinate with the Planning and Building Director to provide the Board current information about planning and zoning regulations, policies, and Town Council actions.
 - 4. Sign all minutes of Board meetings after approval by the Board.
- C. The vice-chairperson shall act for the chairman in his/her absence.
- D. Secretary. The secretary, who shall be appointed by the Development Services Director, shall keep a record of proceedings of all meetings, send out all meeting notices required, compile agenda, records, files, indexes, and shall perform the clerical work of the Board. The secretary shall not be a member of the Board.
- E. Legal Counsel. The Chino Valley Town Attorney shall be legal counsel for the Board.

ARTICLE VII

Meetings

- A. All meetings and hearings of the Board shall be subject to the Arizona Open Meeting Law.
- B. Each member of the Board may make individual field inspections to examine the properties for which variances are requested and appeals made.

- C. Board meetings shall be held as needed.
- D. Special meetings may be held on call of the chairperson or three members of the Board. All special meetings of the Board shall be subject to the Arizona Open Meeting Law.
- E. Voting: Members with a substantial conflict of interest, as defined in A.R.S. Section 38-502, shall state that fact for the record at the beginning of the agenda item, step down from the dais, and not participate in that agenda item. Three members shall constitute a quorum. Board members present shall vote and may not abstain. The vote of a majority of members voting shall be required for passage of any matter before the Board. The chairperson may request a roll call vote to clarify the vote.
- F. To set aside the Rules of Procedure shall require a two-thirds (2/3) vote of the Board members present.
- G. Agenda Format
 - 1. Call to order
 - 2. Pledge of Allegiance
 - 3. Roll Call- recording of members' present/absent and staff present.
 - 4. Approval of minutes
 - 5. Reservation for Agenda Items
 - 6. Public Hearings
 - 7. Unfinished Business
 - 8. New Business
 - 9. Announcements- Staff or Board may offer information on other subjects or events.
 - 10. Public Comment- The printed Agenda shall state the following:
"Members of the public may address the Board of Adjustment on items not on the printed agenda. State your name for the record and please observe the time limit of 3 minutes. Be advised that the Board can not/will not respond to your comments at this time."
 - 11. Adjournment

H. Decisions. Following the public hearing, the Board must act in any one of the following ways:

1. Variances

- a. Disapproval
- b. Approval
- c. Conditional approval and guarantees. The permit may be issued subject to such conditions or guarantees as the Board may stipulate.
- d. Continuation to specific date.

2. Appeals

- a. Grant the appeal, which overturns the action of the Zoning Administrator.
- b. Deny the appeal, which upholds the action of the Zoning Administrator and affirms the decision.
- c. Continuation to a specific date.

In both cases, the matter may be remanded to the Zoning Administrator for further action consistent with the Board's decision.

ARTICLE VIII

Appeals of the Board of Adjustment Decision

Any person aggrieved in any manner by an action of the Board of Adjustment may, within thirty (30) days, appeal to the Superior Court, in accordance with A.R.S. 9-462.06.K. Information that was not presented to the Board of Adjustment shall not be allowed to be presented to the Superior Court. Filing the complaint does not stay proceedings on the decision sought to be reviewed, but the Court may, on application, grant a stay and on final hearing may affirm or reverse, in whole or in part, or modify the decision reviewed.

ARTICLE IX

Amendments

Amendments to these Rules of Procedure shall require a two-thirds (2/3) vote of the total Board or three (3) members.

Unified Development Ordinance



Chino Valley

RBF
CONSULTING



1.4.4 Quorum; Voting

Four (4) members shall constitute a **quorum**. The affirmative vote a majority of members voting shall be required for passage of any matter before the **Commission**. A member who has, or whose relative has, a pecuniary or proprietary interest, either directly or indirectly, in any decision of the **Commission**, shall disclose such interest in the official records of the **Commission**, and shall thereafter refrain from participating in any manner as a member in such decision.

1.4.5 Rules; Regulations; Records; Meetings

The **Commission** shall make and publish rules and regulations to govern its proceedings and to provide for its meetings. All meetings of the **Commission** shall be open to the public. The minutes and records of all **Commission** proceedings shall be kept and filed as public record in the office of the **Town Clerk**.



1.5 Board of Adjustment

1.5.1 Establishment; Composition; Terms of Members; Vacancies; Compensation of Members

There is hereby established a **Board of Adjustment** of the **Town** to consist of five (5) members, each of whom shall be appointed by the **Chino Valley Town Council**. The terms of the members of the **Board** shall be determined by **Council** at the time of their appointment. After the initial appointment, all terms shall be for three (3) years. All members shall serve without pay. However, members of the **Board** may be reimbursed for actual expenses incurred in connection with their duties upon authorization and ratification by the **Board** and approval of such expenditures by **Council**.

1.5.2 Powers and Duties

A. It shall be the duty of the **Board of Adjustment** to:

1. Hear and decide appeals in which it is alleged there is an error in an order, requirement, or decision made by the **Zoning Administrator** in the enforcement of a **Unified Development Ordinance** and to reverse or affirm, wholly or partly, or modify the order, requirement or decision of the **Zoning Administrator** appealed from, and make such order, requirement, decision or determination as necessary.
2. Hear and decide appeals for a **Variance** from the terms of this **Ordinance** only if, because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of this **Ordinance** will deprive such property of privileges enjoyed by other property of the same classification in the same **zoning districts**. Any **Variance** granted is subject to such condi-



tions as will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the same zoning district in which such property is located.

B. The Board of Adjustment shall not:

1. Make any changes in uses permitted in any zoning classification or zoning district, or make any changes in the terms of this Ordinance, provided the restrictions in this paragraph shall not affect the authority of granting Variance pursuant to this article.
2. Grant a Variance if the special circumstances applicable to the property are self-imposed by the property owner.

1.5.3 Application

Applications for a Variance shall be filed on a form provided by the Development Services Department and shall be accompanied by the appropriate fee, together with a Site Plan of the premises and other data required by the Zoning Administrator, or his/her designee.

1.5.4 Selection of Officers

The officers of the Board of Adjustment shall be a Chairperson and Vice-Chairperson who shall be selected by the Board each year at its first meeting following July 1st.

1.5.5 Quorum; Voting

Three (3) members shall constitute a quorum. The affirmative vote of a majority of members voting shall be required for passage of any matter before the Board. In the event the matter before the Board is an appeal from a ruling by the Zoning Administrator, a tie vote shall result in upholding the original ruling of the Zoning Administrator. A member who has, or whose relative has, a pecuniary or proprietary interest either directly or indirectly, in any decision of the Board, shall disclose such interest in the official records of the Board, and shall thereafter refrain from participating in any manner as a member in such decision.

1.5.6 Rules; Regulations; Records; Meetings

The Board shall make and publish rules and regulations to govern its proceedings and to provide for its meetings. All meetings of the Board shall be open to the public. The minutes and records of all Board proceedings shall be kept and filed as public record in the office of the Town Clerk.

End



suance of a building permit for the primary residences or commercial building (Amended with Ord. 10-729/ Res. 10-933).

BUILDING PERMIT. A permit required for the erection, construction, modification, addition to or moving of any building, structure or use in the incorporated area of the Town.

BUILDING SETBACK. The minimum distance as prescribed by this Ordinance between any property line and the closest point of the foundation or any supporting post or pillar of any building or structure related thereto. (see Yard, Required Front, Required Side and Required Rear)

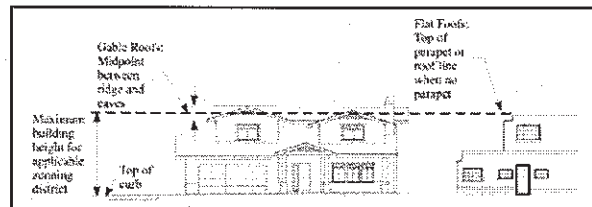
BUILDING, ACCESSORY. A building or structure which is subordinate to, and the use of which is customarily incidental to that of the main building, structure, or use on the same lot or parcel.

BUILDING, ATTACHED. A building which has at least part of a wall in common with another building, or which is connected to another building by a roof.

BUILDING, DETACHED. A building, which is separated from another building or buildings on the same lot.



BUILDING HEIGHT. The vertical distance measured from the average grade level to the highest level of the roof surface of flat roofs, to the deck line of mansard roofs, or to the mean height between eaves and ridges for gable, gambrel, shed or hip roofs. In the event that terrain problems prevent an accurate determination of height, the Zoning Administrator shall rule as to height and appeal from that decision shall be to the Board of Adjustment.



BUILDING, PRIMARY. A building or buildings in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be the primary building of the lot on which the same is situated.

BUILDING. A structure having one or more stories and a roof, designed primarily for the shelter, support, or enclosure of persons, animals, or property of any kind. This shall not include doghouses, play houses, or similar structures.

BUSINESS SIGN. A sign which directs attention to a business or profession conducted on-site or to a commodity or service sold, offered or Manufactured on-site, or to an entertainment offered on-site.



3. Zoning Districts

3.1 Establishment of Zoning Districts

In order to carry out the purpose of this Ordinance, the Town is hereby divided into the following zoning districts:

"OS"	Open Space/Resource Conservation
"AR-36"	Agricultural/Residential – 36 Acre Minimum
"AR-5"	Agricultural/Residential – 5 Acre Minimum
"AR-4"	Agricultural/Residential – 4 Acre Minimum
"SR-2.5"	Single Family Residential – 2.5 Acre Minimum
"SR-2"	Single Family Residential – 2 Acre Minimum
"SR-1.6"	Single Family Residential – 1.6 Acre Minimum
"SR-1"	Single Family Residential – 1 Acre Minimum
"SR-0.16"	Single Family Residential – 7,000 Square Foot Minimum lot area (Provided that all lots less than 1 acre in size must be served by a water and sewage disposal system approved by the Town.)
"MR"	Multiple Family Residential
"MHP-4"	Mobile/Manufactured home parks – Residential – 4 Acre Minimum
"CL"	Commercial Light
"CH"	Commercial Heavy
"I"	Industrial

3.2 Locations and Boundaries of Districts

- A. The locations and boundaries of the zoning districts are established as they are shown on the map entitled "The Zoning map of the Town Chino Valley" which is hereby incorporated by reference into this Ordinance.
- B. Where uncertainty exists with respect to the boundaries of any zoning districts as shown on the zoning map, the following rules shall apply:
 1. Where district boundaries are shown as approximately following streets, alleys, or right-of-way lines, such streets, alleys, or rights-of-way lines shall be deemed to be such boundaries.
 2. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be deemed to be the boundaries.



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3. Where district boundaries are so indicated that they are approximately parallel to the streets, alleys, or right-of-way lines, such district's boundaries shall be deemed as being parallel hereto and at such distance there from as indicated on the zoning map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the zoning map.

4. Where the application of the above rules does not clarify the zone boundary location, then the Board of Adjustment shall determine the location.

- C. Within newly annexed areas, the Town shall initially adopt zoning classifications that permit densities and uses no greater than those permitted by Yavapai County immediately before annexation. Areas, when annexed to the Town, shall, until officially zoned by Council, be considered to be zoned to Town classification closest to that shown on the official zoning map of Yavapai County at the time of annexation. Such County Zoning shall apply for not more than six (6) months. Subsequent changes in zoning of the annexed territory shall be made according to procedures established by this Ordinance.

3.3 Zoning Descriptions and Requirements

This Subsection will describe each of the individual Zoning districts and will contain the following information on each respective Zoning district:

- A. Purpose
- B. Permitted uses
- C. Conditional uses (if applicable)
- D. Property Development Standards



3.4 "OS" – Open Space Resource Conservation

3.4.1 Purpose

The purpose of the (OS) Open Space/Resource Conservation designation is to preserve lands as open space and to promote resource conservation. Lands so designated shall be limited to exclusive use as trail and path systems and other strictly prescribed recreational uses and for the preservation of historical sites, historic agricultural uses and natural plant and animal habitats.

3.4.2 Applicability

The (OS) Open Space/Resource Conservation Designation may be applied where the Town wishes to strictly limit the uses of the land for the preservation of open space and resource conservation.

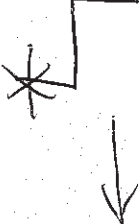
3.4.3 Permitted Uses

Permitted uses in the OS zone shall be limited strictly to open space uses such as public parks and play areas, trails and paths for non-motorized use, and other recreational or commercial uses which do not adversely impact the preservation of open space and resource conservation, such as:

- A. Agriculture, cultivation and ranching.
- B. Historical sites.
- C. Public parks and play areas.
- D. Horse trails, bike paths, walking trails and other similar non-motorized recreational trails or paths.

3.4.4 Development Standards

No structures, either permanent or temporary, shall be permitted except for accessory buildings that relate directly to the designated open space/resource conservation use (such as restrooms, ramadas, historical buildings), or agricultural use. Such accessory buildings are permitted only subject to plan review by Commission and approval by Council.

*  Because no list of uses can be complete, the interpretation of whether a use not specified is consistent with the intent of this zoning district and may be allowed as a Conditional Use or, where discretion is allowed, a permitted use shall be rendered by the




Zoning Administrator with appeal to the Board of Adjustments (Amended with Ord. 10-729/ Res. 10-933).



3. No travel trailer, motor home, recreational vehicle or boat stored on commercial, manufacturing or industrial zoned parcels or lots shall be made suitable for on-site occupancy unless permitted in the specific zoning regulation. Evidence of an on-site residency shall consist of at least three of the following conditions:
 - a. Connection to a source of power.
 - b. Connection to a source of water.
 - c. Connection to sewer or septic or sewer system.
 - d. Raising or leveling by means of jacks, stands or blocks.
 - e. Having a mailbox.
 - f. Having any attached or adjacent structure or improvement, which enhances on-site livability and/or decreases the mobility of the vehicle.
 - g. Removal of wheels, axles or hitches on a vehicle normally fitted with wheels, axles and/or hitches.
4. All outdoor storage shall be arranged in a neat and orderly manner or screened from the view of neighboring properties.




4.10 Temporary Housing

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- A. Temporary construction office or security personnel housing. A temporary structure, mobile/manufactured home, or trailer may be allowed in any zone to conduct business or provide housing for security personnel during the construction of a permanent building when a valid building permit is in effect; however, such temporary structures, mobile/manufactured homes, or trailers shall also require an additional permit. Such structure, mobile/manufactured home, or trailer shall be removed immediately after completion and occupancy of the building, but in no event longer than one year.
 - B. Temporary housing in cases of medical hardship. A trailer/RV may be allowed in a residential zone for a temporary specific duration when application for a special permit is obtained through the Zoning Administrator, provided:
 1. Property Owner or representative shall provide a letter of request, a physician's statement verifying the existence of a medical condition which requires temporary full-time care, proof of property ownership, relationship and names of persons to occupy the temporary dwelling and a sketch plan



of property showing existing home with proposed structure, access, parking and distances from property lines and other structures.

2. Permit shall be issued for a 90-day term.
3. At no time shall a permit exceed 180 days.
4. Property shall be posted for five (5) days prior to issuance of a permit to allow neighbors the opportunity to object or, in lieu of posting, applicant shall submit approvals signed by all residents within (300) three hundred feet of subject property.
5. All connections and hook-ups shall meet Health Department and building Ordinance requirements. A plan for septic disposal shall be submitted.
6. Trailer/RV shall be removed within 14 days after the intended purpose no longer exists or after the permit has expired.
7. Occupancy of trailer/RV shall consist of caregivers only, with no more than two (2) occupants.
8. All Property setback requirements for each residential zoning district shall be complied with.
9. The Public Works Department or the Planning & Zoning Department may require additional conditions as deemed necessary to protect surrounding properties from adverse effects.

 10. In the event a written protest is submitted, the applicant may appeal to the Board of Adjustment for a hearing.

4.11 Home Occupations

Home occupations shall be permitted in all residential zones and shall not alter the residential character of the property and buildings thereon. A Home occupation is that accessory use of the dwelling or outbuilding on a residential lot that shall constitute either entirely or partly the livelihood of a person living in the dwelling. A Home occupation shall be subject to the following provisions:

- A. There shall be no employees of the home occupation other than members of the household working on-site; however, there shall be no restriction on the number of employees working off-site.



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- C. The Zoning Administrator shall endeavor to rule on the application within fifteen (15) business days from the date of submission of the request and notify the applicant in writing of their decision. The Zoning Administrator may grant one (1) renewal of the permit for an additional thirty (30) days if he/she finds that, because of an unanticipated change in circumstances, a renewal would be in the public interest. The Zoning Administrator is not authorized to grant more than one (1) temporary permit and one (1) renewal for a thirty (30) day period for the same property within one (1) calendar year.

4.24.7 Non-conforming Lighting

- A. Mercury vapor lamps in use for outdoor lighting.
- B. Any construction permit which invokes Certificate of Occupancy requirements shall specify and require that any non-conforming sign, as to lighting, located within the boundaries of the development site authorized by the permit shall be brought into conformance with the provisions of this Ordinance.
- C. No outdoor lighting fixture which was lawfully installed prior to the enactment of this Ordinance shall be required to be removed or modified except as expressly provided herein; however, no modification or replacement shall be made to a non-conforming fixture unless the fixture thereafter conforms to the provisions of this Ordinance.
- D. In the event that any non-conforming sign, as to lighting, is abandoned or is damaged, and if the damage exceeds fifty (50) percent of the reproduction value, exclusive of foundations, to replace it, the sign shall be brought into conformance with the provisions of this Ordinance.

* 4.24.8 Variances

Any person desiring to install an outdoor lighting fixture that does not meet the requirements of this Ordinance may apply to the Board of Adjustment for a variance from the regulation in question.

4.24.9 Conflicting Regulations

In the event of conflict between the regulations set forth in this Ordinance and any other regulations applicable to the same area, the more stringent limitation or requirement shall govern.



radar signals), wireless telecommunications signals or other communication signals.

BACKHAUL NETWORK means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

CO-LOCATION means the use by two or more wireless communications providers of the same support structure or the same site, as defined in subsection "1" below.

EXISTING STRUCTURE means light poles, power poles, chimneys, billboards, and other similar structures that are placed within the Town at the time of adoption of this Ordinance, except existing buildings.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

HEIGHT means, when referring to a tower or other structure, the vertical distance measured from the natural grade level to the highest point of the structure directly above the natural grade when such structure is not located in a platted subdivision. If the structure is located in a platted subdivision, the height shall be the vertical distance measured from the finished grade as shown on the subdivision grading plans or finished grade as shown on the individual lot's grading plans (whichever is lower), to the highest point of the structure directly above the finished grade. In the event that terrain problems prevent an accurate determination of height, the Development Services Director shall rule as to height and appeal from that decision shall be to the Board of Adjustment.

PREEXISTING TOWERS AND PREEXISTING ANTENNAS means any tower or antenna for which a building permit has been properly issued prior to the effective date of this Ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

SITE means the physical location upon which wireless telecommunications facilities are located. Unless otherwise stated in this Section, "site" shall be limited to the area occupied by a single tower and its accompanying ground or roof-mounted equipment.

TOWER means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term also includes the structure and any support thereto.