

ORDINANCE NUMBER 2019-04

AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA AMENDING THE PARADISE VALLEY ZONING ORDINANCE, ARTICLE XI, SPECIAL USES AND ADDITIONAL USE REGULATIONS

WHEREAS, Article III Amendments, Section 306, of the Zoning Ordinance establishes the authority and procedures for amending the Zoning Ordinance and the regulations thereunder; and

WHEREAS, the Town Council desires to make revisions to Article XI, Special Uses and Additional Use Regulations, of the Zoning Ordinance to revise the processes related to managerial amendments to special use permits.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL
OF THE TOWN OF PARADISE VALLEY, ARIZONA:**

Section 1. Article XI, Special Uses and Additional Use Regulations, Section 1102.8 is hereby amended (with deletions shown as ~~strike-throughs~~ and additions shown in **bold type**):

Article XI. SPECIAL USES AND ADDITIONAL USE REGULATIONS

1102.8 Application and Approval Process for Amendments to Special Use Permits

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 the application, make a written determination to either approve or deny the application, or reclassify the application to a different category of Special Use Permit amendment.
2. The Town Manager (or ~~the Town Manager's designee~~) ~~will be required to report all decisions on Managerial Amendments to the Town Council (for informational purposes only).~~ **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 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.

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, 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.

Section 2. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 3. This Ordinance shall become effective in 30 days.

Section 4. In accordance with Article II, Sections 1 and 2, Constitution of Arizona, the Town Council has considered the individual property rights and personal liberties of the residents of the Town before adopting this ordinance.

PASSED AND ADOPTED by the Mayor and Council of the Town of Paradise Valley, Arizona, this _____ day of _____, 2019.

Jerry Bien-Willner, Mayor

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM

Andrew M. Miller, Town Attorney