

**ZONING ORDINANCE
OF
APACHE COUNTY, ARIZONA**

TABLE OF CONTENTS

ARTICLE	TITLE	PAGE
	Scope	1
1	Purpose and Adoption of Ordinance	1
2	Definitions	2
3	Establishment of Zones	7
4	Agriculture General	9
5	(R-O) Reserve Overlay Zone	13
6	Off Street Parking	15
7	Out Door Lighting	19
8	Flood Plain Management	24
9	Conditional Use Permit	26
10	Non-Conforming Uses	33
11	Ordinance Amendment, Rezoning	34
12	Board of Adjustments and Appeals	36
13	Penalty	39
14	Conflict	39
15	Severabilty	39
16	Enactment	39

**ZONING ORDINANCE
OF
APACHE COUNTY, ARIZONA**

AN ORDINANCE PROVIDING FOR THE CREATION AND ESTABLISHMENT OF ZONING DISTRICTS IN THE UNINCORPORATED AREA OF APACHE COUNTY, ARIZONA; DEFINING, CLASSIFYING, RESTRICTING, AND REGULATING LAND USES AND PRESCRIBING AREA REQUIREMENTS, THE CLASSES OF USES OF BUILDING STRUCTURES, IMPROVEMENTS AND PREMISES IN THE SEVERAL ZONES, ADOPTING A MAP OF SAID ZONING DISTRICTS; ESTABLISHING SETBACK LINES ALONG STREETS AND HIGHWAYS, DEFINING THE TERMS PROVIDING FOR THE ADJUSTMENT, AMENDMENT AND ENFORCEMENT OF SAID ORDINANCE, AND PRESCRIBING PENALTIES FOR THE VIOLATION THEREOF AND DECLARING AN EMERGENCY. THE BOARD OF SUPERVISORS OF APACHE COUNTY, ARIZONA DO ORDAIN AS FOLLOWS:

**ARTICLE 1
PURPOSES AND ADOPTION OF THE ORDINANCE**

In order to classify, restrict and regulate, and encourage the orderly use of the land in Apache County and to conserve public health, safety, peace, comfort, convenience and general welfare, there is hereby adopted and established a zoning ordinance for Apache County, Arizona, as amended, as provided for by Arizona State Law. More specifically, the ordinance is adopted to achieve the following objectives:

1. To foster a wholesome, serviceable and attractive living environment.
2. To secure adequate light and air, to prevent the overcrowding of land and undue concentration of population, to secure safety from fire, panic and other dangers, to lessen or avoid congestion in the streets, to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public facilities, and otherwise to promote the health, safety, convenience and general welfare of the citizens of Apache County, Arizona.
3. To protect and promote appropriately located commercial and industrial activities, in order to preserve and strengthen the County's economic base, protect and enhance real property values and the County's natural assets.
4. To ensure unimpeded development of such new urban expansion that is logical, desirable, and in conformance with objectives and policies of such Comprehensive Plans and Specific Plans as may be adopted.

SECTION 101 - SHORT TITLE

This ordinance shall be known as the Zoning Ordinance of Apache County, Arizona.

SECTION 102 - INTERPRETATION

The provisions of this ordinance are held to be minimum requirements except where they are expressly stated to be otherwise. No provision of this ordinance is intended to abrogate, repeal, annul, impair, or interfere with any existing ordinance to Apache County, except as specifically referenced herein, or deed restriction covenant, easement, or other agreement between parties, provided that where this ordinance imposes greater restrictions or regulations than are imposed or required by an existing ordinance, deed restriction, covenant, easement, or agreement between parties this ordinance shall control.

SECTION 103 - ADMINISTRATION

Responsibility for administration of this Ordinance is hereby vested in the Zoning Inspector as appointed by the Apache County Manager.

SECTION 104 - POWERS OF THE PLANNING AND ZONING COMMISSIONS

The Apache County Planning and Zoning Commission, is appointed to serve as a recommending body to the Board of Supervisors. It is this Commission's objective to further the intent of this Ordinance. These duties are set forth in detail within this ordinance.

ARTICLE 2 **DEFINITIONS**

SECTION 201 - DEFINITIONS

Grammatical Usage:

- A. Words used in the present tense include the future tense; words in the singular include the plural, vice-versa.
- B. The word "shall" is always mandatory, and the work "may" is permissive; the word "persons" include an association, firm, partnership, or corporation as well as an individual.
- C. The work "occupied" and the word "used" shall be considered as meaning the same as the words "intended", "arranged", or "designed to be used or occupied".

D. The word "dwelling" includes the word "residence", the word "lot" includes the words "plot" or "parcel".

E. Terms not herein defined shall have the meanings customarily assigned thereto.

Board: The Apache County Board of Supervisors.

Building: Any structure having a roof and used or built for the shelter or enclosure of persons, animals, chattels, or property of any kind, including, but not limited to: tents, awnings, carports, ramadas, mobile homes, or vehicles situated on private property and used for purposes of a building.

A. **Principal Building:** A building or a group of buildings, within which is conducted the principal use of the lot on which the building is situated.

B. **Accessory Building:** A subordinate building on the same lot with a principal building, the use of which is customarily accessory and incidental to the main use of the principal building. When attached to the principal building, an accessory building shall be considered as part of the main building for purposes of set back and yard regulations.

Commission: The Apache County Planning and Zoning Commission.

Comprehensive Plan - Master Plan - General Plan: A coordinated plan which has been prepared and adopted by the Board of Supervisors for the purpose of guiding development, including, but not limited to a plan or plans of land use, resources, circulation, housing and public facilities and grounds.

Conditional Use: A use permitted in zoning district regulations subject to a finding by the Commission that all special conditions and requirements imposed by this Ordinance, recommended by the Commission, and adopted with or without modifications by the Board will be met.

Density: The term density shall mean the number of dwelling units per acre of land.

Dwelling Unit (DU): A building, or portion thereof, designed as a unit for occupancy by one family for cooking, living, and sleeping purposes.

A. **Single-family Dwelling:** A detached building containing only one (1) dwelling unit.

B. **Multi-family Dwelling:** A building, or portion thereof, containing two (2) or more dwelling units.

Effective Date: The date upon which this Ordinance, or any amendment hereto, becomes effective.

Employee Housing: Dwelling units used by employees hired by the owner of the property who are engaged in work on the property involved. Dwelling units include complete living accommodations, including kitchen facilities.

Erected: Built, constructed, altered, reconstructed, or moved upon. Any physical operations on a premises which are required for construction, excavations, fill, drainage, and the like, shall be considered a part of erection.

Essential Services: The erection, construction, alteration, or maintenance by a public utility of underground, transmission or distribution systems, communication, supply or disposal systems, poles, wires, mains, drains, sewers, pipes, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishings of adequate service by such public utilities for the public health, safety or general welfare, not including buildings, electric substations and transmission towers.

Family: An individual living alone; or, one (1) or two (2) persons related by blood or marriage together with their dependents; or a group of not more than five (5) unrelated persons living together as a single household dwelling unit. A family includes its domestic employees.

Flood Plain or Flood Prone Area: means a land area adjoining a river, stream, watercourse, bay, or lake, which is likely to be flooded.

Flood Plain Board: The Board of Supervisors of Apache County.

Floodproofing: means any combination of structural and nonstructural additions, changes, or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures, and contents of buildings.

Floodway: means the channel of a river or other watercourse and the adjacent land areas required to carry and discharge a flood of a given magnitude.

Guest House: An attached or detached accessory building used to house guests of the occupants of the principal building, and which is never rented or offered for rent.

Home Occupation: An accessory and incidental use of a dwelling unit or residential lot comprising an occupation or profession carried on by a person residing in such dwelling, unit or on such lot.

Hotel, Motel: A building, or group of buildings, used primarily for accommodation of transient guests in rooms or suites.

Loading Space: An off-street space provided for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials situated on the same lot with a building and entirely outside the right-of-way of any public street or alley.

Lot or Parcel: A piece or parcel of land separated from every other piece or parcel by description, as in a subdivision or on a record survey map, or by metes and bounds, for purposes of sale, or separate use.

Minimum Floor Area: The floor area of a dwelling unit measured from exterior walls including the area of all floors above the first but not including garages, carports, patios, or open air areas.

Mobile Home: A moveable or portable dwelling over four hundred (400) square feet, constructed to be towed on its own chassis and designed so as to be installed with or without a permanent foundation for human retail occupancy and/or dwelling residence which may include one (1) or more components that can be retracted for towing purposes and subsequently expanded for additional capacity, or two (2) or more units separately towable, but designed to be joined into one (1) integral unit, as well as a portable dwelling composed of a single unit. Does not include Recreational Vehicle or Travel Trailer as defined in this Article.

Mobile Home Lot: A portion of a mobile home subdivision used or intended to be used for parking of one (1) mobile home, including the land covered by the mobile homes, adjacent open spaces, and attached or detached accessory buildings and structures.

Mobile Home Park: A lot, parcel, or tract of land having as its principal use the rental of space for occupancy by three (3) or more mobile homes, including any accessory buildings, structures or uses customarily incidental thereto.

Mobile Home Subdivision: A subdivision comprising four (4) or more mobile home lots, each of which is less than thirty-six (36) acres and platted for lease or sale to the public for mobile homes, and restricted to such use by covenant or deed restrictions.

Modular or Prefabricated Structure: A dwelling and/or business related unit which is either wholly or in substantial part manufactured at an off-site location to be transported to the building site in modules and/or prefabricated components for assembly and placement on the site, except that it does not include a Mobile Home as defined in this Article.

Multi-Family Dwelling: A building, or portion thereof, containing two (2) or more dwelling units.

Non-Conforming Building: A building, structure, or portion thereof, which does not conform to the regulations of this Ordinance applicable to the zone or district in which such building is situated, but which legally existed prior to the effective date of this Ordinance.

Non-Conforming Use: A use of premises which does not conform to the regulations of this ordinance, but which existed at the effective date of this ordinance.

One-Hundred (100) Year Flood: The highest level of flooding that is likely to occur once every 100 years (i.e. that has a one (1) percent chance of occurring each year).

Parking Spaces: A fully accessible space adequate for the temporary parking of vehicles, situated entirely outside the right-of-way of any public street or alley, and at least eight and one-half (8.5) feet by eighteen (18) feet in size, exclusive of drives.

Permitted Use: Those uses which are allowed in a zone. These uses can be approved by county staff and require no action by the Planning Commission.

Planning Director-Planning and Zoning Director-Zoning Inspector: The official or officials appointed by the County Manager whose duties are directly related to the Planning, Zoning, and Building Department operations within Apache County.

Servant Quarters: An attached or detached building or part thereof housing persons employed on the premises.

Sign: Any device for visual communication that is used for the purpose of bringing the subject shown thereon to the attention of the public, but not including a flag pole.

Single-Family Dwelling: A detached building containing only one (1) dwelling unit.

Street: A dedicated public way which affords the principal means of vehicular access.

Structure: Any constructed or erected material or combination of materials the use of which requires location on the ground or attachment thereto, something located on the ground, including, but not limited to garages, buildings, stadiums, radio towers, sheds, storage bins, fences and signs.

Substantial Improvement: Remodeling or reconstruction of a building or structure the value of which is in excess of 50% of the total value of the existing structure. Estimates based on current costs and on assessor's valuation shall be used in determining costs.

Travel Trailer: A vehicle, self-propelled or otherwise, designed to temporarily shelter persons en route or on a recreational or vacation trip, having less than four hundred (400) square feet of habitable living area. "Travel trailer" includes truck-mounted campers, and self travel vans.

Use: The purpose for which land or a building is arranged, designed, or intended, or for which land or a building is or may be occupied.

Yard: An open space located between any portion of a building and the nearest lot line, or the nearest adjacent building or group of buildings, as the context indicates,

unoccupied, and unobstructed from the ground upward, except as otherwise provided in this Ordinance.

Zoning Inspector: The official appointed by the Board and assigned the duties and responsibilities of the office of Zoning Inspector and hereinafter provided. (See page 8- "Planning Director," etc.)

ARTICLE 3

ESTABLISHMENT OF ZONES

SECTION 301 - ZONES ESTABLISHED

In order to carry out the purposes of this Ordinance, the County of Apache, Arizona, is hereby divided in zones as follows:

1. A-G Agricultural General Zone
2. R-O Reserve Overlay Zone
3. And such other zones as the Board of Supervisors may from time to time adopt.

All other uses other than those permitted within zones as adopted by the Board of Supervisors shall require a Conditional Use Permit (see Article 9).

SECTION 302-OFFICIAL ZONE MAP

At such time as zones, in addition to the Agricultural General (A-G) and Reserve Overlay (R-O) Zones, are adopted by the Board of Supervisors, the location and boundaries of each of the zones shall be shown on the adopted Official Zone Maps of Apache County, Arizona, and said map is declared to be an official record and a part of this Ordinance and said Official Zone Map and all notations, references, and other information shown thereon are identified by the signature of the Board of Supervisors and attested to by the County Clerk and shall be as much a part of this Ordinance as if the matters and other information set forth by said maps were fully described herein.

Upon the Board's approval of this Ordinance, all applicable characteristics designating R-O and the specific locations of such shall be in full force and effect; and until such time as the transfer of information from the technical reference guides to the Official Zone Maps have been completed at a future date by the Planning Department, any and all applications shall be checked regarding these references (see Section 303-E).

Whenever amendments or changes are made in zone boundaries, such amendments or changes shall be made on the Official Zone Maps promptly. No amendment or change shall become effective until after it has been properly noted and referenced on the zoning ledger and attested to by official signature of the County Clerk.

The original Official Zone Maps shall be located in the office of the County Clerk.

SECTION 303 - BOUNDARIES OF ZONES

Where uncertainty exists with respect to the boundaries of various zones, the following rules shall apply:

- A. Where the intended boundaries on the Official Zone Maps are approximate street or alley lines or water courses, the center line of street, alley or water course shall be construed to be the zone boundary.
- B. Where the intended boundaries are approximate lot lines, said lot lines shall be construed to be the zone boundaries unless otherwise indicated.
- C. Where land has not been subdivided into lots, the zone boundary shall be determined by the use of the scale of measurement shown on the respective Official Zone Maps.
- D. Where other uncertainty exists, the Board of Adjustment and Appeals shall interpret the Official Zone Maps.
- E. Delineation of R-O on the Official Zone Maps is based on general technical information at reduced map scale and is intended to serve as public notice that a proposed use or uses of property may be subject to restrictions, either related to design in construction or permitted uses or the review and approval or denial of a request for a Conditional Use Permit. Technical references pertaining to R-O Districts are available on file at the Planning & Building Department Office, Apache County Annex and includes the following:
 - 1. Soil Conservation Service; Soil Survey of Apache County, Arizona;
 - 2. All Floodplain Board approved flood plain delineations, including Flood Insurance Rate Maps and Floodway/Flood Boundary Maps; and
 - 3. All Federal and State topographical information, and other sources of topographical data as may be prepared or amended for review and acceptance after proper public hearing by Apache County.

These technical references may be updated from time to time and data transposed to the Official Zone Maps following necessary public hearing. The technical references shall be controlling insofar as land use and boundaries are concerned.

ARTICLE 4
AGRICULTURE GENERAL

SECTION 401 - JURISDICTION AND OBJECTIVES:

This Zoning District shall comprise all lands within the non-reservation/unincorporated portions of Apache County that are not classified as other zoning districts. The objectives of this zone are fourfold:

1. To provide for the continuation of agricultural, recreational, limited residential, commercial, forestry and other land uses that are consistent with rural land areas;
2. To provide flexible yet orderly and economical development of more intense urban uses while protecting the health, welfare, and safety of the general public;
3. To assist in the implementation of further planning related efforts within Apache County; and,
4. To act as a "holding" district, providing zoning control until such time as more specific zoning districts may be needed.

SECTION 402 - SPECIAL PROVISIONS

Any division of lands into four (4) or more parcels or any division involving new streets shall be subject to the Subdivision Ordinance as well as to the provisions of this code. Divisions of land where all parcels are 36 acres in size or larger are exempt from the Subdivision Code, but subject to this Subdivision Ordinance.

SECTION 403 - PERMITTED USES

403.01 General Uses

- A. Soil Crops.
- B. General Agriculture: Breeding, raising, training, and feeding of horses, cattle, sheep, goats, hogs, and poultry provided that new pens, buildings, and corrals are not closer than fifty (50) feet to any adjacent residential property line on and after the effective date of this Ordinance.

C. Commercial uses, provided they are so located as to have direct access to a principal public thoroughfare: Retail stores for food, drugs, clothing, hardware, personal or household goods and notions; Restaurants, not including drive thru facilities but including, cocktail lounges that are part of the premises; Personal service establishments; Financial and lending institutions; Offices (professional, business, real estate); Automobile service stations, providing incidental repair services only, and; Day Care facilities.

D. Horses, cattle, and goat dairies, poultry and egg farms, fur farms, and public stables provided that pens and buildings are located not less than 100 feet to a residence or residential district.

E. Forestry uses and Nurseries.

F. Guest Ranches on parcels having an area not less than ten (10) acres with only one (1) principal dwelling unit or service area providing kitchen facilities.

G. One (1) Single-Family Dwelling or one (1) modular or mobile home per parcel. For the purpose of this article a parcel shall not be less than one (1) acre when the dwelling is connected to a septic system and not less than net 10,000 square feet when connected to a public sewer.

H. Mineral exploration or development.

403.02 Home Occupations

Home occupations, where not prohibited by deed restriction, will be permitted in any residence subject to the following restrictions:

A. The home occupation may not occupy more than 25% of floor area.

B. The home occupation shall not require internal or external alterations or construction features or equipment not customary in dwellings or adjoining structures.

C. On-site advertising shall be limited to one (1) sign, not more than two (2) square feet in size and placed flush against the residence. On parcels of land one (1) acre in size or larger, a sign not more than two (2) square feet in size may be displayed within the property boundaries.

D. Home Occupations shall be conducted solely by residents of the dwelling involved and involve no employees.

403.03 Public and Quasi-Public Uses

A. Water pumping plants, storage tanks, utilities, and other essential services.

- B. Public Schools.
- C. Public Recreational Uses.
- D. Churches.

403.04 Accessory Uses

- A. Accessory building structures and uses commonly incidental to permitted uses.
- B. Storage of petroleum products shall comply with State fire codes and other applicable ordinances.

403.05 Uses Subject to Conditional Use Permit

Certain uses, both specified and unspecified in this Ordinance, shall be subject to review and approval of a Conditional Use Permit pursuant to procedures set forth in Article 9. Such uses are considered to be unusual, unique or potentially incompatible or conflicting with existing or permitted uses in the context of the land use pattern or traditions in Apache County. These uses include but are not limited to:

- Multi-family dwelling including duplexes, triplexes, apartments, townhouses, and condominiums.
- Hotels, motels, and lodging.
- Drive through commercial facilities, except banks.
- General commercial uses such as wholesaling, storage, auto body/paint shops and similar uses requiring large trucks, or having the potential to generate noise, glare, dust, odor, fumes, or significant daily traffic.
- Industrial uses.
- All other uses not listed as permitted uses.

SECTION 404 - DEVELOPMENT STANDARDS FOR PERMITTED USES

404.01 Lot Size:

Minimum lot size for any use shall be a minimum of one (1) acre when facilities are on a septic system.

404.02 Setbacks: to Side Yards;

Side Yards: All building or structure sideyard setbacks shall be a minimum of ten (10) feet for a single story structure. Building(s) or structure(s) exceeding fourteen (14) feet in height, as measured from grade to the highest gable end, shall have one (1) additional foot of sideyard setback for each additional foot of building or structure height.

Front and Rear Yard: All structures shall have a minimum of front and rear yard setback equal to the total height of said structure as measured from grade to the top of the highest point of the structure plus ten (10) feet.

Accessory Building Setbacks: Any and all accessory buildings shall have a minimum ten (10) feet of setback for single-story and fifteen (15) feet of setback for two story structures from all property lines and other buildings.

404.03 Minimum Space Between Buildings:

Minimum space between buildings on one (1) parcel shall be fifteen (15) feet for single story, and twenty (20) feet for multiple story.

404.04 Parking:

The provisions of Article 6 shall apply.

404.05 Lighting:

The provisions of Article 7 shall apply.

404.06 Building Height:

Building height shall be limited to two (2) stories, or 35 feet in height measured from the first finished floor to the highest gable end.

404.07 Utilities:

Provisions under 903-01-B shall apply.

404.08 Drainage:

Provisions under 903.01-D shall apply.

404.09 Site Design:

Provisions under 903.01-F shall apply.

404.10 Signs:

Provisions under 903.01-J (1-6) shall apply.

404.11 Mobile Home Landing

All Mobile and Manufactured homes shall provide a landing for entrance in accordance with the appropriate international residential building code provisions prior to final inspection.

ARTICLE 5 R-O) RESERVE OVERLAY ZONE

SECTION 501-DEFINITION

An R-O Zone allows only limited use of property, and construction for human occupancy is not permitted.

SECTION 502-JURISDICTION AND OBJECTIVES

Within the non-reservation/unincorporated portions of Apache County are lands in which this district shall pertain. This district shall serve as an overlay zone to be combined with the A-G District, and its application shall be only to those areas of land, and the parcels or portions of parcels of land contained therein, that exhibit the unique characteristics and site features as described below. The objectives of this zone are:

1. Decrease the threat of loss of life and property due to susceptibility of such property to hazards of floods, soil conditions, excessive slopes and ponding;
2. Lessen the impact of individual septic disposal systems have on ground water and public health;
3. Limit encroachments that would endanger the natural rural character and resources of this County; and,
4. Preserve by management practices and education, the tourist and scenic attractions of Apache County.

As a guide to identification of R-O areas, the following indicators shall be used:

- A. Areas having potential for flooding as delineated by the Flood Plain Board of Apache County.
- B. Soils demonstrating High Shrink/Swell or other characteristics that present a hazard to structures.
- C. Excessive slopes (30% or greater), especially those in association with unstable subsoils.
- D. Areas having high surface moisture, including conditions of high water table, near permanent saturation and/or ponding which could endanger the structural integrity of buildings, roads, parking, and pedestrian areas and inhibit the provision of necessary residential amenities.
- E. Properties dedicated to the County for the purposes of preservation. R-O Districts do not necessarily include dedications through development, subdivisions(s), or master plan(s).

SECTION 503 - SPECIAL PROVISIONS

503.01 Development of R-O Districts

- A. Unless provided for through Conditional Use Permit procedure, as set forth in Article 9, new structural development and expansion thereof in the R-O District is prohibited. On the effective date of this Ordinance those uses and buildings existing are declared non-conforming (Grand fathered Use).
- B. Parcels containing lands zoned R-O which are to be subdivided and/or master planned may include lands in this zone as open space. Land areas in this zone are also eligible for credit in making gross site density calculations.

503.02 Flood Related R-O Districts

- A. All non-building improvements or alterations shall be required to obtain a Flood Hazard Development Permit unless referenced otherwise in Section 3.7 of the Flood Damage Prevention Ordinance.
- B. All new construction, additions or alterations of building(s) within a flood plain are prohibited unless a Conditional Use Permit is granted along with a filing and granting of a Flood Hazard Development Permit.
- C. Other provisions specifically addressing this subsection are contained in Article 8.

SECTION 504 - PERMITTED USES

504.01

- A. Pastures, Fields, Croplands, and Orchards
- B. Trails, Scenic points, Open space, and Wildlife Sanctuaries
- C. Parks, Refuges, and Playgrounds
- D. Parking Lots
- E. Accessory structures related to Agricultural uses

504.02 Exemptions

All uses and development as specified in ARS 11-830.

504.03 Uses Permitted by Use Permit

Any use permitted in an A-G District, whether as a matter of right or subject to Conditional Use Permit, may be permitted in the R-O District subject to the granting of a Conditional Use Permit; provided, the following findings are made:

1. That a substantial hardship does or may exist as a result of imposition of the R-O District, without relief from which the owner would be deprived of reasonable use of the property; and
2. That adequate engineering, structural, or other technical measures exist and will be applied to alleviate site-imposed constraints and mitigate environmental impacts; and
3. That no available alternative sites exist for the proposed use; and
4. That it will further the public purpose that the Conditional Use Permit be granted; and
5. That granting the Conditional Use Permit will not set an adverse precedent with respect to similar areas.

SECTION 505 - DEVELOPMENT STANDARDS FOR PERMITTED USES

Those permitted uses impacting a flood related R-O District shall be limited to a type of construction that is anchored but that shall have the ability to collapse or otherwise become non-obstructive when inundated to a point that flood velocity and volume capable of otherwise increasing the upstream or downstream water surface elevation can be reduced by removal or reduction of such obstruction. Examples of these allowable encroachments would include:

- A. Backstops for playgrounds
- B. Recreation and exercise equipment
- C. Fences
- D. Any related screening

ARTICLE 6
OFF-STREET PARKING

SECTION 601

The following required all-street parking spaces are minimum requirements:

- A. Residential structures (including apartments), not including boarding and rooming houses, shall have at least two (2) off-street parking spaces per dwelling unit.
- B. Boarding houses shall have one (1) parking space for each two hundred (200) square feet of floor space devoted to bedrooms or one (1) space for each two (2) persons domiciled in the premises, whichever is greater.
- C. Convalescent, nursing, and other such institutions shall have one (1) visitor parking space per three (3) patient beds, plus one (1) parking space for each employee at work during daylight hours.
- D. Hotels and motels shall have one (1) parking space per room or suite.
- E. Private clubs and lodge halls shall have one (1) parking space per three (3) members, based on the design capacity of the facility.
- F. Churches, theaters, auditoriums, and other places of assembly shall have one (1) parking space per five (5) seating spaces in the main assembly room.
- G. Retail stores, cafes, office buildings, clinics, gas stations, personal service shops and other business buildings shall have parking space at the rate of at least three (3) per one thousand (1000) square feet of business floor area in the building.
- H. Drive-in retail businesses shall have at least twelve (12) off-street parking spaces, or sufficient off-street parking spaces for patrons or customers, whichever is greater. No patron or customer may be served in automobiles which are parked on public streets.
- I. Industrial, manufacturing, and wholesale establishments shall have one (1) parking space per three (3) employees based on largest shift.
- J. Other uses shall have parking requirements as determined by the Planning & Zoning Commission.

SECTION 602 - LOCATION OF PARKING FACILITIES

602.01 Residential Uses

A minimum of one (1) off-street parking space shall be required on the same lot or parcel as the use it is intended to serve; provided, however, that:

- A. The required additional parking for single-family dwelling may be within a parking lot, the nearest point of which is not farther than one hundred (100) feet walking distance from the entrance to the dwelling unit.
- B. Parking for townhouse, multi-family, condominium-type dwellings, fraternities, sororities and rooming houses, may be provided in a parking lot the nearest point of which is not farther than two hundred (200) feet walking distance from the entrance to the dwelling unit it is intended to serve.
- C. Required parking for any multi-family dwelling, to the extent that the minimum requirement exceeds one (1) space per dwelling unit, may be located on a separate lot or parcel in a parking lot the nearest point of which is not more than three hundred (300) feet walking distance from the dwelling units it is intended to serve.

602.02 Non-Residential Uses

Required off-street parking shall be located within three hundred (300) feet of the building or use it is intended to serve, the distance being measured along the sidewalk from the nearest point of the building or use to the nearest parking lot; provided, however, that parking facilities for a stadium, auditorium, outdoor sports arena, or similar use, may be located not further than thirteen hundred (1300) feet from the nearest point of such building or use.

602.03

Whenever the use of a separate lot or parcel is proposed for fulfillment of minimum parking requirements, the owner shall submit as a part of his application for Conditional Use Permit satisfactory assurance that the separate lot or parcel is permanently committed to parking use by deed restriction or other enforceable legal measure.

SECTION 603 - COMBINED PARKING AREAS

The required off-street parking and loading facilities may be provided collectively for two (2) or more buildings or uses, provided that the total number of parking spaces shall be not less than the sum of the requirements for each of the individual uses.

SECTION 604 - MIXED USES

In the event that two (2) or more uses occupy the same lot, or parcel of land, the total requirements for off-street parking and off-street loading space shall be the sum of the requirements of the various uses computed separately.

SECTION 605 - CONTINUING OBLIGATION

The required off-street parking facilities shall be a continuing obligation of the property owner so long as the use requiring vehicle parking or loading space continues. It shall be unlawful for an owner of any building or use to discontinue or dispense with the required vehicle parking space without providing other vehicle parking space which meets the requirements of this Ordinance.

SECTION 606 - PARKING LOT ACCESS

Access to all lots and parcels of land having frontage on a public street shall be controlled as follows:

- A. Points of access shall be minimized as much as is consistent with reasonable use.
- B. Access shall be by not more than two (2) driveways from any one (1) street.
- C. Driveways shall be not closer to each other than twenty (20) feet. A greater distance may be required elsewhere in this Ordinance.
- D. For any commercial or industrial use, each driveway shall be not less than twenty-four (24) feet in width, measured at right angles to the center line of the driveway, except as increased by permissible curb return radii. In residential and agricultural zones, driveways shall be not less than twenty (20) feet in width, except as may be approved for a large-scale development.
- E. On corner lots, no driveway shall be closer than twenty-five (25) feet to the point of intersection of the front property line with the side property line which abuts upon a street.
- F. No individual parking space shall have direct access to public street except for a single-family home. All parking lots other than single-family home shall be designed so that entrance onto a street is by forward motion of the vehicle only. Single-family homes with access to an arterial street must provide a turn around area so that entrance to the street is by forward motion of the vehicle only.

- G. No parking lot access shall be permitted to the following:
1. Arterial streets intersecting another arterial street, within forty (40) feet of the intersection of right-of-way lines.
 2. Local or collector streets intersecting an arterial street, within twenty-five (25) feet of the intersection of right-of-way.
- H. Access from an Alley: An alley may be used for principal access to any parking lot, and for direct access to parking spaces; provided, however, that every such alley shall be dedicated full-width to the public, fully improved with an all weather surface and properly drained to prevent impoundment of surface water.

SECTION 607 - PARKING LOT STANDARDS

Parking lots shall be improved with an all weather surface which is drained and maintained.

ARTICLE 7 OUTDOOR LIGHTING

SECTION 701 - ADMINISTRATION

This article is intended to regulate the permitted use of outdoor artificial illuminating devices emitting undesirable rays which have a detrimental effect on astronomical observations and visual aesthetics.

701.01 Conformance With Applicable Codes

All outdoor artificial illuminating devices shall be installed in conformance with the provisions of this Ordinance, and any building ordinances which may hereafter be enacted.

Where any provisions of the Arizona Revised Statutes, of the Federal Law, or any companion ordinance conflicts with the requirements of this Ordinance the most restrictive shall govern.

701.02 Approved Material and Methods of Installation

The provisions of the Ordinance are not intended to prevent the use of any material or method of installation not specifically prescribed by this Ordinance provided any such alternate has been approved. The Zoning Inspector may approve any such alternate provided he finds that the proposed design, material or method:

- a. provides approximate equivalence to those specific requirements of the Ordinance, or;
- b. is otherwise satisfactory and complies with the intent of the Ordinance.

SECTION 702 - SPECIFIC RELATED DEFINITIONS

702.01 Outdoor Light Fixtures

Outdoor artificial illuminating devices, outdoor fixtures, lamps and other devices, permanent or portable, used for illumination or advertisement. Such devices shall include, but are not limited to search, spot, or flood lights for:

- A. buildings and structures
- B. recreational areas
- C. parking lot lighting
- D. landscape lighting
- E. billboards and other signage (advertising or other)
- F. street lighting.

702.02 Individual

Shall mean any private individual, tenant, lessee, owner, or any commercial entity including but not limited to companies, partnership, joint ventures or corporations.

702.03 Installed

Shall mean the initial installation of outdoor light fixtures defined herein, following the effective date of this Ordinance but shall not apply to those outdoor light fixtures installed prior to such date.

SECTION 703 - GENERAL REQUIREMENTS

703.01 Shielding

All exterior illuminating devices, except those exempt from this Ordinance and those regulated by Section 4.03 shall be fully shielded as required in Section 3.03.

703.02 Filtration

Those outdoor light fixtures requiring a filter in Section 3.03 shall have glass, acrylic or translucent enclosures. (Quartz glass does not meet this requirement.)

703.03 Requirements for Shielding and Filtering

The requirements for shielding and filtering light emissions from outdoor light fixtures shall be as set forth in the following table:

**TABLE
REQUIREMENTS FOR SHIELDING AND FILTERING**

FIXTURE LAMP TYPE	SHIELDED	FILTERED
Low Pressure Sodium	None	None
High Pressure Sodium	Fully	None
Metal Halide	Fully	Yes
Fluorescent	Fully	Yes
Quartz	Fully	None
Incandescent Greater than 160W or less	Fully	None
Incandescent 160W or Less	None	None
Mercury Vapor *	Fully	Yes
Fossil Fuel	None	None
Glass Tubes Filled With Neon, Argon, Krypton, Other Sources	As Approved by Zoning Inspector	

* Recommended for existing fixtures. The installation of mercury vapor fixtures is prohibited effective 90 days after date of adoption.

SECTION 704 - USE LIMITATIONS

704.01 Searchlights

The operation of searchlights for advertising purposes is prohibited.

704.02 Recreational Facility

No outdoor recreational facility, public or private, shall be illuminated after 11:00 p.m. except to conclude a specific recreational or sporting event or any other activity conducted at a ball park, outdoor amphitheater, arena, or similar facility in progress prior to 11:00 p.m.

704.03 Outdoor Building or Landscaping Illumination

The unshielded outdoor illumination of any building, landscaping, signing, or other purpose, is prohibited except with incandescent fixtures less than 160 watts.

704.04 Mercury Vapor

The installation of mercury vapor fixtures is prohibited.

SECTION 705 - EXEMPTIONS

705.01 Nonconforming Fixtures

All outdoor light fixtures existing and fully installed prior to the effective date of the Ordinance may remain "nonconforming" indefinitely; provided, however, that no change in use, replacement, structural alteration, or restoration after abandonment of outdoor light fixtures shall be made unless it thereafter conforms to the provisions of these regulations.

705.02 Fossil Fuel Light

Produced directly or indirectly by the combustion of natural gas or other utility-type fossil fuels.

705.03 Federal and State Facilities

Those facilities and lands owned, operated or protected by the U.S. Federal Government or the State of Arizona are exempted by law from all requirements of this Ordinance.

705.04 Special Exemption

The Zoning Inspector may grant a special exemption to the requirements of Section 703.03 only upon a written finding that there are extreme geographic or geometric conditions warranting the exemption and that there are no conforming fixtures that would suffice.

SECTION 706 - PROCEDURES

706.01 Applications

- A. Any individual applying for a Building Or Conditional Use Permit under the Zoning Ordinance intending to install outdoor lighting fixtures shall submit evidence that the proposed work will comply with this Ordinance.
- B. All other individuals intending to install outdoor lighting fixtures shall submit an application to the Zoning Inspector providing evidence that the proposed work will comply with the Ordinance.
- C. Utility companies entering into a duly approved contract with the County of Apache in which they agree to comply with the provisions of these regulations, shall be exempt from applying for and obtaining a permit for the installation of outdoor light fixtures, including residential security lighting.

706.02 Contents of Application or Submission

The application shall contain:

- A. Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, other devices, etc.
- B. Description of the illuminating devices, fixtures, lamps, supports, and other devices, etc. This description may include but is not limited to, manufacturers catalog cuts, and drawings (including sections where required).
- C. The required plans and descriptions shall be sufficiently complete to enable the Apache County Zoning Inspector to readily determine whether compliance with the requirements of the Ordinance will be secured. If such plans and descriptions cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures, or lamps proposed, the applicant shall submit evidence of compliance by certified test reports as performed by a recognized testing lab.

706.03 Issuance of Permit

Upon compliance with the requirements of this Ordinance, the Zoning Inspector shall issue a permit for installation of the outdoor lighting fixtures, to be installed as in the approved application. Appeal procedures of the Ordinance for decisions of the Zoning Inspector shall apply.

706.04 Amendment to Permit

After a permit has been issued, the applicant must submit proposed changes in outdoor lighting fixtures to the Zoning Inspector for approval, with adequate information to assure compliance with this Ordinance.

SECTION 707 - TEMPORARY USE EXEMPTIONS

707.01 Request for Temporary Use Exemptions

Any individual as defined herein may submit a written request on a form prepared by the Planning and Zoning Department to the Zoning Inspector for a "temporary exemption" to the requirements of the Ordinance, such exemption is valid for 30 days.

The Request for Temporary Use Exemption shall contain the following listed information:

1. Specific exemptions requested
2. Type and use of exterior light involved
3. Duration of time for requested exemption
4. Type of lamp and calculated lumens
5. Total wattage of lamp or lamps
6. Proposed location of exterior light
7. Previous temporary exemptions, if any
8. Physical size of exterior light and type of shielding provided
9. The Zoning Inspector may request any additional information which would enable him to make a reasonable evaluation of the Request for Temporary Exemption.

707.02 Appeal for Temporary Use Exemption

The Zoning Inspector, within five days from the date of the properly completed Request for Temporary Exemption, shall approve or reject one (1) request in writing. If rejected, the individual making the request shall have the right of appeal to the appropriate Board of Adjustment for review pursuant to the procedures applicable to any other appeal of a decision of the Zoning Inspector.

ARTICLE 8
FLOOD PLAIN MANAGEMENT

SECTION 801 - PURPOSE AND APPLICATION

The purposes of Flood Plain Management are to:

1. Restrict or prohibit land used, including subdivisions, which are dangerous to health, safety, or property in times of flooding
2. Require that land uses vulnerable to flood waters, including public facilities, be reviewed to determine if any adverse effects would result, and
3. Protect individuals from buying lands which are unsuited for the intended use because of flood hazards.

Within flood plain areas, including Reserve Overlay Districts, this Ordinance shall take precedence over any conflicting laws, ordinances, or codes.

SECTION 802 - DELINEATION OF FLOOD PLAINS

The flood plain shall be those areas shown on maps approved by the Flood Plain Board (Board of Supervisors) which delineates areas susceptible to flooding.

SECTION 803 - FLOOD PLAIN BOARD

1. The Board of Supervisors of Apache County shall act as the Flood Plain Board.
2. Any new structure, substantial improvement or new use proposed in a flood plain other than open land use, shall require written permission from the Flood Plain Board, except as authorized by ARS 45-2353.
3. The Flood Plain Board shall take into account the flood plain management programs of the neighboring areas.
4. The Flood Plain Board shall insure that proposed new construction or substantial improvements involving flood plain areas are : 1) protected against flood damage both above and below stream of the subject construction; 2) designed (or modified) and anchored to prevent uncontrolled flotation, collapse or lateral movement of the structure or improvement; 3) using construction materials and utility equipment that are resistant to flood damage; 4) using construction methods and practices that will minimize flood damage; and, 5) that the water surface elevation will not be increased.

5. The Flood Plain Board shall review subdivision proposals and other new developments to assure that: 1) All such proposals are consistent with the need to minimize flood damages both above and down stream of the development; 2) all public utilities and facilities, such as sewer, gas, electric, and water systems are located, elevated, and constructed to minimize or eliminate flood damage and infiltration; 3) adequate drainage is provided so as to reduce exposure to flood hazards; and, 4) the new development will result in no increase in the water surface elevation.
6. The Flood Plain Board shall require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require on-site waste disposal systems to be located so as to avoid impairment or contamination during flooding.
7. All requests for building permits shall be reviewed by the Building Inspector to determine the flood plain status of the request. Any additional determinations of flood hazard areas during this permit application will be performed by the Floodplain Administrator or his alternate.

SECTION 804 - RESTRICTIONS

- A. When areas within flood plains have been identified, or when surface elevations for the flood plain have been established:
 - a. any new construction, alteration, or addition is prohibited. If, by issuance of a Conditional Use Permit and Flood Hazard Development Permit construction is granted, then the lowest floor elevation of the structure shall be one (1) foot above the level of the flood or, together with attendant utility and sanitary facilities, be flood proofed one (1) foot above the level of the flood.
 - b. no use, including land fill, may be permitted within the flood plain area unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and anticipated uses, will not increase the water surface elevation of the flood plain area.
- B. When the Federal Insurance Administration has identified the floodway:
 - a. existing non-conforming uses within the floodway shall not be expanded but may be modified, altered, or repaired to incorporate flood proofing measures, provided such measures do not raise the level of the flood elevation.
 - b. fill or encroachments within the floodway that impair its ability to carry and discharge waters of a flood area are prohibited except where the effect of flood heights is fully offset by stream improvements.

ARTICLE 9
CONDITIONAL USE PERMITS

SECTION 901 - PURPOSES

In certain zoning districts, conditional uses are allowed subject to the granting of a Conditional Use Permit by the Board of Supervisors. Because of unusual characteristics, conditional uses require special consideration so that they may be located properly with respect to the objectives of the zoning ordinance, and site characteristics effects on surrounding properties. The Planning Commission reviews and makes recommendations to the Board of Supervisors who grant or deny applications, and may apply reasonable conditions to the approval of such uses.

SECTION 902 - APPLICATION

Application for Conditional Use Permit shall be filed with the Planning Director on a form prescribed by the Commission.

**SECTION 903 - DEVELOPMENT AND PERFORMANCE STANDARDS FOR
CONDITIONAL USE PERMITS**

Section 903.01 General Standards

- A. Site Plan: A site plan is required for all proposed conditional uses and buildings and shall be drawn to scale showing structures, property lines, adjacent streets, yards, parking and traffic flow, drainage, proposed sign location and design, location of leach fields or sewers, and any other information needed to properly evaluate the proposal.
- B. Water supply, septic systems and sewer systems shall be approved by the Health Department and meet all health and safety laws.
- C. Where subdivisions are involved, deed restrictions that reflect the requirements of the Conditional Use Permit shall be recorded with the subdivision plat.
- D. Increased surface drainage will be channeled to natural or man made drainage structures and not allowed to flow uncontrolled onto neighboring properties, unless an easement or other written permission has been granted. Necessary measures will be taken to prevent erosion.
- E. The owner/applicant shall show that traffic from a proposed conditional use will not be excessive for the land area involved and will not create or significantly increase congestion or cause safety hazards.

- F. Where possible, the site design will preserve and enhance existing trees, water courses, hills and other natural features, as well as vistas, and historic locations and will be compatible with existing adjoining development.
- G. Parking: The provisions of Article 6 shall apply.
- H. Lighting: The provisions of Article 7 shall apply.
- I. The Board of Supervisors may require compliance with any other conditions which in its opinion are necessary to protect the public health, safety and general welfare.
- J. Signs: When signs are to be erected as part of a conditional use, a diagram showing the location, size and design of the sign together with lighting details, construction materials and landscaping details shall be submitted. The Board of Supervisors shall approve sign usage as part of the Conditional Use Permit and no changes may be made other than lettering or additional signs added without further approval by the Board of Supervisors.

In general, the following guidelines shall be considered by the Board in approving sign usage:

1. Signs shall be constructed in a safe manner that prevents collapse, wind damage, electrical hazards or other unsafe conditions.
2. Signs shall be placed so as not to obstruct vision necessary for safe pedestrian or vehicular traffic movement nor inhibit traffic movement.
3. Signs shall be placed so as not to obstruct views of adjoining properties or views from adjoining properties.
4. Signs shall be of a minimum size and number for the purpose served.
5. Signs shall be landscaped where possible.
6. Signs attached to buildings shall appear to be an integral part of the building. Guy wires and similar appurtenances shall not be exposed.

903.02 Standards for Multi-family Dwelling, Townhouses, Condominiums

- A. **Lot Size:** Minimum site area per dwelling unit shall be as determined by the Health Department but not less than net 30,000 square feet per dwelling unit when facilities are on septic systems or net 5,000 square feet per dwelling unit when on sewer system.

- B. **Separation:** A multi-family structure shall not be closer than twenty (20) feet to any other residential structure, except that building walls without window openings may be separated by no less than ten (10) feet.
- C. **Setbacks:** Side Yard; All building or structure sideyard setbacks from a property line boundary of the multi-family development shall be a minimum of ten (10) feet for a single story structure. Building(s) or structure(s) exceeding fourteen (14) feet in height, as measured from grade to the highest gable end, shall have one (1) additional foot of sideyard setback for each additional foot of building or structure height.
- Front and Rear Yard:** All structures shall have a minimum front & rear yard setback equal to the total height of said structure as measured from grade to the top of the highest point of the structure, plus ten (10) feet.
- Accessory Building Setbacks:** Any and all accessory buildings shall have a minimum ten (10) feet of setback for single-story and fifteen (15) feet of setback for two story structures from all property lines and other buildings.
- D. Structures shall not exceed two (2) stories in height, or 24 feet.

903.03 Standards for Mobile Home Parks and Travel Trailer Parks

- A. Mobile homes may not be located closer than 20 feet to any other travel trailer, mobile home, or other residence, nor closer than ten (10) feet to property lines exclusive of drives or roadways. Cabanas and carports attached to mobile homes may extend to within ten (10) feet of an adjoining carport or cabana and to within five (5) feet of an interior property line in a mobile home subdivision.
- B. The applicant shall satisfy the Board that water, plumbing, electrical and sewage systems are safe and adequate for the proposed use.
- C. For Mobile Home Parks and Travel Trailer Parks a map outlining site areas for building sites, mobile home and travel trailer sites and accessory building sites shall be included with and made a part of a Conditional Use Permit. No mobile home, travel trailer, or accessory building may be located in any area that is not indicated on such map as a site proposed for such use.
- D. Storage: a separate, improved surface storage area shall be provided in mobile home parks for the storage of boats, camper, etc., at the rate of 300 square feet of storage for each mobile home space.
- E. Recreation area: In a mobile home park a minimum of 10% of total park area shall be improved and maintained for play or recreation.

- F. Mobile home and travel trailer parks may be required to be screened from adjacent non-mobile home development or streets by opaque fences, walls, or plantings.
- G. Minimum site area provided per travel trailer shall be 30,000 square feet when served by an individual septic system and a minimum of 2,500 square feet, or a maximum of twelve (12) dwelling units per acre when served by public sewer.
- H. Minimum site area provided per mobile home shall be 30,000 square feet when served by an individual septic system and a minimum of 3,500 square feet, or a maximum of eight (8) dwelling units per acre when served by public sewer.
- I. Travel trailers may be located on mobile home spaces, provided that not more than twenty (20) percent of the mobile home spaces are occupied by travel trailers.
- J. Mobile homes shall not be located on spaces provided for travel trailers or development specifically for travel trailers.

903.04 Standards for Commercial and Industrial Developments

- A. Applicants for a Conditional Use Permit for a commercial or industrial use shall submit with the application of an impact statement to assist the Board of Supervisors in their evaluation. This statement shall include the following:
 - Number of employees
 - Estimated amount of traffic by day of week
 - Parking, storage, loading, and service areas needed
 - Amount of water use and source
 - Method of handling increased surface drainage
 - Nearest residences
 - Amount and types of refuse and sewage
 - Any pollutants and method of handling
 - Site changes necessary including tree removal
 - Landscaping and recreation provided
 - Use of natural resources
 - Fire prevention and protection systems
 - Services required of the County such as road maintenance, snow removal, etc.
 - Method of controlling dust from traffic areas and other sources
- B. Lot size shall be as determined by the Board of Supervisors but shall be sufficient to accommodate the required parking, building, and open space uses.
- C. Yard areas shall be as determined by the Board of Supervisors.

D. Height limitations shall be determined by the Board of Supervisors.

903.05 Objectionable Uses

These uses include junk yards, dumps, canneries, fertilizer plants, refineries, commercial feed lots, meat packing plants, tallow works, and other like businesses which the Board of Supervisors may feel constitute objectionable uses. These may be located anywhere in the County so long as the provisions of this Article are adhered to.

- A. An impact statement as required under section 903.04 will be submitted for objectionable uses.
- B. A written easement from property owners within the area of impact of the objectionable use shall be obtained by the applicant. "Area of Impact" shall be determined by the Board of Supervisors based on impacts of similar uses elsewhere. These easements shall apply to noise, odor, dust, fumes, glare, and any other phenomena the Board of Supervisors may designate.
- C. Objectionable uses may not be located closer to a residence than the area of impact.
- D. The public shall be adequately protected from the objectionable use by means determined by the Board of Supervisors.

SECTION 904 - COMMISSION ACTION

- 1. The Commission shall consider the application at their next regular meeting if the application was filed at least fifteen (15) days prior to such meeting. Otherwise, it shall be carried over until the next regularly scheduled meeting. The Commission may reach a recommending decision, continue the matter to a specified date (but not later than the next regularly scheduled meeting), or may set the matter for public hearing.
- 2. Any use permit recommended by the Planning and Zoning Commission shall be commenced within six (6) months from the date of approval by the Board, and diligently pursued, otherwise it shall become null and void.
- 3. Notice of the meeting shall be given by posting the property of application at least ten (10) days prior to the meeting date, if a property is involved.
- 4. The Commission may recommend such conditions in connection with the use permit as it deems necessary to secure the intent and purposes of this Ordinance and may require such guarantees and evidence that such conditions are being or will be complied with.
- 5. If appropriate, the use permit may be applied for prior to and during the meeting to review the developments vicinity plan application.

SECTION 905 - BOARD ACTION

After proper review and recommendation by the Commission, the Board of Supervisors shall enter all final decisions regarding an application. In providing a decision, the Board may continue the hearing, deny, approve, or approve with modifications the use permit.

SECTION 906 - TEMPORARY USE PERMIT

At times the Planning Commission may receive requests for uses which are temporary in nature (eg. Rodeos, Revivals, Circuses, etc.) but which would not be suitable for long term use. The Commission may recommend a Temporary Use Permit for a maximum period of 180 days which may be extended upon written request by the applicant for a period not to exceed an additional 180 days.

Temporary Use Permits do not require the issuance of a Building Permit but may include temporary use of water and sewer facilities for the time the permit is in effect. No permanent structures may be built under temporary use procedures.

Temporary Use Permits shall be administered and processed in the same manner as Conditionals Use Permits. A signed agreement shall accompany the application and shall state that upon cessation, expiration or revocation of the permit, the premises will be promptly cleaned up and restored to substantially the same condition as existed prior to the issuance of the permit.

SECTION 907-FINDING

In order to deny any use permit, the findings of the Board must be that the establishment, maintenance, or operation of the use or building applies for will be detrimental to the public health, safety, peace, convenience, comfort, or general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County, or shall be in conflict with any approved Comprehensive Plan.

SECTION 908 - USE PERMIT TO RUN WITH THE LAND

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

SECTION 909 - REVOCATION

- A. Use permits granted in accordance with the provisions of this Ordinance may be revoked if the use is not completed within one (1) year from the date construction is begun, or may be revoked if any of the conditions or terms of the permit are violated or if any law or Ordinance is violated in connection therewith.
- B. The Planning Director shall notify the permittee of a violation or termination of a use permit, by mail, if the permittee has not diligently commenced with the use of the permit. The permittee shall likewise be notified if he is in violation of the conditions of the permit. If no attempt to change the violation is made within ten (10) days after notification, the permit shall be revoked and considered null and void.

909.01 AMENDMENT TO A CONDITIONAL USE PERMIT

Change in a conditional use which substantially (10 per cent or more) changes the layout, use or design of a permit as determined by the Director, the Applicant shall apply for an Amendment to the Conditional Use Permit. The amendment process shall be the same as the Conditional Use Permit process and require a processing fee of \$500.00.

SECTION 910 - TIME LIMIT

- A. Use permits become effective on approval by the Board.
- B. No person shall re-apply for the same or substantially the same use permit on the same or substantially the same plot, lot, or parcel of land within a period of one (1) year from the date of denial or revocation of said use permit.

SECTION 911 - FEE

A non-refundable filing fee will be required for the following permits:

- | | |
|---|----------|
| 1. Conditional Use Permit: | \$500.00 |
| 2. Additional Residence on Parcel: | \$300.00 |
| 3. Variance: | \$300.00 |
| 4. Rezoning: | \$600.00 |
| 5. Amendment to Conditional Use Permit: | \$500.00 |

Failure to obtain a permit will result in double fees.

ARTICLE 10
NON-CONFORMING USES

SECTION 1001 - PURPOSE

It is the purpose of this Article to allow the continued use, maintenance, expansion, and reconstruction of non-conforming uses subject to the criteria listed in this Article.

SECTION 1002 - APPLICATION

1. The lawful use of land, building, or structures existing at the time of the passage of this Ordinance, although such does not conform to the provisions hereof for said land, may be continued but if such non-conforming use is intentionally discontinued for a period of three (3) years, any future use of said land shall be in conformity with the provisions of this Ordinance.
2. A non-conforming use of a building may be changed to another non-conforming use which is of the same or more restricted nature in the opinion of the County Planning and Zoning Commission. These provisions also apply whenever a change in zoning districts or change in zoning code renders a use non-conforming.
3. A non-conforming use may be expanded up to 100% of the floor area of the original business (which existed before the use became non-conforming). To the extent possible, expansion shall conform to the current regulations.
4. Nothing in this Ordinance shall restrict the reasonable repair or alteration of buildings for the purpose of improving safety, appearance, or economic utility.
5. Uses of land or buildings which were illegal prior to the adoption of this Ordinance do not become non-conforming uses but remain as illegal uses.

ARTICLE 11
ORDINANCE AMENDMENT, RE-ZONING

SECTION 1101 - PURPOSE

As amendments to the Comprehensive Plan of Apache County are put into effect, there will be a need for changes in zoning district boundaries and other regulations of this Ordinance. Such amendments shall be made in accordance with the procedures prescribed in this Article.

SECTION 1102 - AUTHORITY

The Board of Supervisors may, after receiving a report from the Planning and Zoning Commission and after public hearings required by law, amend the Ordinance regulations and zoning districts set forth herein or subsequently established. Any such proposed change may be initiated by the Commission or by petition and application of property owners as provided herein.

SECTION 1103 - APPLICATION

1. Whenever the owner of any lands or buildings desire a reclassification of their property, or an amendment to this Ordinance they shall present to the Planning and Zoning Commission a petition duly signed and acknowledged, describing the desired amendments. Each such petition and/or application shall be on a form prescribed by the Planning and Zoning Commission, and shall be accompanied by the consent of at least fifty one percent (51%) of the owners by number and area of all other properties, any part of which are within three hundred (300) feet of the proposed change provided, however, if the petition is for a change of zone classification there shall not be counted either in numbers or area the owners of land of the same zone classification as sought by the petitioners. Each such application and/or petition shall be accompanied by a map showing the existing and proposed zone district boundaries, and other matters related thereto as may be required by the Commission and Board of Supervisors.
2. There is a non-refundable filing fee for all amendments to the Zoning Ordinance and official zone map, except that fees to public officials, Boards and Bureaus, are waived. A fee of \$75.00 will be assessed for this procedure, as set by the Board of Supervisors.

SECTION 1104 - COMMISSION ACTION

1. Upon receipt of any proposed amendment, same shall be submitted to the Planning Commission for a report. Prior to reporting to the Board of Supervisors, the Commission shall hold at least one (1) public hearing thereon, after giving at least 15 days notice thereof by publication at least once in a newspaper of general circulation in the County seat, and by posting a description and map of the area

- included in any proposed Zoning Map change. It shall not be the responsibility of the Board or Commission to maintain such posting once erected.
2. Prior to publishing and posting a petitioned Zoning Map change, the Commission may, on its own motion, delimit or extend the boundaries of such area, so as to constitute a more reasonable zone district boundary.
 3. The Commission may on its own motion propose any amendments to this Ordinance and map and may after holding a public hearing as required by this section, transmit such proposal to the Supervisors who shall thereupon proceed as set forth herein for any other amendment.
 4. Should the Planning Commission initiate a proposed zoning amendment at the request of a person or persons, notice of such proposed change shall not be processed until the required filing fee has been paid.
 5. Following a public hearing, the Planning Director shall make a report of its findings and recommendations from the Commission to the Board of Supervisors within sixty (60) days. Nevertheless, any public hearing held by the Commission or Board of Supervisors may be continued once convened, as is deemed necessary for public convenience, necessity, and general welfare.
 6. No person including the original applicant shall reapply for the same or substantially the same plot, lot, or parcel of land within a period of one (1) year from the date of denial by the Commission and/or Board except in instances where extraordinary circumstances have caused a need for the Commission and/or Board to re-evaluate all of the property in the general area. This paragraph shall not in any way be interpreted as limiting the Planning Commission's power to propose amendments to the Ordinance and map pursuant to Item 3 of this section.

SECTION 1105 - SUPERVISORS' ACTION

1. Upon receipt of the Commission's recommendation, the Board shall hold at least one (1) public hearing, after giving at least fifteen (15) days notice thereof by publication at least once in a newspaper of general circulation in the County seat, and by posting the area included in any proposed Zoning Map change. It shall not be the responsibility of the Board of Supervisors to maintain such posting once erected.
2. After the public hearing, the Board of Supervisors may adopt the amendment, in whole or in part, as set forth in the Commission's recommendations, or reject the Commission's recommendations. The decision of the Board shall be rendered within thirty (30) days after the conclusion of the public hearing.

3. If twenty percent (20%) of the owners of property by area and number within the rezoning area file a protest to such change, the change shall not be made except by the unanimous vote of the Board of Supervisors.
4. The Board of Supervisors shall not make any changes in any proposals recommended by the Planning Commission until the proposed changes have been referred back to the Commission for a report. Failure of the Commission to file a report back to the Board of Supervisors within forty (40) days from date of receipt of the recommended changes shall be deemed to be approval of the proposed change(s) as recommended by the Board.

ARTICLE 12
BOARD OF ADJUSTMENTS AND APPEALS

SECTION 1201 - STRUCTURE AND PROCEDURE

1. The Board shall serve as the Board of Adjustment and Appeals as hereinafter established and shall interpret the permit variances in the application of, or when unnecessary hardship would result from a strict application of these regulations.
2. Any finding, ruling, or decision relating to administration of the Zoning Ordinance shall be an order of business at either a regular or special meeting and shall be fully reported in the minutes of the Board of Adjustment and Appeals.

SECTION 1202 - POWERS AND DUTIES

1. The authority of the Board of Adjustment and Appeals shall extend to the granting of variances and the adjustment of regulations to overcome practical difficulties and prevent unnecessary hardship in the application of regulations contained herein. Authority to effect changes in the boundaries of zoning districts shall be held exclusively by recommendation of the Planning Commission and all final decisions of the Board of Supervisors. The Board of Adjustment and Appeals shall have power to:
 2. Interpret the Zoning Ordinance when the meaning of any word or phrase or section is in doubt, when there is dispute as to such meaning between the appellant and the enforcing officer or when the location of a district boundary is in doubt.
 3. Allow a reduction of lot area requirements and front, side, and rear yard regulations where in its judgment the shape of the building site, topography, the location of existing buildings or other conditions make a strict compliance with said regulations impossible without practical difficulty or hardship, but in no case, except as hereinafter provided, shall these regulations be reduced in such a manner as to violate the intent and purpose of this Ordinance.

4. Grant Building Inspector clearance to issue a building permit where the applicant has failed to secure such permit prior to start of construction only in cases where the Inspector has chosen to allow such application rather than processing legal action against the applicant.

SECTION 1203 - HEARING APPLICATIONS

1. All action by the Board of Adjustment and Appeals shall be at public hearings, legally advertised as provided for by this Article. Where practical difficulties, unnecessary hardships, and results inconsistent with the general purpose of the Ordinance may result from the strict application of certain provisions thereof, a variance may be requested as provided for in this section. Applications shall be filed with the County Planning and Zoning Director on forms provided therefrom, together with any statements, plans, records, and other relevant evidence showing that there are special or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application.
2. A fee shall be charged, as provided herein, none of which is refundable and all other legal and administrative requirements of this Article shall be complied with before the Board of Adjustment and Appeals can take any action on an application request. The Board of Adjustment and Appeals shall either: (1) made a determination "for" or "against" the appellant, or (2) continue the matter to a specific date, with the approval of the appellant. Under no circumstances shall a matter ever be tabled.

SECTION 1204 - HEARING AND RULING

1. At least one public hearing shall be held by the Board of Adjustment and Appeals within a reasonable time after filing of an application, after first causing notice to be given therefore to parties of interest and the public, by posting the property of application, if a property is involved, and publishing once in a newspaper of general circulation in the County seat at least fifteen (15) days prior to the hearing. It shall not be the responsibility of the Board of Adjustment and Appeals, or its agents, to maintain the posting once erected.
2. Rulings shall not become effective for thirty (30) days being decided by the Board of Adjustment and Appeals and, in the event an appeal is filed, said decision by the Board of Adjustment and Appeals shall not become effective until a final decision is made by the Superior Court.

AMENDED 9-3-85

3. In approving an application, in all or in part, the Board of Adjustment and Appeals may designate such conditions in connection therewith as will, in its

opinion secure substantially the objectives of the Ordinance regulations, and may require guarantees in such a form as it deems proper under the circumstances, to insure that such conditions be complied with. Where any such conditions are violated or not complied with, the approval shall cease to exist, and the Inspector shall act accordingly. The Board of Adjustment and Appeals may recommend that the applicant file for rezoning.

4. The granting by the Board of Adjustment and Appeals of permission to proceed on a specific development scheme, or of a permit for a construction variance, shall be contingent upon permits being obtained and work commencing within six (6) months, and being diligently pursued. Failure of such shall void the ruling unless a longer time has been granted by said Board.

SECTION 1205 - APPEALS

1. Appeals to the Board of Adjustment and Appeals may be taken by any person who feels that there is error or doubt in the interpretation of the Ordinance, or that due to unusual circumstances attached to his property an unnecessary hardship is being inflicted on him, or when the location of the zoning district boundary is in doubt. The appeal shall state whether it is a plea for an interpretation of the regulations or a variance, and the grounds for the appeals.
2. Any person aggrieved in any manner by an action of a Board of Adjustment may within thirty (30) days appeal to the Superior Court, and the matter shall be heard *de novo* as appeals from courts of justice of the peace.

SECTION 1206 - APPLICATION FEE

Applications to the Board of Adjustment and Appeals shall be accompanied by a non-refundable fee of \$300.00.

SECTION 1215 – ADMINISTRATIVE VARIANCES

SECTION 1215.01 – PURPOSE

1. To allow flexibility in how some of the site development standards are applied to individual lots;
2. To minimize procedural delays and ensure due process in the review of unique and exceptional development situations;
3. To provide administrative relief from zoning requirements that do not affect adjacent properties and the nearby area; and
4. To encourage originality, flexibility and innovation in site planning and architectural design.

SECTION 1215.02 – ELIGIBLE LOT DEVELOPMENT STANDARDS

1. The following site development standards may be eligible for a reduction of up to 25 percent: minimum setbacks, maximum site coverage, maximum building/structure height and minimum parking spaces.
2. The minimum site area may be reduced as follows:
 - A. For any lots in a zoning district with a minimum site area of one acre or smaller, the minimum site area may be reduced up to 15 percent.
 - B. For any lots that are in a zoning district with a minimum site area of more than one acre, the site area may be reduced up to 25 percent.

SECTION 1215.03 - APPLICATION

1. All applications shall be made on forms supplied by the Director and shall include an accurate site plan.
2. The Director shall review the application for compliance and completeness. If there are deficiencies, the applicant shall be notified.

SECTION 1215.04 – NOTICE TO AFFECTED PROPERTY OWNERS

1. The Director shall mail a notice to the surrounding property owners within 300 feet of the subject parcel. The notice shall contain a copy of the application and shall state that all comments concerning the proposed request must be forwarded to the Planning Department in writing within 15 days from the date the notice was mailed.

SECTION 1215.05 – ACTION ON APPLICATION

1. Based on staff comments and those from affected property owners, The Planning Director shall review the proposed development and request modification(s) of the standard(s) and shall either approve, approve subject to conditions, or deny the application within seven (7) working days from the end of the 15-day comment period.
2. The Director shall use the following criteria to evaluate the proposal:
 - A. The proposed modification will not violate any provisions of the Comprehensive Plan, area plans, duly adopted master plans or other provisions of these Regulations.
 - B. The proposed modification will not substantially reduce the amount of privacy currently enjoyed by nearby property owners if the development were located as specified by these Regulations.
 - C. The proposed modification will not adversely impact traffic or traffic circulation, drainage, sewage treatment systems and other such systems.

- D. The modification does not create a situation where the proposed use of the property will create a hazard or nuisance.
- 3. The Director shall, via certified mail, provide the applicant with a notice of disposition and written statement of the decision and reasons therefore, and any conditions of approval. Notice shall also be sent to the surrounding property owners within 300 feet of the site and shall include information on how to appeal the decision made by the Director and the appeal deadline.

SECTION 1215.06 - APPEALS

- 1. The decision of the Planning Director may be appealed to the Board of Adjustment as follows:
 - A. An appeal concern interpretation or administration of these Regulations may be taken to the Board of Adjustment by any person aggrieved or affected by the decision of the Director. Such appeal shall be taken within 30 days by filing with the Director a notice of appeal specifying the grounds therefore on forms provided by the Planning Department. The Director shall transmit to the Board of Adjustment all papers constituting the record of the action being appeals. Such appeal shall stay all proceedings in the matter being appealed, unless the Director certifies to the Board of Adjustment that, by reason of the facts stated in the certificate, the stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed except by a restraining order granted by the Board of Adjustments or by a court of record. The Board of Adjustment shall fix a time for hearing the appeal and give notice thereof to the parties in interest and the public as set forth herein
 - B. Appeals of decisions made by the Director which fall within the scope of ARS-11-810 shall follow those procedures established by ordinance by the Board of Supervisors for the processing of such appeals.

ARTICLE 13 PENALTY

SECTION 1301 - PROVISION

If is unlawful to erect, construct, reconstruct, maintain, or use any land in any zoning district in violation of any regulation or any provision of any ordinance pertaining thereto. Any person, firm, or corporation violating such an ordinance, or any part thereof, is guilty of a class 2 misdemeanor. Each and every day during which the illegal

erection, construction, reconstruction, alteration, maintenance, or use continues is a separate offense.

ARTICLE 14
CONFLICT

SECTION 1401 - PROVISION

All ordinances, regulations, resolutions, and parts thereof which may be in conflict with the provisions of this Ordinance, in all instances this Ordinance shall control.

ARTICLE 15
SEVERABILITY

SECTION 1501 - PROVISION

If any section, subsection, sentence, clause, or phrase of this resolution is for any reason, held by a court of competent jurisdiction to be invalid, such holdings shall not affect the validity of the remaining portion of this resolution. Nothing contained in this resolution shall be construed as releasing a subdivider from full compliance with any other local and County regulations and requirements, the Arizona Revised Statutes, the Rules and Regulations of the State Land Department, Real Estate Division, and Arizona State Health Department pertaining to the establishment of subdivisions.

ARTICLE 16
ENACTMENT

SECTION 1601 - PROVISION

WHEREAS; the effect of this Ordinance is intended to benefit the present and future citizens of Apache County by providing for the health, welfare, safety, convenience, and proper assurances of appropriate growth and development,