

TOWN OF PINETOP-LAKESIDE

ORDINANCE NO. 09-328

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PINETOP-LAKESIDE, ARIZONA, REPEALING "TOWN CODE CHAPTER 17.80 CONDITIONAL USE PERMITS," AND ADOPTING NEW "TOWN CODE CHAPTER 17.80 CONDITIONAL USE PERMITS."

WHEREAS, the proposed "Town Code Chapter 17.80 Conditional Use Permits," is declared to be a public record by adopting Resolution No. 09-1051; and

WHEREAS, pursuant to Arizona Revised Statutes § 9-802, three (3) copies of Town Code Chapter 17.80 Conditional Use Permits are on file in the Office of the Town Clerk, and referred to in this Ordinance by reference; and

WHEREAS, the Town of Pinetop-Lakeside desires to repeal the existing "Chapter 17.80 Conditional Use Permits."

NOW THEREFORE BE IT ORDAINED by the Mayor and Town Council of the Town of Pinetop-Lakeside, Arizona as follows:

Section 1. Town Code Chapter 17.80 Conditional Use Permits is repealed in its entirety.

Section 2. Town Code Chapter 17.80 Conditional Use Permits is hereby adopted by reference, as if fully set forth herein. A copy of the full text of this new Chapter 17.80 Conditional Use Permits is attached as Exhibit "A."

Section 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of "Chapter 17.80 Conditional Use Permits" adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

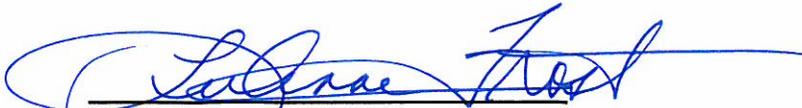
PASSED AND ADOPTED by the Mayor and Town Council of the Town of Pinetop-Lakeside, Arizona, this 18th day of June 2009.

TOWN OF PINETOP-LAKESIDE



LUKE S. SMITH, Mayor

ATTEST:



LU ANNE FROST, Town Clerk

APPROVED:



ROSEMARY H. ROSALES, Town Attorney

Chapter 17.80

CONDITIONAL USE PERMITS

Sections:

17.80.010	Purpose.
17.80.020	Applications.
17.80.030	Hearing required – notices and posting.
17.80.040	Conditional use permit review criteria.
17.80.050	Conditions of approval.
17.80.060	Planning and Zoning Commission action.
17.80.070	Appeals to the Board of Adjustment.
17.80.080	Effect of approval.
17.80.090	Development under an approved conditional use permit.
17.80.100	Compliance and revocations.
17.80.110	Existing nonconforming uses.
17.80.120	Fees.

17.80.010 Purpose.

Conditional use permits shall be authorized by the Planning & Zoning Commission, after a public hearing, to allow a conditional use of land or structures within the Town. Conditional use permits shall only be granted for uses expressly authorized by these zoning regulations. Uses which are not permitted in the various zoning districts shall not be authorized by conditional use permit. The Town may permit as a conditional use only the following:

A. Any conditional use expressly authorized by the "Use Regulations" section of each respective zoning district, or for a use which is substantially similar to any such use.

B. Signs, but only for uses permitted by Chapter 17.108 of the zoning regulations. (Ord. 97-139 § 2 (part); Ord. 90-82 § 1701) (Ord. 09-328)

17.80.020 Applications.

A completed application, non-refundable filing fee and an advertising fee shall be submitted to the Community Development Department. The application form for conditional use permit shall contain the following information:

A. The name(s) and address(es) of the owner(s) of the affected property.

B. A statement of the reasons for the request in accordance with review criteria listed in Section 17.80.040.

C. If the applicant is a person other than the owner(s) of the affected property, written consent signed by all owners of the affected property authorizing the filing of the application and authorizing the conditional use requested.

D. An accurate legal description for the affected property.

E. That portion of the official Assessor's map maintained by the Navajo County Tax Assessor Office reflecting the actual boundaries of the property affected, or a certified survey. Maps must be legible and reasonably useful for the purposes herein intended.

F. A map showing the affected property as well as the surrounding property located within a distance of three hundred (300) feet. A portion of the official assessor's map maintained by the Navajo County Tax Assessor will suffice.

17.80.020

G. The current land use zoning classification, or conditional use permit, with any specified conditions.

H. The land use zoning classification or conditional use classification.

I. Facilities and services impact analyses, including traffic/access, water system, sewer system, electric power, or other public or private facilities/services analyses as requested by the Director.

J. A description of the intended use(s) of the affected property.

K. A conceptual site plan and schedule of development, if applicable. (Ord. 97-139 § 2 (part): Ord. 90-82 § 1702)

17.80.030 Hearing required – notices and posting.

A. No conditional use permit will be granted without the public hearing(s) and notice(s) required by Arizona Revised Statutes, Title 9, Chapter 4, Article 6.1.

B. In addition to the notice requirements set forth in subsection A of this section, notice of the public hearing for the requested zoning map amendment shall be posted on the Town Hall bulletin board, the Pinetop and the Lakeside Post Offices, and at such other places as the Planning and Zoning Commission recommends.

C. A courtesy notice may be mailed to the property owners of record within a radius of three hundred (300) feet, provided, however, that failure to mail or receive such courtesy notice shall not affect any action or proceedings taken hereunder. (Ord. 97-139 § 2 (part): Ord. 90-82 § 1703)

17.80.040 Conditional use permit review criteria.

The Planning and Zoning Commission shall consider, where applicable, the following criteria:

A. Access and traffic; pedestrian, bicycle and vehicular circulation.

B. Dedication and development of streets adjoining the property.

C. Adequacy of site and open space provisions, including site capacity and resource protection standards where applicable.

D. Noise, vibration, light, visual, and other considerations.

E. Proposed style and siting of structure(s), and relationship to the surrounding properties.

F. Site plan or building permit requirements, if applicable.

G. Landscaping and screening provisions.

H. Impact on public and private utilities or services.

I. On-site and off-site improvements.

J. Signage and outdoor lighting.

K. Compliance with the official zoning map and the general plan.

L. Impacts on historical, cultural, prehistoric, or natural resources.

M. Frequency of use.

N. Size of land area required.

O. Other unique and relevant circumstances which exist. (Ord. 97-139 § 2 (part): Ord. 90-82 § 1704)

17.80.050 Conditions of approval.

A conditional use permit shall be issued with the following conditions:

A. Conditions reasonably necessary to ensure the property's compatibility with surrounding properties and the neighborhood.

B. Conditions imposed to ensure adequate on-site and off-site improvements.

C. Any other conditions of the conditional use permit or the site plan imposed by the Planning and Zoning Commission, including:

1. Limitations on lot size, building dimensions, and location.

2. Requirements for additional landscaping or open space buffers.

3. Provision of adequate ingress and egress.

4. Duration of the conditional use permit.
5. Hours of operation of the use.
6. Time limits on construction.
7. Mitigation of adverse environmental impacts.
8. Noise, vibration, and light limitations. (Ord. 97-139 § 2 (part); Ord. 90-82 § 1705)

17.80.060 Planning and Zoning Commission action.

After public hearing on the application, the Planning and Zoning Commission shall render a decision for disapproval or approval, with or without conditions. (Ord. 97-139 § 2 (part); Ord. 90-82 § 1706)

17.80.070 Appeals to the Board of Adjustment.

A. Any person, aggrieved by a decision of the Planning and Zoning Commission to approve or disapprove a conditional use permit may file an application for appeal with the Board of Adjustment. Within ten (10) calendar days of the decision such appeal shall be taken by filing with the Director and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Director shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the appeal was filed.

B. The Board of Adjustment shall fix a time for hearing the appeal and shall give notice of the hearing to the parties in interest and the public as required by Arizona Revised Statutes, Title 9, Chapter 4, Article 6.1. (Ord. 97-139 § 2 (part); Ord. 90-82 § 1707)

17.80.080 Effect of approval.

A. Issuance of a conditional use permit shall be deemed to authorize only the particular use and site plan for which it is issued.

B. Issuance of the conditional use permit and the conditions of approval shall be binding upon the applicants, their successors and assigns; shall run with the land; shall limit and control the issuance and validity of certificates of occupancy, and shall restrict and limit the construction, location, use, and maintenance of all land and structures within the development. The applicant shall also be required to sign the conditional use permit, have it notarized, and have it recorded by the Town in the office of the Navajo County Recorder. (Ord. 97-139 § 2 (part); Ord. 90-82 § 1708)

17.80.090 Development under an approved conditional use permit.

A. A conditional use permit shall become null and void two years after the date of approval unless the following have occurred:

1. The conditional use has been established when a building permit has been issued.
2. An extension has been granted by the Planning and Zoning Commission. Such extension shall be for a maximum of one hundred eighty (180) days, and no extension may be granted which would extend the validity of the permit more than thirty (30) months beyond the date of approval of the original conditional use permit. The Commission may, when granting an extension to a conditional use permit, modify the original conditions or add conditions to the original conditional use permit.

B. Development of the use shall not be carried out until the applicant has secured all other permits and approvals required by these zoning regulations or other codes of the Town, or other applicable county, state, or federal codes or regulations. (Ord. 97-139 § 2 (part); Ord. 90-82 § 1709) (Ord. 09-328)

17.80.100 Compliance and revocations.

The Director, upon inspection and review of any conditional use permit, shall report to the Planning and Zoning Commission when the conditions of operation imposed in the approval and issuance of the permit have not, or are not being complied with. The Director shall notify the permit holder and shall set the matter of revocation for a hearing with Planning and Zoning Commission. If the Planning and Zoning

17.80.100

Commission finds, following a public hearing, that the conditions imposed in the issuance of a conditional use permit have not been complied with, the conditional use permit may be revoked and further operation of the use for which the permit was approved shall constitute a violation of these zoning regulations in accordance with Chapter 17.132. Following any revocation, the Town may file a document evidencing such revocation with the Navajo County Recorder. (Ord. 97-139 § 2 (part); Ord. 90-82 § 1710)

17.80.110 Existing nonconforming uses.

Nonconforming uses in existence at the time of the initial adoption of these zoning regulations (February 21, 1985), shall be considered legal nonconforming uses and shall be governed by Chapter 17.112 of these zoning regulations. (Ord. 97-139 § 2 (part); Ord. 90-82 § 1711)

17.80.120 Fees.

The Town Council shall establish a schedule of fees for a conditional use permit from time-to-time by resolution. (Ord. 06-261)