



ZONING INTERPRETATION
RECORD OF INTERPRETATION

REVISED BY BOA DECISION ON 2/09/2023

Changes from BOA decision on 5/09/2023 shown in ~~redline/strikeout~~
2023-01

Subject of Interpretation: Calculation of Animal Points

Regulation: Planning & Zoning Ordinances and Subdivision Regulations, Section 305 Animals

Purpose: To provide clarification regarding the maximum number of livestock allowed on a lot.

Background: The Town of Camp Verde, Arizona (the "Town") adopted requirements for the keeping of animals in Section 305 of the Planning & Zoning Ordinances and Subdivision Regulations (the "Zoning Code"). The keeping of farm animals "in appropriate locations and circumstances" is deemed to be consistent with the Town's rural character. However, the Zoning Code restricts the number, size, type, or manner of keeping animals on any parcel so as not to impair the enjoyment or use of any nearby properties or violate other legal restrictions.

Animal points are provided per acreage to regulate the type and number of animals on any particular property. Certain livestock are prohibited in residential areas or other conditions are imposed to limit negative impacts on neighboring properties. The section further provides maintenance requirements for livestock facilities requiring them to be maintained in a clean and slightly manner so as not to be a nuisance to neighbors.

The Town has been asked to provide clarity regarding how to calculate animal points under Section 305 of the Zoning Code. This interpretation is provided in response.

Mansker Dispute:

- A. **Location of Property.** Mr. Trampus Mansker owns property known as Yavapai County Assessor parcel (APN) 404-12-422D and 404-12-422C. He has 4.7 acres between the two adjacent parcels. Mr. Mansker has a private riding arena where the family participates in riding and steer roping activities. Mansker family friends and other community members use the arena for roping practice before competitions. They often bring in several horses. Mr. Mansker provides the cattle for roping.
- B. **Requestor.** Mr. Stephen Magoon and his wife Jill Irvin live across the street and southwest of the Mansker property (APN 404-11-027A). The Town has received complaints from the Magoons going back several years. Complaints are mostly related to exceeding the allowed animal count or nuisances (such as flies, dust, and smell). The Magoons have requested a zoning interpretation regarding the allowable livestock count on Mr. Mansker's property.
- C. **Neighbor Dispute.** Mr. Mansker's roping activities routinely exceed the allowable number of large animals. Between his horses, "guest horses", and cattle; the numbers often range from about 15 to 34 animals. In an effort to work with the neighbors to resolve the dispute, the



Town has, over the years, conducted inspections to determine if the arena activity on Mr. Mansker’s property constitutes a nuisance and discussed options for moving animals to adjacent neighboring properties to decrease the concentration of animals. This is, however, the first time a formal interpretation of the Zoning Code has been requested.

- D. **Neighbor Permission to Use Adjacent Property**. Key to this interpretation is a question regarding how the Zoning Code approaches use of “*adjacent properties*” for purposes of increasing animal counts. Mr. Mansker has provided the Town with letters from neighbors including (1) a letter dated November 16, 2022, from Ray Sanders which provides “permission to put some of [Mansker’s] stock in his pasture (APN 404-11-017); (2) an undated letter from Carol “Montana” Renkema with “permission to use [her] property for [Mansker’s] livestock (APN 404-12-420B); and (3) an undated letter from Robert (Bob) Ashcraft to Mr. Mansker providing “permission to put his animals on my land” (APN 404-12-418C, 404-12-418, and 404-12-418G). These letters and a map of the property purporting to increase the animal count by use of these properties is attached.
- E. **Scope of Interpretation**. This interpretation analyzes (1) how to calculate maximum animal counts and (2) efforts to increase a lot’s animal count by use of adjoining properties (including the requirements for such permission to be valid).

Applicable Code Sections:

Section 305 of the Zoning Code provides, in relevant part:

A. Allowed Livestock

Any of the species listed below which are cared for by the property owner or occupant according to the following Animal Points. All livestock activity within the Town limits will be considered an accessory use to the principal use on any parcel except in the Agriculture District.

1. Lots of one-half acre to one acre in area may maintain animals totaling up to 24 points as set forth below.
2. Lots of one acre or more may increase the allowable number of points by an increment of six points for each additional, contiguous quarter acre.

B. Animal Points Allowed per Acreage

The allowable type and number of animals permitted on a particular property is computed by the following allotment table:

SPECIES (or associated types)	POINTS	SPECIES (or associated types)	POINTS
Alpacas:	3 POINTS	Miniature horses, Ponies and Sicilian donkeys:	6 POINTS
Emus:	3 POINTS	Ostriches:	6 POINTS
Pygmy goats:	3 POINTS	Cattle:	12 POINTS
Sheep, Goats:	4 POINTS	Domestic deer:	12 POINTS
Llamas:	6 POINTS	Horses, Mules, and Donkeys	12 POINTS

Interpretation:

- A. **Initial Calculations**. Animals which are cared for by the property owner or occupant are subject to the Animal points per Zoning Code – often referred to as the Animal Unit



Count. Lots of one-half acre to one acre may total 24 points. This number can be increased by an increment of six points for each additional, contiguous quarter acre. Although various sized animals have a different point count, large animals such as horses and cattle, are allowed at a rate of two (2) per acre. As applied to Mansker he is allowed a total of nine (9) large animals on his two contiguous parcels.

- B. **Increase in Animal Count.** The Zoning Code provides an increase in the allowable number of points as stated above “*for each additional, contiguous quarter acre.*” The interpretation of that language is key in this interpretation.
- C. **Definition of “Lot”.** A lot is defined in Section 103 of the Zoning Code as: “*A parcel of land established by plat, subdivision, or otherwise permitted by law, having its principal frontage on a dedicated street or street easement. A half-street dedicated from such parcel shall be qualification for street frontage.*” From a real property perspective, a parcel of property or lot is necessarily created by someone – an “owner” who legally established real property rights through plat, subdivision, or other legal process. The question of who *owns* the lot, or who has the *right to possession* and use of the lot (including the right to exclude others), is paramount in this interpretation.
- D. **Meaning of Each Additional, Contiguous Quarter Acre.** The definition of “*contiguous*” for purposes of calculating animal points is best interpreted as *immediately adjacent* to the receiving property and not contiguous to other transferring properties. In other words, there is a limit to how many neighbors could approve use of their property for purposes of increasing the total number of animals. The purpose of the Zoning Code is to limit animals to avoid nuisances and concentration of animals on any one property. Restricting the meaning of contiguous to immediately adjacent is important to not defeat the purpose of the restriction. A strict reading of the quarter acre exception (“*Lots of one acre or more may increase the allowable number of points by an increment of six points for each additional, contiguous quarter acre.*”) would require that the same person or persons *own* the land constituting the primary parcel and the contiguous land.

A more expansive reading of the exception would allow increases in the animal count through leases, licenses, or other valid legal instrument, i.e., legally recognized documents for the transfer of rights in real property. However, even this more liberal interpretation is still subject to properties immediately adjacent to the receiving property.

Under the second analysis, Mansker, who owns 404-12-422D and 404-12-422C, would be able to increase his animal count of nine (9) large animals if he obtains legal rights to the following lots: 404-11-017, 404-12-420B, and 404-12-418. However, the practice of extending to 404-12-418C and 404-12-418 G should be discontinued as these are not immediately adjacent lots.

- E. **Validity of Neighbor Permissions.** Although the Zoning Code contemplates both owners and occupants having interest in lots for purposes of calculating animal points, nothing in the Zoning Code supports a reading that letters allowing some use or access to property are sufficient to increase the animal count. The transfer of the animal points must be done by some *form of formal legal instrument* (for example, a lease, license, or



enforceable contract) and the transferring property must acknowledge that it gives up a *specific number* of points by transferring those rights to the receiving party. Transfer of rights must be by a valid, binding legal obligation. The letters Mr. Mansker received from his neighbors are not enough to transfer rights under the Zoning Code.

- F. **Impact of Use.** Notwithstanding the foregoing analysis, the request for this opinion raises the question of whether a roping arena used by friends and community members on a fairly regular basis is even considered a permitted use under the Mansker property's current Residential Rural (R-R) zoning, which permits "*agriculture and cultivation*" and the "*keeping of farm animals*". The Zoning Ordinance does not have a specific listing for "arena" or "cattle roping" as a permitted or conditionally permitted use.

Although the purpose of this interpretation is to identify the proper procedure for calculating animal count, this does raise the question of use. Should the use of the roping arena for cattle roping events for friend and community members be considered a permitted use in the R-R District? Note that the Zoning Ordinance does allow "*other accessory uses commonly associated with [a] primary permitted use*". An interpretation may be needed to determine whether an arena or cattle roping could be considered an allowed accessory use.

The Arizona Court of Appeals dealt with a similar fact pattern in *Murphy v. Town of Chino Valley*, 163 Ariz. 571 (App. 1989). Like the facts here, the Murphys used a roping arena on their property to host events that attracted up 30-40 people on a regular basis and over 100 people at certain times. The Appeals Court concluded, similar to the Camp Verde Zoning Code, that:

"A roping arena, where the owners and numerous others participate in competitive roping is not expressly within the scope of any of the listed uses for the zoning district. If the roping arena is to be considered a permitted use, it must come under the definition of an accessory use."

The Town's Zoning Code defines "Accessory Use" as a use of land or of a building or portion thereof customarily incidental and subordinate to and located on the same lot with the principal use. Regarding the keeping of animals, Section 305 of the Zoning Code states, "Keeping of **farm animals** in appropriate locations and circumstances is regarded as being consistent with the Town's rural character." Farm animals are animals used for agricultural purposes, meaning the production, keeping or maintenance, for sale, lease or personal use, animals useful to man, including the breeding and grazing of any or all of such animals.

The Court of Appeals (in *Murphy*) found that it would be reasonable to conclude that a roping arena where friends and community members are invited for competitive and practice cattle roping events is not an accessory agricultural use. *Murphy*, 163 Ariz. 571, 577.

While the Mansker arena may be a lesser scale than the Murphy arena, the extent of the impact of this activity on the neighborhood is not disputed. There are complaints that the arena activities are noisy, result in flies, dust and unwanted odors.

Mansker's use of the roping arena for friend and community member cattle roping events is more aligned with the Town's agritourism use, which is defined as "the act of visiting a working



farm, ranch, agricultural or horticultural agribusiness operation for the purpose of enjoyment, education or active involvement of visitors to experience a rural lifestyle. Visitors may participate in events and services related to agriculture which may take place on or off the farm or ranch, and that connect consumers with the heritage, natural resource or culinary experience they value.”

Ultimately, given the cap on animals and type of activities conducted on the Mansker property, the Town recommends that the Manskers apply for and obtain an Agritourism use permit which is better suited to addressing the impact of the current and future roping arena uses. Inviting large numbers of people and holding events is best addressed by use permit with the ability to put conditions on the approved use.

Conclusion:

The allowed livestock on a lot is only increased under Section 305 where a property owner owns ~~or leases~~ the contiguous area. It is not enough to have permission to use or temporarily move around animals on a neighboring lot.

Owners that wish to increase their number of animals have options, including to purchase ~~or lease~~ contiguous areas or apply for an Agritourism use permit if located in the Residential-Rural area which may allow an increase in the total animal count with the approval of conditions that limit the impact on neighbors. Specifically, Section 203, subsection D “R-R District” has rules for rural, large lot residential uses that allow for Agritourism uses with a Use Permit that can mitigate negative impacts by requiring adequate separation requirements, mitigation against noise, traffic, dust and other environmental factors on nearby residential uses, and other provisions for public health and safety.

Approvals:

Interpretation:

By: John Knight
Title: Community Development Director

Date: February 9, 2023

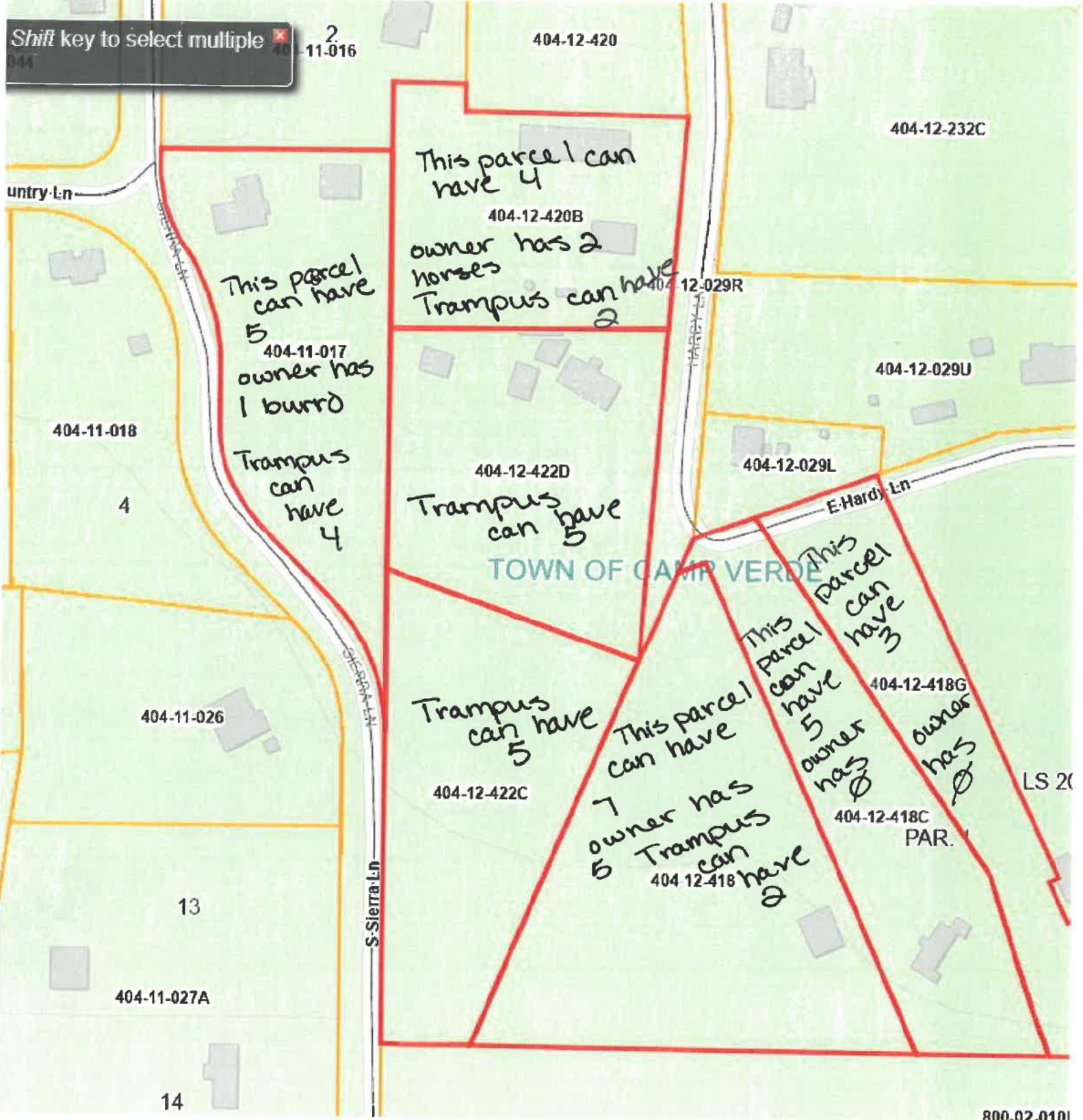
Copy: Gayle Mabery, Interim Town Manager
Trish Stuhan, Town Attorney

Attachments:

- Map of Affected Properties
- Letters from neighbors allowing use of their property
- Murphy v. Town of Chino Valley decision
- Relevant Zoning Code Sections (103 – Definitions, 203 – D. R-R Use District, 305 – Animals)

Shift key to select multiple

2
11-016



Total Allowed = 34
 Total Animal Count as of today 1-18-23 = 33
 CMulcaire

11-16-22

I Ray Sanders have
given permission To put
some of his stock in
my pasture To Trampus MANSKER
my parcel # is
404-11-01709

Ray Sanders

To whom ever it concerns
Irongard and Bonnie Mansker
have my permission to use
my property for their livestock

My property adjoins theirs.

The address is

Comp Verde, Az. 86322

lot # 404-12-420 B

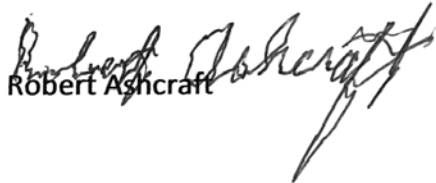
Carol (Martana) Ruckman

Comp Verde, Az. 86322

To Whom It May Concern:

I Robert Ashcraft have given Trampus Mansker permission to put his animals on my land, I have 3 properties. Parcels are 404-12-418C, 404-12-418, 404-12-418G. If you have any questions please let me know.

Sincerely,


Robert Ashcraft

163 Ariz. 571

Court of Appeals of Arizona,
Division 1, Department B.Amos MURPHY and Connie Murphy,
husband and wife, Plaintiffs–Appellees,

v.

TOWN OF CHINO VALLEY, a political subdivision
of the State of Arizona, Defendant–Appellant.

No. 1 CA–CV 88–012.

Oct. 31, 1989.

Reconsideration Denied Jan. 12, 1990.

Review Denied May 1, 1990. *

Synopsis


Town appealed from an order of the Superior Court, Yavapai County, Cause No. C–45994, [Richard Anderson, J.](#), which reversed a decision of the town board of adjustments requiring landowners to apply for a conditional use permit to operate their cattle roping arena. The Court of Appeals, [Voss, J.](#), held that: (1) complaining landowner was not real party in interest; (2) determination that arena was not an accessory agricultural use was supported by sufficient credible evidence; (3) arena was a “recreation area” for which conditional use permit was required under new zoning code; and (4) landowners were not denied due process at board level.

Reversed and remanded.


Procedural Posture(s): On Appeal.

West Headnotes (10)

[1] Courts  In issuance of writs

Where party to judicial proceeding files special action to challenge trial judge's determination favoring opposing party, opposing party must be joined as defendant and trial judge must also be made respondent. 17B  [A.R.S. Special Actions, Rules of Proc., Rule 2.](#)

[2] Zoning and Planning  Parties

Town board of adjustments was real party in interest, properly before court in landowners' petition for special action requesting review of board's decision, inasmuch as board assumed adversary position in proceedings. 17B  [A.R.S. Special Actions, Rules of Proc., Rule 2.](#)

2 Cases that cite this headnote

[3] Courts  In issuance of writs

Complaining landowner was not necessary party to landowners' special action challenging decision of town board of adjustments and, thus, trial court had jurisdiction to consider landowners' petition for special action relief even though landowners did not join complaining landowner.

2 Cases that cite this headnote

[4] Zoning and Planning  Right of review and parties

Town had standing to appeal Superior Court order reversing decision of town board of adjustments; town was an “aggrieved party” because award of attorney fees was directed against it and town had legitimate interest in sustaining validity of procedures leading to board's decision, as well as decision itself. 17B [A.R.S. Civil Appellate Proc. Rules, Rule 1.](#)

6 Cases that cite this headnote

[5] Zoning and Planning  Hearings and meetings in general

Town board of adjustments had authority to conduct evidentiary hearing when reviewing decision of zoning administrator. [A.R.S. § 9–462.06](#), subds. A–C, F, G.

2 Cases that cite this headnote

[6] Zoning and Planning  Particular accessory uses

Determination that landowners' cattle roping arena equipped with high intensity lights for nighttime use was not an accessory agricultural use under zoning code was supported by sufficient credible evidence; nothing in record indicated that landowners' competitive roping activities were part of operation of their ranch.

[1 Case that cites this headnote](#)

[7] **Zoning and Planning** 🔑 Entertainment and recreation; theaters and clubs

Landowners' use of cattle roping arena on their property constituted a "recreation area" within zoning code, requiring landowners to obtain conditional use permit to operate arena.

[8] **Appeal and Error** 🔑 Constitutional questions

Matters not raised at trial level, including constitutional issues, will not be considered on appeal.

[4 Cases that cite this headnote](#)

[9] **Constitutional Law** 🔑 Proceedings and review

Zoning and Planning 🔑 Notice, appearance and pleading

Zoning and Planning 🔑 Hearings and meetings in general

Landowners were not denied due process before town board of adjustments; record reflected that landowners were given adequate notice that board was considering whether landowners' cattle roping arena violated zoning code and that landowners were given adequate opportunity to be heard before board. [U.S.C.A. Const.Amend. 14.](#)

[10] **Eminent Domain** 🔑 Particular cases

Zoning and Planning 🔑 Legality or illegality of use

Landowners' cattle roping arena was not lawful preexisting use at time decision was reached to

limit landowners' use of roping arena and, thus, landowners were not entitled to payment of just compensation for limiting their use of arena. [A.R.S. § 9-462.02](#); [A.R.S. Const. Art. 2, § 17](#); [U.S.C.A. Const.Amend. 5.](#)

[1 Case that cites this headnote](#)

Attorneys and Law Firms

****1073 *572** Stan A. Lehman, Prescott, and Paul G. Ulrich, P.C., Phoenix, for defendant-appellant.

Toci, Murphy, Lutey & Beck by [Thelton D. Beck](#), Prescott, for plaintiffs-appellees.

OPINION

VOSS, Judge.

This is an appeal from summary judgment in superior court reversing a zoning decision of the Town of Chino Valley Board of Adjustments (the board). We reverse and remand for reinstatement of the board's decision.

FACTS

Amos and Connie Murphy own a residence and land in the Town of Chino Valley. In 1984 the zoning on their property was changed from agricultural to R-1 residential as part of a new zoning code adopted by Chino Valley. Over a period of time, the Murphys built a roping arena on their property that was used by their family and friends for riding horses and roping cattle. The arena has a corral, cattle runs, release shoots and seven 30'-40' poles with high intensity lights. The number of people participating at roping events was estimated to vary from 6-7 to as many as 120.

In 1985 Chuck Hudson, an adjacent property owner, complained to the town manager/zoning administrator, that the Murphys' roping arena did not comply with Chino Valley's zoning code. Acting on the complaint, the zoning administrator inquired into whether the facility was in operation prior to the adoption of the 1984 code. Many responses were received, including 28 statements indicating the arena had been utilized by family and friends before 1984.

At the conclusion of the inquiry the zoning administrator wrote a letter to Hudson advising him she had concluded that the roping arena was in operation under the former zoning code and was therefore “grandfathered in” under the current code. She advised Hudson that he could appeal her decision to the board.

Hudson filed a notice of appeal of the zoning administrator's decision to the board. The appeal was considered at a special board meeting. The board heard testimony from approximately 17 witnesses, including Hudson and the Murphys. The meeting was tape recorded, but the tape ended before completion of the public hearing and prior to the board's decision. The board voted unanimously to require the Murphys to apply for a conditional use permit.

****1074 *573** Thereafter, the Murphys filed a petition for special action in superior court requesting review of the board's decision. Cross motions for summary judgment were filed by both Chino Valley and the Murphys. The trial court granted the Murphys' motion, finding that the roping arena had been in existence before the enactment of the 1984 zoning ordinance and was a permitted use under the prior zoning ordinance. It declined to decide whether the arena could exist under the new code except as a legal nonconforming use. The court entered an order reversing the decision of the board, reinstating the ruling of the zoning administrator and awarding attorney's fees against the town for \$14,487 plus costs.

JURISDICTIONAL ISSUES

Jurisdiction of the Trial Court

[1] Chino Valley contends the trial court lacked jurisdiction to hear the special action because Hudson was the real party in interest and was not joined as a defendant. First, Chino Valley compares the board proceeding to a judicial proceeding in which the board acted as the judge resolving a dispute between two parties and contends that [Rule 2, Rules of Procedure for Special Actions](#), applies to this situation and requires that Hudson be joined as a defendant. [Rule 2](#) provides:

(a) [Parties]. Any person who previously could institute an application for a writ of mandamus,


prohibition, or certiorari may institute proceedings for a special action. The complaint shall join as a defendant the body, officer, or person against whom relief is sought. If any public body, tribunal, or officer is named as a defendant, the real party or parties in interest shall also be joined as defendants.


It is clear under [Rule 2](#) that where a party to a judicial proceeding files a special action to challenge a trial judge's determination that favors the opposing party, the opposing party must be joined as a defendant. *See generally* 1 Arizona Appellate Handbook, § 7.5.1 at 7–9 (2d ed. 1983). *Cf.* [Silver v. Rose](#), 135 Ariz. 339, 343, 661 P.2d 189, 193 (App.1982). The trial judge must also be made a respondent. *See* [Hickox v. Superior Court In and For Maricopa County](#), 19 Ariz.App. 195, 505 P.2d 1086 (1973).

[2] A trial judge is expected to be impartial rather than assume an adversary position in a special action. *See Dunn v. Superior Court In and For Maricopa County*, 160 Ariz. 311, 772 P.2d 1164 (App.1989). A board of adjustment, however, must regulate land use, which may place it in an adversary position to one of the parties appearing before it. Thus, this action is not comparable to the type of judicial proceeding contemplated by [Rule 2](#). The record in this appeal supports the conclusion that the board assumed an adversary position in these proceedings; therefore the board is a real party in interest, properly before the court in this matter.

Chino Valley also points out that where one of two parties to a controversy in a hearing before the Registrar of Contractors brings an appeal to superior court under the Administrative Review Act, [A.R.S. § 12–901 et seq.](#), failure to join the opposing party deprives the trial court of jurisdiction. [International Brotherhood of Electrical Workers v. Kayetan](#), 119 Ariz. 508, 581 P.2d 1158 (App.1978). Chino Valley argues by analogy that the parties to a dispute before a municipal body are necessary parties to a special action under [A.R.S. § 9–462.06\(K\)](#).

This analogy also fails because the board is not a neutral arbitrator and is acting to protect Hudson's interest. This court held in a similar context that an administrative agency can

be an aggrieved party with standing to challenge an adverse ruling of the Superior Court.  *Burrows v. Taylor*, 129 Ariz. 212, 630 P.2d 35 (App.1981).

We have found a limited number of cases concerning whether a party who complains to a board of adjustment may also be a real party in interest. *See generally* 3 Rathkopf, *The Law of Zoning and Planning* § 42.05 (4th ed. 1988). The following cases hold that objecting land owners are not necessary or indispensable parties: *Peoples Trust Company v. Board of Adjustment*, 60 N.J.Super. 569, 160 A.2d 63 (1959) (It **1075 *574 might interfere with free and open discussion before boards if property owners, by participating, risked being parties to subsequent judicial proceedings); *Nepi v. Lammot*, 52 Del. 281, 156 A.2d 413 (1959). The cases indicate that the only indispensable party to an appeal from a board of adjustment's decision is the board of adjustment. *Id.*;  *Zoning Board of Adjustment of New Castle County v. Dragon Run Terrace, Inc.*, 59 Del. 175, 216 A.2d 146 (1965); *see also Tazza v. Planning and Zoning Commission*, 164 Conn. 187, 319 A.2d 393 (1972) (The zoning commission is the proper party to represent the public interest and to defend its decisions).




[3] We agree that on an appeal or special action review of a board of adjustment decision, the board and the property owner directly subject to the board decision are necessary parties. Merely taking a position before the board as an abutting landowner or neighbor does not per se make one a party to further litigation. The board represents the interests of the community at large. Further, the fact a complainant is not an indispensable party does not effect standing to intervene. There could be facts under which a complainant's interest in the outcome require that he be made a party. However, that case is not before us. We conclude the trial court had jurisdiction to consider the Murphys' petition for special action relief.

Jurisdiction of the Court of Appeals

[4] The Murphys argue that this court must dismiss Chino Valley's appeal because it is not an "aggrieved party" within the meaning of [Rule 1, Arizona Rules of Civil Appellate Procedure](#). We find no merit to this argument. If for no other reason than the award of attorney's fees directed against the Town of Chino Valley, the town is an aggrieved party entitled to appeal this award. Further, the town has a legitimate interest in sustaining the validity of the procedures leading to the board's decision, as well as the decision itself, which gives

it standing to appear in this court. *See Dunn*, 160 Ariz. 311, 772 P.2d 1164 (App.1989); *Camelback Contractors, Inc. v. Industrial Commission*, 125 Ariz. 205, 608 P.2d 782 (App.1980).

STANDARD OF REVIEW

In a special action to review a municipal board of adjustment decision, the trial court's primary purpose is to determine whether the board's decision was arbitrary and capricious or an abuse of discretion. *Blake v. City of Phoenix*, 157 Ariz. 93, 754 P.2d 1368 (App.1988). An appellate court is bound by the same standard of review as the superior court in reviewing the board's decision.  *City of Phoenix v. Superior Court In and For Maricopa County*, 110 Ariz. 155, 515 P.2d 1175, 1178 (1973);  *Gannett Outdoor Company v. City of Mesa*, 159 Ariz. 459, 768 P.2d 191 (App.1989). Our review is limited to finding error, and we may not substitute our opinion of facts for that of the board. If there is credible evidence to support the board's decision, we must affirm. *Id.* However, where the issues involve statutory interpretation, the trial court and this court are free to draw their own conclusions on whether an agency misinterpreted the law.  *Eshelman v. Blubaum*, 114 Ariz. 376, 378, 560 P.2d 1283, 1285 (App.1977).

BASIS FOR THE TRIAL COURT'S DECISION

Chino Valley contends the trial court ruled that the board erred in holding a *de novo* hearing and considering evidence that had not been presented to the zoning administrator. The Murphys argue that this was not the basis for the trial court's decision. They contend the trial court held that the board's decision was erroneous because it was contrary to the evidence presented at the board's evidentiary hearing.

The trial court's minute entry provides in part:

The Board of Adjustments did not reverse, affirm or modify the order of the Zoning Administrator but apparently made a determination based upon a *de novo* proceeding. *This appears to be improper procedure under the applicable statute* but in any

event, the action of **1076 *575 the Board of Adjustments is clearly arbitrary, capricious and an abuse of discretion and the decision of the Board may not stand.

(Emphasis added.)

[5] We agree that the trial court was incorrect in concluding that the board was without authority to conduct an evidentiary hearing; the board has authority under A.R.S. § 9-462.06(A), (B), (C), (F) and (G) to conduct a public hearing and take evidence. See, e.g., *Boyce v. City of Scottsdale*, 157 Ariz. 265, 756 P.2d 934 (App.1988); *Arkules v. Board of Adjustment of Town of Paradise Valley*, 151 Ariz. 438, 440, 728 P.2d 657, 659 (App.1986) (“The Board of Adjustment, though structured much like an administrative agency, acts in a quasi-judicial capacity”). However, the trial court’s statement that the board followed improper procedures was not the basis for its judgment. The minute entry implies that irrespective of any improper procedure, the court found that the board’s action, after consideration of the evidence, was arbitrary, capricious and an abuse of discretion. Additionally, the trial judge later expressly stated he did not base his decision upon grounds that the town had followed improper procedures.

We therefore review the record to determine whether the trial court was correct in determining that the board acted in an arbitrary and capricious manner and abused its discretion, or whether there was sufficient evidence to support the board’s decision.

THE RECORD

Although there are difficulties with the tape recording of the board proceedings, both Chino Valley and the Murphys agree that the record is adequate for purposes of this appeal. The test for the sufficiency of an administrative record is “whether the errors are of such magnitude that the record precludes an intelligent understanding of the testimony.” *Schmitz v. Arizona State Bd. of Dental Examiners*, 141 Ariz. 37, 40–41, 684 P.2d 918, 921–22 (App.1984). Although not all the board’s deliberations are in the record, we are able to review the testimony to determine whether there is sufficient evidence to support the board’s decision under any legal

theory. *Kovacs v. Industrial Commission of Arizona*, 132 Ariz. 173, 176, 644 P.2d 909, 912 (App.1982).

FORMER ZONING ORDINANCE

Chino Valley’s former zoning ordinance, Ordinance No. 10, provided for agricultural districts as follows:

4. Agriculture One

(a) Permitted Uses:

- (1) All types of agriculture, truck gardening, horticulture, dairying, stock animal and poultry raising, breeding, processing and selling.
- (2) Homes for owners of ranch or farm and employees
- (3) Sale of farm produce and crops
- (4) Other uses that are not listed under conditional uses which the Board of Adjustment considers similar in character to those listed above

(b) Conditional Uses:

- (1) Boarding homes for children
- (2) Day care homes for children
- (3) Airports and landing strips
- (4) Other uses the Board of Adjustment considers similar in character to those listed above

A roping arena, where the owners and numerous others participate in competitive roping, lighted by high intensity lights on 30–40 foot poles, is not expressly within the scope of any of the listed uses in 4(a)(1), (2) or (3). If the roping arena is to be considered a permitted use, it must come within the provisions of paragraph 4(a)(4)—uses that the board considers similar in character to the listed uses.

The doctrine of accessory uses states that any activity naturally adjunct to the zoning category will be permitted:

‘[C]ustomarily’ ... is commonly used in regulations permitting or defining accessory usages and the courts have

sought to determine, in the case of each allegedly accessory or incidental usage, whether it is customary to maintain it in ****1077 *576** conjunction with the specifically permitted use of the land....

 *Town of Paradise Valley v. Lindberg*, 27 Ariz.App. 70, 71, 551 P.2d 60, 61 (1976).

We find no Arizona cases specifically addressing the question of accessory agricultural uses. Chino Valley relies on *Borough of Demarest v. Heck*, 84 N.J.Super. 100, 201 A.2d 75 (App.Div.1964). In *Heck* the New Jersey court held that a riding academy was not an agricultural use, referring to testimony of:

[A]nnoying dust, ‘terrific’ when there is ‘violent riding’; disturbing noises caused by the horses, also by children ‘hollering’ and ‘screaming’ and by the blowing of automobile horns; illumination of the barns and excessive light from cars at nighttime; traffic congestion and hazards in the evenings and on Saturdays and Sundays; ... and weekend equestrian functions which were likened to a rodeo.

Id. at 104, 201 A.2d at 77–78. Activity of this nature was held inconsistent with agricultural use of the property.

In response, the Murphys argue that Arizona is not New Jersey. While this response is factually indisputable, it fails to address the legal argument. It does, however, point out the difficulties in resolving mixed issues of fact and law. To a large extent what is an accessory agricultural use as a matter of law may depend on factual determinations of what is customary in a particular agricultural community. It is therefore appropriate that a determination of whether a use is “similar in character” to other express uses rests with a local board of adjustment. A local board of adjustment is the body most aware of community customs and practices and therefore best able to make this decision.

Although the board did not make a specific factual finding, the record indicates that a substantial portion of the testimony and discussion among board members was directed to whether the roping arena was an agricultural use, and, that the board's collective decision was that the roping arena was not an activity “similar in character” to the permitted uses delineated in the old code.

[6] There are sufficient facts in the record from which the board could determine that the roping arena was not an accessory agricultural use. The Murphys and invited friends engaged in competitive cattle roping in the arena. These activities were conducted both in the daytime and in the evening under high intensity lighting. The extent of the impact of this activity on the neighborhood was disputed, but there was evidence that these events were noisy and increased traffic. Nothing in the record indicates that these activities were part of the operation of the Murphys' ranch.

Even if this court were to determine that the roping arena as originally constructed and used complied with Ordinance 10 before 1984, the board heard substantial evidence that the original use expanded beyond that permitted under the old ordinance and therefore could not continue as a legal nonconforming use under the new zoning code. There is, of course, evidence to the contrary. However, in reviewing a board decision it is not the prerogative of this court nor of the trial court to weigh the evidence. *Blake*, 157 Ariz. at 96, 754 P.2d at 1371.

We find there is sufficient credible evidence to support a board decision that the roping arena was not permitted under the old code and is therefore not a legal nonconforming use under the new code. Whether it was initially a permitted use before the lighting, facilities and numbers of participants expanded is irrelevant. The board's decision was that the arena as used in 1985 would require a conditional use permit. The record supports this conclusion.

NEW CODE

The Murphys' property presently falls within an “R–1” zone under section 504 of the zoning code, which provides in part:

A. PURPOSE

This district is intended to promote and preserve low density single family residential ****1078 *577** and agricultural development. Regulations and property

development standards are designed to protect the single family residential and agricultural character of the district and to prohibit all incompatible activities. Land use is composed chiefly of individual homes, together with required recreational, religious, and educational facilities.

Section 504(B) lists permitted uses of “R-1” property, some of which the Murphys contend include the roping arena.

B. PERMITTED USES

.....

- 3. Farming and agriculture including the keeping of cattle, horses....
- 4. Customary accessory buildings such as barns, corrals, pens, coops, and storage sheds for the care and keeping of animals....
- 5. Accessory uses as follows:
 - a. Parking of vehicles in facilities and locations on the property not otherwise in conflict with the provisions of this Ordinance;
 - b. Materials used in conjunction with a hobby, avocation, or pastime, the use of which does not otherwise conflict with the provisions of this Ordinance.

The Murphys argue that although the ordinance does not expressly refer to “roping arenas,” it does expressly permit residents to keep cattle and horses, and, therefore, the ordinance implicitly authorizes riding horses or roping cattle. The Murphys further contend that their chutes and arenas qualify as “customary accessory buildings” as described in paragraph 4 above. Finally, they contend that if the roping arena does not fall within the permitted uses, it should be included as an accessory use pursuant to paragraph 5 because the roping arena is the Murphys’ “hobby, avocation, or pastime.”

[7] The Murphys urge that their interpretation of the ordinance is consistent with the policy that zoning ordinances, being in derogation of common-law property rights, should be strictly construed and any ambiguity or uncertainty should be decided in favor of property owners. [Hart v. Bayless Inv. & Trading Co.](#), 86 Ariz. 379, 390, 346 P.2d 1101, 1109 (1959). However, we find that the alleged ambiguity does not exist because the Murphys’ use of the property falls under another

section of the zoning code, which, as the board found, requires a conditional use permit. That section, 504(C), provides in part:

C. CONDITIONAL USES

(Conditional Use Permit Required)

- 1. Privately owned and operated parks and *recreation areas and centers*.

(Emphasis added.)

“Recreation Facilities” are defined in § 201 of the 1984 zoning code as:

buildings, structures or areas built or developed for purposes of entertaining, exercising, or observing various activities participated in either actively or passively by individuals or organized groups.

It was undisputed that in addition to the Murphy family, the roping arena was being used by numerous other persons who organized, participated and engaged in rodeo type activities. These activities may be reasonably viewed as utilizing the roping arena as a recreation area rather than as a family hobby. Further, there is no evidence that these competitive activities were necessary for keeping cattle and horses as part of a farm and agricultural use.

We find no error in the board's decision requiring a conditional use permit for the operation of a roping arena under these circumstances. That decision is consistent with the purpose stated in section 504 of the zoning ordinance and is a permissible use of reasonable regulations to promote the general welfare of the community as part of its police powers.

See [Ranch 57 v. Yuma](#), 152 Ariz. 218, 731 P.2d 113 (App.1986).

CONSTITUTIONAL ISSUES

[8] The Murphys have also raised several constitutional issues, some of which are raised for the first time on appeal. ****1079 *578** Generally, matters not raised below,

including constitutional issues, will not be considered on appeal. *Norcor of America v. Southern Arizona Int'l Livestock Ass'n*, 122 Ariz. 542, 544–45, 596 P.2d 377, 379–80 (App.1979). The issues raised by the Murphys do not fall within any exception to that policy. Therefore, we address only those issues raised before the trial court.

[9] The Murphys contend they were deprived of due process of law because they were not given adequate notice of the charges against them or the evidence upon which the charges were based. They also claim they were denied an impartial tribunal and a chance to present witnesses and refute adverse evidence. See *McClanahan v. Cochise College*, 25 Ariz.App. 13, 18, 540 P.2d 744, 749 (1975). The Murphys' description of their circumstances does not accurately reflect the record.

Hudson's initial complaint to the zoning administrator necessarily raised the issue of the legality of the Murphys' arena. Many letters were submitted to the zoning administrator on the Murphys' behalf, some of which indicate they were written at the Murphys' request. Hudson's appeal of the zoning administrator's decision necessarily concerned operation of the Murphys' roping arena. The record is silent as to any formal notice given to the Murphys prior to the board hearing. However, the transcript of that meeting confirms that a number of witnesses testified on their behalf, that the Murphys were present and participated in the hearing, and that they made no complaint as to any lack of notice or insufficiency of opportunity to be heard. The trial court record is similarly devoid of any complaints by the

Murphys. Accordingly, any applicable due process concerns were satisfied. See *Summit Properties, Inc. v. Wilson*, 26 Ariz.App. 550, 550 P.2d 104 (1976).

[10] The Murphys also contend that by limiting their use of the roping arena, Chino Valley has eliminated a legal nonconforming use without payment of just compensation through purchase or condemnation as required under A.R.S. § 9–462.02 and Arizona Constitution, art. 2, § 17. As previously discussed, there was sufficient evidence that the roping arena as used at the time of the hearing was not a legal nonconforming use because these activities would not have been permitted under the old code. Accordingly, the roping arena as used at the time of the hearing was not a lawful preexisting use for which compensation had to be paid.

CONCLUSION

This matter is reversed and remanded to the trial court with directions to enter judgment in favor of Chino Valley and reinstate the decision of the board of adjustment. Because we reverse, the trial court's award of attorney's fees against the Town of Chino Valley is vacated.

CONTRERAS, P.J., and KLEINSCHMIDT, J., concur.

All Citations

163 Ariz. 571, 789 P.2d 1072

Footnotes

- * Gordon, C.J., of the Supreme Court, was not present and did not participate in the determination of this matter.

SECTION 103 - DEFINITION OF TERMS

For the purposes of this Zoning Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. Words, phrases, and terms not defined in this Zoning Ordinance shall be given their usual and customary meanings except where the context clearly indicates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not permissive; the word "may" is permissive and not mandatory. Words used in the present tense include the future tense; words used in the future tense include the present tense. The word "person" includes individuals, partnerships, corporations, clubs, and associations and other forms of business enterprise. The following words or terms when applied to this Zoning Ordinance shall carry full force when used interchangeably; lot, plot, parcel, or premises; used, arranged, occupied, or maintained; sold or dispensed; construct, reconstruct, erect, place, or alter (structurally or otherwise), If more than one provision, standard, or requirement of any chapter of this Zoning Ordinance applies in all instances the most restrictive, provision, standard or requirement shall control.

DEFINED TERMS, PHRASES AND WORDS:

ABANDONMENT: The discontinuation of use for a period of one year.

ACCESSORY USE: A use of land or of a building or portion thereof customarily incidental and subordinate to and located on the same lot with the principal use.

ADJACENT: Adjoining or across a road from each other.

ADULT CARE CENTER: An establishment enrolling four or more adults where fees or other forms of compensation for the temporary care of the adults are charged, and which is licensed and approved to operate by the State.

AGRICULTURE: The production, keeping or maintenance, for sale, lease or personal use, of plants or animals useful to man, including the breeding and grazing of any or all of such animals; or lands devoted to a soil conservation or forestry management program. This includes farm stands for the temporary or seasonal sales of agricultural products grown on site or other grown on other properties owned or leased by the farm operator.

AGRITOURISM: Is the act of visiting a working farm, ranch, agricultural or horticultural agribusiness operation for the purpose of enjoyment, education or active involvement of visitors to experience a rural lifestyle. Visitors may participate in events and services related to agriculture which may take place on or off the farm or ranch, and that connect consumers with the heritage, natural resource or culinary experience they value. This may include but not limited to; farm stands or shops, U-pick, on-farm classes, fairs, festivals, pumpkin patches, wineries, barn dances, corn maze, hunting, fishing, guest ranches, agricultural tours, wildlife viewing or bird watching, wine tasting.

ALLEY: A passageway that has been dedicated or deeded for public use affording a secondary means of access to abutting property.

AMENDMENT: A change in the wording, context, or substance of these regulations or an addition, deletion, or a change in the zone boundaries or classifications upon the Zoning Map; Also a change in the wording, context, or other correction of a final plat.

ANALOGOUS: Similar or comparable.

ANIMALS:

- Livestock – animals, such as horses, ponies, mules, sheep, alpacas, goats, cattle; and large poultry, such as ostriches and emus.
- Fowl – chickens, ducks, geese, turkeys, and peacocks.
- Household – small domestic pets typically found in households, such as dogs, cats, hamsters, parakeets, parrots, rabbits, guinea pigs, and tropical fish.

ANTIQUUE: A collectible item, desired for its age, rarity or other unique feature.

APARTMENT: Any building or portion thereof that contains three or more dwelling units and, for the purpose of this Zoning Ordinance, includes apartment houses and apartment hotels.

APPLICANT: A person submitting an application for development.

APPLICATION FOR DEVELOPMENT: The application form and all required, accompanying documents and exhibits for development review purposes.

APPROVED PLAN: A plan, which has been granted final approval by the appropriate approving authority.

ASSEMBLY, CONSTRUCTION & PROCESSING PLANTS: Includes the following activities within a closed or partially closed buildings: machining, tooling, assembly, molding, decorating, cleaning, equipping, repairing, servicing, printing, publishing, welding, milling, planing, manufacturing, fabrication, processing, compounding, packaging, mixing, glazing, winding, binding, weaving, knitting, sewing, baking, cooking, roasting, pickling, brewing, distilling, salvage (but not wrecking), equipment, material and dead storage yards, plating, polishing, meat packing (no slaughtering except rabbits and poultry), animal treating, boarding, breeding and sales, warehousing (including elevators), freight yards, circuses and carnivals, race tracks, and stadiums.

ASSISTED LIVING CARE FACILITY: A residential care facility, including adult foster care, licensed by the State to provide supervisory care services, personal care services or directed care services on a continuing basis to a maximum of no more than ten full-time residents

AUTOMOBILE REPAIR (HEAVY): Heavy repair of automobiles, light & heavy trucks, recreational vehicles, cycles, and stationary or portable machinery entirely within enclosed buildings including the following:

- Any fabrication by means of welding, cutting, heating, bending, molding, forging, grinding, milling or machining.
- Vehicle frame repair.

The following items are not allowed:

- Any unscreened outside storage of parts, materials, or disabled vehicles;
- Any drainage or dumping of oil, fuel, grease, cleaning fluids, or hazardous materials on the pavement, gravel, ground, drainage system or in any other unauthorized place or method.
- Any hours of operation between ten (10) p.m. and six (6) a.m. is prohibited if the business property is within 300 feet from any parcel zoned or used for residential purposes. (2015 A407)

AUTOMOBILE REPAIR (LIGHT): General repair of automobiles, light trucks, recreational vehicles, cycles, and small stationary or portable machinery entirely within enclosed buildings or attached enclosures of solid material at least six feet in height, but excluding the following:

- Any fabrication by means of welding, cutting, heating, bending, molding, forging, grinding, milling or machining. (Such operations are permissible as an adjunct to repair only);
- Vehicle frame repair or major body or fender work;
- Any work on vehicles outside permitted structures or enclosures, unless on the service apron of a gasoline service station;
- Any unscreened outside storage of parts, materials, or disabled vehicles;
- Any draining or dumping of oil, fuel, grease, cleaning fluids or hazardous materials on the pavement, gravel, ground, drainage system or in any other unauthorized place or method;
- Any hours of operation between ten p.m. and six am. Within 300 feet of any parcel zoned or used for residential purposes;
- Any use or structure failing to comply with applicable local and state fire safety standards.

AUTOMOBILE & MACHINERY SALES: General sales of new and used automobiles, light trucks, recreational vehicles, travel trailers, mobile homes, boats, boat trailers, utility trailers, motorcycles, ATV's, bicycles and small stationary or portable machinery within enclosed buildings. Outside display of such vehicles or similar merchandise shall be permitted only as specified in Section 309 Automobile & Machinery Sales.

AUTOMOBILE SERVICE STATION: That portion of a building where flammable or combustible liquids or gases used as motor fuels are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles.

AUTOMOBILE STORAGE YARD: Includes storage of automobiles incident to a lawful towing business (but does not include automobile salvage or wrecking). The temporary storage of junked motor vehicles, if completely enclosed by a screen wall, is considered accessory to this use. Temporary storage in this context means storage for not longer than ninety (90) days.

AWNING: A roof-like cover that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

BASEMENT: A floor level below the main story of a building, wholly or partly below ground level, which may be used for habitation, household equipment or storage in compliance with the currently adopted building codes.

BED AND BREAKFAST: An overnight rooming or boarding house with breakfast where the host lives on the premises. Bed and Breakfast establishments are limited to two to five (5) bedrooms and must comply with parking requirements under Section 403.

BEDROOM: A private room planned and intended for sleeping, separated from other rooms by a door, and accessible to a bathroom.

BLOCK: That property fronting on one side of a street and so bounded by other streets, canals, railroad right-of-way, un-subdivided acreage or other barriers (except alleys) of sufficient magnitude as to interrupt the continuity of development on both sides thereof.

BOARDER OR ROOMER: An individual other than a member of the family occupying the dwelling unit or part thereof who, for a consideration, is furnished sleeping accommodations and may be furnished meals or other services as part of the consideration.

BOARDING HOUSE: See "ROOMING OR BOARDING HOUSE".

BOARDING STABLE: A structure designed for the feeding, housing or exercising of horses not owned by the owner of the premises for a consideration.

BUFFER: Undeveloped or landscaped property used to separate the activity from surrounding properties. Required landscaping or setbacks do not qualify as buffer.

BUILDING: A structure having a roof supported by columns or walls; or any structure used or intended for supporting or sheltering any use or occupancy.

-**ACCESSORY:** A subordinate structure, either attached or detached from the principal or main building or use occupied or devoted to a use incidental to the principal use.

-**ATTACHED:** A building which has a party wall or a common wall with another building.

-**CLOSED:** A structure completely enclosed by a roof, walls and doors on all sides facing the perimeter of a lot.

-**CLUSTER:** A technique in which attached or detached dwelling units are grouped relatively close together, leaving open spaces as common areas.

-**COMMUNITY:** A public or quasi-public building used for community activities of an educational, recreational or public services nature.

-**DETACHED:** A building having no party wall or common wall with another building.

-**FACTORY BUILT:** A structure, all or a major portion of which was factory assembled for permanent attachment to a lot and constructed in compliance with A.R.S. Section 41-2142 and certified as such by the Arizona State Registrar of Contractors, Building Codes Division.

-**HEIGHT:** The vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The height of a stepped or terraced building is the maximum height of any segment of the building, or as defined in the current adopted building code. The reference datum shall be selected by either of the following, whichever yields a greater height of building:

1. The elevation of the highest adjoining sidewalk or finished ground surface within a 5-foot (1524 mm) horizontal distance of the exterior wall of the building when such a sidewalk or ground surface is not more than 10 feet (3048 mm) above lowest finished grade; or
2. An elevation 10 feet (3048 mm) higher than the lowest finished grade when the sidewalk or ground surface described in Item 1 is more than 10 feet (3048 mm) above the lowest finished grade.

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

CAMPGROUND: A plot of ground upon which two or more campsites are located, established, or maintained for occupancy by the general public as temporary living quarters for recreation, education, or vacation purposes.

CARPORT: A roofed structure to provide space for the parking or storage of motor vehicles and enclosed on not more than three sides.

CEMETERY: Property used for interring of the dead.

CHANGE OF USE: Any use which substantially differs from the previous use of a building or land.

CHILD CARE CENTER: A private establishment enrolling more than four children between the ages of two and five years of age and where tuition, fees, or other forms of compensation for the temporary care of the children is charged, and which is licensed or approved to operate as a child care center by the State.

CHURCH: A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated with the church.

CLINIC: A health care establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists or social workers and where patients are not usually lodged overnight.

COMMERCIAL USE: See "*USE*".

COMMISSION: The Camp Verde Planning and Zoning Commission (See "*PLANNING COMMISSION*").

COMMUNITY DEVELOPMENT DIRECTOR: The Director of the Community Development Department for the Town of Camp Verde or his or her designated representative; also see "*ZONING ADMINISTRATOR*".

CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO): See Code of Federal Regulations for Environmental Protection Agency (EPA), Title 40, Volume 13, Part 122 (40 C.F.R. Part 122), as may be amended.

CONDITIONAL APPROVAL: An affirmative action by the Commission or the Town Council indicating that approval will be forthcoming upon satisfaction of certain specified stipulations.

CONDOMINIUM: A building or group of buildings, in which units are owned individually, and common areas and facilities are owned by all the owners on a proportional, undivided basis.

CONSIDERATION: An inducement to a contract.

CONSOLIDATION/COMBINING: The removal of lot lines between contiguous parcels.

CONTIGUOUS: Next to, abutting, or touching and sharing a common boundary or portion thereof.

COTTAGE INDUSTRY: See "*HOME OCCUPATION*".

COUNCIL: Camp Verde Town Council, acting under the authority of the laws of the State of Arizona.

COURT: A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on two or more sides by walls of a building or buildings.

CUSTOM: Pertaining to work, service or assembly done to order for individual customers for their own use or convenience.

CUSTOM SERVICE & CRAFT SHOPS: A use devoted primarily to the sale of a service or a product or products including the following: barber, beauty, massage, tailor and cleaning pickup; key and gun, photographic, fixit (home appliance, saw, mower, clock, radio, TV and similar); precision and musical instrument; and optical equipment.

DAY CARE CENTER: See "*ADULT CARE CENTER*" or "*CHILD CARE CENTER*".

DEVELOPMENT PROJECT: Any residential, commercial, industrial or mixed use subdivision plan or individual building development or remodeling plan which is submitted to the Town for approval.

DISTRICT: Refers to an area designated as a Zoning District.

DRIVE-IN/DRIVE-THROUGH RESTAURANT: Any establishment where food or beverages are dispensed through openings in the building or by service to customers in a vehicle.

DRIVEWAY: A private access for vehicles to a parking space, garage, dwelling or other structure usually serving a single parcel.

DUDE RANCH: A vacation resort offering activities typical of western ranches (such as camping, horseback riding and other outdoor events).

DWELLING UNIT: Any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking and sanitation for not more than one family, or congregate residence for 10 or less persons.

-ACCESSORY DWELLING UNIT (ADU): A dwelling unit, either attached or detached, customarily incidental and subordinate to and located on the same lot with the principal dwelling unit used to house guests or relatives. ADU's must meet the applicable Zoning District requirements as to construction type and setbacks, are not to exceed 1000 square feet of livable building area or twenty-five (25%) of the total square footage of livable building area of the primary residential structure, whichever is larger. See Section 311 for ADU Rental requirements.

-CARETAKER LIVING QUARTERS:

- Living quarters located on the property to which the use pertains, is associated with the primary use and is limited to 1000 square feet.
- Quarters may be site built or manufactured housing and must comply with the currently adopted building standards or bear a label certifying compliance with the Federal Manufactured Housing Construction & Safety Standards Act.

Living quarters established on the property prior to the establishment of the primary use, shall comply with Section 601 D and apply for a Temporary Use Permit.

-DUPLEX: A building containing two dwelling units.

-MULTIPLE: A building containing three or more dwelling units.

EASEMENT: A grant of property rights by the property owner to and/or for access or other use by the public (public easement), a corporation or another person or entity (private easement).

ENGINEERING DESIGN & CONSTRUCTION STANDARDS: Standards and technical specifications for design and construction of public improvements to land required for engineering approval, including specifications for: streets; street curbs, gutters, sidewalks, and lighting; driveway standards; utilities including water and sewer; and drainage and grading. The Engineering Design & Construction Standards are on file with the Town of Camp Verde Clerk, and the Public Works Department as may be amended by the Town Council.

ELEVATION: (1) A vertical distance above or below a fixed reference level; (2) A flat scale drawing of the front, rear, or side of a building.

-FINISHED: The proposed or actual elevation of the land surface of a site after completion of all site preparation work.

ENCROACHMENT: Any obstruction in or on a delineated floodway, right-of-way or adjacent property.

ENTITLEMENT: The legal method of obtaining approvals for the right to develop property for a particular use.

EXCAVATION: Removal and/or recovery by any means whatsoever of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof.

EXISTING USE: The use of a lot, property or structure at the time of the enactment of a zoning ordinance.

EXTENDED CARE FACILITY: See "*LONG-TERM CARE FACILITY*"

FAMILY: One or more individuals occupying a dwelling unit and living as a single household unit.

FARM, FARMLAND: A parcel of land used for agricultural purposes.

FARM STAND: A temporary or seasonal sales area for the sale of agricultural products grown on site or grown on other properties owned or leased by the farm operator. Farm stand structures are subject to zoning clearance and building permit requirements.

FARM STRUCTURE: Any building or structure used for agricultural purposes.

FENCE: An artificially constructed barrier of any material or combination of materials erected in such a manner as to control entrance to, enclose, screen or mark the boundaries of a property.

FILL: Sand, gravel, earth or other materials of any composition whatsoever placed or deposited in such a manner as to give solidity or bulk.

FINAL APPROVAL: The last official action taken by the Town on an application which has been given preliminary approval, after all conditions and requirements have been met.

FLOOR AREA: The area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the useable area under the horizontal projection of the roof or floor above; also, the sum of floor areas of stories in multi-storied buildings.

FRONTAGE: That part of a lot line which is also a public or private road right-of-way line; also see "LOT LINE, FRONT".

FREIGHT YARD: A facility for loading, unloading of freight for current distribution and warehousing of freight.

GARAGE:

-**PRIVATE:** An accessory building occupied primarily by the passenger motor vehicles of the families residing on the same lot. This may include one commercial vehicle under five ton capacity. Non-commercial vehicles of persons not residing on the lot may occupy up to one-half the capacity of such garage.

-**PUBLIC:** Any building, other than that herein defined as a private garage, used for the storage or care of motor vehicles, or where any such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

GARBAGE: Anything discarded as worthless or useless, including but not limited to refuse matter from a kitchen.

GENERAL PLAN: A comprehensive plan prepared for development of the Town, recommended for approval by the Planning and Zoning Commission and adopted by the Town Council, and includes any part of such plan separately adopted and any amendment to such plan, or parts thereof.

GLARE: The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

GOLF COURSE: A tract of land developed for playing golf, improved with tees, greens, fairways, hazards, and which may include clubhouses and shelters as well as driving ranges in conjunction with established golf course.

GOVERNMENT AGENCY: Any agency of a governing body created by a political division or subdivision such as Federal, State, County and Town.

GRADE: The degree of rise or descent of a sloping surface; Or the average elevation of the ground within a 5-foot radius from a structure.

-**FINISHED:** The final elevation of the ground surface after development.

-**NATURAL:** The elevation of the ground surface prior to man-made alterations.

GRADING: The excavation, removal, filling, movement, storage or relocation of material (other than mining or quarrying) which has the effect of changing the existing topography of the property or as may be defined further in the currently adopted building codes.

GRAFFITI: Unauthorized markings that have been placed upon any property through the use of paint, ink, chalk, dye, or any other substance capable of marking property. (See Town Code Article 10-2)

GROUND FLOOR: The lowest story in a building that is not more than four feet below finished grade, for more than 50% of the total perimeter, or not more than eight feet below finished grade, at any point.

GROUP CARE FACILITY: A facility or dwelling unit housing persons unrelated by blood or marriage and operating as a group family household/congregate residence.

GUESTROOM: Any paid or non-paid room used or intended to be used by a guest for sleeping purposes. Every 100 square feet (9.3 m²) of floor area in a dormitory shall be considered to be a guest room.

HEALTH CARE FACILITY: A facility or institution, whether public or private, engaged in providing services for health maintenance, diagnosis, or treatment of human disease, injury, pain, deformity or physical condition.

HEIGHT: See "*BUILDING HEIGHT*".

HOME OCCUPATION: An occupation, profession, activity or use located within a residence, garage or accessory building in a residential district, and which use is merely incidental to the residential use and does not change the character of the neighborhood by externally detectable lighting, noise, odor, traffic or appearance associated with the activity, with no more than one non-residential employee.

HOSPITAL: A facility providing primary health services and medical or surgical care to persons, suffering from illness, disease, injury, deformity and other physical or mental conditions and including, as an integral part of the facility, related facilities such as laboratories, outpatient facilities or training facilities.

HOTEL: Any building containing six (6) or more guest rooms intended or designed to be used, rented or hired out to be occupied for sleeping purposes by guests.

-**APARTMENT:** A building or group of buildings containing a number of independent suite of rooms for dwelling purposes and in which at least one common dining room is provided.

HOUSEHOLD: A family living together in a single dwelling unit, with common access to and common use of, all living and eating areas and all areas and facilities for food preparation and storage within the dwelling unit.

HOUSING UNIT: A room or group of rooms used by one or more individuals living separately from others in the structure, with direct access to the outside or to a public hall and containing separate toilet and kitchen facilities.

IMPROVED LOT: A lot having an improvement on it.

IMPROVEMENT: Any made-made, immovable item or structure, which becomes part of, placed upon, or is affixed to, real estate.

INFRASTRUCTURE: Facilities and services needed to sustain industrial, residential and commercial activities.

INSPECTOR: Official(s) charged with administration and enforcement of this Zoning Ordinance.

INSTALLED: Attached, or fixed in place, whether or not connected to the ground, a structure or a power source.

INTERMEDIATE CARE FACILITY: A facility which provides, on a regular basis, health related care and services to individuals, who do not require the level of care and treatment which a hospital or skilled nursing facility is designed to provide, but who, because of their mental or physical condition, require care and services beyond the level of room and board.

JOINT OWNERSHIP: The equal estate interest of two or more persons.

JUNK: Any old or discarded material, scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvaging, storage, baling, disposal or other use or disposition.

KINDERGARTEN: Same as Nursery School (See "*SCHOOL, NURSERY*") except when operated in conjunction with a school of general instruction and having accredited instruction.

LAND: Ground, soil or earth including improvements on, above or below the surface.

-**DISTURBANCE:** Any activity which alters the land topography or vegetation cover or any activity involving the clearing, cutting, excavating, filling or grading of land.

-**RECLAMATION:** Increasing land use capability by changing the land's character or environment, usually through drainage and/or fill.

LAND USE: A description of how land is occupied or used.

-**MAP:** A map indicating the desired and proposed location, extent and intensity of land uses acting as a guide for future development.

LANDSCAPE: (1) An expanse of natural scenery; (2) The addition of grasses, ground cover, trees, plants, and other natural and decorative features to land.

LAUNDERETTE (OR LAUNDRY FACILITY): An establishment that provides washing and/or drying machines on the premises for rental use to the general public for household laundering purposes.

LODGER: A transient renter whose meals may or may not be supplied in the cost of the rent.

LONG-TERM CARE FACILITY: A facility or distinct part of a facility or approved nursing home, infirmary unit of a home for the aged or other health care institution which provides 24-hour medical supervision for two or more people who are not related to the operators of such facility by marriage, blood or adoption.

LOT: A parcel of land established by plat, subdivision, or otherwise permitted by law, having its principal frontage on a dedicated street or street easement. A half-street dedicated from such parcel shall be qualification for street frontage.

-**AREA:** The total area within the lot lines of a lot, excluding any street rights-of-way.

-**MINIMUM AREA OF:** The smallest lot area established by the Zoning Ordinance on which a building or structure may be located in a particular district.

-**COVERAGE:** The portion of the lot that is covered by buildings and structures.

-DEPTH: The distance measured from the mid-point of the front and rear property lines.

-WIDTH: The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

LOT LINE: A line of record bounding a lot, which divides one lot from another lot or from a public or private street or any other public space.

-ADJUSTMENT: Any land taken from one parcel and added to another adjacent parcel without creating any new lots or parcels.

-FRONT: The lot line separating a lot from a street right-of-way. The front line of a corner lot shall be the shorter of the two street lines as originally platted, or if such are equal, the most obvious front by reason of usage by adjacent lots. The front line of a through lot shall be that line which is obviously the front by reason of usage by adjacent lots. Such a lot exceeding 188 feet in depth may be considered as having two front lines.

-REAR: The lot line opposite and most distant from the front lot line or in the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

-SIDE: Those property lines connecting the front and rear property lines.

LOT OF RECORD: A lot which existence and dimensions are acknowledged on a plat or deed at the County Recorder's Office.

LOT TYPES:

-CORNER: A lot abutting on two or more streets at their intersection or abutting on two parts of the same street forming an interior angle of less than 135 degrees. A corner lot shall be considered to be in that block in which it fronts.

-DOUBLE FRONTAGE: A lot which extends from one street to another street, existing or proposed, except where non-vehicular access easement has been established on such lot; also see "*THROUGH LOT*".

-HILLSIDE: Any lot or portion of a lot involving a part of a hill between the summit and the toe of the slope where the terrain has a natural slope.

-INTERIOR: A lot other than a corner lot.

-THROUGH: A lot with the front and rear lines abutting parallel streets; also see "*DOUBLE FRONTAGE LOT*".

MAINTENANCE: The repair, replacing or renovating of a part (or parts) of a structure, which do not require a building permit as specified by the Building Code as set forth in the Town Code.

MANUFACTURED HOME: A dwelling unit fabricated on a permanent chassis at an offsite manufacturing facility for installation at the building site, and bearing a label certifying it as built, or upgraded, to compliance with the Federal Manufactured Housing Construction and Safety Standards Act. It bears a mobile ID number and is larger than 400 square feet.

MANUFACTURING USE: See "*USE*".

MEDICAL MARIJUANA:

All parts of genus cannabis whether growing or not, and the seed of such plants that may be administered to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

MEDICAL MARIJUANA DESIGNATED CAREGIVER CULTIVATION LOCATION:

- A Medical Marijuana designated Caregiver cultivation location or cultivation by a designated Caregiver refers to cultivation of Medical Marijuana by a Caregiver whose registration card indicates that the Caregiver has
- been authorized to cultivate marijuana plants for a qualifying patient(s) medical use, pursuant to the Arizona Medical Marijuana Act A.R.S. § 36-2804.A.7.
- A Medical Marijuana designated Caregiver may cultivate Medical Marijuana for qualifying patient(s) within their own residence as a "Home Occupation" (see Part 3 Section 303) as long as all the conditions for a "Home Occupation" are met per the Planning & Zoning Ordinance and the Arizona Medical Marijuana Act A.R.S. § 36-2804.

MEDICAL MARIJUANA DISPENSARY:

A non-profit Medical Marijuana Dispensary registered and certified pursuant to the Arizona Medical Marijuana Act A.R.S. § 36-2804 that may also include a Medical Marijuana Infusion Facility.

MEDICAL MARIJUANA DISPENSARY OFF-SITE CULTIVATION LOCATION:

The one additional location, if any, where marijuana may be cultivated for the use of a specific Medical Marijuana Dispensary as disclosed pursuant to A.R.S. § 36-2804. A Medical Marijuana Dispensary Off-Site Cultivation Location may cultivate Medical Marijuana for more than one Dispensary as allowed by Arizona Medical Marijuana Act A.R.S. § 36-2804.

MEDICAL MARIJUANA INFUSION FACILITY:

A Facility that incorporates Medical Marijuana by means of cooking, blending, or incorporation into consumable/edible goods pursuant to Arizona Medical Marijuana Act A.R.S. § 36-2804.

MEDICAL MARIJUANA QUALIFYING PATIENT:

A qualifying patient means a person who has been diagnosed by a physician as having a debilitating medical condition and also has a registry identification card issued by the Arizona Department of Health Services that identifies the person a registered qualifying patient pursuant to Arizona Medical Marijuana Act A.R.S. § 36-2804.

MEDICAL MARIJUANA QUALIFYING PATIENT CULTIVATION LOCATION:

A Medical Marijuana Patient Location shall mean cultivation of medical marijuana by a qualifying patient pursuant to Arizona Medical Marijuana Act A.R.S. § 36-2801 but shall only include a qualifying patient who is also a card holder, authorized to cultivate marijuana plants pursuant to the revisions of Act A.R.S. § 36-2804.2.

MEMORIAL PARK CEMETERY: See "CEMETERY"

MINE: 1) A cavity in the earth from which minerals and ores are extracted; 2) The act of removing minerals, ores, or other natural resources.

MINING: The extraction of minerals, ores, rock materials, or other natural resources. The term also includes quarrying; well operation; milling, such as crushing, screening, washing and floatation; and other preparation customarily done at the mine site or as part of the mining activity.

MOBILE/MANUFACTURED HOME PARK: "Mobile/Manufactured Home Park: A parcel of land used (or designed) for the location of more than one Mobile/Manufactured Home that are or intended to be occupied as dwellings, upon lots which are not conveyable but no Accessory Dwelling Unit (ADU) authorized per section 311 shall be deemed a Mobile/Manufactured Home Park.

MOBILE HOME: A portable dwelling unit larger than 400 square feet and manufactured prior to June 15, 1976, designed and constructed to permit permanent occupancy as a residence and also to facilitate transfer from one site to another by means of a chassis with wheels and hitch or flatbed truck.

MODULAR HOUSING: Factory-built housing that is certified as meeting the state or local building code. It does not have a mobile ID. Modular housing is considered site-built housing.

MORTUARY: A building where the dead are prepared for burial or cremation. (All funeral automobile processions are to be confined to the mortuary premises).

MOTEL: See "HOTEL".

NET ACREAGE: The remaining ground area of a parcel after deleting all portions for proposed and existing public rights-of-way.

NEWSPAPER OF GENERAL CIRCULATION: A daily newspaper widely available and distributed in the local area (if one is published), or if no daily newspaper is published, a local weekly newspaper may be used.

NONCONFORMING USE: See "USE".

NONCONFORMING STRUCTURE: A building or structure that was in place prior to, and use provisions other applicable ordinances with which it now conflicts.

NONCONFORMING LOT OF RECORD: A parcel created and recorded prior to and use provisions and other applicable ordinances with which it now conflicts.

NUISANCE: Has the meaning set forth in Town Code Article 10-2. It is a nuisance, and is no less a nuisance because the extent of the annoyance or damage inflicted is unequal, for anything to be injurious to health, indecent, offensive to the senses or an obstruction to the free use of property that interferes with the comfortable enjoyment of life or property.

OCCUPANCY: The purpose for which a building, or part thereof, is used or intended to be used.

OPEN LAND CARNIVAL & RECREATION FACILITIES: Accessory uses pertaining to carnival and recreation activities within open land in association with religious or educational primary uses confined to same lot.

OUTDOOR RECREATION FACILITY: An area designed for active recreation, whether publicly or privately owned, including but not limited to parks, baseball diamonds, soccer and football fields, golf courses, tennis courts, swimming pools, equestrian facilities, archery and shooting ranges.

PARCEL: Real property with a separate or distinct number or other designation shown on a plan recorded in the office of the County Recorder, or real property delineated on an approved survey, parcel map or subdivision plat as filed in the office of the County Recorder and abutting at least one public right-of-way or easement determined by the Community Development Director or Council to be adequate for the purpose of access.

PERMIT: A document issued by a governmental agency granting permission to perform an act or service which is regulated by the Town, County, a State agency or the Federal Government.

PERMITTED USE: See "USE".

PERSON: Includes a corporation, company, partnership, firm, association or society, as well as a natural person.

PERSONAL SERVICES: Establishments primarily engaged in providing services involving the care of a person or his/her apparel, such as laundry cleaning and garment services, garment pressing, linen supply, diaper service, coin-operated laundries, dry cleaning plants, carpet and upholstery cleaning, photographic studios, beauty shops, barber shops, shoe repair, hat cleaning, funeral services, reducing salons and health clubs, and clothing rental.

PLANNED AREA DEVELOPMENT (PAD): For purposes of these regulations, a Planned Area Development is:

- a. Land under unified control, to be planned and developed as whole;

- b. In a single development operation or a definitely programmed series of development phases, including all lands and buildings;
- c. For principal and accessory structures and uses substantially related to the character and purposes of the development;
- d. According to comprehensive and detailed plans that include not only the locations of streets, utilities, lots, or building sites and the like, but also, site plans and floor plans for all buildings as intended to be located, constructed, used, and related to each other, and detailed plans for other uses and improvements on the land as related to the buildings; and
- e. With a program for provision, operation, and maintenance of such area, facilities, and improvements as will be available for common use by some or all of the occupants or visitors to the development site, but will not be provided, operated, or maintained at general public expense.

PORCH: An open, roofed, structural projection of which no portion extending into a front or side yard shall be enclosed by walls, screens, lattice or other material higher than 54 inches above the natural grade line adjacent thereto; which porch is to be used solely for ingress/egress or leisure purposes and not for occupancy as a sleeping porch or wash room.

PLANNING COMMISSION or COMMISSION: The Planning and Zoning Commission of the Town of Camp Verde.

PLANNING DEPARTMENT: The Community Development Department of Camp Verde, Arizona.

PROFESSIONAL USE: See "USE".

PROPERTY LINES: Those lines outlining the boundaries of properties on lots for the purpose of description in sale, lease, building development, or other separate use of property.

RECLAMATION PLAN: A document, in written words and/or illustrations, describing how land will be restored and made into suitable and useful condition for development or open space after a temporary use or activity on the land is finished or completed.

RECREATIONAL VEHICLE: A vehicular type unit primarily designed as temporary living accommodation for recreational, camping and travel use, which can be towed, hauled or driven and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

RESIDENTIAL USE: See "USE".

RESTAURANT: An establishment (other than a boarding house) where the public may procure meals, which are prepared therein.

REST HOME: See "LONG TERM CARE FACILITY".

REVOCABLE: Able to be voided or annulled by recalling, withdrawing, or reversing

RIGHT-OF-WAY: A strip of land acquired by reservation, dedication, forced dedication, condemnation or prescription and intended to provide space for the installation and maintenance of a road, sidewalk, trail, railroad, utilities, or other similar uses.

ROOMING OR BOARDING HOUSE: A dwelling, otherwise permitted in the District in which it is situated, containing no more than 5 guest rooms and in which food may or may not be served to the occupants thereof. Any dwelling in which more than 5 rooms are occupied as guestrooms shall be deemed to be a hotel.

SALES STAND: A booth or stall for the vending of products, established by Temporary Use Permit (Section 601.d), and consistent with the regulations of the district in which it is located.

SCHOOL: A place of general instruction having accredited instruction acceptable to the educational authorities within the school district of the jurisdiction.

-NURSERY: An establishment enrolling more than four preschool children and where tuition, fees, or other forms of compensation for the care and instruction of the children is charged, and which is licensed or approved to operate by the State.

SCREENING: A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

SETBACK: The distance between the street right-of-way line or a property line and the front, rear or side line of a building or any projection thereof; and which extends across the full width or depth of a lot, and in which no building or structure shall be constructed, except as provided in this Zoning Ordinance; also see "YARD".

SITE PLAN: The plan for development of one or more lots showing the existing and proposed conditions of the lot including but not limited to: topography, vegetation, drainage, floodplains, waterways, utility services, landscaping, structures and signs, lighting and screening devices; and any other information that may be required in order for the approving authority to make an informed decision.

SLEEPING ROOM: A room used for sleeping, other than a guestroom, in which no cooking facilities are provided.

SHIPPING CONTAINER: A standardized metal storage container designed and built for intermodal freight transport used to store and transport materials and products using different modes of transport. Also known as cargo container, freight container, ISO container, shipping, sea or ocean container or Conex box.

SPOT ZONING: Rezoning a lot or parcel of land to benefit the owner for a use that is incompatible with surrounding uses and does not conform with the adopted General Plan.

STIPULATIONS: Conditions under which a property or use are required to comply established by the Town as a qualification for approval.

STORAGE FACILITY Any multi-unit facility designated or used for the purpose of providing individual compartmentalized and controlled access stalls or lockers for the storage of customers' goods and wares

STORY: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than 6 feet (1829 mm) above grade, as defined herein, for more than 50 percent of the total perimeter or is more than 12 feet (3658 mm) above grade, as defined herein, at any point, such usable or unused under-floor space shall be considered as a story. Or as defined in the currently adopted building code.

FIRST: The lowest story in a building that qualifies as a story, as defined herein, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than 4 feet (1219 mm) below grade, as defined herein, for more than 50 percent of the total perimeter, or not more than 8 feet (2438 mm) below grade, as defined herein, at any point. Or as defined in the currently adopted building code.

STREET: Any existing or proposed public or private area intended for vehicle circulation and access including any easement for public vehicular access, a street shown upon a plat approved pursuant to law, or a street upon a plat duly filed and recorded in the County Recorder's Office. A street includes all land within the street right of way whether improved or unimproved, that may include improvements such as pavement, shoulders, ditches, utilities, drainage structures, curbs, gutters, sidewalks, paths, parking spaces, traffic signals, and street lights. See Part Five, Section 501 for street classifications.

STRUCTURE: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

TOWN: The Town of Camp Verde, Arizona, shall include the Town Council, Planning Commission and other Town officials.

UNCLAIMED PUBLICATION: Any newspapers, fliers, handbills, advertisements, signs or other papers that are in plain view; either along private or public roadways or on private or public property, that creates an unsightly atmosphere, which contributes to neighborhood deterioration and causes a public nuisance.

UNSAFE BUILDING(S) OR STRUCTURE(S): Structures or building service equipment that are or hereafter become structurally unsafe, unsanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or that constitute a fire hazard, or are otherwise dangerous to human life or which in relation to existing use constitutes a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, or abandonment, as specified in the Town Code Section 7-2-108.1, technical codes or any other effective ordinance, are for the purpose of this section, unsafe buildings. A vacant structure that is not secured against entry shall be deemed an unsafe condition. Unsafe conditions and structures shall be taken down, removed or made safe, as the Building Official deems necessary and as provided in the Town Code. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in the Town Code Sections 7-2-108 2-5. Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are supported by, attached to, or a part of a building and which are in a deteriorated condition or are otherwise unable to sustain the design loads which are specified in the Town Code, are hereby designated as unsafe building appendages per Section 7-2-108.1.2. All such unsafe building appendages are public nuisances and shall be abated in accordance with Section 7-2-108.1 of the Town Code.

USE: The purpose for which a building, or lot, or structure, is arranged, designed, occupied or maintained.

-**ACCESSORY:** A use incidental to the principal use on the same lot.

-**CHARITABLE:** Property used by a nonprofit or philanthropic organization that provides a service beneficial to the general public or to a significant portion of the public for no fee or at a fee recognized as being less than that charged by profit-making organizations.

-**COMMERCIAL:** Activity carried out for pecuniary gain.

-**MANUFACTURING:** The act of transforming materials or substances into new products, either by mechanical or chemical means, including the assembling of component parts; or establishments engaged in the manufacturing of products by assembling of component parts or blending of materials.

-**NONCONFORMING:** A use or activity which was lawful prior to the adoption, revision or amendment of a zoning or other applicable ordinance, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of a zoning or other applicable ordinance. A use operated in an otherwise lawful manner that does not conform to the provisions of the District in which located.

-**PERMITTED:** A use that is allowed in a Zoning District by reason of being listed among the "Permitted Uses" in the District, and is subject to restrictions applicable to the District.

PRINCIPAL OR PRIMARY The primary or predominant use of any Lot or parcel.

-**PRIVATE:** A use restricted to the occupants of a lot or building together with their guests.

-**PROFESSIONAL:** The rendering of services of a professional nature by: members of the professions licensed by competent authority; teachers in a school of general instruction; artists practicing the fine arts; consultants recognized by organizations of licensed professionals.

-**PUBLIC:** A use (or building) located on public land to serve public benefits (but not necessarily available for unrestricted public access).

-**RESIDENTIAL:** Shall be deemed to include single, duplex and multiple dwelling units, guest rooms, mobile/manufactured home parks, rooming and boarding houses, fraternity and sorority houses, convents, home for the aged and similar living accommodations.

-**SALES SERVICES:** A use intended for the sale of services (such as insurance or real estate) provided by professionals (not to include retail sales).

-**TEMPORARY:** A use established for a fixed period of time with the intent to discontinue such use upon expiration of the time period.

VARIANCE: A deviation from the literal requirements of a zoning district; requests for variances shall be in accord with Arizona Revised Statutes §9-462.06.G-2 as may be amended, and with Part Six, Section 602 of this Zoning Ordinance.

VEHICLE: The result of arranging materials and parts together for conveyance over roads (whether or not self-propelled). Such is not deemed a structure in qualifying for a building permit, but as being accessory to the principal use on a lot (except in connection with vehicular rental sales agencies and mobile/manufactured home parks).

VEHICLE, MOTOR: A self-propelled device used for transportation of people or goods over land surfaces and licensed as a motor vehicle.

VETERINARY SERVICES: Establishments of licensed veterinary practitioners primarily engaged in the practice of veterinary medicine, dentistry, or surgery for animals; and establishments primarily engaged in providing testing services for licensed veterinary practitioners.

YARD: An open space, other than a court, unobstructed from the ground to the sky, except where specifically provided by this Zoning Ordinance, on the lot on which a building is situated.

-**FRONT:** A yard abutting the front lot line as defined herein.

-**JUNK, SALVAGE:** Any area, lot, land, parcel, building or structure or part thereof used for the storage, collection, processing, purchase, sale or abandonment of wastepaper, rags, scrap metal or other scrap or discarded goods, materials, machinery including automobile salvage, recycling facilities or other type of junk.

-**REAR:** A yard abutting the rear lot line or rear alley.

-**REQUIRED:** The open space between a lot line and the buildable area within which no structure shall be located except as provided in this Zoning Ordinance; also see "*SETBACK*".

-**SIDE:** A yard abutting a side street (exterior side yard) or a common side boundary (interior side yard) lying between required front and rear yards.

-**WRECKING:** An open-land area used for dismantling or demolition of motor, machinery, equipment or similar and usually storage thereof.

ZONE/ZONING DISTRICT: A specifically delineated area or district within which regulations and requirements uniformly govern the land use, placement, spacing and size of land and buildings, and in which the same zoning regulations apply throughout.

ZONING: The dividing of a municipality into districts and the establishment of regulations governing the use, placement, spacing and size of land and buildings.

ZONING ADMINISTRATOR: The official responsible for enforcement of the Zoning Ordinance; also see "*COMMUNITY DEVELOPMENT DIRECTOR*".

ZONING MAP: The map of all zoning districts that is on file with the Town of Camp Verde, Clerk, and the Community Development Department.

ZONING REGULATIONS/ZONING ORDINANCE: The Planning and Zoning Ordinance of the Town of Camp Verde, Arizona.



Planning & Zoning Ordinances And Subdivision Regulations

PART TWO. ZONING CLASSIFICATIONS

The following sections provide for the location and distribution of various land use types and intensities which may be developed in the Town of Camp Verde. These designations are intended further to be regulated by the criteria set forth in Part Three, General Regulations/ Provisions and Part Four, Development Standards.

SECTION 200 - ZONING CLASSIFICATIONS INTRODUCTION AND PURPOSE

A. Introduction and Purpose

Maintaining desired community character is made possible through measures that assure land use compatibility. Identifying appropriate locations, intensities, mixtures and standards for minimizing negative impacts on nearby property is the fundamental principle of municipal development regulation.

Part Two categorizes appropriate development, in accord with the adopted Town of Camp Verde General Plan, that is both beneficial to the owners of land and to the community's planning vision. In addition to uses permitted in each District as a matter of right, accessory structures or uses are specified, as well as types of activity that may be considered pursuant to obtaining a Use Permit from the Town.

B. Applicability

Zoning District Classifications apply to and differentiate the type and intensity of use of all property in the Town of Camp Verde.

SECTION 201 - ESTABLISHMENT OF DISTRICTS

In conformity with the Purpose and Effect of this Ordinance USE DISTRICTS are hereby established in order to classify, regulate, restrict and separate: uses of land and structures; lot dimensions and areas; yard widths and depths, percent of lot coverage and open spaces; permitted density, height and bulk of structures, and related building considerations. Any reference to a "Use" shall be deemed to include "principal and accessory uses and structures".

SECTION 202 - ZONING MAP

An officially adopted map delineating the locations and boundaries of the various Use Districts within any portion of the incorporated area of the Town of Camp Verde, together with subsequent supplementary maps, shall be known collectively as the Zoning Map for Camp Verde, Arizona, and becomes an official record, as part of this Zoning Ordinance as if the matters and information set forth by said map were fully described herein.

Lands annexed into the Town shall be assigned temporary zoning designation until such time as Town zoning is adopted for the annexed area. Within six months from the effective annexation date, the property owners shall either accept the Agricultural zoning district designation or initiate rezoning on the subject property consistent with the adopted Town of Camp Verde General Plan.

A. District Boundary Determination:

District boundaries on the Zoning Map are intended to follow lot lines, subdivision lines, section lines or center lines of streets, alleys, or other right-of-ways (or extensions thereof), unless otherwise referenced by specific dimensions.

1. District boundaries may be established by designation subsequent to annexation of land into the Town and may be amended as a result of rezoning approval or other Town Council action. Boundary changes are in force as of the Council action's effective date and shall be recorded on a supplemental map until such time as a comprehensive Zoning Map update is approved.
2. Uncertainty of the location of a district boundary shall be determined by the Board of Adjustment and Appeals unless same can be resolved, to the satisfaction of the Inspector and persons of interest, by using the scale of the map. Where such boundary scales to within 25 feet of a common division line or a right-of-way, then it shall be deemed as following such division line or the center of the right-of-way, as the case may be.

B. Abandoned Rights-of-Way:

Where a public street or alley or other right-of-way is officially abandoned, any abutting district boundary shall be adjusted to extend to the centerline of the former right-of-way.

SECTION 203 - USE DISTRICTS

All incorporated areas of Camp Verde, subject to the provisions of this Ordinance are hereby divided into Use Districts which, together with the General Regulations/Provisions (where applicable), control the operation of uses and placement of structures. All structures built or placed on any site shall be constructed in accordance with the Town's adopted building codes and regulations; or bear a label certifying compliance with the Federal Manufactured Housing Construction and Safety Standards Act. No vehicle, including recreational vehicles, railroad cars or other structures not engineered for use as an accessory structure shall be placed on the property and used as an accessory structure. Any use or structure not specifically permitted by (or analogous to) District Provisions shall be deemed prohibited and unlawful as a principal or an accessory use or structure for the District

Use District Development Criteria (Section 204) are applicable to each respective District as minimum requirements necessary to maintain compatible parcel areas, dimensions, density, height, building bulk, setback, and related standards among the District's uses.

Use Districts and their order (from most to least restrictive) in applying the use provisions of the Zoning Ordinance are as follows:

- A. **R1L DISTRICT** (Residential: single-family limited)
- B. **R1 DISTRICT** (Residential: single-family)
- C. **R2 DISTRICT** (Residential: multiple dwelling units)
- D. **R-R DISTRICT** (Residential-Rural), (Formerly RCU)

- E. RS DISTRICT (Residential and Services)
- F. C1 DISTRICT (Commercial: neighborhood sales and services)
- G. C2 DISTRICT (Commercial: general sales and services)
- H. C3 DISTRICT (Commercial: heavy commercial)
- I. PM DISTRICT (Performance Industrial)
- J. MI DISTRICT (Industrial: general)
- K. M2 DISTRICT (Industrial: heavy)
- L. PAD DISTRICT (Planned Area Development)
- M. OS DISTRICT (Open Space resource conservation zone)
- N. AG DISTRICT (Agricultural)
- O. CF DISTRICT (Community Facilities)

B. D. R-R DISTRICT (Residential-Rural), (Formerly RCU)

1. Purpose:

The R-R District is intended to provide a zoning classification for portions of the incorporated area of Camp Verde not presently characterized by urban uses, and to provide for rural, large lot residential uses. Manufactured, Modular or Site Built. Mobile Homes Prohibited (See Part 3 Section 306.B.1.b.3).

Permitted Uses and Structures:

- a. Accessory Dwelling Unit (ADU).
- b. Agriculture and cultivation.
- c. Bed and Breakfast.
- d. Community parks, playgrounds or centers.
- e. Dwelling unit for one family on any one lot (See D.1).

Educational institutions (including private schools, provided they offer curriculum of general instruction comparable to similar public schools).

- f. Flood control facilities.
- g. Golf courses with accessory uses such as pro shops, shelters, and rest rooms.
- h. Historical Landmarks.
- i. Home occupations (See Section 303).
- j. Keeping of farm animals, limited (See Section 305).
- k. Open land carnival and recreation facilities (religious & educational institutions).
- l. Other accessory uses commonly associated with primary permitted use. (See Section 301 C.)
- m. Religious institutions (in permanent buildings).

2. Uses and Structures Subject to Use Permit

- a. Government facilities and facilities required for the provision of utilities and public services.
- b. Veterinary Services.
- c. Mobile/manufactured home and recreational vehicle parks subject to the requirements of Section 306.

- 1) Notwithstanding the foregoing, in the event a Planned Area Development (PAD) District is established per Section 203, this use may be included in any Development Plan thereunder and approved without being subject to a Use Permit application and hearing procedures set forth in Section 601.

d. Temporary Use Permits, subject to administrative approval (See Section 601.C):

- 1) Occupancy of temporary housing, including travel trailers, during the construction of a permanent dwelling is allowed during the 12-month period after issuance of a building permit.
- 2) Model homes, temporary offices (construction and pre-construction sales offices/showrooms), construction sheds and yards incidental to a recorded residential development or other construction project (subject to District setbacks) for a period not to exceed 12 months.

e. All uses with a valid Use Permit for expanded uses, including those uses listed in items a.-d., above, in effect as of June 24, 2011 will retain all rights associated with the Use Permit for the term of that Use Permit. Prior to the expiration of the said Use Permit, the owner may apply for a Use Permit, subject to all the requirements of Section 601.A-C, to continue the existing uses and any proposed new uses at the sole discretion of and as may be modified by the Town Council. (Ord 2013 A388).

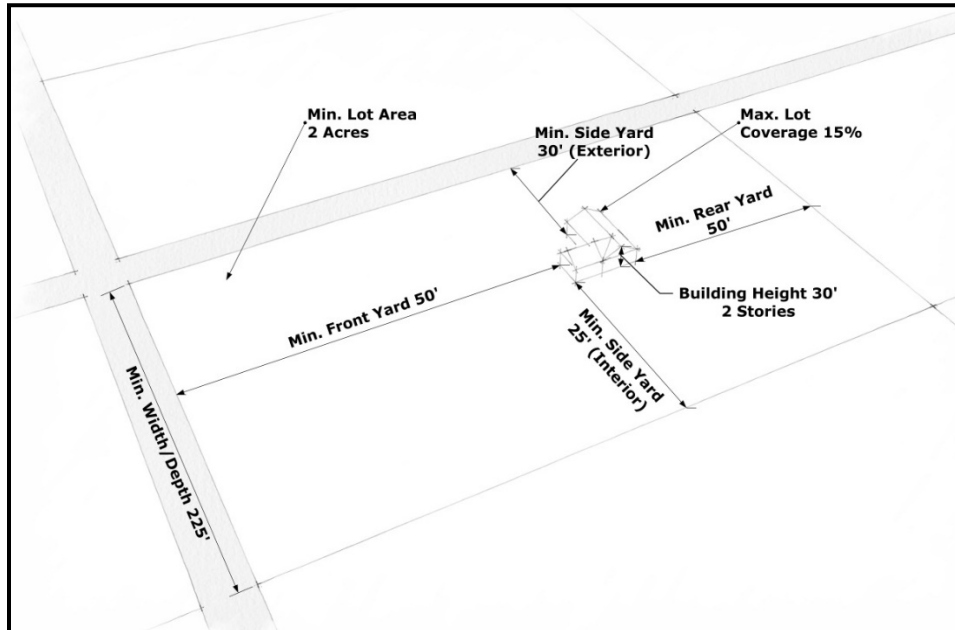
f. Agri-Tourism, Application submission, required information, procedures and review are subject to Use Permit and criteria and specific showings of:

- 1) Adequate points of direct ingress and egress for patron safety and direct emergency vehicle access;
- 2) Ample on-site parking for normal business activity and provisions for special event overflow parking;
- 3) Adequate separation distance limitation of hours of operation, and/or additional measures to mitigate negative effects of lighting, noise, traffic, dust and other detrimental environmental factors on nearby residential uses or vacant residentially zoned property.
- 4) Provision for patrons' health, safety and comfort including but not limited to shade, first aid and water stations, sanitary facilities, food and beverages, trash receptacles/removal, and appropriate security.

5) A full two (2) acres (87,120 square feet) parcel is required to obtain a Use Permit for Agri-Tourism (Ord 2015 A206).

Table 2-4: R-R Dimensional Standards	"R-R"
Minimum Lot Area (sq.ft.)	87,120' (2 acres)
Minimum Width OR Depth (feet)	225'
Maximum Bldg Ht (stories)	2
Maximum Bldg Ht (feet)	30'
Maximum Lot Coverage (%)	15%
Minimum Front Yard (feet)	50'
Minimum Rear Yard (feet)	50'
Minimum Side Yard Interior (feet)	25'
Minimum Side Yard Exterior (feet)	30'

Table 2-4: R-R Dimensional Standards



B. Requirements for Home Occupations:

Limitations on home businesses include the following:

1. Not more than one outside employee (not residing on the premises). An additional employee may be permitted, subject to Use Permit approval.
2. Sales (retail or wholesale) or storage of inventory not required for on-site business practice is prohibited.
3. Floor area devoted to business use is limited to 25% of the total floor area of structure(s) on the premises in which the home occupation is conducted.
4. Appropriate access and parking spaces shall be provided for business invitees and any outside employees in addition to those required for the residence (See Section 403, Parking).
5. Signage for a home occupation is limited to identification as specified in Section 404F "Nameplate".

SECTION 304 – MEDICAL MARIJUANA FACILITIES

The requirements as listed below will apply to both Medical Marijuana Dispensaries and Medical Marijuana Dispensary Off-site Cultivation Location/Facility.

A. Requirements

1. In addition to the rules of the Arizona Department of Health Services, all Medical Marijuana Dispensaries and Medical Marijuana Dispensary Off-Site Cultivation Location/Facilities shall be no less than 500' from any Day Care facility for children.
2. Medical Marijuana Infusion facilities shall only be permitted within a Medical Marijuana Dispensary or at a Medical Marijuana Dispensary Off-Site Cultivation Location.

B. SEE PART 1 SECTION 103 FOR THE FOLLOWING DEFINITION OF TERMS:

1. Medical Marijuana (See Part 1 Section 103).
2. Medical Marijuana Designated Caregiver Cultivation Location (See Part 1 Section 103).
3. Medical Marijuana Dispensary (See Part 1 Section 103).
4. Medical Marijuana Dispensary Off-Site Cultivation Location (See Part 1 Section 103).
5. Medical Marijuana Infusion Facility (See Part 1 Section 103).
6. Medical Marijuana Qualifying Patient (See Part 1 Section 103).
7. Medical Marijuana Qualifying Patient Cultivation Location (See Part 1 Section 103).

SECTION 305 - ANIMALS

Keeping of farm animals in appropriate locations and circumstances is regarded as being consistent with the Town's rural character. However, the number, size, type or manner in which animals are maintained on any parcel shall not impair the enjoyment or use of nearby properties or violate other legal restrictions to which the properties are subject. Any lot where farm livestock are kept must be not less than one-half acre (21,780 sq ft.) in area.

Fowl (chickens, ducks, geese, turkeys, and peacocks) rabbits, and guinea pigs, which are cared for by the property owner or occupant as prescribed in Section 305.C.3, are not limited to a maximum number of animals.

A. Allowed Livestock

Any of the species listed below which are cared for by the property owner or occupant according to the following Animal Points. All livestock activity within the Town limits will be considered an accessory use to the principal use on any parcel except in the Agriculture District.

1. Lots of one-half acre to one acre in area may maintain animals totaling up to 24 points as set forth below.
2. Lots of one acre or more may increase the allowable number of points by an increment of six points for each additional, contiguous quarter acre.

B. Animal Points Allowed per Acreage

The allowable type and number of animals permitted on a particular property is computed by the following allotment table:

SPECIES (or associated types)	POINTS	SPECIES (or associated types)	POINTS
Alpacas:	3 POINTS	Miniature horses, Ponies and Sicilian donkeys:	6 POINTS
Emus:	3 POINTS	Ostriches:	6 POINTS
Pygmy goats:	3 POINTS	Cattle:	12 POINTS
Sheep, Goats:	4 POINTS	Domestic deer:	12 POINTS
Llamas:	6 POINTS	Horses, Mules, and Donkeys	12 POINTS

1. **Prohibited Livestock:** Swine are prohibited within residential zones, unless excepted under paragraph 2b.
2. **Exceptions:**
 - a. Young nursing animals of allowed adult livestock are not counted.
 - b. Swine may only be raised on property of an acre or more under the following conditions:
 - 1) One pet or butcher pig per parcel.
 - 2) Additional Swine, breeding or reproduction stock requires Use Permit approval in accordance with Section 305.C.1.
 - 3) All pens containing swine must meet the setback requirements for the zoning district.
 - 4) Additional 4-H or FFA swine will require a Temporary Youth Organization Use Permit as set forth in Section 305.C.2.d below.

C. Additional Requirements for Keeping Animals

1. **Use Permit:** A Use Permit is required for any of the following:
 - a. Any Commercial Livestock Activity that exceeds allowed animal points and defined as raising livestock for sale for pecuniary gain and selling more than one litter, or more than ten animals in one year, other than horses and cattle.

- b. Any Livestock Breeding Activity as defined as an ongoing breeding project that involves two or more reproducing adults, other than horses or cattle. (Swine breeding is addressed in paragraph B.2.c).
2. **Temporary Youth Organization Use Permit:** The Community Development Director may issue a Temporary Use Permit allowing the following livestock under the following conditions and using reasonable discretion:
- a. Supervised youth livestock market project of one market animal conducted on property less than one-half acre, or for one swine on less than one acre, for a period specified by a start and stop date not to exceed ten months in duration.
 - 1) One additional market swine project will be allowed with each additional one-half acre, not to exceed 5 swine per parcel.
 - 2) Swine will be restricted to one market swine project per youth organization member.
 - b. Supervised youth livestock market project that exceeds the number of animals allowed according to the animal points on property greater than one-half acre in size.
 - c. An application for the Temporary Use Permit shall be submitted to the Community Development Director, or designee, who shall determine that the application meets the criteria set forth in this Zoning Ordinance. There will be no charge for the Permit.
 - d. An application shall bear the signature of the local livestock Youth Advisor acknowledging that the project is a valid youth project, and the signature of at least one parent or guardian, as well as the signature of the youth acknowledging and accepting complete responsibility for the project.
 - e. If the Youth Advisor agrees in writing to accept all enforcement responsibility for his/her members, no review will be required by the Community Development Director.
 - 1) In September the Youth Advisor must register with the Community Development Department agreeing to this commitment.
 - 2) The Youth Advisor will provide the following documentation to the Community Development Department by December 1st.
 - a) A roster with the name, address and project type for all active members under their supervision.
 - b) Property owner's permission to conduct livestock activity on the subject parcel.
 - c) Parent's statement of responsibility.
 - d) Contact information for the Youth Advisor.
 - 3) A sign must be posted on the property where the livestock activity will be conducted, indicating membership in the Youth Livestock Organization, the year in which the project is conducted, and number of livestock.
 - 4) If complaints are received and compliance cannot be met, the Youth Advisor will notify the Code Enforcement Official and will support any action taken by the Town.
 - 5) The ultimate decision on whether the activity is in compliance with the current Town Code will be made by the Community Development Director or designee.
 - f. A decision of the Community Development Director or designee may be appealed to the Town Council pursuant to Section 602 B.

- 1) The livestock market projects shall be of a limited duration specified by a start and stop date not to exceed ten months in one calendar year, allowing for care, feeding and grooming of such animals to be shown and/or sold annually at such events such as the Verde Valley, Yavapai County and/or Arizona State Fair.
 - 2) In the instance that a prize-winning animal is to be entered into competition more than one time, an extension of the permit may be applied for, and after evaluation by the Community Development Department, conditionally extended.
3. **Maintenance of Livestock Facilities.**
- a. All structures and pens for animals shall be maintained in a clean and slightly manner so as not to be a nuisance to their neighbors.
 - b. Stables, barns, or structures used for housing or feeding animals must observe the same setbacks or yards as the dwelling unit.
 - 1) Exception: Lots directly abutting National Forest Service Land, Trust Land and BLM Land in the rear and/or lots directly abutting Designated Open Space may encroach in the rear setback requirement. The distance from the rear setback is twice the height of the structure. The side setback and front setback must be maintained in all instances.
 - c. Where the keeping of such animals becomes a nuisance, as defined in the current Town Code, the Code Enforcement Official shall have the authority to determine a reduction in the number of and/or removal of the animals as necessary to comply with the current Town Code.
 - d. The Code Enforcement Official has the authority to determine that removal of the animals in circumstances where they constitute a health or safety hazard to human beings is necessary to comply with the current Town Code.

SECTION 306 - MOBILE/MANUFACTURED HOME PARKS (MHP & RV PARKS)

A. Mobile/Manufactured Home and Recreational Vehicle Parks Placement Procedure:

1. **Permits:** Permits shall be required for all mobile and/or manufactured homes installed, placed, kept or stored within the limits of Camp Verde (except for unoccupied units on sales lots or authorized storage facilities). Permits shall be issued only for the placement of mobile homes/manufactured homes within mobile/manufactured home parks.
 - a. Permits shall be required for all building and structures within mobile/manufactured home or RV parks. It shall be unlawful for any person to construct, maintain or operate any mobile/manufactured home park or RV park within the limits of Camp Verde unless they hold a valid use permit and valid installation permits issued by the Community Development Department for each specific manufactured home, mobile home, or structure.

The fee for all permits shall be determined by resolution of the Town Council. Issuance of permits shall be made by the Community Development Department and shall be contingent upon compliance with all health laws and regulations of the State of Arizona and the County of Yavapai; and this Zoning Ordinance:

Permit applications shall be received and processed according to the current codes.
 - b. Applications for permits to construct or enlarge mobile/manufactured home parks or RV parks shall be made in writing, signed by the applicant who shall file with the application proof of