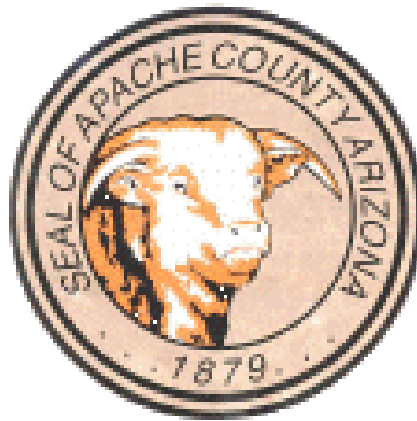


ZONING ORDINANCE OF



APACHE COUNTY, ARIZONA

Adopted 1985
Amended November 4, 2003
Amended June 3, 2008
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Amended August 4, 2008
Amended December 2, 2008
Amended June 2, 2009
Amended July 7, 2009
Amended December 1, 2009

**ZONING ORDINANCE
OF
APACHE COUNTY, ARIZONA**

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**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. Grammatical Usage**

- A. Words used in the present tense include the future tense; words used in the singular include the plural, and vice-versa.
- B. The words “*shall*” and “*must*” are mandatory, and the words “*may*,” “*can*,” and “*should*” are permissive.
- C. The word “*person*” includes an association, firm, partnership, or corporation as well as an individual.
- D. The words “*occupied*” and “*used*” mean the same as the words “*intended*,” “*arranged*,” or “*designed to be occupied or used*.”
- E. The word “*lot*” means the same as the words “*plot*” and “*parcel*.”
- F. The word “*dwelling*” means the same as the word “*residence*.”
- G. Terms not defined herein or by the Arizona Revised Statutes shall have the meanings of common English usage.

Section 202. Definitions

In this Ordinance, unless otherwise specified:

Accessory structure - A subordinate structure on the same lot with a principal structure, the use of which is customarily incidental to the main use of the principal structure. When attached to the principal structure, an accessory structure shall be considered as part of the main building for purposes of setback and yard regulations.

A-G - Agricultural General Zone.

Agribusiness - A business directly related to and supportive of an agricultural use as defined herein.

Agriculture - The cultivation of the soil, the growing of crops or plants, animal and poultry husbandry, dairying, grazing, and accessory uses customarily incidental to agricultural activities.

Airport, heliport, helistop, or aircraft landing field - A tract of land or a structure, and requisite clear zone, used or intended for the landing and takeoff of private aircraft and including, but not limited to, accessory hangars, control towers, and accommodations of passengers and cargo.

Alley - A narrow road that provides access to the rear of buildings by going through the middle of a block. A narrow road, walk, or lane between two rows of buildings.

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Animal boarding or breeding facility - A building, structure, or out-of-doors area in which animals are kept, whether or not for consideration.

Animal and veterinary hospital or clinic - A building or structure used for the care, observation, and treatment of animals.

Apache County Comprehensive Plan - A plan or plans created by the Planning and Zoning Commission and adopted by the Board of Supervisors to guide development or use of property.

Automobile wrecking yard - The use of more than 1,000 square feet of a lot or parcel under common ownership for a salvaging operation, including, but not limited to, the storage or sale of junk; or the collection, dismantlement, storage, or salvage of five or more cars, trucks, boats, or recreational vehicles or any combination thereof. This definition does not include:

Those unlicensed or inoperative vehicles that are dismantled, salvaged, or otherwise in a state of disrepair and that are totally obscured from view of adjacent property at all times of the year; or

Those unlicensed and operative vehicles that are used in the normal course of business on the property on which they are stored.

Billboard - An off-premises sign as defined in this Ordinance that meets one or both of the following requirements: greater than 8 feet tall from grade to peak or greater than 100 feet of surface advertising area per side.

Board - The Apache County Board of Supervisors.

BoAA - The Board of Adjustment and Appeals.

Board of Adjustment and Appeals - A board composed of three to five members who are residents and taxpayers from the appointing district that interprets the Zoning Ordinance when there is a dispute between the applicant and the Director and that allows a variance from the Zoning Ordinance where a strict interpretation creates an unnecessary hardship.

Boarding house - A dwelling containing a single dwelling unit and not more than 10 guest

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rooms or suites of rooms where lodging is provided with or without meals for compensation for more than one week.

Body painting studio - An establishment or business that provides the service of applying paint or other substance, whether transparent or nontransparent, permanent, or non-permanent to or on the body of a patron when such body is wholly or partially nude in terms of "specified anatomical areas."

Body piercing studio - A permanent, or non-permanent nondwelling building or portion of a building completely separated from living quarters where an opening is created in an individual's body, other than in an individual's earlobe, to insert jewelry or another decoration.

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

Principal building - A structure or a group of structures within which is conducted the principal use of the lot on which the structure is situated.

Accessory structure - A subordinate structure on the same lot with a principal building, the use of which is customarily incidental to the main use of the principal building. When attached to the principal building, an accessory structure shall be considered as part of the main building for purposes of setback and yard regulations.

Building official - An agency or officer employed by Apache County and charged with the administration and enforcement of a building code to regulate the quality, type of material, and workmanship of construction of buildings or structures.

Business floor area - The gross floor area exclusive of vents, shafts, courts, elevators, stairways, exterior walls, and similar facilities.

C1 - Light Commercial Zone.

C2 - General Commercial Zone.

Canopy - A roofed structure that is constructed of fabric or other material supported by the building or by a brace extending to the ground directly under the canopy and that is

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placed so as to extend outward from the building, providing a protective shield for doors, windows, and other openings.

Cemetery - Land used or intended to be used for burial of the dead and dedicated for purposes including columbaria, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

Church - A building of assembly designed for religious worship as the primary use.

Clerk of the board - A person appointed by the Board of Supervisors to receive and process items for the Board of Supervisors agenda, prepare resolutions and minutes, perform administrative detail for the Board of Supervisors, and perform other related duties.

Club or lodge - An organization of persons for special purposes or for the promotion of sports, arts, literature, politics, or the like, but not operated for profit and excluding churches, synagogues, or other houses of worship.

CN - Neighborhood Commercial Zone.

Code enforcement officer - The Director of the Apache County Planning and Zoning Department or the Director's designated representative.

Commercial agriculture - Conducting business of agriculture with the intent to sell the products of the enterprise for profit.

Commission - The Apache County Planning and Zoning Commission.

Communications tower - A structure with a height greater than 35 feet used in the provisions of communication services including, but not limited to, the transmission or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

Community Development Director - The official appointed by the county manager whose duties are directly related to the Planning and Zoning Department operations within Apache County.

County assessor - The elected official who sets the value of property for taxation purposes. The assessor serves in an advisory capacity to the Planning and Zoning Commission.

County attorney - The elected official, chief deputy, or designated attorney who serves as the

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chief legal officer of the county and advises the Planning and Zoning Department and Commission regarding legal issues.

County engineer - That person appointed by the Board of Supervisors to plan, direct, manage, and oversee the activities of the county's Engineering Department. The county engineer works directly with the Planning and Zoning Department in an advisory capacity.

County health officer - That person appointed to plan, direct, manage, and oversee the activities of the county Health Department. The county health officer works directly with the Planning and Zoning Department in an advisory capacity.

Day care facility - A home or institution used and maintained to provide care for ten or more individuals unrelated to the care provider for twelve (12) hours or less per day.

Density - The number of dwelling units or other structures per lot or parcel.

Designee - A technical officer or other employee authorized to carry out the functions of this Ordinance.

Driveway - A path for vehicles on a private lot leading to structures, leading away from structures, or used for vehicles going in either direction.

Drop forge industries - An operation in which a metal shape is formed by forcing hot metal into impressions formed in solid blocks of hardened alloy steel, the forging dies. The dies are made in halves, one attached to the rising and falling block of the drop forge and the other to the stationary anvil. Drop forgings are widely used in the automotive industry for parts such as crankshafts, stub axles, and gears.

Dwelling unit - A building, or portion thereof, occupied or used as a unit of occupancy for cooking, living, and sleeping purposes.

Single-family dwelling - A detached building containing only one dwelling unit.

Multifamily dwelling - A building, or portion thereof, containing two or more dwelling units.

Easement - A grant of rights by a property owner to another individual, group, or governmental unit to make a specified use of a portion of real property.

Effective date - The date upon which this Ordinance or any amendment hereto becomes effective.

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

Family - An individual living alone; two persons related by blood or marriage together with their dependents, if any; or a group of not more than five unrelated persons living together as a single household dwelling unit. "Family" includes its domestic employees.

Flood plain - A land area that adjoins a river, stream, watercourse, bay, or lake and that is within 100- or 500-year flood boundaries.

Flood Plain Board - The Board of Supervisors of Apache County, under the Apache County Flood Damage Prevention Ordinance.

Floodway - The channel of a river or other watercourse and the adjacent land areas required to carry and discharge a flood as identified by adopted floodway studies.

Functional classification of roads - A system of placing roads in categories based on public use, traffic volume, and network significance. The categories include principal arterial roads, minor arterial roads, collector roads, and local roads.

Principal arterial roads - Those roads that serve the major traffic movement within areas of the county such as between business districts and outlying residential areas, or between major suburban rural centers. These roads provide continuity for all rural arterial roads that intersect the urban areas of the county.

Minor arterial roads - Those roads that serve trips of moderate length at a somewhat lower level of travel mobility than principal arterial roads. These roads provide access to geographic areas smaller than those served by the higher system. Minor arterial roads connect to rural collector roads to facilitate the movement of vehicles from rural subdivisions and areas.

Collector roads - Those roads that collect traffic from local subdivision areas and channel it into the arterial system. These roads provide both land access and traffic circulations within residential neighborhoods. Only some collector

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roads will receive hard cover (chip and seal), depending on the volume of traffic traveling these roads.

Local roads - Roads in a local road system that is composed of roads not of the higher system. These roads provide direct access to abutting land and access to the higher order system. Through traffic is deliberately discouraged.

Gross floor area - The sum of the horizontal areas of floors of a building measured from the exterior face of exterior walls or, if appropriate, from the center line of dividing walls; this includes courts, decks, or porches when covered by a roof.

Guest accommodations - Any property containing eight or fewer units used as sleeping accommodations and made available to the public on a transient basis for a charge. A “transient basis” means any period of time less than thirty (30) consecutive days. “Guest accommodations” shall include, but are not limited to, lodging houses, rooming houses, resorts, guest houses, apartments, cabins, and bed-and-breakfast facilities.

Guest house - A house separate from the main house; for housing non-paying guests and/or family

Guest ranch - A facility that:

Is ten (10) acres or larger in size,

Contains lodging,

Is built for the purpose of housing paying guests for specified short durations of time, and

Does not offer timeshares.

Hearing official - That person or persons appointed by the Board of Supervisors to hear and decide penalties for code violations.

HI - Heavy Industrial Zone.

Home business - An accessory and incidental use of a dwelling unit or residential lot comprising a business or profession carried on by a person residing in such dwelling unit or on such lot, including locally hosted web sites.

Hotel - A facility offering transient lodging accommodations at a daily rate to the general public and providing additional services, such as restaurants, meeting rooms, and

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recreational facilities.

Incidental camping - The use of tents, travel trailers, or other mobile camping equipment for camping and other recreational purposes, without permanent facilities, incidental to some other principal use of a site, including seasonal recreational camping

Individual - Any private person, tenant, lessee, owner, or any commercial entity including, but not limited to, companies, partnerships, joint ventures, or corporations.

Installed lighting or installed outdoor light fixtures - To have initially put in outdoor light fixtures, defined in this Article, following the effective date of this Ordinance, but shall not apply to those outdoor light fixtures installed prior to such date.

Junk - Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, refrigerators, stoves, household or other appliances or equipment, salvaged building materials, salvaged machinery or parts, iron, steel, and other scrap ferrous or nonferrous material.

Junk vehicle - A nonoperating automobile or an automobile without a license from the Department of Motor Vehicles.

Kennel - Having more than a combined total of six (6) dogs or cats that are six (6) months of age or older.

Hobby kennel - A noncommercial kennel at or adjoining a private residence where more than a combined total of six (6) dogs or cats six (6) months of age or older are bred and/or kept for hunting, training, and exhibit for organized shows, field working, and/or obedience trials or for enjoyment of the species.

Commercial kennel - A place where more than a combined total of six (6) dogs or cats six (6) months of age or older are bred by a person providing facilities for breeding and the offspring are sold, and where such animals are received for care, training, and boarding for compensation, not including a small animal hospital, clinic, or pet shop.

Large animals - Livestock including but not limited to horses, mules, llamas, cattle, sheep, swine, pygmy animals, and goats.

LI - Light Industrial Zone.

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

Lot, plot, or parcel - A piece of land separated from every other piece by description, as in a subdivision or on a recorded survey map, or by metes and bounds for purposes of sale or separate use, except that contiguous pieces of land owned by the same persons or interests in common may be considered a single lot, plot, or parcel for permitted development and conditional use purposes.

Lot lines:

Front lot line - A line separating the lot from the road (public or private), or public right-of-way other than an alley if a road does not exist.

In the case of a corner lot, the shortest continuous line separating the lot from the road or public right-of-way shall be the front lot line.

In case of corner lots having equal lines abutting a road or public right-of-way, that property line that when extended creates the front property line for the greatest number of interior lots in the same block shall be considered as the front lot line of such corner lot.

Where a lot does not abut a public right-of-way or private road, the front lot line shall be the lot line nearest to where legal access to the parcel is provided.

Rear lot line - A lot line that is opposite and most distant from the front lot line. For the purposes of establishing the rear lot line, the following shall apply:

In the case of a lot with a rear boundary formed by a single line that is parallel to the front lot line, such rear boundary is the rear lot line.

In the case of a lot, the rear boundary of which is formed by two (2) or more lines, the rear lot line shall be a line ten (10) feet in length within the lot and farthest removed from the front lot line and at right angles to the line comprising the depth of such a lot.

In the case of a trapezoidal lot, the rear line of which is not parallel to the front lot line, the rear lot line shall be deemed to be a line at right angles to the line comprising the depth of such lot and drawn through a point bisecting the recorded

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rear lot line.

In no case shall the application of this definition be interpreted as permitting a main building to locate closer than five (5) feet to any property line unless such building portion is below grade with no visible portion above grade.

Side lot line - Any lot boundary line not a front lot line or a rear lot line.

Manufactured home - A moveable or portable dwelling unit constructed on or after June 15, 1976, to be towed on its own chassis and designed so as to be installed with or without a permanent foundation for residential dwelling. The unit may include one or more components that can be disconnected for towing purposes and subsequently connected for additional capacity, or a portable dwelling composed of a single unit. The Federal Manufactured Housing Construction and Safety Standards Act of 1974 became effective on June 15, 1976.

MHP - Manufactured Home Park Zone.

Mining - The taking from the ground for commercial use or processing of ore, metallic and nonmetallic rock, other inorganic material, or coal.

Mobile home - A dwelling unit built before the federal Manufactured Home Construction and Safety Standards became effective on June 15, 1976, but otherwise fitting the definition of a manufactured home.

Motel - A building or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for automobile travelers and having a separate outside entrance and parking space for each unit.

Multifamily dwelling - A structure, or portion thereof, containing two or more dwelling units.

Nonconforming building - A building, structure, or portion thereof that 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.

Nonconforming lots - Parcels that were lawfully created but do not meet the current minimum lot size requirements for the zone in which they are located or that do not have frontage on a public road.

Nonconforming use - A use of premises that does not conform to the regulations of this Ordinance but that existed prior to the effective date of this Ordinance.

Notice - The same meaning as prescribed in A.R.S. § 11-808(E).

Outdoor light fixtures - Exterior artificial illuminating devices, fixtures, lamps, and other exterior devices, permanent or portable, used for illumination or advertisement that include, but are not limited to, search, spot, or floodlights for:

- Buildings and structures,
- Recreational areas,
- Parking lot lighting,
- Landscape lighting, and
- Billboards and other signage (advertising or other).

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

PC - Planned Community Zone.

Personal service shop - An establishment wherein a personal service is performed. "Personal service shop" may include a barbershop, a dressmaking shop, a shoe repair shop, a tailor shop, a photographic studio, or similar use, but does not include a beauty salon.

Planning and Zoning Commission - A group of nine individuals appointed per A.R.S. § 11-803 to advise the Board of Supervisors in matters regarding planning, zoning, and subdivision platting.

Professional office - An enterprise, organization, or place where consulting, recordkeeping, and the work of one or more of the following persons or occupations is done:

- Accountants, auditors, and tax experts;
- Architects, engineers, and surveyors;
- Audio recording studios;
- Consulting services;

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Doctors, dentists, psychologists, optometrists, and chiropractors;
Geologists and geophysicists;
Insurance agents;
Laboratory technicians and laboratories, excluding outdoor living facilities for animals;
Lawyers;
Messenger, telegraph, telecommunications, and answering services;
Photography studios;
Public typists, stenographers, and court reporters;
Real estate brokers, appraisers, and title agents;
Stockbrokers; and
Other professional office uses comparable and similar in operation, appearance, conduct, and occupation as those listed.

PUD - Planned Unit Development Zone.

R-18 - Rural Zone eighteen (18)-acre minimum.

R-9 - Rural Zone nine (9)-acre minimum.

R-5 - Rural Zone five (5)-acre minimum.

RE-2 - Rural Estate Zone two (2)-acre minimum.

RE-1 - Rural Estate Zone one (1)-acre minimum.

Resort - A hotel or motel that serves as a destination point for visitors. A resort generally provides recreational facilities for persons on vacation. A resort shall be self-contained and provide personal services customarily furnished at hotels, including the serving of meals.

RF-2 - Rural Farmstead Zone two (2)-acre minimum.

RF-1 - Rural Farmstead Zone one (1)-acre minimum.

R-O - Reserve Overlay Zone.

Road - A public way, easement, or permanent vehicular access as it pertains to its functional classification.

RVP - Recreational Vehicle Park Zone.

Sanitary landfill – A system of municipal waste disposal in which the garbage is deposited between layers of earth and in which the system has been designed and engineered to ensure minimal negative impact upon the environment.

School buildings - Buildings, except churches as defined, of which teaching and instruction on a daily basis is their primary use, including elementary and secondary schools and colleges.

Setback - The minimum horizontal distance between the property line of a lot, plot, or parcel to the roof overhang, or end of porches or decks, whichever protrudes more.
“Setback” also refers to the distance from the property line to applicable signs, sheds, and other accessory structures.

SF-36 - Single Family Zone 36,000-square-foot minimum.

SF-18 - Single Family Zone 18,000-square-foot minimum.

SF-10 - Single Family Zone 10,000-square-foot minimum.

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 flagpole.

Single-family dwelling - A detached building containing only one dwelling unit.

Site plan - Drawings that provide an overhead perspective on how buildings, parking areas, and other facilities would appear on a site. Drawn to scale, the site plan may include, but not be limited to, topography, vegetation, drainage, flood plains, marshes, and waterways; and open spaces, walkways, means of ingress and egress, utility services, landscaping, buildings, structures, signs, lighting and screening devices, center lines of rights-of-way, and dimensions.

Small animals - Animals including but not limited to all poultry and rabbit types, reptiles, and amphibians.

S-O - Sign Overlay Zone, an overlay zone encompassing all properties in the county that adjoin at any point a county road, state route, or federal highway or freeway.

Solid waste trash enclosure - A container intended for use by multiple dwellings and commercial and industrial zones as a depository and collection point for solid waste.

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, communication towers, sheds, and storage bins.

Subdivision - Division of a tract, lot, or parcel of land.

Minor land division - Improved or unimproved land or lands divided or proposed to be divided for the purpose of sale, whether immediate or future, into five or fewer lots, parcels, or fractional interests.

Major land division - Improved or unimproved land or lands divided or proposed to be divided for the purpose of sale, whether immediate or future, into six or more lots, parcels, or fractional interests.

Tattoo parlor - A permanent, nondwelling building or portion of a building completely separated from living quarters where indelible marks, figures, or permanent cosmetics are produced on the human body by scarring or inserting a pigment under the skin with needles, scalpels, or other related devices.

Timeshare - An arrangement under which a purchaser receives an interest in real estate and the right to use an accommodation or amenities, or both, for a specified period and on a recurring basis.

Trailer park - A parcel of land used for the parking of two or more travel trailers occupied or intended to be occupied on the parcel.

Travel trailer - A vehicle, self-propelled or otherwise, that is designed to temporarily shelter persons en route or on a recreational trip or vacation, and that has less than 400 square feet of habitable living area. Travel trailers include truck-mounted campers and motorized travel vans or recreational vehicles.

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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.

Accessory use - A use that is clearly and customarily incidental and subordinate to the principal use of a building or premises and that is located on the same lot as the principal use or building.

Administrative use - A use subject to requirements imposed under this Ordinance, approved by the Director, and brought before the Commission at the discretion of the Director. An administrative use permit is required for all uses listed as an administrative use in the applicable zone, as well as nonconforming, guest accommodation, and home occupation uses.

Conditional use - A use subject to requirements imposed under this Ordinance, recommended by the Commission, and adopted with or without modifications by the Board of Supervisors.

Conforming use - A use of a building or premises that complies with all of the applicable use regulations of the zoning district in which said building or premises are located.

Nonconforming use - A use that was lawfully established prior to the adoption, revision, or amendment of this Ordinance, but that fails, by reason of such adoption, revision, or amendment, to conform to the present requirements of the zoning district in which it is located.

Permitted use - Any use of a building or premises that is or may be lawfully established in a particular zoning district, provided it conforms to all requirements and regulations of this Ordinance for the zoning district in which such use is or is proposed to be located.

Principal use - The main, major, and dominant use of a building or premises as distinguished from an accessory use.

Temporary use - A prospective use intended for limited duration to be located in a zone not permitting such use. Temporary uses are characterized by such activities as mass gatherings, temporary storage of unoccupied manufactured dwellings, roadside stands, and those uses compatible with the intent and purpose of the various zones. Temporary uses can be heard by the Planning and Zoning Commission at the discretion of the Director.

Variance - An exception to land use regulations generally in order to compensate for a deficiency in a real property that would prevent the property from complying with the Zoning Ordinance.

Yard - An open space that is 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, and that is unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance.

Youth camp - Any regularly scheduled program or organized group activity advertised as a camp or operated by a person, partnership, corporation, association, the state, or a municipal agency for recreational or educational purposes and accommodating for profit or under philanthropic or charitable auspices five or more children under 18 years of age who are not bona fide personal guests in the private home of an individual, and who are living apart from their relatives, parents, or legal guardians, for a period of three days or more per week or portions of three or more days per week, provided any such relative, parent, or guardian who is an employee of such camp shall not be considered to be in the position of in loco parentis to such employee's child for the purposes of 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.

ARTICLE 3 ESTABLISHMENT OF ZONES

Section 301. Zone Classifications

A. For the purpose of the Apache County Comprehensive Plan, this Ordinance shall be applied with case-by-case rezoning applications and approvals as property owners propose new development, rather than the county proactively placing the new districts on unincorporated land. The unincorporated area of Apache County is classified in the following zones in this Ordinance, unless otherwise specified:

“A-G” means Agricultural General Zone.

“R-O” means Reserve Overlay Zone.

“S-O” means Sign Overlay Zone.

“R-18” means Rural Zone 18-acre minimum.

“R-9” means Rural Zone 9-acre minimum.

“R-5” means Rural Zone 5-acre minimum.

“RF-2” means Rural Farmstead Zone 2-acre minimum.

“RF-1” means Rural Farmstead Zone 1-acre minimum.

“RE-2” means Rural Estate Zone 2-acre minimum.

“RE-1” means Rural Estate Zone 1-acre minimum.

“SF-36” means Single Family Zone 36,000-square-foot minimum.

“SF-18” means Single Family Zone 18,000-square-foot minimum.

“SF-10” means Single Family Zone 10,000-square-foot minimum.

“CN” means Neighborhood Commercial Zone.

“C1” means Light Commercial Zone.

“C2” means General Commercial Zone.

“LI” means Light Industrial Zone.

“HI” means Heavy Industrial Zone.

“PUD” means Planned Unit Development Zone.

“PC” means Planned Community Zone.

“MHP” means Manufactured Home Park Zone.

“RVP” means Recreational Vehicle Park Zone.

B. All uses other than those permitted within zones as adopted by the Board of Supervisors shall require a conditional use permit.

C. Zones and boundaries of zones are hereby established and adopted as shown, delineated, and designated on the adopted Comprehensive Plan and zone map of the county of Apache, Arizona, which maps together with all notations, references, data, zone boundaries, and other information thereon are made a part hereof and adopted concurrently herewith.

Section 302. Boundary Lines on Zone District Map

- A. Upon the Board's approval of this Ordinance, all applicable characteristics designating all zones and their specific locations shall be in full force and effect, and shall be reflected on the zone map at such time as it is adopted.
- B. As zones are adopted by the Board of Supervisors, referred to in this Section as "the Board," the location and boundaries of each zone shall be shown on the zone map of Apache County, Arizona. The zone map will include all notations, references, and other information shown thereon, and as approved by the signature of the Chairman of the Board and attested to by the Clerk of the Board.
- C. Whenever amendments or changes in zone boundaries are adopted by the Board, such amendments or changes shall be recorded on the zone map, which shall be signed by the Chairman of the Board and attested to by the Clerk of the Board.
- D. The zone map, and the amended zone maps, shall be located in the office of the Clerk of the Board, with a copy on file in the Community Development Department

Section 303. Zone Boundary Determination

Where uncertainty exists with respect to the zone boundaries, the following rules shall apply:

- 1. Where the intended boundaries on the zone map are approximate roads, alley lines, or watercourses, the actual centerline of the road, alley, or watercourse shall be the zone boundary.
- 2. Where the intended boundaries are approximate lot lines, the lot lines as recorded by legal description shall be construed to be the zone boundaries unless otherwise indicated.
- 3. 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 zone map.
- 4. Where other uncertainty exists, the Board of Adjustment and Appeals shall interpret the zone map.
- 5. Delineation of R-O Zones on the zone map 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 Zones are on file and available at the Community Development Department, Apache County Annex, and includes the following:
 - a. Soil Conservation Service Soil Survey of Apache County, Arizona;
 - b. All Floodplain Board approved flood plain delineations, including Flood Insurance Rate maps and floodway/flood boundary maps;
 - c. 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; and
 - d. Apache County zone map.
- 6. These technical references may be updated from time to time and data transposed to the zone map following any necessary public hearing. The technical references shall be controlling insofar as land use and boundaries are concerned.

Section 304. Public Way Abandonments

Whenever any road, alley, or other public way is abandoned by the Board of Supervisors, the zoning districts adjoining each side of such road, alley, or public way shall be considered as extended to the center of such vacation, and all areas included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended zoning district.

Section 305. Lands Not Previously Zoned

Lands that for reasons of law, change in ownership, or any other reason come under the authority of Apache County after this Ordinance becomes effective and that have not been zoned prior thereto by any other jurisdiction having zoning authority shall be zoned in accordance with the Apache County Comprehensive Plan. If the land was not included in the Apache County Comprehensive Plan, it shall be subject to the regulations of the Agricultural General zoning district. As soon as practicable, after the change of ownership, public hearings shall be held for the purpose of zoning such lands under this Ordinance.

Section 306. Lands Previously Zoned by Other Jurisdictions

Lands that for reasons of law, change in ownership, or any other reason come under the authority of Apache County after this Ordinance becomes effective and that have been zoned prior thereto by any other jurisdiction having zoning authority shall retain such zoning. As soon as practicable thereafter, public hearings shall be held for the purpose of zoning such lands consistent with the terms and provisions of this Ordinance.

Amended June 3, 2008 by Apache County Board of Supervisors

ARTICLE 4
AGRICULTURAL GENERAL, RESIDENTIAL,
COMMERCIAL AND INDUSTRIAL ZONES

Section 401. Jurisdiction and Objectives of the Agricultural General Zone

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 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 Ordinance.

Section 403. Permitted Uses

A. General uses:

1. Soil crops;
2. 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 from any adjacent residential property line on and after the effective date of this Ordinance;
3. Commercial uses, provided they are so located as to have direct access to a principal public thoroughfare: retail stores for food, drugs, clothing, hardware, and personal or household goods and notions; restaurants, not including drive-through 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;
4. Horses, cattle, goat dairies, poultry and egg farms, fur farms, and public stables provided that pens and buildings are located not less than one hundred (100) feet from a residence or residential district;
5. Forestry uses and nurseries;
6. Guest ranches on parcels having an area not less than ten (10) acres with only one principal dwelling unit or service area providing kitchen facilities;

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7. One single-family dwelling or one modular or mobile home per parcel. For the purpose of this Article, a parcel shall not be less than one 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.
8. Mineral exploration or development.

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

1. The home occupation may not occupy more than 25% of floor area.
2. The home occupation shall not require internal or external alterations or construction features or equipment not customary in dwellings or adjoining buildings.
3. On-site advertising shall be limited to one 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.
4. Home occupations shall be conducted solely by residents of the dwelling involved and involve no employees.

C. Public and quasi-public uses:

1. Water pumping plants, storage tanks, utilities, and other essential services;
2. Public schools;
3. Public recreational uses; and
4. Churches

D. Accessory uses:

1. Accessory buildings and uses commonly incidental to permitted uses
2. Storage of petroleum products shall comply with state fire codes and other applicable ordinances

E. 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 according to procedures set forth in Article 11. 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:

1. Multi-family dwellings including duplexes, triplexes, apartments, townhouses, and condominiums;
2. Hotels, motels, and lodging;
3. Drive-through commercial facilities except banks;
4. 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;
5. Industrial uses; and
6. All other uses not listed as permitted uses.

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Section 404. Development Standards for Permitted Uses

- A.** Lot size. Minimum lot size for any use shall be a minimum of one (1) acre when facilities are on a septic system.
- B.** Setbacks:
 - 1. Side yards. All building side yard setbacks shall be a minimum of ten (10) feet for a single-story building. Buildings exceeding fourteen (14) feet in height, as measured from the first finished floor to the highest gable end, shall have additional foot of side yard setback for each additional one (1) foot of building height. Setbacks are measured from the property lines to the roof overhang, or end of porches or decks, whichever protrudes more.
 - 2. Front and rear yard. All buildings shall have a minimum front and rear yard setback equal to the total height of said building as measured from the first finished floor to the highest gable end plus ten (10) feet. Setbacks are measured from the property lines to the roof overhang, or end of porches or decks, whichever protrudes more.
 - 3. 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 buildings from all property lines and other buildings.
- C.** Minimum space between buildings. Minimum space between buildings on one parcel shall be fifteen (15) feet for single story and twenty (20) feet for multiple story.
- D.** Parking. The provisions of Article 6 shall apply.
- E.** Lighting. The provisions of Article 7 shall apply.
- F.** Building height. Building height shall be limited to two stories, or thirty-five (35) feet in height measured from the first finished floor to the highest gable end.

Section 405. Reserved

Section 406. Reserved

Section 407. Reserved

Section 408. Reserved

Section 409. Reserved

Amended June 3, 2008 by Apache County Board of Supervisors

Section 410. Definitions of Residential Zones

In this Article, unless otherwise specified:

- “R-18” means Rural Zone 18-acre minimum.
- “R-9” means Rural Zone 9-acre minimum.
- “R-5” means Rural Zone 5-acre minimum.
- “RF-2” means Rural Farmstead Zone 2-acre minimum.
- “RF-1” means Rural Farmstead Zone 1-acre minimum.
- “RE-2” means Rural Estate Zone 2-acre minimum.
- “RE-1” means Rural Estate Zone 1-acre minimum.
- “SF-36” means Single Family Zone 36,000-square-foot minimum.
- “SF-18” means Single Family Zone 18,000-square-foot minimum.
- “SF-10” means Single Family Zone 10,000-square-foot minimum.

Section 411. Purpose

- A.** Rural Zones. The primary purpose of Rural Zones (R-18, R-9, R-5) is to conserve and protect open land uses, foster orderly growth in rural areas, and prevent urban-agricultural land use conflicts. Uses permitted in these zones include farm and nonfarm residential uses, ranchettes, and recreational uses.
- B.** Rural Farmstead Zones. The primary purpose of Rural Farmstead Zones (RF-2, RF-1) is to allow small-scale agricultural uses of land, commercial and private.
- C.** Rural Estate Zones. The primary purpose of Rural Estate Zones (RE-2, RE-1) is to allow low-density residential and other compatible uses in areas where typical animal and farm uses may not be suitable. These areas include subdivisions and mountainous areas of Apache County.
- D.** Single Family Zones. The primary purpose of Single Family Zones (SF-36, SF-18, SF-10) is to allow high-density development in areas where community septic systems and water systems are available.

Section 412. Parking

The parking regulations are provided in Article 6 hereof.

Section 413. Height, Setback, and Intensity of Use

Zone	Area	Width	Lot Coverage	Front Yard	Side Yard	Rear Yard	Height
R-18	18 acres	500 ft	5%	100 ft	50 ft	50 ft/ 25 ft forest	35 ft

ARTICLE 4
Zones

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R-9	9 acres	300 ft	6%	75 ft	40 ft	40 ft/ 20 ft forest	35 ft
R-5	5 acres	250 ft	10%	50 ft	30 ft	30 ft/ 15 ft forest	35 ft
RF-2	2 acres	150 ft	15%	25 ft	25 ft	30 ft/ 20 ft forest	35 ft
RF-1	1 acre	150 ft	15%	20 ft	20 ft	30 ft/ 15 ft forest	30 ft
RE-2	2 acres	150 ft	15%	25 ft	15 ft/30 ft offset	20 ft/ 10 ft forest	35 ft
RE-1	1 acre	150 ft	15%	20 ft	15 ft/30 ft offset	20 ft/ 10 ft forest	30 ft
SF-36	36,000 ft	100 ft	20%	20 ft	10 ft/15 ft offset	20 ft	30 ft
SF-18	18,000 ft	100 ft	30%	20 ft	7 ft/15 ft offset	15 ft	30 ft
SF-10	10,000 ft	60 ft	30%	20 ft	10 ft	10 ft	30 ft

Between buildings: The distance between buildings on the same lot shall be fifteen (15) feet.

Accessory buildings: The accessory building setbacks shall be ten (10) feet from all property lines and other buildings on the property.

Height: Height is measured from the first finished floor above ground to the highest gable end.

Setbacks: Setbacks are measured from the property lines to the roof overhang, or end of porches or decks, whichever protrudes more.

Mobile home landing: All mobile and manufactured homes shall provide a landing for entrance in accordance with the provisions of the 2003 edition of the International Residential Code prior to final inspection.

Section 414. Uses

Use	R-18	R-9	R-5	RF-2	RF-1	RE-2	RE-1	SF-36	SF-18	SF-10
Accessory uses	P	P	P	P	P	P	P	P	P	P
Adult care facility	C	C	C	C	C	C	C	-	-	-

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Agribusiness	P	P	P	P	P	-	-	-	-	-
Agricultural uses	P	P	P	P	P	P	P	P	P	P
Animal and veterinary hospitals	P	P	P	P	P	-	-	-	-	-
Bed-and-breakfast homes	C	C	C	C	C	C	C	-	-	-
Blacksmith shops	P	P	P	P	P	-	-	-	-	-
Cemetery	C	C	C	C	C	C	C	C	C	C
Churches	C	C	C	C	C	C	C	C	C	C
Clubs and lodges	C	C	C	C	C	C	C	C	C	C
Commercial agriculture	P	P	P	P	P	C	C	-	-	-
Commercial livestock	P	P	P	P	P	-	-	-	-	-
Communication towers	C	C	C	C	C	-	-	-	-	-
Day care facilities	C	C	C	C	-	-	-	-	-	-
Fairgrounds	C	C	C	C	C	-	-	-	-	-
Garage and yard sales	P	P	P	P	P	P	P	P	P	P
Golf courses and related buildings	P	P	P	C	C	C	C	C	C	C
Guest accommodation	C	C	C	C	C	C	C	C	C	C
Guest house	C	C	C	C	C	C	C	C	C	C
Guest ranches	P	C	C	C	-	-	-	-	-	-

ARTICLE 4
Zones

Agricultural General, Residential, Commercial, and Industrial

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Heliports	P	P	P	C	C	C	C	C	C	C
Kennels	P	P	P	C	C	-	-	-	-	-
Landfills	C	C	C	-	-	-	-	-	-	-
Multifamily dwelling limited to duplex	C	C	C	C	C	C	C	-	-	-
Parks and playgrounds	P	P	P	P	P	P	P	P	P	P
Private airstrips	P	P	C	-	-	-	-	-	-	-
Professional offices	P	P	P	P	C	C	C	C	C	C
Riding academies and stables	P	P	P	C	C	-	-	-	-	-
Rodeo grounds	P	P	P	C	C	-	-	-	-	-
Sawmills, non-commercial	C	C	C	C	C	-	-	-	-	-
School buildings	C	C	C	C	C	C	C	C	C	C
Shooting ranges	C	C	C	-	-	-	-	-	-	-
Single-family dwelling	P	P	P	P	P	P	P	P	P	P
Soil crops	P	P	P	P	P	P	P	P	P	P
Stadiums, arenas	C	C	C	C	C	-	-	-	-	-
Two or three single-family homes	C	C	C	-	-	-	-	-	-	-
Wildlife and animal parks	C	C	C	-	-	-	-	-	-	-
Youth camps	C	C	C	C	C	-	-	-	-	-

P: permitted use

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C: conditional use

-: not applicable

Conditional uses shall follow the process described in Article 11.

Section 415. Reserved

Section 416. Reserved

Section 417. Reserved

Section 418. Reserved

Section 419. Reserved

Section 420. Definitions for Commercial Zones

In this Article, unless otherwise specified:

“CN” means Neighborhood Commercial Zone.

“C1” means Light Commercial Zone.

“C2” means General Commercial Zone.

Section 421. Purpose

- A. Neighborhood Commercial Zone. The primary purpose of the Neighborhood Commercial Zone is to provide for shops and services in convenient locations to meet the daily needs of the families and community in the immediate residential neighborhoods in locations where there is adequate access to collector or minor arterial roads. Principal uses permitted in this zone include retail, recreational, commercial entertainment, and dining facilities.
- B. Light Commercial Zone. The principal purpose of the Light Commercial Zone is to provide for shops and services in convenient locations to meet the daily needs of the families and community and wholesaling or distribution activities in locations where there is adequate access to major roads or highways. Principal uses permitted in this zone include retail commerce, commercial entertainment, and lodging and dining facilities.
- C. General Commercial Zone. This zone is intended to provide for a wide variety of retail, office, wholesale, personal service, and other general service uses for the community. Because of the potential for heavy traffic and the appearance and performance of these uses, this zone is normally located on the periphery of residential areas and at the intersections of principal arterial roads and state routes.

Section 422. Parking

The parking regulations are provided in Article 6 hereof.

Amended June 3, 2008 by Apache County Board of Supervisors

Section 423. Height, Setback, and Intensity of Use

Zone	Area	Width	Lot Coverage	Front Yard	Side Yard	Rear Yard	Height
CN	10,000 ft	100 ft	50%	20 ft	10 ft/ 20 ft residential	10 ft/ 20 ft residential	30 ft
C1	6,000 ft	60 ft	50%	20 ft	10 ft/ 20 ft residential	10 ft/ 20 ft residential	30 ft
C2	6,000 ft	60 ft	50%	20 ft	10 ft/ 20 ft residential	10 ft/ 20 ft residential	30 ft

Height: Height is measured from the first finished floor, above ground, to the highest gable end.

Setbacks: Setbacks are measured from the property lines to the roof overhang, or end of porches or decks, whichever protrudes more.

Between buildings: The distance between buildings on the same lot shall be fifteen (15) feet.

Accessory buildings: The accessory building setbacks shall be ten (10) feet from all property lines and other buildings on the property.

Section 424. Uses

Use	CN	C1	C2
Accessory buildings	P	P	P
Adult care facility	C	C	C
Amusement establishments	-	P	P
Antique shops	P	P	P
Appliance and hardware stores	C	P	P
Art and metal ornamental iron shops	P	P	P
Athletic clubs	P	P	P
Automobile parts and supplies	-	C	C
Automobile repair shops or public garages	-	C	C
Automobile sales and rentals, including display room	-	C	C

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Automotive service station	C	C	C
Banks and other financial institutions	P	P	P
Bicycle stores, sales, rental, and repair	P	P	P
Body painting studios	-	C	C
Body piercing studios	-	C	C
Business, public and governmental offices	P	P	P
Campgrounds	-	C	C
Candy and ice cream stores	P	P	P
Car washes	-	C	C
Communications towers	C	C	C
Convenience stores	C	C	P
Drive-in restaurants	-	P	P
Drive-in service station with canopy	-	C	C
Dry cleaners	-	P	P
Equipment rentals and sales	C	P	P
Feed stores	-	C	C
Funeral homes and chapels	-	C	P
Furniture stores	-	C	P
General retail, less than 5,000 sq ft	P	P	P
General retail, greater than 5,000 sq ft	-	C	C
Hospitals	-	C	C
Hotels	-	C	C
Laundry, full- and self-service	-	C	C
Liquor stores	-	C	P
Lumber yards	-	C	P
Manufactured home sales and travel trailer	-	C	C

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sales			
Motels	C	C	C
Nurseries and garden supplies	C	C	C
Outside storage, as a principal use	-	C	P
Public utility installations	C	C	C
Public utility service offices	P	P	P
Resorts	C	C	C
Self-storage establishments	-	-	C
Tattoo parlors	-	C	C
Theaters and movie houses	C	C	C
Used car and truck sales lots	-	C	P
Vehicle storage yards (not including automobile wrecking yards)	-	C	C
Warehouses	-	C	C
Wholesaling and distribution operations, including any associated truck and retail freight terminals	-	C	P

C: conditional use

P: permitted use

-: not applicable

Conditional uses shall follow the process described in Article 11.

Section 425. Reserved

Section 426. Reserved

Section 427. Reserved

Section 428. Reserved

Amended June 3, 2008 by Apache County Board of Supervisors

Section 429. Reserved

Section 430. Definitions of Industrial Zones

In this Article, unless otherwise specified:

“LI” means Light Industrial Zone.

“HI” means Heavy Industrial Zone.

Section 431. Purpose

- A. Light Industrial Zone.** The principal purpose of this zone is to provide for light industrial uses in locations that are suitable and appropriate, taking into consideration the land uses on adjacent or nearby properties, access to a major road or highway, rail service or other means of transportation, and the availability of public utilities. Principal uses permitted in this zone include the manufacture, compounding, processing, packaging, or treatment of materials that do not cause or produce objectionable effects that would impose hazards to adjacent or other properties by reason of smoke, soot, dust, radiation, odor, noises, vibrations, heat, glare, toxic fumes, or other conditions that would adversely affect the public health, safety, and general welfare.
- B. Heavy Industrial Zone.** The principal purpose of this zone is to provide for heavy industrial uses in locations that are suitable and appropriate, taking into consideration land uses on adjacent or nearby properties, access to a major road or highway, rail service or other means of transportation, and the availability of public utilities. Principal uses permitted in this zone include industrial uses that are not permitted in any other zone.

Section 432. Parking

The parking regulations are provided in Article 6 hereof.

Section 433. Height, Setback, and Intensity of Use

Zone	Area	Width	Lot Coverage	Front Yard	Side Yard	Rear Yard	Height
LI	-	-	50%	50 ft	15 ft/ 20 ft residential	5 ft/ 20 ft residential	40 ft
HI	-	-	50%	50 ft	20 ft	25 ft	60 ft

-: not applicable

Between buildings: The distance between buildings on the same lot shall be fifteen (15) feet.

Accessory buildings: The accessory building setbacks shall be ten (10) feet from all property lines and other buildings on the property.

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Height: Height is measured from the first finished floor, above ground, to the highest gable end.

Setbacks: Setbacks are measured from the property lines to the roof overhang, or end of porches or decks, whichever protrudes more.

Section 434. Uses

Use	LI	HI
Acid manufacture	-	P
Airports, heliports, helistops, aircraft landing fields	C	P
Ammonia manufacture	-	P
Animal boarding and breeding facilities	P	P
Any use permitted in the C1 and C2 Zones	P	P
Automobile wrecking yards	C	P
Beverage manufacture, including breweries	P	P
Blast furnaces and coke ovens	-	P
Building contractor's office and material storage	P	P
Building material sales and storage, retail, as a principal use	P	P
Bulk fuel distribution and storage	-	C
Bus and train stations and terminals	P	P
Celluloid manufacture	-	P
Cement, lime, gypsum, or plaster of paris manufacture	-	P
Chemicals, manufacture or storage	-	P
Dry cleaning, laundry, or dyeing plants	P	P
Crematories	-	P
Diesel tractor and trailer	P	P
Distillation of bones	-	P
Drop forge industries	-	P

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Explosives, manufacture or storage	-	P
Fat, grease, lard, or tallow, rendering of	-	P
Feed lots, commercial	-	P
Fertilizer manufacture	-	P
Frozen food lockers	P	P
Glue, soap, or candle, manufacture or storage	-	P
Iron and steel rolling or manufacture	-	P
Lumberyards	P	P
Machine shops	P	P
Machinery sales, service, and storage	P	P
Match factories	-	P
Motor and rail freight terminals	P	P
Oil and water well drilling equipment	P	P
Outside storage as a principal use	P	P
Petrochemical plant	-	C
Petroleum refining or storage	-	P
Power generation plants	C	C
Railroad yard or roundhouse	C	P
Recycling centers	C	P
Rock crushers	-	P
Rubber, reclaiming, or the manufacture of synthetic rubber or its constituents	-	P
Sanitary landfills	-	C
Sawmills	C	P
Shipping and receiving terminals	C	P
Shooting and archery ranges	P	P
Sign shops	P	P
Smelting of tin, copper, zinc, or iron ores	-	P

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Stock foods made of kelp, fish, or fish meal, manufacture or storage	-	P
Stockyards or slaughter of animals	-	P
Tanneries or the curing or storage of rawhides	-	P
Warehouses	P	P
Wholesale and distribution operations	P	P
Wholesale storage of gasoline, diesel, propane, or other volatile fuels	-	P
Wineries	-	P
Wool pulling or scouring	-	P

P: permitted use
C: conditional use
-: not applicable

Conditional uses shall follow the process described in Article 11.

Section 435. Additional Conditions

The additional conditions are as follows:

1. Any use including incidental or accessory storage not within a completely enclosed building shall be completely screened from adjoining rural or residential zones by a solid fence or wall at least six (6) feet in height.
2. All exterior lighting shall be placed so as to reflect the light away from adjoining rural or residential zones.

**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 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

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ARTICLE 6
RESERVED

Article 7

General Regulations

Section 701. On-Premise Signs Purpose and Definitions

The purpose of this section is to provide for signage while maintaining and, where possible, enhancing traffic and pedestrian safety, property values, and the county's aesthetic character and attractiveness to economic development.

Section 702. Prohibited Signs

The following signs shall be prohibited:

1. Signs that contain statements, words, or pictures of an obscene or indecent nature. Obscene or indecent material is material that depicts uncovered human sexual organs or female breasts, or the touching of covered human sexual organs or female breasts, or that depicts human or animal sexual activity or that includes words commonly used as insults or epithets.
2. Signs that contain or are an imitation of an official traffic sign or signal or contain the words "stop", "go slow", "caution", "danger", "warning" or similar words.
3. Signs that are of a size, location, movement, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal.
4. Signs that flash, move, blink, change color, chase, or have other animation effects except time and temperature signs, or revolving signs that do not exceed the rate of seven revolutions per minute, but not including revolving beacon lights.
5. Signs that contain or consist of portable signs, tent signs, and strings of light bulbs not permanently mounted on a rigid background.
6. Signs that swing or otherwise move as a result of wind pressure because of the manner of their suspension or attachment.
7. Signs placed on any curb, sidewalk, post, pole, hydrant, bridge, tree or other surface located on public property including the posting of handbills, except as may otherwise expressly be authorized by this section.
8. Signs identifying businesses no longer in existence. The sign structure may remain provided that all sign copy is removed or concealed in a manner consistent with the overall sign design. Facing on metal framed internally illuminated signs shall be either inverted or replaced with a blank durable plastic facing. Sign copy must be removed within thirty (30) days of business closure.
9. Signs on inoperable motor vehicles to include trailers, water tanks, or other unmotorized vehicles.

Section 703. Exemptions

The following types of signs are exempt from the Sign Regulations of this section to the extent stated.

1. Safety and Information Signs
Signs erected by, or on the order of, public officers in the performance of their duty, such

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as but not limited to safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, signs of historical interest, informational signs, and the like.

2. **Institutional Signs**
Permanent signs setting forth the name of any noncommercial institution, located entirely on the building of that institution, up to an area of five (5) percent of the building face area. If building mounted, these signs shall be flat wall signs and shall not project above the roofline; if ground mounted, the top shall be no more than six (6) feet above ground level.
3. **Integral Signs**
Names of buildings, dates of erection, monumental citations, commemorative tablets and the like when carved into stone, concrete or similar material or made of metal, or other permanent type construction and made an integral part of the structure.
4. **On-site Directional Signs**
Parking lot and other directional signs, not exceeding six (6) square feet in area per sign. Such signs shall be limited to the guidance of pedestrian and/or vehicular traffic within the premises on which they are located and shall not display any other advertising.
5. **Nameplates**
Nameplates, not exceeding two square feet in area containing only the name of the resident, title of person conducting a permitted home occupation, name of building and name of agent.
6. **Temporary Signs**
Temporary noncommercial signs may be erected as participation in a public parade, event, or celebration for a period not to exceed ten (10) days, provided that they are removed by the business owner or event manager within three days after the event.
7. **Menu Signs**
Menu signs at drive-in establishments that are not designed to be read from the public right of way or signs not visible beyond the boundaries of the lot or parcel upon which they are located or from any public right of way.
8. **Warning Signs**
Private Warning or instructional signs, such as “No Soliciting”, “No Trespassing”, “Beware of Dog”, or other similar types of signs not exceeding one and one-half (1½) square feet per sign.
9. **Window Signs**
Decals, paint, or other applications on the window glass of a commercial business.
10. **Political Signs**

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Political signs of not more than twenty-four (24) square feet are permitted during an election campaign, provided that campaign signs are not posted more than forty-five (45) days preceding the election and are removed within fifteen (15) days following the election. Political signs may be freestanding or wall-mounted to a building, or fence mounted. Roof-mounted signs are not permitted. Political signs may not be affixed to utility poles or traffic signs and shall not in any way present a traffic hazard or vision obstruction, and shall not be located in the public right-of-way.

Section 704. Temporary Signs

1. Land Sales Signs

Non-illuminated signs advertising the sale or development of land containing an area of not less than five lots or one acre shall be allowed as temporary signs, provided that:

- A. such signs shall not exceed thirty-two (32) square feet;
- B. not more than one sign shall be placed per parcel; and
- C. such signs shall be removed within fifteen (15) days of the sale of the last lot by the original owner/developer of the latest approved phase.

2. Real Estate Sales Signs

Non-illuminated signs pertaining to the sale or lease of the premise on which they are located shall be allowed as temporary signs, provided that:

- A. Only one sign is permitted to face on each street adjacent to the property; and
- B. Such signs shall be a maximum aggregate area of sixteen (16) square feet on residential lots and a maximum of thirty-two (32) square feet on non-residential property or residential property larger than twenty (20) acres in size for each street frontage; and
- C. Such signs shall be removed within fifteen (15) days after the transfer of title or the signing of the lease.

During the period of time between the execution of a contract for sale or lease and the finalization of the same, a “sold”, “sold by” or similar sign will be permitted.

3. Contractor’s Sign

One non-illuminated sign advertising the development or improvement of a property by a builder, contractor, or other person furnishing service, materials, or labor to the premise during the period of construction, development, or lot sales shall be allowed as a temporary sign, provided that:

- A. The sign shall not exceed thirty-two (32) square feet; and
- B. The sign shall be removed within twenty-four (24) hours after certificate of occupancy is issued.

4. Yard Sale Signs

Yard sale signs shall not exceed six (6) square feet for each sign. These signs may be placed on the property or on other private properties with the permission of the owners. Yard sale signs must be removed within one (1) day after the sale.

Section 705. General Standards for all Signs

The following requirements shall apply to signs in all zoning districts unless otherwise indicated.

1. **Permits Required**
Permits shall be required for all new signs except those exempt signs listed in Section 703. The alteration of sign faces by painting or overlay shall be considered as construction of a new sign.
2. **Maintenance and Repair**
All signs must be kept in good repair and aesthetically maintained. Maintenance, touch-up, repainting or repair of a legal sign shall not require a sign permit.
3. **Location of Signs**
All signs shall be located on the same lot as the use to which it is associated, unless they qualify as off-premise signs under this section.
4. **Permanent Signs**
All signs shall be permanent in nature except for those signs allowed as Temporary Signs in accordance with this section.
5. **Wind Load Standard**
All exterior signs shall be engineered to withstand a minimum wind load of thirty (30) pounds per square foot without violating any provisions of this chapter.
6. **Obsolete Signs**
Signs identifying businesses no longer in existence. The sign structure may remain provided that all sign copy is removed or concealed in a manner consistent with the overall sign design. Facing on metal framed internally illuminated signs shall be either inverted or replaced with a blank durable plastic facing. Sign copy must be removed within thirty (30) days of business closure.
7. **Sign Measurement**
The total surface area of one sign face of free-standing signs, and projecting wall signs shall be counted as part of the maximum total surface area allowance. Off-premise signs shall not be counted in maximum square foot allowance.
8. **Illumination**
Illumination of all signs shall comply with the following standards:
 - A. The light from any illuminated sign shall be so shaded, shielded and directed that the light intensity does not generate glare onto nearby residential areas between sun-up and sun-down.
 - B. Neither the direct nor the reflected light from primary light sources shall be visible

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or create a traffic hazard to operators of motor vehicles on public thoroughfares or approaches to public thoroughfares, as determined by the Apache County Engineering Department.

- C. No exposed reflective type bulbs or incandescent lamps which exceed 36 watts shall be used on the exterior surface of a sign.

9. Identification and Marking

Each sign requiring a permit hereafter erected or remodeled shall bear, in a permanent position, an identification plate stating the date the sign was erected and the name of person, firm or entity responsible for the construction and erection.

Section 706. Signs in Residential Zones

Signs shall be allowed in all Residential zones in accordance with the standards of this subsection.

1. Sign Types Allowed

- A. A bulletin sign, not to exceed thirty-two (32) square feet per face, may be erected upon the premise of any public institution for the purpose of displaying the name of the institution and its activities or services.

- B. One identification sign shall be allowed for each multi-family building or complex, provided that:

- 1. Such sign shall not exceed ten (10) square feet in area;
- 2. If lighted, such sign shall utilize indirect illumination only; and
- 3. Such sign shall contain only the building or complex name and street number.

- C. Signs advertising any subdivision or other residential project under construction shall be permitted provided that the following conditions are met.

- 1. All signs in the model home area and on the subdivision site shall not exceed a total aggregate of thirty-two (32) square feet per fifty (50) acres of development up to a maximum 200 square feet.
- 2. Individual permanent on-site subdivision signs shall not exceed sixty-four (64) square feet and shall be permitted at each major vehicular entrance to the development.

2. Location

Permitted signs may be located anywhere on the property.

3. Height

The height of freestanding signs shall not exceed ten (10) feet or the height of the building the sign is advertising. If building mounted, the sign shall be flush mounted and shall not be mounted on a roof of the building or project above the roofline.

4. Illumination

Only indirect or internal illumination shall be used for letter faces and logos.

Section 707. Commercial and Industrial Zones

Signs shall be allowed in Commercial and Industrial zones in accordance with the standards of this subsection.

1. Signs Types Allowed

Signs in Commercial and Industrial zones may include flush wall signs, freestanding signs, and projecting signs. All signs allowed in residential zones are also allowed in Commercial and Industrial zones. Real estate signs in Commercial and Industrial zones shall be limited to a maximum size of thirty-two (32) square feet.

2. Location and Size

Permitted signs may be located anywhere on the premises except as specifically restricted in this section. The total amount of signage to be allowed on any property shall not exceed the sign allowance standard of this section. No single sign may be larger than 300 square feet.

3. Wall Signs

- A. The sign allowance shall be calculated on the basis of the area of the one building façade which is most nearly parallel to the street it faces. Each building facade that faces a dedicated public street shall have its own sign allowance.
- B. In the event a building does not have frontage on a dedicated public street, the owner of the building may designate the one building facade which shall be used for the purpose of calculating sign allowance. In the event the only building facade that faces a dedicated street contains no commercial display area, a property owner may designate another building facade to serve as the basis for calculating the total amount of sign area allowed.
- C. Up to two square feet of sign area shall be allowed for each linear foot of building facade for wall signs. Wall signs may extend up to twelve (12) inches from the face of the building if the base of the sign is at least eight (8) feet above ground level. Show window signs in a window display when incorporated with such display will not be considered part of the total sign allowance.
- D. On any building which allows wall signs, or projecting signs, a maximum of two (2) of these types may be used. If a wall sign is used, the sign allowance of two (2) square feet per linear foot of building may be divided between the two (2) signs. If a projecting sign is used, the allowance for the projecting sign shall be subtracted from the flush wall sign allowance.

4. Projecting Signs

- A. Signs may project up to twelve (12) inches from the face of the building if located eight (8) feet or more above grade but shall not project beyond the back of curb. Total area per sign face shall not exceed one and one-half (1½) square foot per linear foot of building facade.
- B. On places of public entertainment such as theaters, arenas, meeting halls, etc.,

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where changeable copy signs are used, the projection may be one and one-half (1½) foot for each linear foot of building frontage provided that it does not extend further than four (4) feet back of the curb face.

5. Freestanding Signs
 - A. No more than one (1) free-standing sign shall be permitted for any parcel for each street frontage. The sign allowance per frontage can only be used on that frontage and shall not be transferred to any other frontage.
 - B. Maximum sign allowance shall be calculated by the linear front feet of property on a public right of way in accordance with the following:
 - C. Signs may be installed at street right of way line but no part of the sign shall project into the right of way line. If the existing street right of way width is less than that required in the Engineer Road Standards, the distance shall be measured from the line of such right of way as required by the Apache County Engineer Road standard rather than from the existing right of way line. Single legs of one-way road pairs shall be treated as four-lane roads.
 - D. When electrical service is provided to free-standing signs, all such electrical service shall be underground.

Section 708. Planned Unit Developments, Master Planned Community, Conditional Uses

Properties in an approved PUD district, Master Planned Community or part of an approved Conditional Use Permit shall have the signs on the properties reviewed and approved as part of the development plan. Variance of the maximum total surface area of signs shall not be permitted, but the maximum sign allowance for the entire development or use may be aggregated and the total allowance redistributed.

Section 709. Off-Premise and Directional Signs

Refer to the Off-Premise Sign Regulations Article 28

Section 710. Removal and Disposition of Signs

1. Maintenance and Repair
 - A. No person shall retain on any premises owned or controlled by them, any sign which is in a dangerous or defective condition. The Community Development Director shall require the removal or repair of any sign by the owner of the sign or the owner of the premises upon which it is located. In cases of immediate danger to the public due to the defective nature of a sign, the Community Development Director may cause the immediate removal of the sign and may assess the costs of the removal against the owner of the property.
 - B. The appearance and safety of all signs shall be maintained by the replacement of all defective parts and by periodic painting, repainting, cleaning and other acts required for proper maintenance and appearance.
2. Abandoned Signs

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Except as otherwise expressly stated herein, a sign which is located on property which becomes vacant and unoccupied for a period of thirty 30 days or more, or a sign which pertains to a time, event or purpose which no longer applies, shall be considered abandoned. Permanent signs applicable to a business temporarily suspended because of a change of ownership, tenants or management of the business shall not be considered abandoned unless the property remains vacant for a period of 180 days or more. The structure and face of an abandoned sign shall be removed by the owner of the sign or the owner of the premises. A sign which is not removed may be removed by the Community Development Director and costs assessed against the owner of the property on which the sign is located.

OUTDOOR LIGHTING

Section 711. 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.

1. Conformance with Applicable Codes
 - A. 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.
 - B. 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.

2. 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 Community Development Director 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 712. Specific Related Definitions

1. Outdoor Light Fixtures

Outdoor artificial illuminating devices, fixtures, lamps and other devices, permanent or

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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
- G. Event Lighting - Temporary

- 2. Individual
Shall mean any private individual, tenant, lessee, lessor, owner, or any commercial entity including but not limited to companies, LLC., partnership, joint ventures or corporations.
- 3. 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 713. General Requirements

- 1. 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.
- 2. 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.)
- 3. 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

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Fluorescent	Fully	Yes
Quartz	Fully	None
Incandescent greater than 160watts	Fully	None
Incandescent 160watts or less	None	None
Mercury Vapor *	Fully	Yes
Fossil Fuel	None	None
Glass Tubes Filled With Neon, Argon, Krypton, Other Sources	As Approved by Community Development Director	

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

Section 714. Use Limitations

1. Searchlights
The operation of temporary searchlights for advertising or event purposes shall be permitted upon approval by the Community Development Director.
2. 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 unless for safety or security purposes.
3. 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 total.
4. Mercury Vapor
The installation of mercury vapor fixtures is prohibited.

Section 715. Exemptions

1. 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 they thereafter conform to the provisions of these regulations.

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2. **Fossil Fuel Light**
Light produced directly or indirectly by the combustion of natural gas or other utility-type fossil fuels.
3. **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; but are encouraged to comply with community standards.
4. **Special Exemption**
The Community Development Director may grant a special exemption to the requirements of Section 713 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 716. Procedures

1. **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 all work will comply with this Ordinance.
 - B. All other individuals intending to install outdoor lighting fixtures shall submit an application to the Community Development Department providing evidence that all work will comply with this Ordinance.
 - C. Utility companies entering into a duly approved contract with the Apache County 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.

2. **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 Community Development Director 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

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configuration of the devices, fixtures, or lamps proposed, the applicant shall submit evidence of compliance by a Licensed Professional Engineer.

3. Issuance of Permit

Upon compliance with the requirements of this Ordinance, the Community Development Director shall issue a building 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 Community Development Director shall apply.

4. Amendment to Permit

Before a permit has been issued, the applicant shall submit proposed changes in outdoor lighting fixtures to the Community Development Director for approval, with adequate information to assure compliance with this Ordinance.

Section 717. Temporary Use Exemptions

1. Request for Temporary Use Exemptions

Any individual as defined herein may submit a written request on a form prepared by the Community Development Department to the Community Development Director for a "temporary exemption" to the requirements of the Ordinance. Such exemption is valid for thirty (30) days. The Request for Temporary Use Exemption shall contain the following listed information:

- A. Specific exemptions requested
- B. Type and use of exterior light involved
- C. Duration of time for requested exemption
- D. Type of lamp and calculated lumens
- E. Total wattage of lamp or lamps
- F. Proposed location of exterior light
- G. Previous temporary exemptions, if any
- H. Physical size of exterior light and type of shielding provided
- I. The Community Development Director may request any additional information which would enable him to make a reasonable evaluation of the Request for Temporary Exemption.

2. Appeal for Temporary Use Exemption

The Community Development Director, 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 Community Development Director.

OFF-STREET PARKING

Section 720. Off-Street Parking

1. Minimum requirements

The following required off-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; one of which may be covered.
- 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 dwelling in the premises, whichever is greater.
- C. Hospitals, convalescent, nursing, assisted living, long-term care, 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, motels, lodges, resorts and guest ranches shall have a minimum of one (1) parking space per room or suite, and two (2) spaces per cabin or housekeeping unit. Operations offering dining facilities shall provide separate parking in accordance with commercial retail and service requirements.
- E. Restaurants with cocktail lounges shall have one space for each fifty (50) square feet of dining or lounge area. If the restaurant is operated in conjunction with a hotel, motel, lodge, resort or guest ranch, guest parking spaces provided for the dwelling or guest units may count toward the required restaurant parking.
- F. Private clubs and lodge halls shall have one (1) parking space per three (3) members, based on the design capacity of the facility.
- G. Churches, theaters, auditoriums, and other places of assembly shall have one (1) parking space per four (4) seating spaces in the main assembly room.
- H. Retail stores, restaurants, office buildings, medical clinics, gas stations, personal service shops, and other business buildings shall have parking space at the rate of at least four (4) per one thousand (1000) square feet net of business floor area in the building.
- I. 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.
- J. Industrial, manufacturing, and wholesale establishments shall have one (1) parking space per three (3) employees, based on largest shift.
- K. Other uses shall have parking requirements as determined by the Planning & Zoning Commission.

Section 721. Location of Parking Facilities

1. 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:

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- A. 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.
 - B. 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.
2. Non-Residential Uses
- A. 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 space; 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.
 - B. Whenever the use of a separate lot or parcel is proposed for adhering to 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 722. 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 723. 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 724. 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 725. Parking Lot Access

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

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1. Points of access shall be minimized as much as is consistent with reasonable use.
2. Access shall be by at least two (2) driveways from any one (1) street; and if additional , not more than 500 feet distance between each driveway.
3. Driveways shall be not closer to each other than twenty (20) feet. A greater distance may be required elsewhere in this Ordinance.
4. 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; except as required by Fire Department or truck traffic. In residential and agricultural zones, driveways shall be not less than twenty (20) feet in width, except as may be approved for a Community Master Plan.
5. 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.
6. No individual parking or loading 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 turnaround area so that entrance to the street is by forward motion of the vehicle only.
7. No parking lot access shall be permitted to the following:
 - A. Arterial streets intersecting another arterial street, within forty (40) feet of the intersection of right-of-way lines.
 - B. Local or collector streets intersecting an arterial street, within twenty-five (25) feet of the intersection of right-of-way.
8. 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 accumulation of surface water.

Section 726. Parking Lot Standards

Multi-family, commercial, industrial and subdivisions where lots are less than one-acre, parking lots, driveways and loading zones shall be improved with an all weather surface which is drained and maintained.

Section 730. Manufactured homes

- A. As of June 01, 2009 all newly installed manufactured homes in Apache County shall meet the following minimum requirements:
1. All newly installed manufactured homes shall be 15 years old or newer, and mobile homes shall be prohibited in all zones.
 2. There shall be no commercial uses allowed in a manufactured home.
 3. All manufactured homes shall provide a landing for each entrance in accordance with the appropriate International Residential Code provisions prior to final inspection.
 4. Connecting two individual or stand-alone units shall be prohibited.
 5. All manufactured homes shall meet the minimum snow load in each respective area of the County.

Section 740. Lot splits and combinations

A. Lot splits.

1. Lot splits that result in the creation of six (6) or more lots shall follow the major subdivision process in the Subdivision Ordinance.
2. Lot splits that result in the creation of five (5) or fewer lots shall follow the minor land division process in the Subdivision Ordinance.
3. Lot splits of a lot combination in a county-approved or state-platted subdivision that result in six (6) or more lots shall follow the major subdivision process in the Subdivision Ordinance. If said splits create five (5) or fewer lots, the property owner shall follow the minor land division process in the Subdivision Ordinance.
4. Minor Land Divisions in a county-approved subdivision shall not be permitted.
5. Failure to follow the lot split/combination regulations contained herein or in the Subdivision Ordinance will result in all actions allowed in Article 13, Administration and Enforcement, of this Ordinance.

B. Lot combinations

Lot combinations for any purpose shall be subject to the following regulations:

1. Lot combinations in a County-approved or a State-platted subdivision shall follow the reversion-to-acreage process in the Subdivision Ordinance.
2. Lot combinations that are not in a county-approved subdivision shall follow the administrative review process in Article 9 of this ordinance.
3. Lot combinations that are combining a previously approved minor land division shall follow the administrative review process in Article 9 of this ordinance.

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.

Amended November 3, 2003 by Apache County Board of Supervisors

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. ADMINISTRATION**Section 901. Duties and Powers of the Community Development Director**

This Section establishes the duties and responsibilities for the Community Development Director and other officials and agencies with respect to the administration of this Ordinance. The Community Development Director or designee shall be referred to in this Ordinance as “the Director.” The duties and responsibilities include the following:

1. Enforcement officers. The Board may appoint such number of technical officers and other employees as shall be authorized from time to time. The prosecuting attorney may institute any necessary legal proceedings to enforce the provisions of this Ordinance. The county sheriff and his authorized representatives shall have the authority to enforce the provisions of this Ordinance.
2. Reviews and approvals. The Director shall be authorized to undertake reviews, make recommendations, and grant approvals as set forth in this Ordinance.
3. Apache County Comprehensive Plan. The Director shall assist the Planning and Zoning Commission in the development and implementation of the Apache County Comprehensive Plan.
4. Administrative reviews and permits. Administrative reviews shall be in accordance with the following:
 - a. Review of building permits. The Director shall review all building permits for compliance with zones, setbacks, and flood plain determinations.
 - b. Site plan reviews. The Director shall receive all applications for site plan review, review for completeness, and prepare submittals for review by the appropriate body.
 - c. Nonconforming uses. The Director shall review and verify all nonconforming uses including but not limited to alterations, relocations, damage or destruction to, and interruption or abandonment.
 - d. Conditional use permits and variances. The Director shall receive all applications for conditional use permits and variances or other plans as shall be permitted or approved as required by this Ordinance, review for completeness, and prepare submittals for review by the appropriate body.
 - e. Amendments and rezones. All requests for amendments and rezones resulting in changes to the Apache County Comprehensive Plan, this Ordinance, or the zone map shall be submitted to the Director for processing.
5. Interpretations. The interpretation and application of the provisions of this Ordinance shall be by the Director. An appeal of an interpretation by the Director shall be submitted to the Board of Adjustment and Appeals, which, unless otherwise provided, is authorized to interpret the Ordinance, and such interpretation is considered final.
6. Uses interpreted. The Director may permit in a zone any use not described in this Ordinance but deemed to be of the same character and in general keeping with the uses authorized in such zone. In such cases, however, no permit shall be issued

Amended July 01, 2008 by Apache County Board of Supervisors

until adjacent property owners are notified by mail of the intent to issue a permit and are given the opportunity to request reconsideration by the Director. The Director can decide, and be appealed to the Board of Adjustments and Appeals per above paragraph 5; or can submit the matter to the Commission per below section 903 (C).

7. Liability. The Director, or any employee charged with the enforcement of this Ordinance, acting in good faith and without malice for the county in the discharge of the Director's or employee's duties, shall not thereby be liable personally, and is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of the Director's or employee's duties. Any suit brought against the Director or employee because of such act or omission performed by the Director or employee in the enforcement of any provisions of this Ordinance, shall be defended by the County..
8. Ownership. This Ordinance shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or parcel of land for any damages to persons or property caused by defects, nor shall the Director, Community Development Department, or the county be held as assuming any such liability by reason of reviews or permits issued under this Ordinance.
9. Cooperation of other officials and officers. The Director shall be authorized to request, and shall receive so far as is required in the discharge of the duties described in this Ordinance, the assistance and cooperation of other officials of the county including but not limited to the following:
 - a. County assessor,
 - b. County attorney,
 - c. County building official,
 - d. County engineer, and
 - e. County health officer.

Section 902. Reserved

Section 903. Administrative Review Process

- A. Applicability. The provisions of this Section shall apply to all administrative determinations, vested in the Director, other than variances. Said uses are those uses subject to standards that are applicable for all permits and those that require the exercise of limited discretion about nontechnical issues and about which there may be limited public interest.
- B. Purpose. The purpose of this Section is to establish decision criteria and procedures for uses that due to their unique qualities may require additional regulations or other special degrees of control. The administrative use process, which includes public notice and comment, is required to ensure that the activity, if established, will be in full compliance with the applicable regulations and that such uses are compatible with the Apache County

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Comprehensive Plan, adjacent uses, planned uses, and the character of the vicinity.

- C.** Administrative authority. The Director is authorized to deny, approve, or approve with conditions an application for an administrative use permit. Any additional requirements obtained from other sections of the Ordinance above those specified in this Section, or modification of the proposal to comply with specified requirements or local conditions, is also authorized. At the discretion of the Director, the request for an administrative use permit can be heard by the Commission. The Commission may deny an application for an administrative use permit if the use fails to comply with specific standards set forth in this Ordinance or if any of the required findings are not supported by evidence in the record as determined by the Director.
- D.** Application. All applications shall be made on forms supplied by the Director and shall include an accurate site plan. The Director shall review the application for compliance and completeness. If there are deficiencies, the applicant shall be notified.
- E.** Notice to affected property owners. The Director shall mail a notice to the surrounding property owners within 300 feet of the subject parcel. A copy of the application shall be included with the notice, which shall state that all comments concerning the proposed request must be forwarded to the Community Development Department in writing within twenty-one (21) days from the date the notice was mailed.
- F.** Action on application. The application shall be processed as follows:
1. Based on staff comments and those from affected property owners, the Director shall review the proposed development, request modification(s) of the standard(s), and either approve, approve subject to conditions, or deny the application, or forward it to the Commission per Section 903(C), within seven (7) working days from the end of the fifteen (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 ApacheCounty Comprehensive Plan, area plans, duly adopted master plans, or other provisions of applicable ordinances and regulations;
 - b. The proposed modification will not substantially reduce the amount of privacy currently enjoyed by nearby property owners if the development is located as specified by these regulations;
 - c. The proposed modification will not substantially and adversely affect traffic or traffic circulation, drainage, sewage treatment systems, or other such systems; and
 - 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.
- G.** Appeals. The decision of the Director or the Commission (made in F.1.) may be appealed as follows:
1. Any person aggrieved or affected by the decision of the Director may take an

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- appeal concerning approval or denial of this permit to the Commission or the Commission (made in F.1.). Such appeal shall be taken within thirty (30) days by filing with the Director a notice of appeal specifying the grounds therefore on forms provided by the Community Development Department. The Director shall transmit to the Commission all papers constituting the record of the action being appealed. Such appeal shall stay all proceedings in the matter being appealed, unless the Director certifies to the Commission that, by reason of the facts stated in the appeal, the stay would in the Director's opinion cause imminent peril to life or property. The appeal of the administrative use permit shall be on the next Commission meeting agenda only if and when there is adequate time to meet the posting and notice requirements of a regular conditional use permit per Article 11.
2. The Commission shall make a recommendation regarding the administrative use permit, approving, approving with conditions, or denying. The Commission shall forward this recommendation to the Board of Supervisors.
 3. The Board of Supervisors shall make the final determination in an appeal of an administrative use permit. The Board of Supervisors shall hear the application at the next regularly scheduled meeting following proper notification. The Board of Supervisors shall, approve, approve with conditions, or deny the recommendations of the Commission.

Section 904. Administrative Variances

- A. Purpose. The purpose of the administrative variance is as follows:
 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.
- B. Eligible development standards:
 1. The following site development standards may be eligible for a reduction of up to twenty-five (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 (1) acre or smaller, the minimum site area may be reduced up to fifteen (15) percent.
 - b. For any lots in a zoning district with a minimum site area of more than one (1) acre, the site area may be reduced up to twenty-five (25) percent.
- C. Application:
 1. All applications shall be made on forms supplied by the Director and shall include an accurate site plan.

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2. The Director shall review the application for compliance and completeness. If there are deficiencies, the applicant shall be notified.
- D.** Notice to affected property owners. The Director shall mail a notice to the surrounding property owners within 300 feet of the subject parcel. A copy of the application shall be included with the notice, which shall state that all comments concerning the proposed request must be forwarded to the Community Development Department in writing within fifteen (15) days from the date the notice was mailed.
- E.** Action on application:
1. Based on staff comments and those from affected property owners, the Director shall review the proposed development, request modification(s) of the standard(s), and approve, approve subject to conditions, or deny the application within seven working days from the end of the fifteen (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 Apache County Comprehensive Plan, area plans, duly adopted master plans, or other provisions of the applicable ordinances and regulations;
 - b. The proposed modification will not substantially reduce the amount of privacy currently enjoyed by nearby property owners if the development is located as specified by these regulations;
 - c. The proposed modification will not substantially and adversely affect traffic or traffic circulation, drainage, sewage treatment systems, or other such systems; and
 - 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.
- F.** Appeals. The decision of the Director may be appealed to the Board of Adjustment and Appeals as follows:
1. An appeal concerning interpretation or administration of these ordinances may be taken to the Board of Adjustment and Appeals by any person aggrieved or affected by the decision of the Director. Such appeal shall be taken within thirty (30) days by filing with the Director a notice of appeal specifying the grounds therefore on forms provided by the Community Development Department. The Director shall transmit to the Board of Adjustment and Appeals all papers constituting the record of the action being appealed. Such appeal shall stay all proceedings in the matter being appealed unless the Director certifies to the Board of Adjustment and Appeals that, by reason of the facts stated in the appeal, the stay would in the Director's 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 Adjustment and Appeals or by a court of record. The Board of Adjustment and Appeals shall fix a time for hearing the appeal and give notice

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thereof to the parties in interest and the public as set forth in Article 12.

2. Appeals of decisions made by the Director that fall within the scope of A.R.S. § 11-810 shall follow those procedures established by ordinance by the Board of Supervisors for the processing of such appeals.

ARTICLE 10
NON-CONFORMING USES

Section 1001. Intent and Purpose

Within the districts established by this ordinance or subsequent amendments thereto, there exists uses, structures and lots which were lawfully established or created, but which would be prohibited, regulated or restricted under the terms of this ordinance or future amendments. Enlarging or expanding a nonconforming use shall only occur as permitted in this Article.

Section 1002. Nonconforming Use, Building, or Lot

- A. Authority to continue. The lawful use of any building, structure, or land at the time of the enactment or amendment of a zoning ordinance regulation with which it does not comply may be continued. Repairs and normal maintenance required are permitted in order to keep a nonconforming building or structure in a safe condition, or when necessary to comply with state or local health or safety requirements. Changes in ownership, tenancy, or management of a nonconforming use, building, or structure are permitted.
- B. Damage or destruction of a nonconforming use. If a nonconforming structure is damaged by fire, other casualty, or natural disaster, it may be repaired, restored, or replaced with a structure of the same size without compliance with other provisions of this Ordinance when such work commences under an approved permit within one year of the damage.
- C. Interruption or abandonment of a nonconforming use. When a nonconforming use is discontinued, it shall be deemed that such use has ceased to exist and thus has lost its status as a legal nonconforming use. Any subsequent use shall conform to the provisions of the zone in which it is located. A nonconforming use, building, or structure shall be considered discontinued when it is:
 - 1. Succeeded by another use, building, or structure that is more conforming; or
 - 2. Terminated and not re-established within one year.
- D. Alterations to nonconforming uses. Alterations of a nonconforming use include, but are not limited to, a change in the type or operating characteristics of the use, an increase in the size of the building in which the use is located, an increase in the amount of property being used, or the relocation of the use to another portion of the parcel. A nonconforming use may not be relocated to another lot or parcel unless the use will be in conformance with the regulations of the zone to which it is moved. An application for the alteration of a nonconforming use will be reviewed by the Director under the administrative review procedures in Section 903. The application must show the following:
 - 1. The nonconforming status of the use has been verified. Such verification may occur either prior to or concurrently with the application to alter the use;
 - 2. The use has not been interrupted or abandoned for a period of more than one year, as provided in this Section; and
 - 3. The use will comply with the current regulations of the applicable zone.
- F. Alterations to nonconforming structures. An application to replace, remodel, or enlarge a

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nonconforming structure will be reviewed by the Director under the administrative review procedures in Section 903. The application will be approved if it complies with the following:

1. The nonconforming status of the structure has been verified. Such verification may occur either prior to or concurrently with the application to enlarge or modify the structure;
 2. The new structure will be no more nonconforming than the existing structure; and
 3. There will be no greater adverse impact to the surrounding neighborhood.
- G.** Relocation of nonconforming structures. Nonconforming structures may be moved or replaced in a different location on the same parcel when the new location will be more in compliance with applicable standards of this Ordinance.
- H.** Expansion of a nonconforming use and structure. A nonconforming use of land, building or structure shall not be enlarged, extended, reconstructed or structurally altered unless such enlargement, extension, reconstruction or structural alteration conforms with these Ordinance for the zone in which such property is located, except:
1. That a nonconforming business use may expand if such expansion does not exceed 100 percent of the area of the original business.
 2. That the expansion of a nonconforming residential use may extend walls on the same alignment as the nonconforming structure so long as the overall expansion of the structure does not exceed 75% of the original building floor area.
- I.** Nonconforming lots or parcels. A lawfully created lot or parcel that does not meet the minimum lot size requirements for the zone in which it is located is entitled to the same development rights that such a lot or parcel would otherwise have if it were to meet the minimum area dimension requirements. A lawfully created lot or parcel that does not have frontage on a public road is entitled to the same development rights as other lots or parcels in the same zone once legal access is obtained.
- J.** Verification of nonconforming status:
1. An application to verify whether a use or structure is nonconforming will be reviewed by the Director under the administrative review procedures in Section 903. The application must be accompanied by the following:
 - a. Documentation that establishes the approximate date that the use or structure was established;
 - b. Proof that the use or structure was lawfully established in compliance with all zoning and permitting requirements in effect at the time it was established;
 - c. Evidence detailing the nature and extent of the use or structure at the time it became nonconforming; and
 - d. Proof that the use has not been discontinued or abandoned for a period of more than one year.
 2. Documentation and proof of the existence, continuity, nature, and extent of the use or structure is required only for the 10-year period immediately preceding the date of application for verification of nonconforming status. Documentation showing the use existed and was continued during this time period creates a rebuttable presumption that the use has continued uninterrupted until the date of application. Such documentation is necessary to show compliance with the

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verification process, but is separate from and does not provide evidence that the
use was lawfully established as required by the verification process.

ARTICLE 11. PLANNING AND ZONING COMMISSION

Section 1101. Structure and Procedure

- A. This Article addresses the duties and responsibilities of the Planning and Zoning Commission, hereafter referred to in this Article as “the Commission,” and other officials and agencies, with respect to the administration of this Ordinance.
 - 1. Establishment of the Commission. The establishment of the Commission shall be in accordance with the policies and procedures set forth in A.R.S. § 11-803. The Commission shall consist of nine members with three being appointed from each supervisorial district.
 - 2. Terms for members. The terms of office for members of the Commission shall be a staggered four years with no limiting number of terms.
 - 3. Selection of members. Each supervisor may appoint three members to serve on the Commission from each supervisorial district. In accordance with A.R.S. § 11-803(C), commissioners appointed outside of the supervisorial district must be approved by the Board of Supervisors.
 - 4. Compensation. Commission members shall serve without compensation with the exception of travel expenses.
 - 5. Chairperson election and rules adoption. The Commission shall elect from its membership a chairperson at the first meeting of the new year. The Commission shall establish and adopt rules for its organization and the transaction of business and shall keep a public record of its proceedings.
 - 6. Commission secretary. A secretary to assist the Commission shall be appointed by the Director. The secretary shall keep minutes of the Commission meetings for public record and conduct all correspondence, including the notification of decisions. The secretary shall prepare the minutes of the Commission meetings and submit them to the chairperson and the Commission.
 - 7. Advisors. The county assessor, county engineer, county health officer, and county attorney shall serve in an advisory capacity to the Commission.
- B. Duties and powers:
 - 1. Apache County Comprehensive Plan. It shall be the duty of the Commission, after public hearings, to create and recommend to the Board of Supervisors a comprehensive plan, and possible amendments regarding its administration or maintenance, for the physical development of the jurisdiction. This jurisdiction shall be permitted to include areas outside its boundaries that bear consideration to the planning of the jurisdiction. The Apache County Comprehensive Plan shall include at least the following elements:
 - a. Official maps,
 - b. Growth and land use,
 - c. Commercial or industrial uses,
 - d. Transportation and utilities, and
 - e. Community facilities.
 - 2. Zoning Ordinance. It shall be the duty of the Commission to develop in

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cooperation with the Community Development Department and recommend to the Board of Supervisors a zoning ordinance, in accordance with the guidelines of the Apache County Comprehensive Plan, establishing zones within the county. Such an ordinance shall be made in regard to the character of the county, identifying the most appropriate use of land within the county. The Commission may make periodic reports and recommendations to the Board of Supervisors.

3. Subdivision and minor land division ordinances. It shall be the duty of the Commission, in cooperation with the Community Development Department, to develop and adopt regulations governing the division of land. All subsequent divisions of land shall be in accordance with the adopted regulations.
4. Zone map. The Board of Supervisors shall adopt a zone map for Apache County. The Commission shall hear requests and make recommendation to the Board of Supervisors for rezoning when the applicant follows the procedures set forth in this Article.
5. Conditional use permits. It shall be the duty of the Commission to review conditional use applications. The application shall be accompanied by maps, drawings, or other documentation in support of the request. The granting of a conditional use permit shall not exempt the applicant from compliance with other relevant provisions of related ordinances.
6. Appeals and hearings. Any person with standing aggrieved by any decision of the Commission shall have the right to make such appeals as shall be permitted to be provided by this Ordinance or state law. Such appeals shall be based on the record.

Section 1102. Reserved

Section 1103. Reserved

Section 1104. Reserved

Section 1105. Amendments

- A. Purpose. Whenever public necessity, convenience, and general welfare require, the zone map and the classification of property uses described in this Ordinance may be amended as follows:
 1. By the amendment of the text of the Ordinance, or
 2. By amendment of the land use map.
- B. Initiation of amendments. Amendments to this Ordinance and the zone map may be initiated by:
 1. The verified application of the owner(s) or authorized agent(s) of the property that is proposed to be changed or rezoned,
 2. The adoption of a motion by the Board of Supervisors requesting the Commission to set the matter for hearing or recommendation, or
 3. The adoption of a motion by the Commission.

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- C.** Amendments initiated by property owners:
1. Application. Any property owner or authorized agent of a property owner desiring an amendment or change to the Zoning Ordinance altering the zoning district boundaries within an area previously zoned shall file an application for the amendment or change with the Community Development Department.
 2. Public hearing. Upon receipt of the application, the Community Development Department shall submit it to the Commission for report and recommendation. Prior to presenting its report and recommendation to the Board of Supervisors, the Commission shall hold a public hearing after giving at least fifteen (15) days' notice by publishing it once in a newspaper of general circulation in the seat of Apache County and by posting the area included in the proposed change. The posting shall be in no less than two places with at least one notice for each one-quarter mile of frontage along perimeter public rights-of-way so that the notices are visible from the nearest public right-of-way.
 3. Notification. The Commission shall also send notice by first-class mail to each real property owner as shown on the last assessment of the property within 300 feet of the proposed amendment or change and each county or municipality that is contiguous to the area of the amendment or change. The notice sent by mail shall include, at a minimum, the date, time, and place of the hearing on the proposed amendment or change and a general explanation of the matter to be considered; a general description of the area of the proposed amendment or change; and notification that if twenty (20) percent of the property owners by area and number within the zoning area file protest, an affirmative vote of three-fourths of all members of the Commission will be required to approve the rezoning.
 4. Board of Supervisors. If the Commission has held a public hearing, the Board of Supervisors may adopt the recommendations of the Commission without holding a second public hearing if there is no objection, request for public hearing, or other protest. If there is an objection, a request for public hearing, or a protest, the Board of Supervisors shall hold a public hearing on the petition. The Board shall give at least fifteen (15) days' notice by publishing it once in a newspaper of general circulation in the seat of Apache County and by adequate posting of the area of concern in said petition at least fifteen (15) days in advance of the public hearing. After holding the public hearing, the Board of Supervisors may adopt the petitioner's proposed change provided that if twenty (20) percent of the owners by number and by area of all property within 300 feet of the proposed change file a protest, such a change shall not be made except by a three-fourths vote of all members of the Board of Supervisors. The required number of votes shall in no event be less than a majority of the full members of the Board of Supervisors.
 5. Zoning area. In calculating the owners by area for a protest, only that portion of a lot or parcel of record situated within 300 feet of the property to be rezoned shall be included. County property and public rights-of-way shall not be included in the calculation.
- D.** Amendments initiated by the Commission:
1. Amendments initiated by the Commission are subject to the same public hearing

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requirements as those set forth in subsection (C)(2).

2. Notice by first-class mail of proceedings that are not initiated by the property owner involving rezoning of land to a more restrictive zone shall be sent to each real property owner, as shown on the last assessment of the property, of the area to be rezoned and all property owners, as shown on the last assessment of the property, within 300 feet of property to be rezoned.
 3. Proceedings involving one or more of the following proposed changes or related series of changes in the standards governing land uses shall include notice to real property owners provided by one of the methods in subsections (D)(4) and (5):
 - a. A ten (10) percent or more increase or decrease in the number of square feet or units that may be developed,
 - b. A ten (10) percent or more increase or reduction in the allowable height of buildings,
 - c. An increase or reduction in the allowable number of stories of buildings,
 - d. A ten (10) percent or more increase or decrease in setback or open space requirements, or
 - e. An increase or reduction in permitted uses.
 4. Prior to the first hearing on such changes, notice shall be sent by first-class mail to each real property owner, as shown on the last assessment, whose real property is directly affected by the changes; or the change shall be published in a display ad covering not less than one-eighth of a full page in a newspaper of general circulation in the county.
 5. For amendments to Zoning Ordinance standards or uses, the Community Development Department will send notice by first-class mail or e-mail to persons who register their names and addresses with the Department as being interested in receiving such notice. A fee as set from time to time by the Board of Supervisors will be charged for the provision of this service payable initially upon registration and yearly thereafter.
- E.** Amendments approved by the Board of Supervisors. A decision by the Board of Supervisors involving rezoning of land that changes the zoning classification of such land, or amends Zoning Ordinance standards or uses, shall not be effective until the dedication of required right-of-way but not prior to thirty-one (31) days after final approval of the change in classification, standard, or use by the Board of Supervisors. Unless a resident files a written objection with the Board of Supervisors, the rezoning may be enacted as an emergency measure, which becomes effective immediately by a two-thirds majority vote of the Board of Supervisors.
- F.** Conditional zoning:
1. The Board of Supervisors may approve a change of zone conditioned on a schedule for development of the specific use or uses for which rezoning is requested. When the Board of Supervisors adopts the zoning amendment, it may impose a schedule of development including, but not limited to, a date by which construction shall commence, or dates by which phases of development of the property for the use approved shall be substantially completed.
 2. The owner or developer of the property that was rezoned conditioned on

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compliance with a schedule of development shall submit to the Community Development Department a certified statement of compliance prior to the expiration of any time limits imposed by the Board of Supervisors. If the certified statement of compliance is not filed or the Community Development Department independently determines that the property has not been improved for the use for which it was conditionally approved, a public hearing shall be set before the Commission. The findings and recommendation of the Commission shall be forwarded to the Board of Supervisors for public hearing to determine compliance with the schedule of development, grant an extension, or cause the property to revert to its former zoning classification. Notification by registered mail of both the hearing before the Commission and the hearing before the Board of Supervisors shall be sent to the owner and applicant who requested the rezoning. Notice of public hearing shall be as set forth in subsection (C)(2).

- G.** Reconsideration of denied petition. If a petition for amendment is withdrawn by the applicant or denied by the Board of Supervisors, that petition shall not be refiled nor shall there be filed with the Board of Supervisors any other petition for the same amendment within a period of one (1) year unless in the opinion of the Commission there is a change of circumstances warranting such filing.
- H.** Compliance with county plans. All applications for changes of zoning district boundaries that include property that totals forty (40) acres or more in size must be in compliance with the Apache County Comprehensive Plan and any adopted area plan.

Section 1106. Citizen Review Process

- A.** Purpose. The purpose of the citizen participation plan is to achieve the following:
 - 1. Ensure that applicants pursue early and effective citizen participation in conjunction with their application, giving them the opportunity to understand and try to mitigate any real or perceived impacts their application may have on the community or neighborhood;
 - 2. Ensure that the citizens and property owners of the county have an adequate opportunity to learn about applications that may affect them and to work with applicants to resolve concerns at an early stage of the process; and
 - 3. Facilitate ongoing communication among the applicant, interested citizens and property owners, county staff, and elected officials throughout the application review process.
- B.** Citizen participation plan. Every zone change and conditional use permit application shall include a citizen participation plan that must be implemented prior to the first public hearing. The citizen participation plan is not intended to produce complete consensus on all applications, but to encourage applicants to be good neighbors and to allow for informed decision making.
 - 1. Requirements. At a minimum, the citizen participation plan shall include the following:
 - a. Which residents, property owners, interested parties, and public and private agencies may be affected by the application;

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- b. How those interested in and potentially affected by an application will be notified that an application has been made;
 - c. How those interested and potentially affected parties will be informed of the substance of the zone change, amendment, or development proposed by the application;
 - d. How those interested and potentially affected parties will be provided an opportunity to discuss the applicant's proposal with the applicant and express any concerns, issues, or problems they may have with the proposal in advance of the public hearing;
 - e. The applicant's schedule for completion of the citizen participation plan; and
 - f. How the applicant will keep the Community Development Department informed on the status of citizen participation efforts.
2. Neighborhood meeting. Applicants must conduct a neighborhood community meeting prior to submitting an application for a zone change or a conditional use permit.
- a. The meeting must be conducted in the general vicinity of the property involved in the application. The meeting serves as a forum for information exchange between applicants and affected members of the public.
 - b. An applicant may make a written request and receive a written determination whether, due solely to impractical circumstances, the requirement for a community meeting should be waived by the Community Development Department. At a minimum the request must explain why the applicant's citizen participation plan provides other adequate, alternative opportunities for citizens to express any concerns, problems, or issues they may have with the proposal in advance of the public hearing. The Community Development Department shall make its determination a part of the written record in the case.
3. Notification area. The level of citizen interest and area of involvement will vary depending on the nature of the application and the location of the site. The applicant will determine the target area for notification after consultation with the Community Development Department. At a minimum, the target area shall include the following:
- a. Only that portion of a lot or parcel of record situated within 300 feet of the property to which the application applies (county property and public rights-of-way not included in calculating the owner by number or area);
 - b. The head of any property owners' association within the notice area required by other sections of this Ordinance;
 - c. Other potentially affected property owners outside of the legal notice area as determined by the Community Development Department; and
 - d. Other interested parties who have requested that they be placed on a list of interested parties maintained by the Community Development Department.
4. Preapplication meeting. The applicant may submit a citizen participation plan and

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begin implementation prior to formal application at the applicant's discretion. This shall not occur until after a preapplication meeting and consultation with the Community Development Department.

- C. Citizen participation report. Subsections (C) through (C)(2)(c) apply only when a citizen participation plan is required by this Ordinance. The applicant shall provide a written report on the results of the applicant's citizen participation effort prior to the notice of public hearing. This report shall be attached to the staff report submitted to the Commission. At a minimum, the citizen participation report shall include the following information:
1. Details of the techniques the applicant used to involve the public, including:
 - a. Dates and locations of all meetings where citizens were invited to discuss the applicant's proposal;
 - b. Content, dates mailed, and numbers of mailings, including letters, meeting notices, newsletters, and other publications;
 - c. Where residents, property owners, and interested parties receiving notices, newsletters, or other written materials are located;
 - d. The number of people who participated in the process; and
 - e. The percentage of those notified who participated in the process; and
 2. A summary of perceived or real concerns, issues, and problems expressed during the process, including:
 - a. The substance of the concerns, issues, and problems;
 - b. How the applicant has addressed or intends to address perceived or real concerns, issues, and problems expressed during the process; and
 - c. Perceived or real concerns, issues, and problems the applicant is unwilling or unable to address, including an explanation of such reason.

Section 1107. Conditional Use Permits

- A. Purposes. In certain zones, 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 Commission reviews and makes recommendations to the Board of Supervisors, which grants or denies applications, and may apply reasonable conditions to the approval of such uses.
- B. Evaluation criteria and general standards. The Commission may grant conditional uses applying the following criteria and standards:
1. The proposed use will be harmonious and in accordance with the general and specific objectives of the Apache County Comprehensive Plan and any subarea plans.
 2. The proposed use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
 3. The traffic generated by the proposed use shall be mitigated so as not to burden

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the traffic circulation system in the vicinity.

4. The proposed use will be adequately served by facilities and services such as highways, roads, law enforcement, fire protection, storm water drainage, refuse disposal, domestic water and sanitary sewers, and schools, or those persons or agencies responsible for the establishment of the proposed use shall provide adequate services.
5. The proposed use will not create any additional requirements at public cost for public facilities and services.
6. The proposed use will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or general welfare by reasons of excessive production of traffic, noise, smoke, fumes, vibration, glare, or odors.
7. Proposed ingress and egress, driveway widths, parking, and road improvements shall be approved under applicable Articles of the Zoning Ordinance and the county's Design Standards and Engineering Specifications for Roadways.
8. Adequate buffering devices such as fencing, landscaping, or topographical characteristics shall be in place in order to mitigate and protect adjacent properties from potential adverse impacts of the proposed use, including visual or auditory effects.
9. Conditional use permits shall comply with the Zoning Ordinance and all applicable local, state, and federal regulations.
10. A conditional use shall ordinarily comply with the standards of the zone within which the use is located and with the other applicable provisions of the Zoning Ordinance, except as modified by the approval of the conditional use permit and the standards of this Section or as otherwise specified in the Zoning Ordinance.
11. The Commission may, in addition to the standards and regulations specified in the Zoning Ordinance, establish other conditions found necessary to protect the health, welfare, safety, and interest of surrounding properties, the neighborhood, and the county or community as a whole. These conditions may address the following:
 - a. Increasing the required lot size or yard dimensions;
 - b. Limiting the coverage or height of buildings;
 - c. Mitigating traffic impacts through on-site and off-site improvements;
 - d. Increasing the number of off-street parking and loading requirements;
 - e. Limiting the number, location, design, and size of on-site signs and illumination devices;
 - f. Increasing required landscaping components to reduce noise and visual impacts, including glare;
 - g. Specifying time limits for construction and operation;
 - h. Requiring performance assurances acceptable to the county attorney;
 - i. Specifying time frames for compliance review; and
 - j. Other conditions deemed appropriate to address the requirements and intent of this Section, the Zoning Ordinance, and the Apache County Comprehensive Plan.

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- C. Conditional use permit application. Application for a conditional use permit shall be filed with the Community Development Department on a form prescribed by the Director and shall include the following data and maps:
1. The name and address of the applicant shall be given.
 2. A statement shall be made that the applicant is the owner or the authorized agent of the property on which the use is proposed to be located.
 3. The address and legal description of the property shall be provided.
 4. A list shall be made of all owners of property located within 300 feet of the exterior boundaries of the subject property excluding county property or public rights-of-way.
 5. A site plan is required for all proposed conditional uses and buildings and shall be drawn to scale, showing structures, heights, property lines, lot sizes, setbacks, adjacent roads, 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. Site plans shall show that the following requirements have been met:
 - a. Site plans for commercial or industrial zones require professionally drawn maps. The scale shall be 1" = 200'.
 - b. Subsequent design of water supply systems, septic systems, and sewer systems shall meet all county health regulations.
 - c. Subsequent design of increased surface drainage shall 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 shall be taken to prevent erosion.
 - d. 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.
 - e. Where possible, the site design will preserve and enhance existing trees, watercourses, hills, and other natural features, as well as vistas and historic locations, and will be compatible with existing adjoining development.
 - f. With regard to parking, the provisions of Article 6 shall apply.
 - g. With regard to lighting, the provisions of Article 7 shall apply.
 6. The Community Development Department may require additional information in order for the Board of Supervisors to determine compliance with any other conditions that in its opinion are necessary to protect the public health, safety, and general welfare.
 7. When signs are to be erected as part of a conditional use, a diagram showing the on-site 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 without further approval by the Board of Supervisors. In general, the following guidelines shall be considered by the Board of Supervisors in approving sign usage:

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- a. Signs shall be constructed in a safe manner that prevents collapse, wind damage, electrical hazards, or other unsafe conditions.
 - b. Signs shall be placed so as not to obstruct vision necessary for safe pedestrian or vehicular traffic movement nor inhibit traffic movement.
 - c. Signs shall be placed so as not to obstruct views of adjoining properties or views from adjoining properties.
 - d. Signs shall be of a minimum size and number for the purpose served.
 - e. Signs shall be landscaped where possible.
 - f. Signs attached to buildings shall appear to be an integral part of the building. Guy wires and similar appurtenances shall not be exposed.
8. Applicants for a conditional use permit for a commercial or industrial use shall submit with the application an impact statement to assist the Board of Supervisors in its evaluation. This statement shall include the following:
- a. Number of employees;
 - b. Estimated amount of traffic by day of week;
 - c. Parking, storage, loading, and service areas needed;
 - d. Amount of water use and source;
 - e. Method of handling increased surface drainage;
 - f. Nearest residences;
 - g. Amount and types of refuse and sewage;
 - h. Any pollutants and method of handling;
 - i. Site changes necessary including tree removal;
 - j. Landscaping and recreation provided;
 - k. Use of natural resources;
 - l. Fire prevention and protection systems;
 - m. Services required of the county, such as road maintenance and snow removal; and
 - n. Method of controlling dust from traffic areas and other sources.
- D.** Fee. The application shall be accompanied by a fee established from time to time by the Board of Supervisors to cover the cost of handling the application as prescribed in this Article.
- E.** Commission action:
- 1. The Commission shall consider the application at its next regular meeting if the complete application was filed with a citizen participation report a minimum of thirty (30) days prior to such meeting. Otherwise, it shall be carried over until the next regularly scheduled meeting.
 - 2. Notice of the meeting shall follow the public hearing requirements set forth in subsections 1105(C)(2) and (3).
 - 3. The Commission may reach a recommending decision, continue the matter to a specified date (but not later than the next regularly scheduled meeting), or set the matter for public hearing.
 - 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

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and may require such bonds, guarantees, and evidence that such conditions are being or will be complied with.

- F.** Board action. After proper review and recommendation by the Commission, the recommendation shall be scheduled, after a minimum of fifteen (15) days, for the next Board of Supervisors meeting. All recommendations shall be on the consent agenda unless an appeal is filed (See 1107 (G)). The Board of Supervisors shall enter all final decisions regarding an application. In providing a decision, the Board of Supervisors may continue the hearing, approve, approve with modifications, or deny the use permit.
- G.** Appeal of recommendation of Commission:
1. Appeal. Any person or persons desiring to file an appeal concerning a recommendation of the Commission must do so within fifteen (15) days from the date of the recommendation by filing a letter of appeal with the Director. The appeal shall state in writing the reasons for the appeal.
 2. Fee. An appeal shall be accompanied by a fee, established from time to time by resolution of the Board of Supervisors, to cover the cost of processing the appeal.
- H.** Board action on appeal. The Board of Supervisors shall hold at least one (1) public hearing on a recommendation of the Commission that has been appealed. The hearing shall be held within sixty (60) days from the filing of the appeal; the public hearing process shall follow subsection 1105(C)(2). The Board of Supervisors may affirm, modify, or reverse a recommendation of the Commission. The decision of the Board of Supervisors shall be final.
- I.** Lapse of a conditional use permit:
1. A conditional use permit shall lapse and shall become void one year following the date on which the use permit became effective, unless prior to the expiration of one year:
 - a. A building permit is issued and construction is commenced and diligently pursued toward completion on the site that was the subject of the use permit application,
 - b. A certificate of occupancy is issued for the structure that was the subject of the use permit application, or
 - c. The site is occupied if no building permit or certificate of occupancy is required.
 2. A use permit for a public utility installation may be valid for a period longer than one (1) year if specified by the Commission.
 3. A conditional use permit subject to lapse may be renewed, provided that prior to the expiration date, an application for renewal of the use permit with fees is filed with the Commission. The fees shall be set from time to time by the Board of Supervisors.
 4. The Commission may grant or deny an application for renewal of a conditional use permit subject to the modification of existing conditions of approval, the addition of new conditions of approval, or both.
 5. A conditional use permit shall also lapse if the use for which the permit is approved is terminated for a period of two (2) years. Recommencement of the use after the two (2) year period of inactivity shall require filing a new application and

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following the requirements and processes specified in subsections (C)(1) through (8)(n) and (D).

- J.** Pre-existing conditional uses:
1. A conditional use legally established prior to the effective date of this Ordinance or prior to the effective date of subsequent amendments to the regulations or zone boundaries shall be permitted to continue, provided that it is operated and maintained in accordance with the conditions prescribed at the time of its establishment, if any.
 2. Alteration or expansion of a pre-existing conditional use shall be permitted only upon the granting of a conditional use permit as prescribed in this Section, provided that alterations not exceeding in value twenty-five (25) percent of the valuation of the existing use or building as determined by the building official shall be permitted without the granting of a conditional use permit.
 3. A conditional use permit shall be required for the reconstruction of a structure housing a pre-existing conditional use if the structure is destroyed by fire or other calamity, by act of God, or by the public enemy to a greater extent than fifty (50) percent. The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the structure to its condition prior to such damage or partial destruction to the estimated cost of duplicating the entire structure as it existed prior thereto. Estimates for this purpose shall be made by or shall be reviewed and approved by the county engineer and building official and shall be based on the minimum cost of construction in compliance with the Building Code.
- K.** Amendment of conditional use. If a proposed change in a conditional use substantially (10 percent or more) modifies 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 the same processing fee.
- L.** Suspension and revocation. Upon violation of any applicable provision of this Ordinance or, if granted subject to conditions, upon failure to comply with conditions, a conditional use permit shall be suspended automatically. The Commission shall hold a public hearing within sixty (60) days in accordance with the procedure prescribed in subsection 1105(C)(2), and if not satisfied that the regulation, general provisions, or conditions are being complied with, may revoke the conditional use permit or take such action as may be necessary to ensure compliance with the regulation, general provisions, or conditions. The decision shall become final thirty (30) days following the date on which the use permit was revoked unless an appeal has been filed within the prescribed fifteen (15) day appeal period, in which case subsection (H) shall apply.
- M.** Time limit:
1. Use permits become effective on approval by the Board of Supervisors.
 2. No person shall reapply 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.
- N.** Use permit to run with the land. A use permit granted under the provisions of this Section

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shall run with the land and shall continue to be valid upon a change in ownership of the site or structure that was the subject of the use permit application.

- O.** Use permit and change of zone filed concurrently. Application for a conditional use permit may be made at the same time as an application for a change in zone boundaries including the same property, in which case the Commission shall hold the public hearing on the zoning reclassification and the use permit at the same meeting and may combine the two (2) hearings. For the purposes of this Section, the date of the Commission decision on the use permit application shall be deemed to be the same as the date of enactment by the Board of Supervisors of an ordinance changing the zone boundaries, provided that if the Board of Supervisors modifies a recommendation of the Commission on a zoning reclassification, the use permit application shall be reconsidered by the Commission in the same manner as a new application.

ARTICLE 12. BOARD OF ADJUSTMENT AND APPEALS

Section 1201. Structure and Procedure

This Article addresses the duties and responsibilities of the Board of Adjustment and Appeals, referred to in this Article as “the BoAA.” The BoAA members, officers, and staff shall serve as follows:

1. Establishment of the BoAA. The establishment of the BoAA shall be in accordance with the procedures and policies set forth in A.R.S. § 11-807. The BoAA shall consist of not less than three nor more than five members appointed in the jurisdiction of each supervisory district in which the Zoning Ordinance applies.
2. Terms for members. The terms of office for the members of the BoAA shall be staggered terms of four years each.
3. Chairperson election and rules adoption. The BoAA shall elect from its membership a chairperson at the first meeting of the new year. The BoAA shall also establish and adopt rules for its organization and the transaction of business and shall keep a public record of its proceedings.
4. BoAA secretary. A secretary to assist the BoAA shall be appointed by the Director. The secretary shall keep minutes of the BoAA meetings for public record and conduct all correspondence, including the notification of decisions. The secretary shall prepare the minutes of the BoAA meetings and submit them to the chairperson and the BoAA.

Section 1202. Powers and Duties

The authority of the BoAA shall be as follows:

1. Errors. The BoAA shall have the power to hear and decide on appeals where it is alleged that there is an error in any order, requirement, decision, determination, or interpretation by the code enforcement officer.
2. Variances. The BoAA shall have the authority to hear and decide on appeals wherein a variance to the terms of this ordinance is proposed. Limitations as to the BoAA’s authorization shall be as set forth in this Ordinance.
3. Variance review criteria. The BoAA shall approve, approve with conditions, or deny a request for a variance. Each approval or grant of a variance shall be consistent with the following criteria:
 - a. Limitations on the use of the property exist due to physical, topographical, and geologic features.
 - b. The grant of the variance will not grant any special privilege to the property owner.
 - c. The grant of the variance is not based solely on economic reasons.
 - d. The necessity for the variance was not created by the property owner.
 - e. The grant of the variance will not be injurious to the public health, safety, or welfare.

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- f. The property subject to the variance request possesses one or more unique characteristics generally not applicable to similarly situated properties.
4. Use variance. The BoAA shall not grant a variance to allow the establishment of a use in a zone when such use is prohibited by the provisions of this Ordinance.

Section 1203. Hearing Applications

- A. All action by the BoAA 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 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.
- B. A fee shall be charged, as established from time to time by the Board of Supervisors, none of which is refundable, and all other legal and administrative requirements of this Article shall be complied with before the BoAA can take any action on an application request. The BoAA shall either make a determination “for” or “against” the appellant or 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

- A. At least one (1) public hearing shall be held by the BoAA 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 BoAA, or its agents, to maintain the posting once erected.
- B. Rulings being decided by the BOAA shall not become effective for thirty (30) days and, in the event an appeal is filed, said decision by the BoAA shall not become effective until a final decision is made by the Superior Court.
- C. In approving an application, in all or in part, the BoAA 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 ensure that such conditions be complied with. Where any such conditions are violated or not complied with, the approval shall cease to exist, and the code enforcement officer shall act accordingly. The BoAA may recommend that the applicant file for rezoning.
- D. The granting by the BoAA of permission to proceed on a specific development scheme, or of a permit for a construction variance, shall be contingent upon permits being

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obtained and work commencing within six months, and being diligently pursued. Failure of such shall void the ruling unless said BoAA has granted a longer time.

Section 1205. Appeals

- A.** Appeals to the BoAA 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 the person's property an unnecessary hardship is being inflicted on the person, 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.
- B.** Any person who can demonstrate special damages by an action of the BoAA 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.

ARTICLE 13. ADMINISTRATION AND ENFORCEMENT

Section 1301. Purpose

This Article establishes the duties and responsibilities for the enforcement officer, building official, and other officials and agencies, with respect to the administration of this Zoning Ordinance, Subdivision Ordinance, Minor Land Division, Building Codes, and related Apache County Ordinances and delegated agreements with State agencies. The code enforcement officer, designees, and deputy zoning enforcement officers, and building official, deputies and designees, and Sheriff and deputies shall be referred to in this Article as the “enforcement officer.”

Section 1302. Zoning Inspection and Enforcement

- A. Duties. It shall be the duty of the code enforcement officer, building official, the Apache County Sheriff, and all Apache County officials otherwise charged with the enforcement of the law to enforce all the provisions of this Ordinance.
- B. Application and permits. The Director or designee shall receive applications required by this Ordinance and issue permits. The enforcement officer shall examine premises where permits were issued and shall make necessary inspections to ensure compliance with this Ordinance.
- C. Violations. The code enforcement officer shall, when requested by the Board of Supervisors, or when the interests of Apache County so require, investigate any matter referred to in this Ordinance and make a written report. To enforce compliance with this Ordinance, the code enforcement officer shall issue notices, citations, or recall notices as may be necessary.
- D. Inspections. The code enforcement officer shall review and investigate all reported violations of this Ordinance. Upon receiving a report of, or observing a possible Ordinance violation, the code enforcement officer shall inspect the site of the alleged violation. During the inspection, the code enforcement officer shall take careful and comprehensive notes about the existing condition and uses of the subject property; location, property owner, and address; and specific Section of the Ordinance corresponding to the alleged violation.
- E. Rules. The Director may adopt rules and policies consistent with this Ordinance for carrying into effect the Community Development Department’s responsibilities. All adopted rules and policies shall be recommended by the Apache County Planning and Zoning Commission and approved by the Board of Supervisors.
- F. Notices and citations:
 - 1. Notice. Should the code enforcement officer determine that a violation is occurring on the subject property, the code enforcement officer shall serve a notice of the violation to the property owner and alleged violator. The notice shall include:
 - a. A street address or legal description sufficient for identification of the subject property;
 - b. The Section of the Ordinance violated;
 - c. A brief and concise description of the violation;
 - d. Information on possible penalties if the violation is not corrected;

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- e. Steps necessary or actions required to bring the subject property into compliance with the Ordinance;
 - f. A reasonable time frame in which all necessary actions should be completed to correct the violation; and
 - g. A warning that noncompliance with the notice will result in the issuance of a citation.
 - h. A notice of violation may be appealed within ten (10) days of the notice to the Board of Adjustment and Appeals per Article 12 of the Zoning Ordinance when the meaning of any word, phrase, or section of any requirement that is the subject of the notice is in doubt. The enforcement process will be stayed until the BoAA process is completed, including an appeal to the Superior Court. Failure to appeal the interpretation of the enforcement officer to the BoAA precludes interpretation from being an issue in further enforcement proceedings.
2. Extension. The code enforcement officer may grant an extension not to exceed thirty (30) days if convinced an attempt is being made to correct the violation.
3. Citation. The code enforcement officer shall reinspect the subject property after the deadline stated in the notice. If the violation still exists, the code enforcement officer shall issue a citation to the property owner and alleged violator for each specific section of the Ordinance that has been violated. Service of the citation shall be completed at least fourteen (14) days before the initial hearing on the alleged violation, or the party issued the citation may request in writing a new initial hearing date be set within thirty (30) days from the date of the request. The citation shall include:
- a. A street address or legal description sufficient for identification of the subject property;
 - b. The Section of the Ordinance violated;
 - c. A brief and concise description of the violation; and
 - d. Notification of the specific time, date, and location for the initial hearing, where the alleged violator must appear before the hearing official to submit a plea.
4. Those entitled to service of notices and citations. Notices shall be served upon the recorded owner of the property and the alleged violator if different from the property owner. Citations shall be served upon the recorded owner of the property, the alleged violator, and each of the following, if known by the code enforcement officer or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or land on which it is located. Failure of the code enforcement officer to serve notices or citations on any party shall not invalidate any proceedings as to any person duly served, or relieve any such person from any duty or obligation imposed by the provisions of this Article or this Ordinance.
5. Method of service. Service of notices and citations shall be made by personal service, any form of mail requiring a signed and returned receipt, or in the same

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manner prescribed by the Arizona Rules of Civil Procedure. The failure of any person or entity to receive such notification shall not affect the validity of any proceedings taken under this Article or this Ordinance.

G. Penalties:

1. **Civil.** It shall be unlawful, and considered a public nuisance per se, to make use of any lot, parcel, or piece of property in conflict with this Ordinance, or to erect, construct, reconstruct, alter, or use a building or any other structure that does not conform to the criteria stated in this Ordinance. Individuals or entities determined by the hearing official or an appropriate court to be violating any provision of this Ordinance shall be responsible for a civil violation. The penalty for the civil violation shall not exceed the monetary fine for a class 2 misdemeanor per day for each violation under A.R.S. § 11-808. Each day in violation constitutes a separate violation.
2. **Administrative.** The county may withhold, and may request other governmental entities to withhold, all building, zoning, and other permits for properties on which a use of the property, building, or any other structure exists that does not meet the standards or requirements of this Ordinance. Individuals or entities from the date notice of violation forward, or hearing officer upon the filing of a citation, or appropriate court following filing of a civil or criminal complaint may be subject to administrative penalty as determined by the Director.
3. **Criminal.** Violation of any standard or requirement of this Ordinance is a Class 2 misdemeanor. At the discretion of the Apache County attorney, criminal charges may be filed instead of civil citations. Furthermore, if any person or enterprise fails or refuses to obey the judgment of the hearing official, criminal charges for failing to obey an order may be filed.

H. Hearing official. A hearing official may be an employee of the county and shall be appointed by, and serve at the discretion of, the Board of Supervisors.

I. Appeals. A review of the hearing official's decisions shall be available to any party to the hearing by filing an appeal to the Board of Supervisors. Any party may appeal the Board of Supervisors' decision to the Superior Court.

J. Records. The code enforcement officer shall keep careful and comprehensive records of applications, or permits issued of inspections made, of reports tendered, and of notices, citations, and recall notices issued. All such records shall be open to public inspection at reasonable hours but shall not be removed from the Community Development Department.

K. Monthly reports. The code enforcement officer shall make a report to the Director each month, or more often if requested. The report shall include a statement of the permits, notices, citations, and recall notices issued.

L. Cooperation of other officials. The code enforcement officer may request and shall receive, so far as may be necessary in the discharge of duties, the assistance and cooperation of all Apache County departments, agencies, officials, and public employees vested with the duty or authority to issue permits or licenses, or to enforce the regulations of this Ordinance.

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- M.** Void permits and licenses. Permits or licenses for uses, buildings, or purposes that are in conflict with the regulations of any Apache County Ordinance or other published requirement shall be null and void.

Section 1303. Hearings

A. Hearing official procedure:

1. Commencement. Every action or proceeding brought before the hearing official for an Ordinance violation shall be commenced by the code enforcement officer filing a citation. No notice or citation shall be deemed insufficient for failure to contain a definite statement of the essential facts constituting the specific violation if the notice or citation contains either a written description of the violation or reference to the applicable section of the Ordinance pertaining to the violation.
2. Notice of hearing. Notice of the hearing shall be personally served on the alleged violator by the code enforcement officer at least fourteen (14) days prior to the hearing. If the code enforcement officer is unable to personally serve the notice, the notice may be served in the same manner prescribed for alternative methods of service by the Arizona Rules of Civil Procedure. A notice served upon the alleged violator other than by personal service shall be served at least thirty (30) days prior to the hearing.
3. Right to counsel. The notice shall include information regarding the alleged violator's right to be represented by counsel. The alleged violator must notify the hearing official in writing at least ten (10) days before the violation hearing date of the alleged violator's choice to be represented by counsel. Failure of the alleged violator to provide written notification constitutes a waiver of that right.
4. Discovery. No prehearing discovery shall be permitted absent extraordinary circumstances.
5. Continuance. The hearing official may, upon any motion of any party or on its own motion, continue the hearing for a period not exceeding sixty (60) days if it appears that the interests of justice so require. Absent extraordinary circumstances, no hearing shall be continued by the hearing official without notice to both parties. The hearing official, or the hearing official's designated administrative assistant, shall notify both parties in writing of the new hearing date.

B. Initial hearing:

1. First appearance. Under subsections 3103(F)(3) through 3103(F)(3)(d) of this Ordinance, the alleged violator or counsel shall appear at the initial hearing by the date and time specified in the citation for the initial hearing to enter a plea of responsible or not responsible.
2. Admission of responsibility. At the initial hearing the alleged violator may admit responsibility by appearing in person on or before the initial hearing by providing by mail or otherwise to the hearing official a short statement signed by the alleged violator or the alleged violator's counsel admitting the allegation in the citation. Once a formal admission of responsibility is received by the hearing official, the

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hearing official shall set a time and place to determine the penalty for the violation (“penalty hearing”).

3. Denial of responsibility. A denial of responsibility may be made by appearing in person or on or before the initial hearing by providing by mail or otherwise to the hearing official a denial signed by the alleged violator or the alleged violator’s counsel. The hearing official shall schedule the matter for a hearing (“violation hearing”) and notify the alleged violator or the alleged violator’s counsel and the code enforcement officer of the date, time, and place for the violation hearing once the hearing official receives a formal denial. Upon appearance, or if providing a signed denial, it shall be the responsibility of the alleged violator or the alleged violator’s counsel to notify the hearing official of an incorrect address or any address different from what is stated on the citation.
4. Failure to appear. If the alleged violator fails to appear for the initial hearing, or who fails to provide an admission or denial by mail or otherwise, by the date and time specified in the citation, the allegations filed against the alleged violator shall be deemed admitted, and the hearing official shall enter default judgment for the County and schedule a penalty hearing. At the penalty hearing, the hearing official shall impose a civil penalty subject to subsection (E)(5).

C. Violation hearing:

1. Witnesses and evidence. At least ten (10) days prior to the violation hearing, both parties shall produce for inspection by the opposing party a list of witnesses and prepared exhibits. The prepared exhibits are to be filed at the Community Development Department. Failure to comply with this provision may result, at the hearing official’s discretion, in the granting of a continuance to permit inspection or denial of the admission of the evidence.
2. Order of procedure. The order of the violation hearing shall be as follows:
 - a. The hearing official shall call the case and briefly describe the procedures to be followed.
 - b. The County makes its statement.
 - c. The testimony of the county’s witnesses is presented.
 - d. The respondent’s statement is made.
 - e. The testimony of the respondent’s witnesses is presented.
 - f. The statements and testimony of other attendees are presented at the discretion of the hearing official.
 - g. The respondent’s rebuttal is presented.
 - h. The county’s rebuttal is presented.
 - i. The respondent’s closing statement is given.
 - j. The county’s closing statement is given.
 - k. A ruling is made by the hearing official. At the conclusion of the violation hearing, the hearing official shall determine whether an Ordinance violation exists. If a violation is found to exist, the hearing official shall schedule a penalty hearing to impose civil penalties in accordance with subsections (E) through (E)(7).

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3. Written ruling. The hearing official shall issue a written ruling within ten (10) days of the violation hearing. The written ruling shall include the findings, conclusion, and opinion of the hearing official.
 4. Cross-examination. Cross-examination of witnesses shall be strictly limited to subjects or evidence elicited during direct testimony.
 5. Continuance. The hearing official, at the hearing official's discretion, may continue a violation hearing up to sixty (60) days if it appears that the interest of justice so requires. The hearing official shall not continue a violation hearing without first giving written notice to both parties of the new violation hearing date.
 6. Questions by hearing official. The hearing official may question witnesses, parties, or representatives of either party.
 7. Rules of evidence. The Arizona Rules of Evidence shall not apply before a hearing official. The hearing official may admit any evidence offered subject to a determination by the hearing official that the offered evidence is both relevant and reliable.
 8. Recording of violation hearing. The violation hearing shall be recorded on compact disc. The compact disc shall be kept on record by the Community Development Department for a period of one year. In addition, a record of the proceedings may be made by a court reporter if requested and paid for by the alleged violator.
 9. Failure to appear:
 - a. Alleged violator. A violation hearing shall be conducted in absentia if the alleged violator fails to appear.
 - b. County. If no witness for the County, excluding the alleged violator, appears at the set time for the violation hearing, the hearing official shall dismiss the citation unless the hearing official, for good cause shown, continues the violation hearing to another date.
 10. Vacating findings. At any time, the hearing official may set aside a finding entered upon a failure to appear if the hearing official deems that the alleged violator was not served a citation, or for any other reason necessary to prevent an injustice.
 11. Summons. The hearing official shall have the power to issue summons to compel the attendance of witnesses at any hearing.
 12. Oaths. The hearing official shall administer oaths to all witnesses.
- D.** Penalty hearing: The penalty hearing will occur within seven (7) days of an admission of responsibility or completion of a violation hearing. At the penalty hearing, both the alleged violator and code enforcement officer shall be given an opportunity to state their position on the amount of the penalty the hearing official should impose. The alleged violator shall correct the Ordinance violation within thirty (30) days from the penalty hearing date. Only in extraordinary circumstances may the hearing official grant an extension.
- E.** Finding of responsible/civil penalties:
1. If the hearing official finds the alleged violator responsible for the Ordinance violation, the hearing official shall enter a finding for the County and may impose

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a civil penalty not to exceed the maximum fine for a Class 2 misdemeanor per violation, per day. The hearing official should follow the guidelines set forth in subsection (E)(5) when imposing the civil penalty.

- 2. The hearing official has the option of dismissing or suspending the initial civil penalty, should extenuating circumstances exist.
- 3. The hearing official shall outline in the judgment a noncompliance and daily civil penalty schedule to accrue, should the violation not be abated by the compliance date specified by the hearing official. The hearing official should follow the guidelines set forth in subsection (E)(5) when imposing the noncompliance and daily civil penalty.
- 4. The hearing official may attach a penalty for “recurrence” to a parcel for a maximum of two (2) years from the violation hearing date. A Section of the Ordinance addressed in the violation hearing proceedings occurs within a time specified in the judgment. The code enforcement officer, after observing a recurrence, shall issue a recall notice. The recall notice shall set forth the earliest possible date for the respondent to appear before the hearing official.
- 5. The following guidelines shall be used when assessing civil penalties:

MINIMUM PENALTY	Agricultural/Residential	Commercial/Industrial
Initial	\$100	\$300
Noncompliance	\$200	\$500
Daily	\$100	\$200
Recurrence	\$300	\$500
MAXIMUM cumulative amount of daily penalty	\$1,500	\$3,000

- 6. Should the cumulative daily civil penalty balance exceed \$1,500 for agriculture/residential use or \$3,000 for commercial/industrial use, the hearing official shall forward the matter to the county attorney’s office for further legal action. All payments will be made to the County General Fund.
- 7. The alleged violator, if found responsible for the Ordinance violation and penalized with a civil penalty, shall not be relieved from the responsibility of correcting any prohibited condition. Unless appealed to the Board of Supervisors within the seven-day appeal period, the violator shall correct the Ordinance violation within 30 days from the date of the penalty hearing.
- 8. Hearing officer may also impose administrative penalty per 3103G2.

F. Appeal to the Board of Supervisors:

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1. Any party may appeal to the Board of Supervisors the final finding of the hearing official. A written notice of appeal shall be filed with the hearing official within seven days, including weekends, after the hearing official issues the written finding.
2. The notice of appeal shall identify the finding appealed from. It shall be signed by the appellant or the appellant's counsel, and shall contain the names, addresses, and telephone numbers of all parties and their counsels. When a party appeals, the hearing official shall send a copy of the notice of appeal to the other party or the other party's counsel.
3. Appeals shall be limited to the record of the proceeding before the hearing official, and no new evidence may be introduced. The record of the proceedings shall include all materials in the hearing official's file, all evidence admitted at the hearing, and a transcript of the official record per subsection (D)(8). The cost of the transcript shall be assessed against the appealing party.
4. Upon receiving the notice of appeal, the hearing official shall prepare and transmit the record, and schedule the appeal before the Board of Supervisors within 30 days.
5. The parties may stipulate that the appeal may be heard on less than a complete record or upon stipulated facts. The designation of the stipulated record shall be in writing, filed with the hearing official within 15 days after the notice of appeal.
6. Upon sending the record to the Board of Supervisors, the hearing official shall notify both parties by letter that they have five days from the date of the letter to submit a memorandum stating the parties' position to be submitted at the Board of Supervisors' hearing. The memorandum shall be submitted to the Clerk of the Board and shall not exceed five pages, double spaced, in length.
7. A notice of the appeal before the Board of Supervisors shall be posted at least 24 hours before the hearing. The hearing official shall mail a notice of the hearing to both parties not less than five days before the meeting.
8. The chair or acting chair of the Board of Supervisors shall preside at the appeal and shall decide all questions concerning procedure. Final decisions on the merits of the case shall be made upon motion and majority vote of the quorum.
9. At the Board of Supervisors' hearing, arguments on appeal shall be limited to five minutes for each party unless extended by the chair or acting chair of the Board of Supervisors.
10. After consideration of the merits of an appeal, and finding of an abuse of discretion by the hearing official, the Board of Supervisors may increase, decrease, or modify any civil penalty imposed by the hearing official and may:
 - a. Affirm the action of the hearing official;
 - b. Affirm in part and reverse in part and, if necessary, remand for further proceedings; or
 - c. Reverse the action of the hearing official and, if necessary, remand for further proceedings.

G. Recall:

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1. Recall of a case may occur when the violator has not met the conditions or compliance time frame set out in the hearing official's judgment. The violator's case remains open until complete compliance has been reached as outlined in the hearing official's written ruling.
2. If the penalty ruling includes a penalty for recurrence, a recall notice may be served only if the term of the recurrence penalty has not expired.
3. Service of the recall notice shall be completed in person, by any form of mail requiring a signed and returned receipt, or by alternative methods of service as prescribed in the Arizona Rules of Civil Procedure not less than 14 days before the recall hearing date.

Section 1304. Building Permits

Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit. See R105.2 of the Building Code for exemptions. Violations of the Apache County Building Codes will be processed as outlined in this Article.

Amended November 4, 2003 by Apache County Board of Supervisors

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.

Amended November 4, 2003 by Apache County Board of Supervisors

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,