

ZONING ORDINANCE

Article XI. SPECIAL USES AND ADDITIONAL USE REGULATIONS 564 605 609 633 657 658 659 2017-05 2019-04 2019-07

Section 1101. General Purpose; Applicability.

The purpose of this Article is to implement the Town of Paradise Valley General Plan. The General Plan recognizes and values the Town's unique role as a low-density residential community and requires the Town to preserve and maintain the community's primarily one-acre, single-family residential character. The provisions of this Article are intended to further the goals and policies of the General Plan by ensuring that primarily non-residential uses and structures do not adversely affect the integrity and enjoyment of adjacent residential neighborhoods. These regulations also are intended to ensure that proposals for the revitalization and improvement of existing, primarily non-residential, sites as well as the development of new, primarily non-residential, sites include community impact assessments that address project effects on traffic, natural features, and light, noise, dust and odor pollution. In addition, these provisions are intended to promote the General Plan's goal of maximizing the security and aesthetic benefits of visual openness throughout the town by establishing a process to set specific limits on site development parameters.

This Article contains standards for development, review, and approval of land uses which because of their unique nature and because of concern for compatibility with adjacent development or the community as a whole, or because of anticipated impacts on traffic and other public facilities, require review and approval on a case by case basis. These standards are administered through Special Use Permits, Conditional Use Permits, and Temporary Use Permits:

- A. Special Use Permits are issued for resorts, medical offices, religious facilities, private schools, non-profit organizations, country clubs and golf courses, utility poles and wires, guardhouses and gatehouses, access control gates, and amateur radio antennas (see Section 1102).
- B. Conditional Use Permits are issued for certain dish antennas, private roadways, Personal Wireless Service Facilities (pursuant to Article XII), and municipally owned water booster facilities (see Section 1103).
- C. Temporary Use Permits are issued for structures for storing materials, structures for temporary offices, outdoor storage of materials, minor assembly of structural or building components, employee parking, and for sales offices located within new residential developments (see Section 1104).

Section 1102. Special Use Permits (SUPs).

A special use is a primarily non-residential land use listed in this Article that is deemed to be generally compatible with the residential character of the Town of Paradise Valley. However, because of its potential adverse impacts on the community, a special use should be permitted only on a site that can be individually planned and developed in a manner that

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promotes the goals and policies of the General Plan and that protects the surrounding neighborhoods.

The intent of these provisions is to clearly define all of the uses permitted upon the approval of a Special Use Permit and to facilitate creative, high quality development that incorporates the following:

- A. The implementation of the goals and policies of the General Plan.
- B. The development of substantial open space and/or recreational facilities held in common ownership, control, or management.
- C. The development of adequate public and/or private streets, storm drainage, and sewer and water utilities to minimize impacts on adjacent properties.
- D. The preservation of significant natural land characteristics, open space, and view corridors.
- E. Building design, site design, and construction of amenities that create a unique alternative to conventional development.
- F. Assurances of proper property maintenance, including common control or management of the property, and the use of stringent development standards, or as appropriate, property owners' associations and recorded covenants, conditions and restrictions.
- G. The preservation and enhancement of the neighborhood's appearance.
- H. The construction or development of improvements that create substantial public benefits.
- I. The incorporation of standards to ensure that the development will have minimal impact on adjacent properties.

Section 1102.1. Nature of Special Use Permit.

The issuance, or conditional issuance, of a Special Use Permit (or "SUP") is an act of the Town Council that permits certain primarily non-residential land uses. The decision whether to grant, or to condition the grant of, a Special Use Permit or an intermediate or major amendment thereto is entirely within the legislative discretion of the Town Council and the denial of a Special Use Permit or an intermediate or major amendment thereto is not the denial of a right, conditional or otherwise. The ability of an applicant to comply with the development standards set forth in this Article or elsewhere does not mean that a Special Use Permit will be approved. The decision to grant, or to condition the grant of, a managerial or minor amendment to a Special Use Permit is an administrative act and is not subject to review by referendum, as it merely implements or clarifies a policy of the town that has been previously announced or established in the Zoning Code and General Plan, or

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a previous legislative act, and does not prescribe a new public purpose, policy, or plan. The decision to grant, or to condition the grant of, a Special Use Permit or an intermediate or major amendment is, on contrast, a legislative act subject to review by referendum.

In the exercise of its legislative discretion, the Town Council may modify the development standards, or permit additional related uses, for the special uses listed in this article or elsewhere in order to promote the goals and policies of the General Plan, in exchange for site enhancements that improve overall site design, or to promote the best interests of the Town or its residents.

Section 1102.2. Uses Permitted. ^{658 2017-05}

The following buildings, structures, or uses may be authorized by a Special Use Permit issued in accordance with the procedures set forth in this Article:

- A. Resorts
- B. Medical Offices, Kennels and Veterinary Clinics
- C. Religious Facilities, Private Schools, Non-Profit Organizations, and Public/Quasi Public Structures
- D. Country Clubs and Golf Courses
- E. Utility poles and Wires
- F. Guardhouses, Gatehouses, and Access Control Gates
- G. Amateur Radio Antennas

A. Resorts

1. Definition

A resort is a facility, operated under a single unified management structure, containing guest units primarily for the temporary residency of persons in a physical setting that provides a high level of guest amenities, recreational opportunities and a quality of design that may include architectural features, extensive open space and landscaping.

2. Allowed uses

- a. The primary use in a resort is guest units, including facilities necessary for administering and servicing the facility and on site parking.
- b. Accessory uses may include:
 - i. Indoor or outdoor recreation facilities, including but not limited to swimming pools and spa or fitness facilities, tennis and other ball courts, golf courses and equestrian facilities.
 - ii. Retail sales, so long as they are primarily for the support and service of guests or visitors to functions at the site.

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- iii. Office and business services so long as they are primarily for the support and service of guests or visitors to functions at the site.
- iv. Restaurants, banquet rooms and food service facilities which may include live music, entertainment and dancing.
- v. Meeting and public assembly facilities.
- vi. Dwelling units.
- vii. Any other resort-related use specifically approved in a Special Use Permit

3. Signs

All signs shall comply with Article XXV, Signs, or as may have been previously specified in a particular Special Use Permit.

B. Medical Office, Kennels and Veterinary Clinics ^{633 658 2019-07}

1. Definition

A medical office, including a medical clinic, consists of a building or part of a building used solely for the purpose of consultation, diagnosis, and treatment of patients by one or more legally qualified physicians, dentists, optometrists, chiropodists, chiropractors, osteopaths, and occupational therapists, together with their qualified assistants, and without limiting the generality of the foregoing, the building may include reception areas, administrative offices, waiting rooms, consultation and treatment rooms, minor operating rooms, pharmacies and dispensaries directly associated with the medical office/clinic. A kennel, including a veterinary clinic, consists of a building or a part of a building used for reception areas, administrative offices, waiting rooms, play areas and animal retaining/caging units, consultation and treatment rooms, minor operating rooms, and rooms for the diagnosis and treatment of animals by one or more legal qualified veterinarians, together with their qualified assistants.

2. Allowed uses

- a. Offices for medical practitioners and veterinarians; and kennel uses.
- b. Outpatient surgical facilities where patient stays do not exceed 48 hours.
- c. Medical laboratories.
- d. Physical therapy facilities.

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- e. Pharmacies, subject to specific approval of such use by the terms of an approved Special Use Permit, and pursuant to the following restrictions:
 - i. There shall be no external signage for a pharmacy other than a tenant identification sign for the surrounding medical office SUP complex.
 - ii. Addition of a pharmacy use within a Medical Office Special Use Permit Zone shall be permitted only upon the approval of an Intermediate Amendment to the Special Use Permit as provided for in Section 1102.7(C).
 - iii. Hours of operation shall be not earlier than 8:00 a.m. and not later than 6:00 p.m. – Monday through Saturday.
- f. Medical Marijuana Dispensaries, subject to the following pre-conditions and restrictions:
 - i. Preconditions to the Acceptance of an Application.
 - 1. Prior to and as a pre-condition to a Medical Marijuana Dispensary applicant submitting an application for or obtaining a Special Use Permit (“SUP”) in compliance with the requirements and limitations and conditions set forth below, the applicant shall determine whether any existing operating Medical Marijuana Dispensary(ies) is/are located within ten (10) miles from the approximate center of the Town, which is defined as the latitude 33°33'25.7"N and longitude 111°57'30.0"W, and whether such existing operating Medical Marijuana Dispensary(ies) is/are located within or without the boundaries of the Town (each an “Available Facility” and, if more than one, collectively “Available Facilities”).
 - 2. If there is an existing Available Facility or Available Facilities an Application for a SUP Amendment for the operation of a Medical Marijuana Dispensary within the Town shall be refused.
 - 3. If the applicant states in the submitted application that there are no Available Facilities but the Town has reasons for questioning such statement in the application, then the applicant shall be required, at applicant’s cost, to hire a consultant selected by the Town who will determine whether there are any Available Facilities. If the selected consultant determines that there is an existing Available Facility or Available Facilities, then the Application for a SUP Amendment for the operation of a Medical Marijuana Dispensary within the Town shall be refused.
 - ii. Processing of Valid Applications and Restrictions
 - 1. The number of medical marijuana dispensaries within the Town of Paradise Valley, if any, shall be limited to no more than one within

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the boundaries of the Town. Said dispensary shall be allowed only in the Medical Office SUP District and only upon the approval of an Intermediate or Major Amendment to a Special Use Permit.

2. The minimum requirements of this section shall apply to all applications for a medical marijuana dispensary use in a SUP Medical Office District as well as proof of compliance with all DHS regulations related to medical marijuana dispensaries.
3. In addition to the foregoing requirements, applicants for a medical marijuana dispensary shall provide the following:
 - (1) Copy of the operating procedures adopted in compliance with A.R.S. § 36-2804(B)(1)(c).
 - (2) Proof of a valid registration certificate and identification number from DHS for the dispensary and its board members and agents.
 - (3) A security plan showing a floor plan, type and description of and specifications for security measures that the medical marijuana dispensary will use to secure, enclose and lock the dispensary, as required by State law and DHS regulations.
 - (4) Exterior site and parking plan; and a traffic generation, route, and internal circulation plan prepared by a licensed traffic engineer with experience in this type of land use consideration.
- iii. Additional Regulations and Standards for Medical Marijuana Dispensaries

(1) Prior to Town approval of the occupancy of any tenant or operator of a medical marijuana dispensary, the owner of the medical office complex shall submit for Town Manager review and approval criminal background information and releases regarding the prospective tenant and all employees to be hired by the tenant; ;. audited financial statements evidencing that the entities or persons who will own or operate the medical marijuana dispensary have adequate assets, financing, and net worth to appropriately fund a safe and secure medical marijuana; and detailed operations evidencing appropriate policies, protocols and operations procedures to ensure that the medical marijuana dispensary will run and operate in a safe and secure manner. The Town may request such additional information the Town deems reasonable and necessary.

(2) Medical marijuana dispensaries shall be limited to the use of dispensing medical marijuana products and shall be prohibited from any other or related use such as a bookstore, spa, restaurant, or coffee shop.

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- (3) No drive-through service shall be allowed at any medical marijuana dispensary.
- (4) No on-site consumption of any product containing medical marijuana shall be allowed at any medical marijuana dispensary.
- (5) Medical marijuana dispensaries located within the Town shall be prohibited from making any home deliveries of marijuana unless otherwise mandated by law.
- (6) Medical marijuana dispensaries shall be prohibited from offering free or discounted samples of their merchandise.
- (7) Means of preventing smoke, odors, debris, dust fluids and other substances from exiting a medical marijuana dispensary shall be provided with enhanced ventilation and filter systems.
- (8) No minors under 21 years of age are permitted within a medical marijuana dispensary unless accompanied by a parent or guardian.
- (9) No youth activities, including, but not limited to, outdoor basketball hoop structures, playgrounds, and skate parks, shall be permitted on the same medical office complex site that has an approved medical marijuana dispensary use.
- (10) If the State prohibits any medical marijuana dispensary within the Town, any Amendment to a Special Use Permit adding a medical marijuana dispensary use shall be deemed immediately revoked by operation of law. The underlying Special Use Permit shall remain.
- (11) A medical marijuana dispensary shall be: at least 1,500 feet from the following existing uses, as measured within the Paradise Valley municipal limits only: (a) educational institutions; (b) places of worship; (c) parks and recreational facilities; or (d) youth centers; at least 5,280 feet from any other medical marijuana dispensary; and at least 300 feet from any residential use in any residential district or any resort or residential use under any Special Use Permit property that permits resort uses. All distances shall be measured from the wall of the office suite or space occupied by the medical marijuana dispensary nearest to the district(s) or use(s) indicated above, to the nearest property line of the district(s) or use(s) indicated above.
- (12) A medical marijuana dispensary shall have operating hours not earlier than 8:30 a.m. and not later than 2:30 p.m. – Monday through Friday, unless longer hours are prescribed by any laws, or as prescribed in an intermediate Special Use Permit amendment.

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(13) There shall be no external signage including, but not limited to, any special event signage, for a medical marijuana dispensary other than a tenant identification sign for the surrounding medical office SUP complex, and no symbols, representations, or slang for the word “marijuana” or its components shall be used on any external signage.

(14) All activity related to medical marijuana dispensaries shall be conducted in compliance with Arizona Revised Statutes, Title 36, A.R.S. § 36-2801 et seq., DHS rules and regulations and other implementing state statutes and administrative regulations.

(15) An SUP amendment for a medical marijuana dispensary shall not become effective until the owner of a Medical Office SUP District property has completed all DHS requirements and obtained a license.

C. Religious Facility, Private School, Non-Profit Organization, Public/Quasi Public

1. Definitions. Any of the following that can demonstrate an exclusively non-profit or non-commercial or purely public purpose.

- a. Religious Facility - an institution primarily used for the gathering of people for the practice of religious faiths.
- b. Private School - an institution, including private charter schools, for instruction and education of children or adults and that is not operated by a public school district.
- c. Non-Profit Organization - an organization that provides social, religious, educational, family support or similar services to individuals and which is certified as a not for profit organization by appropriate state or federal agencies.
- d. Public/Quasi Public: Structures and uses principally of an institutional nature and serving a public need, such as religious institutions, schools, libraries, governmental offices, museums, post offices, police and fire stations, public utilities, and other public services that provide governmental, educational, institutional, cultural, recreational, religious, or other similar types of public services, but not including the operation of a public bar, restaurant or recreational facility as a commercial enterprise.

2. Allowed uses

- a. Halls for assembly
- b. Offices for staff or consultation

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- c. Classrooms, laboratories, gymnasias and similar recreational facilities

3. Signs

All signs shall comply with Article XXV, Signs, or as may have been previously specified in a particular Special Use Permit.

D. Country Club and Golf Course

1. Definition

- a. Country Club - A use of land, with traditional accessory uses, the primary purpose of which is for playing golf, tennis, handball or other similar recreational activities. Memberships or fees may be required for participation.
- b. Golf Course - A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse and associated uses.

2. Allowed uses

- a. Golf course
- b. Driving range
- c. Tennis
- d. Racquetball, handball and other game courts
- e. Swimming pool
- f. Accessory uses may include event halls, restaurants, dining facilities, bars, dance floors, weight or exercise rooms, and limited retail sales so long as they are primarily for the support and service of guests or visitors to functions at the site.
- g. Any other country club and golf course related use specifically approved in a Special Use Permit

3. Signs

All signs shall comply with Article XXV, Signs, or as may have been previously specified in a particular Special Use Permit.

E. Utility Poles and Wires

1. Definitions

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- a. Utility poles and wires - shall mean poles, structures, wires, cable, conduit, transformers, communications equipment, and related facilities used in or as a part of the transportation or distribution of electricity or power or in the transmission of telephone, telegraph, radio or television communications or for the transmission or reception of electromagnetic radio frequency signals used in providing wireless services;
 - b. Existing utility poles and wires - shall mean such utility poles and wires as are in place and in operation as of the effective date of this ordinance; and
 - c. New utility poles and wires - shall mean such utility poles and wires as are not existing utility poles and wires and shall include such utility poles and wires as in the future may constitute replacements for, or repairs to, existing utility poles and wires, but shall not include replacements involving less than one-quarter (1/4) mile of contiguous poles and wires on any transmission or distribution line in any twelve (12) month period where the remainder of such transmission or distribution line is not also being replaced within said period; such replacements excluded from being new utility poles under the latter clause must be poles of the same or lesser size, diameter, and height, and in the same location as the pole or poles being replaced, and in addition, must be of the same class or classification as to strength and purpose within the utility industry as the pole or poles being replaced.
2. The erection of new utility poles and wires within the Town is discouraged, and, with the exception of small wireless facilities meeting the administrative approval standards specified in Article II, Section 2-5-2(I), may only be permitted by the issuance of a Special Use Permit, further provided that a Special Use Permit for erection of new utility poles and wires shall be granted only in the event the applicant makes an affirmative showing that the public's general health, safety and welfare will not be impaired or endangered or jeopardized by the erection of same as proposed. In deciding such matter, the following factors shall be considered:
- a. the location and heights of such poles and wires and their relation to present or potential future roads;
 - b. the crossing of such lines over much traveled highways or streets;
 - c. the proximity of such lines to schools, churches or other places where people congregate;
 - d. the probability of extensive flying in the area where such poles and wires are proposed to be located and the proximity to existing or proposed airfields;
 - e. fire or other accident hazards from the presence of such poles and wires and the effect, if any, of same upon the effectiveness of fire fighting equipment;

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- f. the aesthetics involved;
- g. the availability of suitable right-of-way for the installation;
- h. the future conditions that may be reasonably anticipated in the area in view of a normal course of development;
- i. the type of terrain;
- j. the practicality and feasibility of underground installation of such poles and wires with due regard for the comparative costs between underground and overground installations (provided, however, that a mere showing that an underground installation shall cost more than an overground installation shall not in itself necessarily require issuance of a permit); and
- k. in the event such poles and wires are for the sole purpose of carrying electricity or power or transmitting telephone, telegraph, radio or television communication through or beyond the Town's boundaries, or from one major facility to another, the practicality and feasibility of alternative or other routes.

F. Guardhouse, gatehouse, and access control gates

1. Definition

Guardhouses, gatehouses, and access control gates are structures or fencing and gates located within a private roadway the purpose of which is to control access to a residential development.

G. Amateur Radio Antenna

1. Definition

An amateur radio antenna, as regulated by this article, is an antenna used for amateur radio communications that exceeds 30 feet in height or the height of the main building, whichever is lower, but does not exceed 60 feet in height.

2. Bulk and density standards

The amateur radio antenna shall be subject to the standards for amateur radio antennas set forth in Table 1003.1.

Section 1102.3. Creating a Special Use Permit ⁶⁵⁷

- A. Non residential properties that currently do not have a Special Use Permit and residential properties that wish to obtain authorization for a non-residential use are

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eligible to apply for a Special Use Permit. A general plan amendment may first be required as well as a rezoning of the property prior to or in conjunction with a request for a Special Use Permit.

B. The following definitions shall be used for all Special Use Permits or amendments thereto:

1. Floor Area – As defined in Article II, Section 201, of the Zoning Ordinance.
2. Lot Coverage – The square footage of the ground floor of a structure measured to its drip line, including trellises, divided by the size of the lot and expressed as a percentage.
3. Special Use Permit - The original document approved by an ordinance adopted by the Paradise Valley Town Council (that may also include an amendment to the Zoning Map as required by Article III), together with all pertinent exhibits thereto, authorizing a primarily non-residential use of the property within those categories identified in Section 1102.2.
4. Statement of Direction - A Statement of Direction is a document administered by the Town Council at the beginning of Phase II of the application process. A Statement of Direction is not a final decision of the Town Council and shall create no vested right to the approval of a Special Use Permit, nor shall any applicant for a Special Use Permit be entitled to rely upon the matters addressed in the Statement of Direction being the same as those that may be part of an approved Special Use Permit. It may address, but is not limited to the following items:
 - a. Uses
 - b. Lot coverage/density
 - c. Massing/Scale
 - d. Perimeter setbacks
 - e. Maximum heights
 - f. View Corridors
 - g. Circulation
 - h. Known issues, if any (for intermediate amendments this may includes issues outside of the geographic area)

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C. Application and Approval Procedures for Special Use Permits

1. Applications for a Special Use Permit may be filed by any person, the Town of Paradise Valley, or by any federal, state, county, school district or municipal or governmental agency owning property subject to the provisions of this ordinance.
2. The applicant for a Special Use Permit must be the real property owner or must provide a letter of authorization filed on the behalf of the property owner.
3. Special Use Permit Application Process:
 - a. The Special Use Permit application process is comprised of two phases. Phase I is the application submittal process, in which the applicant and Town staff work together to create a complete application. Phase II consists of the project review by the Planning Commission and the Town Council. [Please also refer to Figure 1102.4-1 for an overview of the review process.]
 - b. During Phase I the applicant shall contact Town staff to start the application process. The applicant must first complete the pre-application review process in accordance with Section 2-5-2(E) of the Town Code. The Planning Department will review and provide an initial assessment of the pre-application. Thereafter, the applicant shall submit a Special Use Permit application in accordance with Section 307 of Article III of the Zoning Ordinance.
 - c. After the formal application is deemed complete, Phase II begins with the project request being reviewed by the Planning Commission and Town Council. First, staff presents the application to the Town Council. The Town Council then issues a Statement of Direction within forty-five (45) days from the date of staff presentation. The formal application is then reviewed by the Planning Commission at the work study and public hearing sessions. The applicant must also hold a Citizen Review meeting before the Planning Commission holds a public hearing and makes its recommendation to the Town Council. At any time during the review process the Planning Commission may request clarification and/or expansion of the Statement of Direction based on additional information that has evolved. The Planning Commission will vote on the request at the public hearing and will make a recommendation to the Town Council. The Town Council then reviews the project and holds a public hearing. The Town Council votes to approve or deny the request in accordance with Section 308 of Article III the Town Zoning Ordinance. Should the Town Council approve the request, the Council shall also include a statement explaining the public benefit of the project.

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4. Public hearings shall be held only after:
 - a. One publication of a notice of the time, place and date of such hearing in a newspaper of general circulation in the Town, at least fifteen (15) days prior to such hearings; and
 - b. The posting of a notice of the time, place, and date of such hearing on the affected property for at least seven (7) days prior to the date of the hearing.
 - c. The applicant shall hold a Citizen Review Meeting no less than ten (10) days prior to the Planning Commission hearing in accordance with Article II, Section 2-5-2(F) of the Town Code.
5. Special Use Permit Submittal Requirements; Review Process; and Review/Approval Criteria
 - a. An applicant for a Special Use Permit shall submit plans or studies deemed necessary or appropriate by the Town, which may vary depending on the type and extent of any Special Use Permit or amendment to a Special Use Permit being requested. Said plans and studies may include the following; and any other plans or studies deemed necessary and appropriate by the Town:
 - i. A legal description of the parcel, including gross and net acreage. A recent American Land Title Association/American Congress on Surveying & Mapping (ALTA/ACSM) survey may be required if deemed necessary by the Town for a thorough review of the application.
 - ii. A project narrative which shall include statements on: uses proposed on the property; site development phasing; architectural design philosophy; compatibility with adjoining properties; environmental impacts; water flow and pressure impacts, site access, parking and circulation; conformity with the Town's development standards and guidelines and any deviation from such standards or guidelines; and, ownership, maintenance, and management of common facilities and areas including open space.
 - iii. Site plan depicting location and type of all improvements and any additional information as needed, including:
 - 1) Perimeter setbacks
 - 2) On-site parking
 - 3) Points of access

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- 4) Common areas
 - 5) Location of walls
 - 6) Internal circulation
 - 7) Density and intensity of uses and structures
 - 8) Lot coverage
 - 9) Floor Area
 - iv. Building plans including, schematic floor plans, building elevations and heights, an analysis of the Open Space Criteria, architectural style and details, and exterior building materials and colors.
 - v. Landscaping Plan.
 - vi. Lighting Plan with photometric study.
 - vii. Signage Plan.
 - viii. Grading plans and drainage study. Grading plans including location and proposed treatment of sloped and retention areas; calculations and maintenance responsibilities, significant topographical features of the site, and areas of the site subject to flooding.
 - ix. Traffic study to address the impact of the project on adjacent properties and roadway system, internal circulation and parking analysis, and any necessary roadway dedication and improvement.
 - x. Noise study to evaluate the compatibility of the proposed project with surrounding areas.
 - xi. Timing and phasing of development.
- b. Within 30 calendar days of the date an application is submitted, the Town shall notify the applicant whether the application is complete. If the Town determines the application is incomplete, the Town shall indicate what additional information or documents the applicant must submit to make the application complete. The Town Manager or his designee may waive the submittal of any information or document listed in this section that he determines is not necessary to properly evaluate an application.
 - c. In considering an application for a Special Use Permit, not only shall the nature of the use be considered, but also the special conditions influencing its location, design and operation, the proposed location and design of buildings, parking and other facilities within the site,

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the amount of traffic likely to be generated and how it will be accommodated, compatibility with the residential character and zoning of the Town, and the influence that such factors and development in accordance with the Special Use Permit application are likely to exert on adjoining properties.

- d. The recommendation by the Planning Commission for approval of an application, or the ultimate approval thereof by the Town Council, may be granted upon such conditions reasonably related to the use of the subject property or impact on appurtenant properties or on the Town as are deemed proper, including but not limited to, the requirement that the applicant post a bond in such amount as may be deemed appropriate to secure and assure the performance of any or all conditions set forth in the Special Use Permit; the requirement that the proposed buildings and structures be constructed in a prescribed sequence; and the imposition of time limits for commencement or completion of construction.
- e. An applicant for a Special Use Permit who proposes to improve a project in more than one phase may identify the initial phase of development as Phase I and may identify other and subsequent phases for completing remaining improvements. On-site and off-site improvements for Phase I shall be in proportion to the scale of development as deemed appropriate by the Town. The Town may require additional improvements to be completed in conjunction with the initial or subsequent phases. Improvements shown in the final development must comply with all Town of Paradise Valley ordinances, standards and policies for the proposed development unless otherwise approved by the Town Council in conjunction with approval of the Special Use Permit. The applicant's intention to develop the project in phases shall be indicated in the application narrative and shall be depicted on the site plan for the entire project. Amendments to approved phases or the creation of additional phases shall be reviewed according to the procedures set forth in this article for intermediate or major amendments. The Commission shall hold a public hearing on the application, for the purpose of recommending whether the granting of the application would serve the public safety, health, or welfare of the Town. After such public hearings, the Commission shall submit to the Town Council its recommendation of approval or disapproval of the application.
- f. An approved Special Use Permit, shall be assigned an identifying number, shall be adopted by ordinance and shall constitute an amendment to, and be shown on, the Town's Official Zoning Map. An ordinance granting a Special Use Permit shall set forth the terms and conditions of approval for a Special Use Permit. The terms and conditions set forth in the ordinance shall be complied with as a

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condition to the establishment of any use on the site and shall be maintained as a condition of the continuation of the use. No use shall be made of property that is subject to a Special Use Permit except as allowed by the ordinance granting the Special Use Permit or as allowed by this article.

6. Application fees for Special Use Permits shall be as set forth in the Town's Fee Schedule.

Section 1102.4 Commencement of Use or Occupancy

No use or occupancy approved under a Special Use Permit shall be commenced or maintained upon a lot or parcel except in accordance with an approved site plan which accurately reflects such use and occupancy.

Section 1102.5 No Variance From Special Use Permit.

No variance from the terms, provisions, or conditions of a Special Use Permit shall be granted by the Board of Adjustment. Applications to modify the terms, provisions, or conditions of a Special Use Permit may be filed in accordance with the amendment procedures set forth in this article.

Section 1102.6 Subsequent Approvals; Rezoning of a Special Use Permit Property to another Zoning District Classification.

- A. Approval of a subsequent Special Use Permit on a site shall void all existing Special Use Permits on the site if so provided in the ordinance adopting the Special Use Permit.
- B. A request to rezone property from a Special Use Permit designation to another zoning district classification may be filed in accordance with the provisions of Article III of the Zoning Ordinance. However, such a request may first require an amendment to the General Plan as it pertains to the property.

Section 1102.7 Types of Amendments to Special Use Permits.

An "Amendment to a Special Use Permit," is any change to an existing Special Use Permit. There are four categories of amendments: Managerial, Minor, Intermediate, and Major.

A. Managerial Amendment

A Managerial Amendment to a Special Use Permit shall include any proposal which does not:

1. Change or add any uses; or

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2. Increase the floor area of the project by more than 1000 square feet or constitute an increase of more than 2% upon the existing or, if still under construction, approved floor area square footage of the affected SUP property, whichever is less, with any such increase to be measured cumulatively over a sixty month period; or
3. Increase the number of units or structures, with the exception of playground equipment shade structures; or
4. Have any material effect on the adjoining property owners that is visible, audible, or otherwise perceptible from adjacent properties with the exception of playground equipment shade structures; or
5. Change in any respect any stipulation(s) governing the original Special Use Permit; or
6. Change the vehicular or emergency circulation or the required parking or loading space or traffic; or
7. Change the architectural style of the approved SUP (renderings/plans).

B. Minor Amendment

A Minor Amendment to a Special Use Permit shall include any proposal which is not a Managerial Amendment and does not:

1. Change or add any uses; or
2. Increase the floor area of the project by more than 5000 square feet or constitute an increase of more than 15% upon the existing or, if still under construction, approved floor area square footage of the affected SUP property, whichever is less, with any such increase to be measured cumulatively over a sixty month period; or
3. Have any material effect on the adjoining property owners that is visible, audible, or otherwise perceptible from adjacent properties that cannot be sufficiently mitigated; or
4. Change the architectural style of the existing Special Use Permit.

C. Intermediate Amendment

An Intermediate Amendment to a Special Use Permit shall include any proposal which does not:

1. Change or add any uses; or

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2. Increase the floor area of the project by more than 40% upon the existing or, if still under construction, approved floor area square footage of the affected SUP property, with any such increase to be measured cumulatively over a sixty month period; or
3. Have any significant material effect on the adjoining property owners that is visible, audible, or otherwise perceptible from adjacent properties that cannot be sufficiently mitigated.

D. Major Amendment

A Major Amendment to a Special Use Permit is any proposed amendment that does not qualify as a Managerial, Minor, or Intermediate Amendment.

1102.8 Application and Approval Process for Amendments to Special Use Permits ^{659 2019-04}

The application process for an amendment to a Special Use Permit is comprised of two phases. Phase I is the application submittal process, in which the applicant and Town staff work together to create a complete application. Phase II consists of the formal project review. [Please also refer to Figure 1102.4-1 for an overview of the review process.]

A. Managerial Amendments

1. The applicant must first complete the pre-application review process in accordance with Section 2-5-2(E) of the Town Code. A formal application can then be made to the Town in accordance with Section 1102.3 of this Article. The Town Manager or his designee will then review and either approve or deny the application, or reclassify the application to a different category of Special Use Permit amendment.
2. The Town Manager (or designee) shall transmit all determinations approving a Managerial Amendment to the Town Council within two (2) business days of making the determination.
3. The Town Manager's (or designee's) decision shall be final unless within seven (7) calendar days after the Town Manager's (or designee's) written determination at least three (3) members of the Town Council submits a written request to the Town Manager to appeal the determination approving the Managerial Amendment application.
4. The Town Council shall have the authority to decide appeals from the written determination of the Town Manager (or designee) approving a Managerial Amendment application. The appeal shall be set for consideration at a Town Council meeting within fourteen calendar (14) days after the Town Manager's receipt of the third written appeal request. The Town Council shall first

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decide, by a majority vote of the members present and not otherwise disqualified, to affirm whether the Town Manager's (or designee's) decision meets the criteria for a Managerial Amendment. If the Council decides that the criteria have been met, then there shall be no further appeal and the Managerial Amendment is final. If the Council decides that the criteria have not been met, the Town Council may deny the Managerial Amendment, in whole or in part, or reclassify the application to a different category of Special Use Permit amendment. A majority vote of the voting members shall be necessary to deny or modify the decision of the Town Manager (or designee); otherwise the written determination shall be affirmed.

B. Minor Amendments

1. The applicant must first complete the pre-application review process in accordance with Section 2-5-2(E) of the Town Code. A formal application can then be made to the Town in accordance with Section 1102.3 of this Article. The Planning Commission shall review all applications for Minor Amendments to determine whether they meet the criteria for Minor Amendments as defined. An application submitted as a Minor Amendment but determined by the Planning Commission to be an Intermediate or Major Amendment shall have to be resubmitted by the applicant as an Intermediate or Major Amendment. The Commission shall hold a public hearing on Minor Amendments to determine whether the granting of the amendment would serve the public health, safety or welfare of the Town and whether the requirements of this article are met. Notice of the public hearing, in the same manner as required in Section 1102.3 of this article, shall be given.
2. The Town Council shall have the authority to hear and decide appeals from the action of the Planning Commission in the granting or denying of a Minor Amendment, or appealing any requirement imposed by the Planning Commission as a condition of approval of a Minor Amendment.

An appeal from a decision made by the Planning Commission may be taken within 15 days by an aggrieved person on a form provided by the Community Development Department and shall specify the basis of the appeal.

An appeal shall be heard by the Town Council de novo. The concurring vote of a majority of members present and not otherwise disqualified shall be necessary to reverse or modify a requirement or decision of the Planning Commission, otherwise such requirement or decision shall be affirmed.

The Town Council shall fix a reasonable time for its hearings and give notice thereof to the parties in interest and the public by publishing notice in a newspaper of general circulation in the Town of Paradise Valley, giving at least fifteen days' notice of such hearing; and by posting the subject property at least seven days prior to the hearing.

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3. Minor Amendments shall be appended to the site plan in the form of an attachment to existing exhibits, and shall, absent an appeal, not require Town Council approval.

C. Intermediate Amendments

1. The applicant must first complete the pre-application review process in accordance with Section 2-5-2(E) of the Town Code. A formal application can then be made to the Town in accordance with Section 1102.3 of this Article. The process for approval of an Intermediate Amendment will include a formal application, staff review, then a Town Council preview for a Statement of Direction on the application.
2. The scope of the Intermediate review will be limited to the geographic area of the property on which amendments or changes have been requested; and those areas necessarily or likely to be impacted by the proposed amendment or changes.
3. The application will then continue on to the Planning Commission for review; which shall be limited in time to 90 days. At the end of its review, the Commission will make a recommendation for approval or denial to the Town Council. Upon submission of the Commission's recommendation, the Town Council shall hold a public hearing to determine whether the granting of the application would serve the public health, safety or welfare of the Town and whether the requirements of this article are met. Notice of the public hearing, as required in Section 1102.3 of this Article shall be given. If the Town Council approves the application, its decision, whether by ordinance or resolution or otherwise (as the circumstances may dictate) shall include a statement explaining the public benefit of the amendment to the Special Use Permit.

D. Major Amendments

1. The applicant must first complete the pre-application review process in accordance with Section 2-5-2(E) of the Town Code. A formal application can then be made to the Town in accordance with Section 1102.3 of this Article. The process for approval of a Major Amendment will include a formal application, staff review, and then a Town Council preview for a Statement of Direction on the application.
2. The application will then continue to the standard Planning Commission review which is subject to the limits contained in Article II, Section 2-5-2(D), of the Town Code. At the end of its review, the Commission will make a recommendation for approval or denial to the Town Council. Upon submission of the Commission's recommendation, the Council shall hold a public hearing to determine whether the granting of the application would serve the public health,

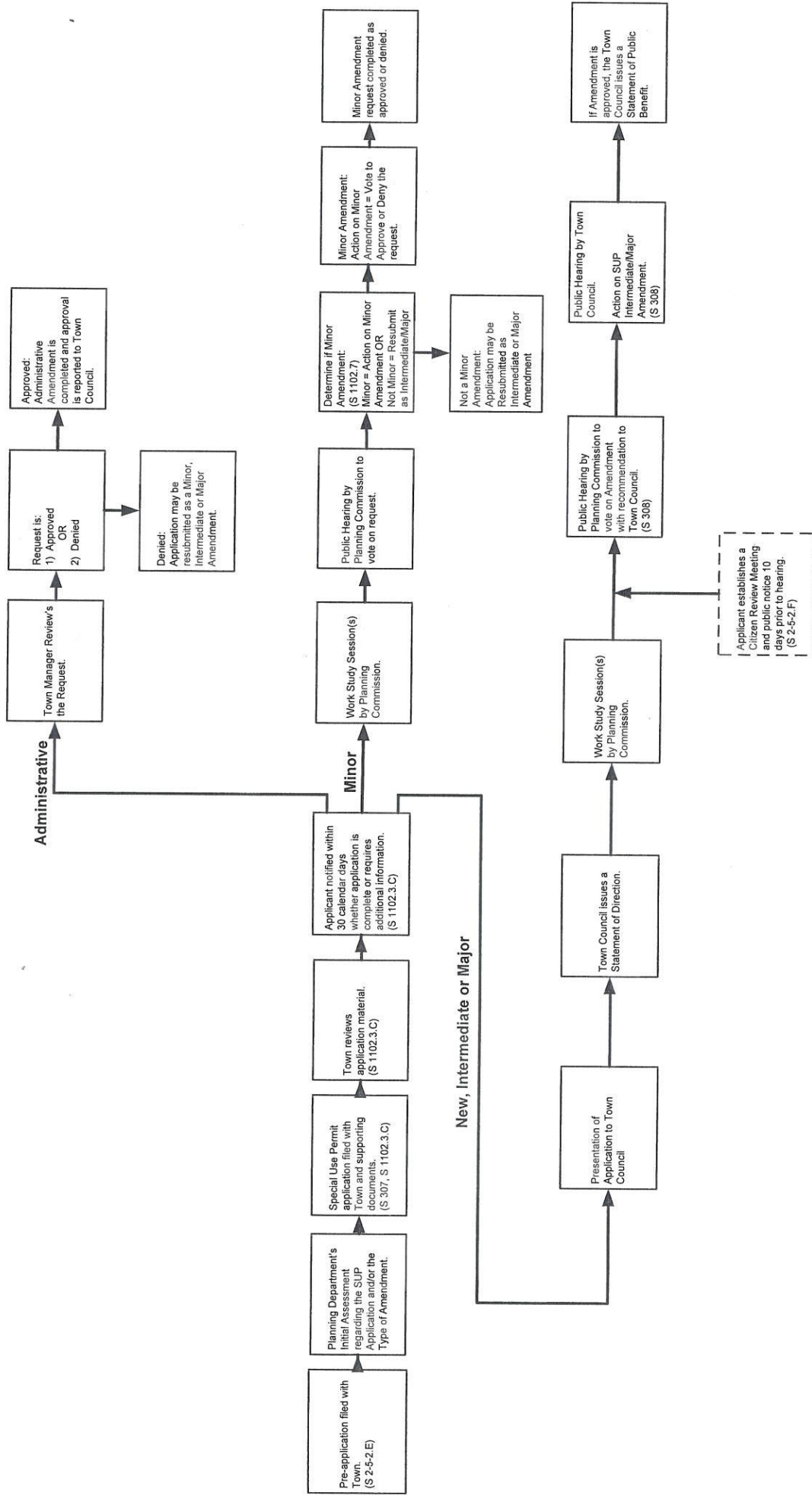
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safety or welfare of the Town and whether the requirements of this article are met. Notice of the public hearing, as required in Section 1102.3 of this article shall be given. If the Town Council approves the application, its decision, by ordinance, shall include a statement explaining the public benefit of the amendment to the Special Use Permit.

E. Detailed Application and Approval Procedures for Amendments to Special Use Permits

The detailed procedures and submittal requirements for amendments to Special Use Permits are the same as those listed in Section 1102.3 C.3. However, sections 1102.3 C.5(e) and (f) do not apply to Managerial or Minor Amendments. The application processes for all amendments to Special Use Permits are also as generally depicted in Figure 1102.4-1.

Figure 1102.4-1
Application Process for Special Use Permit



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Section 1103. Conditional Uses.

A conditional use is a land use that is listed in this article as a permitted use subject to obtaining a conditional use permit. A conditional use may be appropriate in some locations and may not be appropriate in other locations due to the particular physical or operational characteristics of the conditional use. The purpose of the conditional use permit process is to determine as an administrative act by the Town, and on a case by case basis, whether through compliance with prescribed development standards or through the imposition of development conditions the requested conditional use can be made compatible with surrounding existing or approved or anticipated land uses.

Section 1103.1. Nature of Conditional Use Permit.

The grant of a conditional use permit is an administrative act and not subject to reviews by referendum. A permit for a conditional use may be granted only if findings are made by the Planning Commission or, if the Planning Commission decision has been appealed, the Town Council that the standards for approval have been met by the applicant. A conditional use permit may be approved subject to compliance with additional conditions that are necessary or appropriate to reduce the impacts of the proposed use on neighboring properties and the community as a whole.

Section 1103.2. Uses Permitted. ⁶⁰⁵

A. Dish Antennas that are greater than three feet in diameter, Broadcast Towers, Microwave Antennas, Personal Wireless Service Facilities and similar structures that project skyward as specified in Section 1003 Tall Structures and Antennas. Dish antennas that are three feet or less in diameter are not regulated by this ordinance.

1. Definition

These structures and facilities are for the reception or retransmission of over-the-air electronic communications.

2. Bulk, Density and Height Standards shall be as provided in Section 1003.

B. Private Roadways

1. Definition

A roadway not dedicated to or maintained by the Town of Paradise Valley that provides access to properties. A private roadway shall be established only in conjunction with the vacation of a public roadway or in conjunction with the creation of a lot or lots and shall provide access to such lots.

2. Standards

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3. The following shall be reviewed in conjunction with approval of the development of the private roads:
 - a. Right of way width - the minimum right of way shall be 50 feet
 - b. Paved roadway width:
 - i. where the roadway is to provide access to one or two residences, the driving surface shall not be less than 16 feet in width and shall be covered at a minimum with a 4 inch depth of aggregate base course meeting Town Standards (Article 5-6 of the Town Code) or a minimum of a 4 inch depth of decomposed granite.
 - ii. where access to a public road for three or more residences is to be provided by a private road, all standards and requirements for subdivisions as contained in the codes and ordinances of the Town of Paradise Valley shall apply, and such private road shall be subject to those conditions imposed by reason of issuance of a conditional use permit.
 - c. All private roads, for so long as they shall remain private, shall be maintained to the foregoing standards, and in the event the Town of Paradise Valley is required to perform any maintenance upon the same for the health, safety, and welfare of the people of the Town of Paradise Valley, the Town may assess the cost thereof against the party, heirs, executors, administrators, legatees and assignees of the residential parcels that were included in the subdivision or lot split or parcels utilizing or benefitting from the private road. Agreement thereto by such applicant shall be a condition of issuance of any subdivision approval, lot split approval, or any residential building permit in a subdivision or lot split that utilizes or benefits from the private road.

C. Municipally-Owned Water Booster Facilities

1. Definition

“Municipally-Owned Water Booster Facilities” are secured parcels of land, enclosed by fencing or a wall, containing mechanical and electrical equipment, piping, surge tanks, control valves, telemetry electronics and other appurtenances on the premises for the sole purpose of distributing potable and/or fire safety water to residential neighborhoods and commercial properties through a water supply system owned by a municipality.

2. Standards

Municipally-Owned Water Booster Facilities shall meet the following standards:

- a. Such Facilities may be placed (i) on private property in any zoning district within the Town with property owner approval, including, but not limited to,

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property upon which the applicant has obtained the grant of an appropriate easement for the installation or construction of such facilities from the private property owner; and/or (ii) in the Town's right-of-way with the authorization of the Town Manager or his designee;

- b. All equipment within the Facility shall be adequately secured and enclosed by a wall or fence with a minimum height of eight (8) feet and a maximum height of eleven (11) feet, measured from the highest outside finished grade, and composed of finished materials such as stucco, brick, stone, wrought iron with redwood slats, solid metal, wood, or tile;
- c. Mechanical equipment, tanks and facility buildings and appurtenances shall not exceed eleven (11) feet in height except for any telemetry and exhaust venting equipment.

Section 1103.3 Application for Conditional Use Permit.

- A. Applications for conditional use permits may be filed by any person, the Town of Paradise Valley, or by any federal, state, county, school district, or municipal or governmental agency owning property subject to the provisions of this ordinance. The applicant must be the real property owner or must provide a letter of authorization to file on the behalf of the property owner.
- B. Applications for conditional use permits or appeals shall be accompanied by a fee which is set forth in the Town's fee schedule.
- C. An application for a conditional use permit thereto shall contain a site plan that includes the following information:
 - 1. A legal description of the parcel, including gross and net acreage. A recent American Land Title Association/American Congress on Surveying & Mapping (ALTA/ACSM) survey may be required if deemed necessary for a thorough review of the application.
 - 2. A project narrative that includes a purpose statement for uses proposed in the application.
 - 3. Drawings and descriptions showing the following where relevant to the proposed use:
 - a. significant topographical features of the site or area.
 - b. all lots to be served by a proposed private roadway and access to the nearest improved public roadway.
 - c. the locations and elevations of all adjacent habitable structures on properties adjacent to a proposed antenna structure.

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Section 1103.4 Authority of Planning Commission; required findings.

- A. The Planning Commission is authorized to hear applications for and grant those special exceptions designated in this article as conditional uses upon finding that the use covered by the conditional use permit, or the manner of conducting the same:
1. will not cause a significant increase in vehicular or pedestrian traffic in adjacent residential areas; or emit odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions; or contribute in a measurable way to the deterioration of the neighborhood or area, or contribute to the downgrading of property values.
 2. will be in compliance with all provisions of this ordinance and the laws of the Town of Paradise Valley, Maricopa County (if applicable), State of Arizona, or the United States of America.
 3. will be in full conformity to any conditions, requirements or standards prescribed in the permit.
 4. will not conflict with the goals, objectives or purposes of the zoning district or Policies of the Town of Paradise Valley as set forth in the Town's General Plan.
- B. The burden of proof for satisfying the requirements set forth in subsection A of this section shall rest with the applicant.
- C. Where a conditional use permit is specifically required by the terms of this article, no structure, building, or land shall be used until a conditional use permit has been granted by the Planning Commission or the Town Council.
- D. Any structural alteration to the interior or exterior of a structure or building containing any of the uses referred to in section 1103.2 of this ordinance, other than maintenance, shall require the securing of a conditional use permit.
- E. Structures or buildings devoted to any use which is permitted under the terms of this article subject to the securing of a conditional use permit may be altered, added to, enlarged, expanded, or moved from one location to another on the lot only after securing a new conditional use permit, unless the Planning Commission or Town Council has previously issued a conditional use permit for such alteration, addition, enlargement, or expansion; and any use of the land which is permitted under the terms of this article subject to the securing of a conditional use permit may be extended over the lot on which such use is located only after securing a new conditional use permit, unless the Planning Commission or Town Council has previously issued a conditional use permit for such extension.

Section 1103.5 Revocation of Conditional Use Permits.

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- A. A conditional use permit may only be revoked by the Planning Commission upon a finding that there has been material noncompliance with a condition prescribed in conjunction with the issuance of the conditional use permit or that the use covered by the conditional use permit or the manner of conducting the same violates the standards listed in this article that govern the granting of the conditional use permit.
- B. Revocation of a conditional use permit shall become final only after:
 - 1. the fifteen-day period expired within which an appeal may be filed; or
 - 2. a decision of the Town Council upholding the revocation.

Section 1103.6 Notice and Hearings.

The Planning Commission shall fix a reasonable time for its hearings and give notice thereof to the parties in interest and the public by publishing notice in a newspaper of general circulation in the Town of Paradise Valley, giving at least fifteen days' notice of such hearing; and by posting the subject property at least seven days prior to the hearing.

Section 1103.7 Appeals.

- A. The Town Council shall have the authority to hear and decide appeals from the action of the Planning Commission in the granting or denying of conditional use permits.
- B. An appeal from a requirement or decision made by the Planning Commission may be taken within 15 days by an aggrieved person on a form provided by the Community Development Department and shall specify the basis of the appeal.
- C. An appeal shall be heard by the Town Council de novo. The concurring vote of a majority of members present and not otherwise disqualified shall be necessary to reverse or modify a requirement or decision of the Planning Commission, otherwise such requirement or decision shall be affirmed.
- D. The Town Council shall fix a reasonable time for its hearings and give notice thereof to the parties in interest and the public by publishing notice in a newspaper of general circulation in the Town of Paradise Valley, giving at least fifteen days' notice of such hearing; and by posting the subject property at least seven days prior to the hearing.
- E. Any person aggrieved by any decision of the Town Council may file a complaint for special action in the superior court to review the Town Council's decision.

Section 1104 Temporary Use Permits.

A temporary use permit grants: (1) authority to establish a temporary off-site construction facility in support of construction at another location which may consist of materials and machinery storage, temporary buildings and/or trailers, and construction-related activities;

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or (2) a permit for the temporary establishment of an on-site sales facility that is required during the initial promotional or sales activities of a new project.

Section 1104.1 Nature of Temporary Use Permit.

The grant of a temporary use permit is an administrative act. A temporary use permit shall be granted if the application meets the requirements set forth in this article and any conditions imposed on the authorized uses and activities.

Section 1104.2 Uses Permitted.

- A. Structures for storing materials
- B. Structures for temporary offices
- C. Outdoor storage of materials
- D. Minor assembly of structural or building components
- E. Employee parking
- F. Sales office located within a new residential development subject to the following standards:
 - 1. Minimum 20-foot setback to property lines will be required of any office located in a freestanding structure.
 - 2. limited to one per lot or subdivision and it shall not contain cooking appliances.
 - 3. the office may be located on the lot or subdivision under construction only during the period that the building(s) is being constructed and must be removed from the site after the construction is completed or upon expiration of two years from the time of issuances of the temporary use permit or building permit.
 - 4. if the office is for a subdivision under one ownership, it may be placed on any lot in the subdivision.
- G. Other temporary construction support facilities

Section 1104.3 Application and Approval Procedures for Temporary Use Permits.

- A. An application shall be obtained from the Town of Paradise Valley prior to commencing an activity or use permitted with a temporary use permit. The application shall also contain written permission for such use by the owner or legal representative of the off-site property.

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- B. The application shall list all proposed activities, designated locations, points of access and hours of operation of proposed activities to be conducted on the site.
- C. The application shall indicate any proposed screening or buffering.
- D. The temporary use permit, if approved, shall be valid for two years or until the date of issuance of the Certificate of Occupancy, Certificate of Completion or approved final inspection of the construction project, whichever occurs first.
- E. The application shall be acted upon within seven days of filing.
- F. An application for a six month time extension of a temporary use permit shall be granted if the activities or uses authorized by the temporary use permit are in compliance with the requirements set forth in this section and any conditions attached to the permit.

Section 1104.4 Authority of Town Manager.

The Town Manager or his designee is authorized to grant applications for temporary use permits.

Section 1104.5 Revocation of temporary use permits.

- A. The Town Manager or his designee may revoke a temporary use permit if the permittee violates any requirement set forth in this section or any condition attached to the permit.
- B. Notice of intention to revoke a temporary use permit shall be mailed to the permit holder and shall be posted on the property subject to the permit at least 5 calendar days before a permit may be revoked. The permit holder shall be given an opportunity to be heard before a revocation decision is rendered by the Town Manager or his designee.

Section 1105 Violations of Special Use Permits, Conditional Use Permits and Temporary Use Permits.

A violation of any requirement of this article that governs uses, structures and activities permitted through issuance of a Special Use Permit, a Conditional Use Permit or a Temporary Use Permit and a violation of any condition imposed by a Special Use Permit, Conditional Use Permit or a Temporary Use Permit shall constitute a violation of the Zoning Ordinance and shall be punishable as provided in Article XIV of this ordinance.

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FOOTNOTE:

564 Ordinance # 564 – 11/03/2005 (Repealed and Replaced)

605 Ordinance # 605 – 09/25/2008

609 Ordinance # 609 – 10/22/2009

633 Ordinance #633 – 04/28/2011

657 Ordinance #657 – 11/15/2012

658 Ordinance #658 – 11/15/2012

659 Ordinance #659 – 11/15/2012

Ordinance 2017-05 – 08/08/22017

Ordinance 2019-04 – 04/11/2019

Ordinance 2019-07 – 10/22/2020