

**TOWN OF PINETOP-LAKESIDE**

**RESOLUTION NO. 19-1497**

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PINETOP-LAKESIDE, ARIZONA, DECLARING AS PUBLIC RECORD A CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED "TOWN CODE AMENDMENTS TO TITLE 17, CHAPTER 17.104 – SUPPLEMENTAL PROVISIONS"**

**WHEREAS**, that certain document entitled "**Town Code Amendments to Title 17, Chapter 17.104 - Supplemental Provisions,**" attached hereto as Exhibit A, three (3) copies of which shall be filed in the Office of the Town Clerk pursuant to this Resolution, shall remain on file with the Town Clerk.

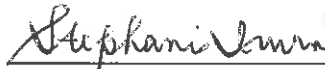
**WHEREAS**, A.R.S. § 9-802 permits the enactment and publication by reference of a code or public record, including statute, rule or regulation of the municipality, in the interest of economy, and

**WHEREAS**, the document entitled **Town Code Amendments to Title 17, Chapter 17.104 - Supplemental Provisions,**" is a lengthy ordinance to be adopted by Ordinance No. 19-419, and which would qualify for enactment by reference.

**NOW, THEREFORE, BE IT RESOLVED**, the Mayor and Town Council of the Town of Pinetop-Lakeside hereby declare that the document entitled "**Town Code Amendments to Title 17, Chapter 17.104 - Supplemental Provisions,**" is hereby declared a Public Record for the purpose of adoption by reference pursuant to Ordinance No. 19-419, and order that three (3) copies of the document entitled "**Town Code Amendments to Title 17, Chapter 17.104 - Supplemental Provisions,**" be permanently filed in the Office of the Town Clerk and available for public inspection.

**PASSED AND ADOPTED** at a regular meeting by the Mayor and Town Council of the Town of Pinetop-Lakeside this 21<sup>st</sup> day of March, 2019.

**TOWN OF PINETOP-LAKESIDE**



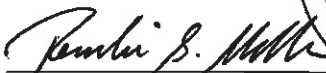
Stephanie Irwin  
Mayor

**APPROVED AS TO FORM:**



William J. Sims, III  
Town Attorney

**ATTEST:**

  
Remilie S. Miller, MMC  
Town Clerk

***EXHIBIT "A"***

## Chapter 17.104 SUPPLEMENTAL PROVISIONS

### Sections:

- 17.104.010 Applying supplemental provisions.
- 17.104.020 Administrative adjustment.
- 17.104.0320 Accessory building and uses.
- 17.104.030 Number of principal buildings on a lot.
- 17.104.040 Adjustment permitting an additional dwelling unit.
- 17.104.050 Additional lot area and dimension regulations.
- 17.104.0460 Additional yard and unbuilt lot area regulations.
- 17.104.0570 Additional height regulations.
- 17.104.0680 Setback lines.
- 17.104.0790 Parking regulations.
- 17.104.100 Loading and unloading regulations.
- 17.104.08440 Temporary buildings and uses.
- 17.104.09420 Location and storage of manufactured homes, or any other types of travel trailers, aircraft, boats, camping trailers, truck campers and motor homes.
- 17.104.130 Lots divided by zoning district boundaries.
- 17.104.1040 Outdoor light control.
- 17.104.1150 Equine regulations.
- 17.104.1260 Residential care facilities.
- 17.104.1370 Home occupations.

### **17.104.010 Applying supplemental provisions.**

The regulations set forth in this chapter qualify or supplement, as the case may be, the zoning district regulations appearing in these regulations. (Ord. 15-393 § 1 (part): Ord. 90-82 § (1)(2101))

### **17.104.020 Administrative adjustment.**

A. The purpose of this section is to grant authority to the community development director to take action on requests for minor modifications or adjustments to certain requirements of the zoning code when such requests constitute a reasonable use of property not permissible under a strict literal interpretation of the regulations.

B. For the purpose of administering this section, an adjustment is any variance to the terms or requirements of this chapter, which, if granted, would allow the following:

1. A decrease of not more than ten (10) percent of the required building site area, width, or depth.

2. A decrease of not more than ten (10) percent of the required width of a side yard or the yard between buildings.

3. A decrease of not more than ten (10) percent of the required front or rear yard.

4. An increase of not more than ten (10) percent of the permitted projection of steps, stairways, landings, eaves, overhangs, masonry chimneys, and fireplaces into any required front, rear, side, or yard between buildings.

5. A decrease in the number of required parking spaces of not more than ten (10) percent.

6. An increase of not more than ten (10) percent in the maximum allowable lot coverage.

7. An increase of not more than ten (10) percent in the permitted height of buildings.

### **17.104.0320 Accessory building and uses.**

A. Accessory buildings shall not be constructed upon a lot until the construction of the principal building has been actually commenced, and accessory buildings shall not be used for dwelling purposes.

B. Accessory buildings may be built in the required rear yard but such accessory buildings shall not occupy more than thirty (30%) percent of the required rear yard and shall not be nearer than two (2) feet (measured to the eve of the building) to any side or rear lot line or setback line, except that in the case of corner lots, accessory buildings shall not be nearer to the street than a distance equal to not less than one-half (1/2) of the depth of the required front yard of the corner lot when a garage is entered from an alley, it shall not be located nearer than ten (10) feet to the alley line.

C. Accessory buildings on through lots shall not be nearer to either street than a distance equal to the required front yard of such lot. (Ord. 15-393 § 1 (part); Ord. 90-82 § (1)(2102))

### **~~17.104.030 Number of principal buildings on a lot.~~**

~~Where a lot is located in a multiple-family residential or commercial zoning district, more than one (1) principal building may be located on the lot but only when the locations of such building conform to all the unbuilt lot area requirements around the lot for the zoning district in which the lot is located. Yard regulations in such case may be applied around the principal building as though there were only one (1) principal building on the lot. (Ord. 15-393 § 1 (part); Ord. 90-82 § (1)(2103))~~

### **~~17.104.040 Adjustment permitting an additional dwelling unit.~~**

~~In zoning districts permitting multiple-family dwellings, if an amount of lot area not allocated to a dwelling unit is more than eighty (80%) percent of that required for one (1) dwelling unit, such~~

~~remaining lot area may be used to satisfy the lot area requirement for additional dwelling unit. (Ord. 15-393 § 1 (part); Ord. 90-82 § (1)(2104))~~

#### **~~17.104.050 Additional lot area and dimension regulations.~~**

~~A. Any lot of record existing at the time the ordinance codified in these regulations or amendments thereto become effective, which does not conform with the lot area or width requirements for the zoning district in which it is located may be used for any use permitted in that zoning district provided other applicable regulations of these regulations are complied with.~~

~~B. Any lot, after said regulations or amendments thereto become effective, shall not be reduced in any manner below the lot area and dimension requirement of these regulations for the zoning district in which it is located, or if a lot is already less than the minimum so required, such lot area or dimension shall not be further reduced.~~

~~C. Any lot, after said regulations or amendments thereto become effective, shall not be reduced or diminished so as to cause the yards, lot coverage, parking or other unbuilt lot area to be less than that required by these regulations, or to decrease the lot area per dwelling unit except in conformity with these regulations. (Ord. 15-393 § 1 (part); Ord. 90-82 § (1)(2105))~~

#### **17.104.0460 Additional yard and unbuilt lot area regulations.**

~~A. Required yard or other unbuilt lot area around existing buildings, or which is herewith provided around any building for the purpose of complying with these regulations shall not be construed as providing a yard or unbuilt lot area for any other building.~~

**AB.** Every part of a required yard shall be open to the sky, unobstructed, except as enumerated in the following:

~~1. Accessory building may locate in the required rear yard subject to applicable regulations elsewhere in these regulations.~~

**12.** Ordinary Projections of window sills, cornices, eaves and other ornamental features may project a distance not exceeding two (2) feet into any required yard, except that in the case of accessory buildings in the required rear yard this projection shall not exceed one (1) foot beyond the walls of such accessory buildings.

**23.** Chimneys may project a distance not exceeding two (2) feet into any required yard.

**34.** Fire escapes may project a distance not exceeding five (5) feet into any required yard provided such projection shall be distant at least two (2) feet from any lot line or setback line.

**45.** Bay windows and balconies may project a distance not exceeding three (3) feet into the required front or rear yard; provided, that such features shall not occupy, in the

aggregate, more than one-third (1/3) of the length of the wall of the building on which they are located.

56. Uncovered stairs and necessary landings may project a distance not exceeding six (6) feet into the required front or rear yard; provided, that such stairs and landings shall not extend above the entrance floor of the building except for a railing not to exceed three (3) feet in height.

67. Terraces, patios, platforms and ornamental features which do not extend more than three (3) feet above grade may project into any required yard, provided such features shall be at least two (2) feet from any lot line or setback line.

BC. Where an unbuilt lot area is more than fifty (50%) percent surrounded by a building which is two (2) stories or more in height, the minimum width of the unbuilt lot area shall not be less than thirty (30) feet.

~~D. Side yards for dwelling units erected above other uses conducted in the same building are not required in excess of the side yards that would be required for such buildings were it not to contain the dwelling units.~~

~~E. Where forty (40%) percent or more of the frontage on one (1) side of a street between two (2) intersecting streets is developed with buildings that have observed, with a variation of five (5) feet or less, a front yard greater in depth than that required, new buildings shall not be erected closer to the street than the average front yard so established by the existing buildings.~~

CF. Where forty (40%) percent or more of the frontage on one (1) side of a street between two (2) intersecting streets is developed with buildings that have not observed a required front yard, or where buildings on such street have observed, with a variation of more than five (5) feet, a front yard greater in depth than that required, then where a building is to be erected within one hundred (100) feet of existing buildings on both sides, the required front yard shall be a line drawn between the two (2) closest front corners of the adjacent buildings on the two (2) sides; or where a building is to be erected within one hundred (100) feet of an existing building on one (1) side only, such building may be erected as close to the street as the existing adjacent building. (Ord. 15-393 § 1 (part); Ord. 99-167 § 1; Ord. 90-82 § (1)(2106))

#### 17.104.0570 Additional height regulations.

A. Public buildings may be erected to a height not exceeding forty (40) feet, if the building is set back from each lot line at least one (1) foot for each foot of additional building height above the height limit otherwise permitted in the zoning district in which the building is located.

~~B. Equipment and machinery necessary to operate and maintain public utility services may be erected to a height not exceeding sixty (60) feet, if such equipment and machinery is set back from each lot line at least one (1) foot for each foot of additional height above the height limit otherwise permitted in the zoning district in which the equipment and machinery are located.~~



**BC.** Church steeples, fire towers, ornamental towers or spires, ~~and wireless towers,~~ may be erected to a height not exceeding sixty (60) feet, if such structure is set back from each lot line at least one (1) foot for each foot of additional height above the height limit otherwise permitted in the zoning district in which the structure is located.

~~D. Buildings or structures or any portions thereof exceeding a height of twenty (20) feet shall not be erected or structurally altered within five hundred (500) feet of the projected centerline of an existing or proposed runway or landing strip for a distance of one thousand (1,000) feet from the end of the existing or proposed runway or landing strip. Beyond a distance of one thousand (1,000) feet from the end of the existing or proposed runway or landing strip buildings or structures or any portion thereof shall not be erected to exceed a height that would interfere with the takeoff or landing of a plane with a glide angle of one (1) foot vertical for every forty (40) feet horizontal, such glide angle to be computed as beginning at a point on the extended centerline of the runway two hundred (200) feet beyond and at the same elevation as the end of the runway pavement; or, if runway pavement is not provided, one hundred (100) feet beyond and at the same elevation as the end of the landing strip.~~

~~E. The following limitations shall apply to the height of fences, walls, gateways, ornamental structures, hedges, shrubbery and other fixtures, construction and planting on corner lots in all zoning districts where front yards are required:~~

~~1. Such barriers to clear unobstructed vision at corners of intersecting streets shall be limited to a height of not over two (2) feet above the established elevation of the nearest street line, for a distance of twenty five (25) feet along both the front and side lot lines measured from the point of intersection, of the said intersecting lot line.~~

~~2. Within the isosceles triangle formed by measuring along both the front and side lot lines a distance of twenty five (25) feet from their point of intersection and by connecting the ends of the respective twenty five (25) feet of distance, such barriers shall be limited to a height of not over two (2) feet above the elevation of the street line level at the said intersecting streets.~~

~~3. Within the said triangle, and in cases where front yards are terraced, the ground elevation of such front yards shall not exceed two (2) feet above the established street line elevation at said intersecting streets. (Ord. 15-393 § 1 (part); Ord. 90-82 § (1)(2107))~~

### **17.104.0680 Setback lines.**

A. The following setback lines are established:

1. Major Streets, Section Line Roads, State and Federal Highways.

a. ~~Seventy five (75) feet from and on both sides of the centerline of all existing or proposed major streets, section line roads, state and federal highways, where service roads are not required.~~

~~ab.~~ Fifty-five (55) feet from and on both sides of the centerline of all existing or proposed major streets, section line roads, state and federal highways, where service roads are not required.

2. Collector Streets and Mid-Section Line Roads. Forty (40) feet from and on both sides of the centerline of all existing or proposed collector streets and mid-section line roads.

3. Local Streets. Twenty-five (25) feet from and on both sides of the centerline of all existing or proposed local streets, except that this requirement shall be increased to thirty (30) feet for local streets abutting properties in multiple-family residential and commercial zoning districts.

~~B. On any lot wherein a setback line has been established, yards required by the regulations for the zoning district in which such lot is located shall be measured from the setback line.~~

~~C. Buildings or structures hereafter erected, altered or relocated shall not be placed within the aforementioned setback lines. (Ord. 15-393 § 1 (part); Ord. 90-82 § (1)(2108))~~

#### **17.104.0790 Parking regulations.**

##### **A. Definitions.**

1. "Daytime uses" means uses that operate predominantly during weekdays (Monday through Friday, 6:00 a.m. to 6:00 p.m.) and require the most parking spaces during weekdays. Examples of these uses are: banks, office buildings, and schools.

~~2. "Dwelling unit" means one (1) or more rooms in a dwelling designed for occupancy by one (1) family for living purposes and having its own cooking and sanitary facilities.~~

~~23.~~ "Nighttime/weekend uses" means uses that predominantly operate during nights (6:00 p.m. to 2:00 a.m.) and weekends (Saturday and Sunday) and require the most parking spaces during nights and/or weekends. ~~Examples of these uses are: restaurants, theaters, bowling alleys, nightclubs, bars, and dance halls.~~

~~4. "Parking lot" means an area, other than a street or alley, devoted to unenclosed parking spaces.~~

~~5. "Parking space" means a permanently surfaced area, enclosed or unenclosed, of not less than nine (9) feet in width and having an area of not less than one hundred eighty (180) square feet, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.~~

##### **B. Applicability.**



1. New Developments. These Parking regulations shall apply to any new building or new building addition constructed or any new use established in commercial or residential districts.
2. Expansions and Alterations. If a business expands, it shall, in addition to the parking spaces in existence prior to such expansion, be required to provide the number of additional parking spaces necessitated by the expansion. ~~These parking regulations shall apply to any building addition, expansion or alteration to an existing use that result in a greater parking requirement than was originally established for the existing use.~~
3. Change of Use. These Parking regulations shall apply to any change of use when the new use will be required to provide a higher number of parking spaces than the original use.
4. If a building or business is destroyed, and if it is allowed to be reconstructed subject to the provisions of Chapter 17.112 Nonconforming Uses, it shall be required to provide only the number of parking spaces which existed prior to the damage.

C. Minimum Parking Requirements.

1. Parking for Residences. For each single, two (2), or multiple-family residence hereafter erected, or for any building converted to such use or occupancy, there shall be provided the following number of parking spaces for each dwelling unit in the building:

TABLE 1 – Parking for Residences

Use	Minimum Number of Spaces Per Dwelling Unit
One (1) or two (2) family residences	2
Multiple-family Dwelling Units	
Efficiency units	1.2
One (1) bedroom units	1.5
Two (2) bedroom units	1.7
Three (3) or more bedroom units	2

2. ~~Parking for Churches, Theaters, Auditoriums, Arenas, Indoor and Outdoor Stadiums.~~ For all churches, theaters, auditoriums, arenas, indoor and outdoor stadiums hereafter erected, or for any building converted to such use or occupancy, there shall be provided one (1) parking space for every five (5) persons for which seating is provided.
3. ~~Parking for Bowling Alleys.~~ For all bowling alleys hereafter erected, or for any building converted to such use or occupancy, there shall be provided two (2) parking spaces for each lane in a bowling alley.

~~34. Parking for Private Clubs, Fraternal Organizations, Community Buildings and Other Places of Public Assembly. For all private clubs, fraternal organizations, community buildings and other places of public assembly hereafter erected, or for any building converted to such use or occupancy, there shall be provided one (1) parking space for every five (5) persons for which seating is provided; or one (1) parking space for each five hundred (500) square feet of floor area, or fraction thereof, in the building, excluding areas designed for restrooms, storage or for other nonpublic purpose, whichever is greater.~~

~~5. Parking for Boarding Houses, Lodging Houses, Fraternities and Sororities. For all boarding houses, lodging houses, fraternities and sororities hereafter erected, or for any building converted to such use or occupancy, there shall be provided parking space for each occupant for which the building is designed to accommodate.~~

~~46. Parking for Hotels, **or similar uses** Motels, Guest Ranches and Resort Hotels. For all hotels, motels, guest ranches and resort hotels hereafter erected, or for any building converted to such use or occupancy, there shall be provided one and two-tenths (1.2) parking spaces for each guest room or suite of rooms in the buildings.~~

~~57. Parking for Hospitals, Hospices, **Orphanages, Rest Homes, Nursing Homes and Convents or similar uses** For all hospitals, hospices, orphanages, rest homes, nursing homes and convents hereafter erected, or for any building converted to such use or occupancy, there shall be provided one (1) parking space for every five (5) beds in the building, and one (1) parking space for every four (4) employees, and one (1) parking space for each staff physician.~~

~~68. Parking for Schools and Other Similar Educational Institutions. For all schools and other similar educational institutions hereafter erected, or for any building converted to such use or occupancy, there shall be provided one (1) parking space for every three (3) employees including teachers, directors, and building maintenance personnel, and one (1) parking space for every five (5) high school, college or university students predicated upon the designed capacity of the physical plant.~~

~~79. Parking for Manufactured Home Parks. For all manufactured home parks there shall be provided one and one-half (1-1/2) spaces for each manufactured home space or recreational vehicle space in such a park.~~

~~810. Parking for Recreational Vehicle Parks. For all recreational vehicle parks there shall be provided one and two-tenths (1.2) parking spaces for each mobile space or recreational vehicle space in such park.~~

~~944. Parking for Office Buildings **and Banks**. For all office buildings hereafter erected, or for any building converted to such use or occupancy, there shall be provided one (1) parking space for each two hundred fifty (250) square feet of floor area, or fraction thereof, in the ground level floor of the building and one (1) parking space for each three~~

hundred (300) square feet of floor area, or fraction thereof, in other than the ground level floor of the building, excluding areas for restrooms and storage areas.

~~102.~~ **102.** Parking for Restaurants, **Nightclubs, Bars and Dance Halls.** ~~For all restaurants, or for any building converted to such use or occupancy, there shall be provided one (1) parking space for each sixty (60) square feet of floor area (including patios), or fraction thereof, in the building excluding areas for kitchens, restrooms and storage areas.~~

~~13.~~ **13.** ~~Parking for Nightclubs, Bars and Dance Halls. For all night clubs, bars and dance halls or for any building converted to such use or occupancy, there shall be provided one (1) parking space for each fifty (50) square feet of floor area (including patios), or fraction thereof, in the building excluding areas for kitchens, restrooms and storage areas.~~

~~14.~~ **14.** Parking for Furniture and/or Major Appliance Stores. ~~For all furniture and/or major appliance stores, or for any building converted to such use or occupancy, there shall be provided one (1) parking space for each seven hundred fifty (750) square feet of floor area, or fraction thereof, in the building, excluding areas for restrooms and storage areas.~~

~~15.~~ **15.** ~~Parking for Banks. For all banks, or for any building converted to such use or occupancy, there shall be provided one (1) parking space for each two hundred fifty (250) square feet of floor area, or fraction thereof, in the building excluding areas for restrooms and storage areas.~~

~~16.~~ **16.** ~~Parking for Retail Uses Not Mentioned Above. For all other retail buildings or for any building converted to such use or occupancy, there shall be provided one (1) parking space for each two hundred (200) square feet of floor area designated for public use, excluding areas for restrooms and storage areas.~~

~~127.~~ **127.** ~~Parking for Other Commercial Buildings. For all other commercial buildings, or for any building converted to such use or occupancy, there shall be provided one (1) parking space for each two hundred (200) square feet of floor area, or fraction thereof, in the ground level floor of the building and one (1) parking space for each two hundred fifty (250) square feet of floor area, or fraction thereof, in other than the ground level of the building, excluding areas for restrooms and storage areas.~~

~~138.~~ **138.** ~~Parking for Wholesale, Manufacturing and Heavy Commercial Buildings. For all wholesale, manufacturing and heavy commercial buildings, or for any building converted to such use or occupancy, there shall be provided one (1) parking space for each three (3) employees on the largest working shift, or one (1) parking space for each one thousand (1,000) square feet of floor area, or fraction thereof, in the building, whichever is greater.~~

D. ~~Mixed Uses.~~ ~~In the case of mixed uses,~~ the required number of parking spaces shall be the sum of the required parking spaces for the various uses computed separately.

E. Shared Parking. In the case that a daytime use and a nighttime/weekend use share a common parking lot, the developer and/or property owner may use shared parking as a means of satisfying off-street parking requirements. Shared parking would allow a site with multiple uses that have different operating hours or different peak business periods to share a parking lot that has less total parking spaces than would be required if each use had a separate parking lot.

1. To be eligible for shared parking, the developer/property owner must prepare a written shared parking study that clearly demonstrates the feasibility of shared parking. At a minimum, the study must address the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces. This study must be distributed to all property owners within one hundred fifty (150) feet of the proposed shared parking, and these property owners shall be notified of public meetings at which action on the shared parking proposal will be taken.

2. Based on the findings in the study, the Planning and Zoning Commission and/or Director may reduce the number of parking spaces required for the site, may require additional study by the developer, or may commission its own study to help make a determination.

3. The absolute maximum reduction in parking spaces for shared parking shall correlate to the total number of spaces required for the daytime and nighttime/weekend uses. The various uses shall be classified (by the definitions above or by the Director) as daytime uses, nighttime/weekend uses or neither. The minimum parking requirements for each use shall be calculated separately, as per the chart below, and these separate requirements shall be grouped together as daytime parking requirements, nighttime/weekend parking requirements and other parking requirements. The maximum reduction in parking spaces will not exceed one-half (1/2) of the required parking for the use (daytime or nighttime/weekend) which imposes the lowest requirement for parking spaces. Thus, if a site is required one hundred (100) nighttime/weekend spaces, fifty (50) daytime spaces, and thirty (30) other spaces, the maximum reduction in parking spaces for the shared parking would be one-half (1/2) of fifty (50) or twenty five (25). This site, which would have originally been required to provide one hundred eighty (180) spaces, now would only be required to provide one hundred fifty five (155) spaces. See Table 2 below for other examples.

TABLE 2 – Reductions in Shared Parking Requirements

	Use	Required Spaces per Use	Totals for Daytime/ Nighttime	Maximum Reduction in Required Parking Spaces	Minimum Requirement for Site
Nighttime/Weekend Uses	3,600-Square-Foot Restaurant	60	60 + 40 = 100	= one-half the smaller requirement... = (1/2) of 50... = 25	100 + 50 + 30 = 180... Minus shared parking reduction... 180 - 25 = 155
	Commercial 20-Lane	40			



TABLE 2 – Reductions in Shared Parking Requirements

	Use	Required Spaces per Use	Totals for Daytime/ Nighttime	Maximum Reduction in Required Parking Spaces	Minimum Requirement for Site
	Bowling Alley				
Daytime Uses	10,000-Square-Foot Office (First Floor)	40	40 + 10 = 50		
	3,000-Square-Foot Office (Second Floor)	10			
Other Uses	6,000-Square-Foot Retail Store	30	30		

F. Maximum Parking Allowed. For all commercial uses, the amount of parking spaces shall be restricted to the following maximum parking regulations, unless otherwise approved by the Planning and Zoning Commission or Director during site plan review:

Table 3 – Maximum Parking Allowed

Minimum parking spaces required	Maximum parking spaces allowed
0 – 20 parking spaces	20% over minimum
21 – 50 parking spaces	15% over minimum
51 or more parking spaces	10% over minimum

1. If the total minimum parking requirements for a site are between zero (0) and twenty (20) parking spaces, the maximum number of allowed parking spaces shall be twenty (20%) percent more than the minimum parking requirements. Thus, if a site is required a minimum of ten (10) parking spaces, this site will be allowed a maximum of twelve (12) parking spaces.

2. If the total minimum parking requirements for a site are between twenty one (21) and fifty (50) parking spaces, the maximum number of allowed parking spaces shall be fifteen (15%) percent more than the minimum parking requirements. Thus, if a site is required a minimum of forty (40) parking spaces, this site will be allowed a maximum of forty six (46) parking spaces.

3. If the total minimum parking requirements for a site are greater than fifty (50) parking spaces, the maximum number of allowed parking spaces shall be ten (10%) percent more than the minimum parking requirements. Thus, if a site is required a minimum of ninety (90) parking spaces, this site will be allowed a maximum of ninety nine (99) parking spaces.

~~4.—Additional landscaping shall be required for every parking space above the minimum parking requirements as outlined in Chapter 17.92, Landscaping Regulations.~~

~~5.—If an owner or developer wishes to exceed the maximum parking allowed, this information shall be clearly noted on all site plans and/or plats with words in large, bold print such as "Exceeds Maximum Parking." For site plan reviews, the Planning and Zoning Commission or Director must approve requests for parking in excess of the maximum parking allowed. For final plat approvals, the Town Council must approve requests for parking in excess of the maximum parking allowed.~~

G. Fractional Measurements Involving Parking Spaces. ~~Unless otherwise provided for in the specific parking regulations, one (1) additional parking space shall be required if the total number of required parking spaces results in a fractional number.~~ After computation of the number of parking spaces required, round up to the nearest whole number.

H. Location of Required Parking Spaces. The required parking spaces shall be located as follows:

1. On the same lot as the building or use they are intended to serve; or
2. Within four hundred (400) feet of the premises they are intended to serve, if a signed joint parking agreement is reached between the owner of the parking and the owner of the facility which the parking will serve; and the agreement is approved by the Planning and Zoning Commission ~~and the Town Council~~. All such agreements shall include the term of the agreement, the number of parking spaces which will be shared, and notice to the Town in the event that the parking spaces become unavailable or cannot be used, or the agreement is suspended or terminated. Whenever a joint parking agreement is proposed, the parking lots shall be designed in a manner that will connect the parking lots which are a part of the joint parking agreement.

~~I.—Collective Action Relative to Parking. These regulations shall not be construed to prevent the joint use of parking spaces for two (2) or more buildings or uses if the total of such spaces when used together is not less than the sum of spaces required for the various individual buildings or uses computed separately. Whenever shared parking among buildings is proposed, the parking lots shall be designed in a manner that will connect the parking lots which are a part of the shared parking proposal.~~

~~J.—Adjoining Parking Lots. Whenever possible, new developments shall be designed in a manner that will connect the parking lot with adjacent existing parking lots and will be able to connect to adjacent future development parking.~~

K. Maintenance of Parking Areas.

1. All parking areas shall be maintained to provide a surface free from cracks, holes, and pavement deterioration and kept clean and free of solid waste as defined in Chapter



**13.04. All required pavement marking shall remain visible. Failure to properly maintain a parking area may result in a civil violation per section 1.20.060 Civil Violations.**

2. Every parking lot or area shall have at least one (1) trash receptacle for every fifty (50) parking spaces or fraction thereof. Trash receptacles shall be a minimum twenty (20) gallon size and a maximum fifty (50) gallon size. Trash containers, receptacles and dumpsters shall be provided and maintained by the owner of the property. In addition, owners shall keep parking lots and parking areas free of snow, excess water and other things which negatively impact the safety of motorists and pedestrians.

**JL.** Dimensions of Parking Spaces. Any proposed parking plan, for which a site plan review is required, shall show designated and dimensioned parking spaces (a single or detailed space shall be shown to indicate a typical space). The minimum size for all parking spaces shall be no less than one hundred eighty (180) square feet. The minimum width shall be no less than nine (9) feet. The parking spaces shall be arranged in such a manner as to provide a cleared back-up zone of at least twenty-four (24) feet.

**KM.** ADA Compliant Spaces. ADA (Americans with Disabilities Act) compliant spaces shall provide an access aisle next to the space with a minimum width of five (5) feet. See Table 3 below for the amount of required ADA compliant parking spaces for each parking lot.

TABLE 3 – ADA Compliant Spaces

Total Parking in Lot	Required Number of ADA Compliant Spaces
1 – 25	1
26 – 50	2
51 – 75	3
76 – 100	4
101 – 150	5
151 – 200	6
201 – 300	7
301 – 400	8

(Ord. 15-393 § 1 (part); Ord. 08-319 § 1; Ord. 05-243; Ord. 04-232 § 1; Ord. 90-82 § (1)(2109))

**17.104.100 Loading and unloading regulations.**

**A.** Loading and Unloading for Commercial Buildings. For all commercial buildings hereafter erected, or for any building converted to such use or occupancy there shall be provided one (1) loading and unloading space for each twenty five thousand (25,000) square feet of floor area, or fraction thereof, devoted to such use in the building.

**B.** Loading and Unloading for Wholesale, Manufacturing and Heavy Commercial. For all wholesale, manufacturing and heavy commercial hereafter erected, or for any building converted

~~to such use or occupancy, there shall be provided one (1) loading and unloading space for each ten thousand (10,000) square feet of floor area, or fraction thereof, devoted to such use in the building.~~

~~C.— Location of Required Loading and Unloading Spaces. Required loading and unloading spaces shall in all cases be on the same parcel as the use they are intended to serve.~~

~~D.— Collective Action Relative to Loading and Unloading. These regulations shall not be construed to prevent the joint use of loading and unloading spaces for two (2) buildings or uses if the total of such spaces when used together is not less than the sum of the spaces required for the various individual buildings or uses computed separately.~~

~~E.— Mixed Uses. In the case of mixed uses, the required loading and unloading spaces for the various use shall be computed separately, and such spaces for one (1) use shall not be considered as providing required loading and unloading for any other use.~~

~~F.— Maintenance of Loading and Unloading Areas. The spaces designated as loading and unloading, and the areas immediately adjacent thereto, shall be kept clean and free of all debris, trash, boxes, crates, etc., except during normal loading and unloading. (Ord. 15 393 § 1 (part); Ord. 90 82 § (1)(2110))~~

#### **17.104.08110 Temporary buildings and uses.**

Temporary buildings and uses, ~~except manufactured homes unless expressly authorized,~~ are permitted as follows:

A. Temporary structures ~~buildings, manufactured homes and travel trailers~~ used in conjunction with construction work only during the period of such construction, subject to securing a temporary use permit and the following:

1. Any temporary use permit approved for such temporary structure building, ~~manufactured home or travel trailer~~ shall be limited to a period of time not to exceed one (1) year from the date of such approval, but said permit may be renewed for like periods thereafter upon the property owner submitting to the Community Development Director Board of Adjustment satisfactory evidence indicating that the need for such temporary structure building, ~~manufactured home or travel trailer~~ continues to exist.
2. Unless such temporary use permit is renewed, such temporary structure building, ~~manufactured home or travel trailer~~ shall be removed from the property upon the expiration of the previously approved use permit or within ten (10) days after completion of the construction work, whichever first occurs.

~~B.— Temporary uses such as the cutting and storage of lumber or the storage of building materials and construction equipment conducted or used in conjunction with construction work only during the period of such construction, subject to securing a temporary use permit and the following:~~

~~1.— Any temporary use permit approved for such temporary use shall be limited to a period of time not to exceed one (1) year from the date of such approval, but said permit may be renewed for like periods thereafter upon the property owner submitting to the Board of Adjustment satisfactory evidence indicating that the need for such temporary use continues to exist.~~

~~2.— Unless such temporary use permit is renewed, such temporary use shall cease and desist upon the expiration of the previously approved temporary use permit within ten (10) days after completion of the construction work, whichever first occurs.~~

~~BE.~~ A temporary use permit shall be obtained from the Director.

~~CD.~~ Temporary real estate offices, **require** ~~subject to securing~~ a conditional use permit and the following:

~~1.— Conditional use permit and the following:~~

~~1a.~~ Such office shall be located on the property being subdivided for sale as individual lots and its use shall be limited to the sale of these lots.

~~2b.~~ Such office shall be subject to the height, yard, intensity of use and parking regulations for zoning district in which it is located.

~~3e.~~ ~~Any conditional use~~ **The** permit approved for such office shall be limited to a period of time not to exceed two (2) years from the date of such approval, but said permit may be renewed for like periods thereafter if lots in the property being subdivided have not been sold.

~~4d.~~ Unless such conditional use permit is renewed, such office shall be removed from the property **within 10 days** ~~being subdivided upon the expiration of the previously approved conditional use permit or when the lots in said property are sold, whichever first occurs.~~

~~E.— Carnivals, Circuses, Revivals, Rodeos and Similar Activities.~~

~~1.— Applicability. The provisions of this section do not apply to garage sales, or rummage sales. All other carnivals, circuses, revivals, rodeos and similar activities shall be permitted in commercial zoning districts by a temporary use permit and in any residential district only with a conditional use permit.~~

~~2.— A temporary use permit shall be obtained from the Director in accordance with the following:~~

~~a.— The Director shall ensure that health and safety are considered, and shall obtain the approval of the County Health Department, the Pinetop or Lakeside~~

~~Fire Department, and the Town Police Department prior to issuing the temporary use permit.~~

~~b.—The Director shall ensure that land area is adequate for the proposed use and consequent parking, and shall ensure that traffic safety is considered.~~

~~c.—The Director shall require any measures necessary to protect surrounding property.~~

~~d.—A time limit shall be established for each use conducted under the temporary use permit. This time limit shall in no case exceed seven (7) consecutive days, nor shall more than four (4) temporary use permits be issued for the same use on the same property during any calendar year.~~

~~e.—Permanent structures shall not be permitted under a temporary use permit.~~

**DF.** A fee shall not be charged for a temporary use permit. (Ord. 15-393 § 1 (part): Ord. 90-82 § (1)(2112))

**17.104.09120 Location and storage of manufactured homes, or any other type of trailer travel trailers, aircraft, boats, camping trailers, truck campers and motor homes.**

Unless permitted under the regulations set forth in this section, or unless permitted by the use regulations for a specific zoning district, the location or storage of any trailer ~~manufactured homes and travel trailers outside of manufactured home parks, travel trailer parks and manufactured home subdivisions, and the location or storage of aircraft, boats, camping trailers, truck campers and motor homes,~~ shall be subject to the following:

A. At no time shall the ~~manufactured home,~~ travel trailer, aircraft, boat, camping trailer, truck camper or motor home be occupied or used for living, sleeping or housekeeping purposes.

B. Any trailer ~~If a manufactured home, travel trailer, aircraft, boat, camping trailer, truck camper or motor home is~~ located or stored outside of a garage or carport, it shall be placed in the rear yard or side yard of the lot, except that placement in other than the rear yard for loading and unloading purposes may be permitted for a period of time not to exceed seventy-two (72) hours. (Ord. 15-393 § 1 (part): Ord. 90-82 § (1)(2113))

**17.104.130 ~~Lots divided by zoning district boundaries.~~**

~~Whenever a lot of record existing at the effective date of the ordinance codified in these regulations or any applicable subsequent amendment thereto is divided by a zoning district boundary in which fifty (50%) percent or more of the lot area of such lot is located may apply to the entire area of such lot; provided, that the greatest distance from said zoning district boundary to any lot line of such lot in the zoning district in which less than fifty (50%) percent of its area is~~

~~located shall not exceed twenty five (25) feet. Such distance shall be measured perpendicular to said zoning district boundary. (Ord. 15-393 § 1 (part); Ord. 90-82 § (1)(2114))~~

### **17.104.1040 Outdoor light control.**

A. Purpose. This section is intended to restrict the permitted use of outdoor artificial illuminating devices emitting undesirable rays into the night sky, which have a detrimental effect on astronomical observations.

B. Conformance with Applicable Code Provisions. All outdoor artificial illuminating devices shall be installed in conformance with the provisions of this chapter, any other applicable provisions of the Zoning Ordinance of the Town and any building ordinances of the Town, which may hereafter be enacted, as applicable.

1. Where any provisions of any of the Arizona Revised Statutes or of the federal law, or any companion ordinance, comparatively conflicts with the requirements of this section the most restrictive shall govern.

C. Approved Material and Methods of Installation. The provisions of this section are not intended to prevent the use of any material or method of installation not specifically prescribed by this section, provided any such alternate has been approved in writing by the Director upon a finding that the proposed design, material or method:

1. Provides approximate equivalence to the applicable requirements of this section; or
2. Is otherwise satisfactory and complies with the intent of this section.

D. Definitions. For purposes of this section, the following terms shall have the following definitions:

"Fossil fuel light" means light produced directly or indirectly by the combustion of natural gas or other utility-type fossil fuels.

"Fully shielded" means the fixture shall be shielded so that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.

"Individual" means any private individual, tenant, lessee, owner or any commercial entity including, but not limited to, companies, partnerships, joint ventures or corporation.

"Installed" means an initial installation of outdoor light fixtures on or after the effective date of the ordinance codified in this section.

"Outdoor light fixtures" means outdoor artificial illuminating devices, outdoor fixtures, lamps and other devices, permanent or portable, used for illumination or advertisement. Such devices shall include, but are not limited to, search, spot or flood lights for:

1. Buildings and structures;
2. Recreational areas;
3. Parking lot lighting;
4. Landscape lighting;
5. Advertising structures;
6. Street lighting.

"Partially shielded" means the fixture shall be shielded so that the bottom edge of the shield is below the plane centerline of the light source (lamp), minimizing the emission of light above the horizontal plane.

E. General Requirements.

1. Shielding and Filtration.

a. All outdoor light fixtures, except those exempt from this section and those regulated by subsection F of this section, shall be fully or partially shielded as required in subsection (E)(2) of this section.

b. It is recommended that existing mercury vapor fixtures either be replaced or be equipped with a filter whose transmission is less than ten (10%) percent total emergent flux at wave lengths less than four thousand four hundred (4,400) angstroms. "Total emergent flux" is defined as that between three thousand (3,000) and seven thousand (7,000) angstrom units.

c. Low pressure sodium lamps are the preferred lamp for minimizing adverse effects on astronomical observations.

2. Requirements for Shielding. The requirements for shielding light emissions from outdoor light fixtures and recommendations for filtration are as set forth in the following table:

<b>Requirements for Shielding/Filtration Recommendations</b>		
<b>Fixture Lamp Type</b>	<b>Must Be Shielded</b>	<b>Filtering Recommended</b>
Low pressure sodium	Partially	None
High pressure sodium	Fully	None
Metal halide	Fully	Yes
Fluorescent	Fully	Yes
Quartz	Fully	None



**Requirements for Shielding/Filtration Recommendations**

<b>Fixture Lamp Type</b>	<b>Must Be Shielded</b>	<b>Filtering Recommended</b>
Incandescent greater than 150w	Fully	None
Incandescent 150w or less	None	None
Mercury vapor	Fully	Yes
Fossil fuel	None	None
Glass tubes filled with neon, argon and krypton	None	None
Other sources	As approved by the Director	

**Footnotes:**

1. This is the preferred light source to minimize undesirable light into the night sky affecting astronomical observations.
2. Warm white and natural lamps are preferred to minimize detrimental effects.
3. For the purposes of this section, quartz lamps shall not be considered an incandescent light source.
4. Most glass, acrylic or translucent enclosures satisfy the filter recommendation.
5. Outdoor advertising signs of the type constructed of translucent materials and wholly illuminated from within do not require shielding.
6. Metal halide lamps shall be in enclosed luminaries. See also subsection (F)(6) of this section.
7. Recommended for existing fixtures.

**F. Prohibitions.**

1. **Searchlights.** The operation of searchlights for advertising purposes is prohibited.
2. **Recreational Facilities.** No outdoor recreational facility, public or private, shall be illuminated by nonconforming means after 11:00 p.m. except to conclude a specific recreation, sporting or other activity in progress prior to 11:00 p.m.
3. **Outdoor Building or Landscaping Illumination.** The unshielded outdoor illumination of any building, landscaping, signing or other purpose is prohibited except with incandescent fixtures less than one hundred fifty (150) watts. All illumination shall be so arranged as not to shine upon or reflect onto adjoining properties.

4. **Mercury Vapor.** The installation of mercury vapor fixtures is prohibited without shielding as required in subsection E of this section. This prohibition is effective ninety (90) days after adoption of the ordinance codified in this section.

5. **Signage.** All outdoor signage, with its lighting, shall conform to subsection E of this section and shall be of such size and color as not to interfere with traffic or limit visibility of adjoining property. Illumination on any sign not wholly illuminated from within must conform to subsection E of this section and be directed towards the ground. Signs shall not have intermittent illumination or flashing lights (see Section [17.108.130\(A\)\(2\)](#)).

6. **Metal Halide Lamps.** Metal halide display lighting shall not be used for security lighting after 11:00 p.m. (or after closing hours if before 11:00 p.m.) unless fully shielded.

#### G. Permanent and Temporary Exemptions.

1. **Nonconforming Fixtures.** All outdoor light fixtures existing and fully installed prior to the effective date of the ordinance codified in this section are nonconforming indefinitely; provided, however, that no change in use, replacement, structural alteration, or restoration after abandonment of outdoor light fixtures shall be made unless it thereafter conforms to the provisions of this section.

2. **Federal and State Facilities.** Those facilities and lands owned, operated or protected by the U.S. Federal Government, the State of Arizona or Navajo County are exempted from all requirements of this section. Voluntary compliance with the intent of this section at those facilities is urged.

3. **Special Exemption.** The Director may grant a special exemption from the requirements of subsection E of this section only upon a written finding that there are extreme geographic or geometric conditions warranting the exemption and that there are no conforming fixtures that would suffice.

#### 4. Temporary Exemptions.

a. **Request.** Any individual may submit a written request (in form approved by the Director) for a temporary exemption to the requirements of this section, such exemption to be valid for thirty (30) days, renewable at the discretion of the Director.

b. The request for temporary exemption shall contain at least the following information:

i. Specific exemption(s) requested;

ii. Type and use of outdoor light fixture for which exemption is sought;

- iii. Duration of the requested exemption;
- iv. Type of lamp(s) and calculated lumens;
- v. Total wattage of lamp(s);
- vi. Proposed location;
- vii. Previous temporary exemptions, if any;
- viii. Physical size of outdoor light fixture and type of shielding to be provided.

In addition to the above data, the Director may request any additional information which would assist his or her evaluation of the request.

5. Utility Exemptions. Utility companies entering into a duly approved agreement with the Town in which they agree to comply with the provisions of these regulations shall be exempt from applying for and obtaining a permit for the installation of outdoor light fixtures, including residential security lighting.

#### H. Procedures for Compliance.

##### 1. Application.

- a. Any individual applying for a building or use permit under the Zoning Ordinance of the Town intending to install outdoor lighting fixtures shall, as a part of said application, submit evidence that the proposed work will comply with this section.
- b. All other individuals intending to install outdoor lighting fixtures shall submit an application to the Director providing evidence that the proposed work will comply with this section.

2. Contents of Application. The application shall contain, but shall not necessarily be limited to, the following, all or part of which may be part of or in addition to the information required elsewhere in the Zoning Ordinance of the Town:

- a. Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, etc.
- b. Description of the illuminating devices, fixtures, lamps, supports, etc. This description may include, but is not limited to, manufacturer's catalog cuts, and drawings (including sections where required).

The above required plans and descriptions shall be sufficiently complete to enable the Director to readily determine compliance with the requirements of this section. If such plans and descriptions do not readily enable this determination, the applicant shall submit evidence of compliance by certified test reports as performed by a recognized testing lab.

3. Issuance of Permit. Upon compliance with the requirements of this section, the Director shall issue a permit for installation of the outdoor lighting fixtures, to be installed per the approved application. In the event the application is part of another application under this title, the privilege applied for will be granted if the applicant is in compliance with this section as well as the other requirements for the privilege applied for under this title.

4. Amendment to Permit. Should the applicant desire to use different outdoor light fixtures or lamps after a permit has been issued, the applicant must submit all changes to the Director for approval, with adequate information to allow determination of compliance with this section.

#### I. Appeals.

1. Requests for Temporary Exemptions. The Director, within five (5) days from the date of submission of a complete request for temporary exemption, shall approve or reject the request in writing. If rejected, the individual making the request shall have the right of appeal to the Board of Adjustment for review pursuant to the procedures applicable to appeals of decisions of the Director under Section [17.120.060](#).

2. Other Applications. The Director, within seven (7) calendar days from the date of submission of a complete application for permit under subsection (H)(2) of this section, shall approve or deny the application in writing. In the event of rejection, then appeal procedures for appeal of decisions of the Director shall apply (see Section [17.120.060](#)). (Ord. 15-393 § 1 (part); Ord. 06-264; Ord. 91-88 § 1; Ord. 91-84 § 1; Ord. 90-82 § 1)(2117))

### **17.104.1150 Equine regulations.**

A. Purpose. This section is intended to regulate the keeping of horses and all other members of the equine family within the Town of Pinetop-Lakeside.

1. The keeping of horses is permitted by administrative review by the Director on any property greater than one (1) acre. All other properties one (1) acre or less are permitted by conditional use permit (see Chapter [17.80](#)) in all zoning districts, except C-2, heavy commercial zoning district.

2. All Applications for keeping of horses must comply with the requirements under subsections B and C of this section. Applications requiring a conditional use permits made under this section shall also conform to the requirements of Chapter [17.80](#),

Conditional Use Permits, and to the additional requirements under subsections B and C of this section:

- a. The minimum lot size required for the keeping of horses shall be one-half (1/2) acre. The number of horses permitted shall be as follows:
  - i. One-half (1/2) to 0.99 acre: up to two (2) horses;
  - ii. One (1) to 1.49 acres: up to four (4) horses;
  - iii. One and one-half (1-1/2) to 1.99 acres: up to six (6) horses.
- b. Horse corrals (excluding barns and shelters) shall be a minimum one thousand two hundred (1,200) square feet per horse without exception.

B. Site Plan. Prior to approval of a conditional use permit under this section the applicant must provide a detailed site plan showing the following information:

1. Location of all dwellings and commercial structures within two hundred (200) feet of any portion of the proposed horse facility.
- ~~2. Location of all wells, lakes, streams, springs, and other riparian zones within two hundred (200) feet of any portion of the proposed horse facility.~~
- ~~3. Contours and drainage patterns of all lands within two hundred (200) feet of any portion of the proposed horse facility.~~
- ~~4. Soil composition and characteristics of all land within the proposed horse facility.~~
- ~~5. Ground cover and vegetative characteristics of all lands within the proposed horse facility.~~
26. The location and design of drainage facilities demonstrating: (a) protection of wellheads, springs, lakes, streams and other water features; (b) prevention of soil erosion; and (c) measures to prevent discharge of contaminated surface flows onto adjoining properties.
- ~~7. The location and design of barns and other facilities designed for the shelter and storage of horses, feed, bedding, manure, and equipment.~~
38. Location and design of all fencing.

C. Design Standards, Guidelines, and Best Management Practices (BMPs). All horse facilities proposed within the Town shall be designed to provide a safe, healthy, and secure environment for horses, owners, adjacent property owners, and residents. Design of horse facilities shall demonstrate to the satisfaction of the Community Development Director that all facilities will

conform to current best management practices (BMPs) for the protection of ground water, control of runoff, pests and manure, and design and construction of enclosures, fencing, and shelters; and shall conform to water resource protection regulations established by the Arizona Department of Environmental Quality. Design Standards and BMPs promulgated in the American Youth Horse Council's Horse Industry Handbook are hereby adopted by reference and shall guide review of all facilities proposed under this section. ~~Either the Community Development Director and/or the applicant may request an independent review of an application by the County Extension Agent of the University of Arizona Cooperative Extension prior to approval or denial of a permit.~~

#### Minimum Requirements.

1. ~~Setbacks. Horse facility~~ Structures, including barns, storage sheds, shelters, etc., shall conform to the setback requirements in section 17.104.0630 ~~of the zoning district in which they are located.~~ Horse enclosure fences shall maintain a minimum five (5) foot height with a four (4) foot setback from all property lines; provided, however, that horse enclosure fences may abut the property boundary provided the fence maintains a minimum height of six (6) feet. ~~All horse enclosure fencing shall be constructed in accordance with all applicable BMPs, and demonstrate capacity for protection of adjoining properties.~~
2. Wellhead Protection. No portion of any horse facility shall be located within one hundred (100) feet from any well, spring, lake or stream used for drinking water supply. Site conditions may require additional separation and/or preventive measures to ensure protection of drinking water supplies.
3. Ground Water Protection. No portion of any horse facility shall be located within fifty (50) feet of any lake, stream, ~~or~~ spring, ~~or riparian feature~~ unless adequate provision for the prevention of erosion and/or contamination is demonstrated by clear and convincing evidence to allow a less restrictive minimum distance.

~~D. Nonconforming Horse Facilities. Horse facilities in existence prior to the adoption of this chapter which do not meet the standards established herein shall be permitted until one (1) of the following conditions occurs:~~

- ~~1. Sale or other transfer of the property to a new owner.~~
- ~~2. Failure to maintain horses on the property for a period of one (1) year.~~

~~Once either or both of the above conditions occur any use of the property for the keeping of horses shall require a conditional use permit and satisfaction of the requirements of this section. (Ord. 15-393 § 1 (part); Ord. 06-264)~~

#### **17.104.1260 Residential care facilities.**



A. Purpose. The purpose of this section is to provide for the establishment and operation of residential care facilities in the Town, to help protect the health and welfare of the residents of such facilities, and to help protect the health, welfare and character of the neighbors and the neighborhoods in which they operate.

~~B. Definition. A "residential care facility" is an establishment or business that serves six (6) or fewer persons exclusive of the operator of the facility, members of the operator's family and staff (provided, that no more than eight (8) persons live at the facility) primarily engaged in the provision of residential, social or personal care for persons with limitations on the ability for self care, such as the elderly, developmentally disabled and/or otherwise handicapped, but for whom medical care or counseling is not a major element. Residential care facilities include group homes, congregate care facilities, drug/alcohol recovery homes, halfway houses, assisted living homes, or other similar uses. Residential care facilities do not include establishments or businesses such as child day care, or an establishment or business that derives fifty (50%) percent or more of its income, or which expends fifty (50%) percent or more of its staff time, providing medical care.~~

~~C. Health Care Facilities. A health care facility that derives fifty (50%) percent or more of its income, or expends fifty (50%) percent or more of its staff time, providing medical services, counseling, or other health care services by persons or at facilities required to be licensed or certified by the State of Arizona Department of Health Services, the Arizona Board of Medical Examiners, the Arizona Board of Psychologist Examiners, the Arizona Board of Behavioral Counseling Examiners, or other governmental agency may be allowed in C-1 and C-2 zoning districts only.~~

B. Administrative Review. Such home shall be reviewed and approved by the Community Development Director, or designee, for building code and land use compliance prior to the use commencing.

CD. Application. All residential care facilities shall apply for and meet all requirements a conditional use permit and maintain a current business license issued by the Town. If the residential care facility is subject to a license, certificate, permit or registration issued by the state or other government agency, the applicant shall produce on demand such license, certificate, permit or registration from the State of Arizona or other licensing government agency.

DE. Zoning Requirements. Residential care facilities are permitted in all zoning districts within the Town with approval of a conditional use permit.

EF. Separation Requirements. Residential care facilities shall be separated from other residential care facilities and health care facilities by a distance of not less than one thousand (1,200) feet.

FG. Occupancy. Federal and state laws which limit the number of residents in a residential care facility, set minimum square footage requirements or otherwise regulate residential care facilities shall apply to residential care facilities within the Town. In addition, the following requirements shall apply:

1. There shall be a minimum of two hundred fifty (250) square feet of living space for each resident in all residential care facilities in any zoning district.
2. The ~~maximum~~ occupancy of any residential care facility in any residential zoning district shall be six (6) to ten (10) residents. Occupancies of eleven (11) or more residents shall be allowed in C-1 and C-2 zoning districts only.
3. There shall be one (1) parking space off the street for each staff member that is employed by, resides in, uses or occupies the residential care facility.
4. Shall comply with all building code requirement for R-3 residential occupancies.

~~H. — No Direct Threat to Health, Safety and Welfare. A residential care facility shall not include any persons whose occupancy would constitute a direct threat to the health or safety of neighbors or other persons. A residential care facility will not include any person who claims to be disabled solely on the basis of having been adjudicated a juvenile delinquent, having a criminal record, or being a sex offender. Residents in a residential care facility will not include any person who:~~

- ~~1. — Currently uses illegal drugs; or~~
- ~~2. — Has been convicted of the manufacture or sale of illegal drugs; or~~
- ~~3. — Is a person with or without disabilities who presents a direct threat to any person or to the property of others.~~

~~I. — Annual Certification. All residential care facilities shall have an Arizona licensed health care provider or Arizona licensed counselor provide written certification to the Town once a year, between December 1st and January 31st, that each and every resident of a residential care facility within the Town is a qualified individual with a disability. The failure to provide such certification shall be grounds for denial of a business license and closure of the residential care facility. This annual certification shall not be required for health care facilities or residential care facilities which are licensed by the State of Arizona to provide health care services.~~

**GJ.** Licensing. All health care facilities, which provide medical care, health care services, counseling, or other similar medical services, shall be licensed by the State of Arizona Department of Health Services or other applicable governmental agency. A copy of the current state or other license shall be delivered to the Town within ten (10) days of any request by the Town. In the event that the state or other government licensing agency takes any action related to such license including but not limited to probation, suspension or revocation of such license, the owner/operator of the health care facility shall immediately (within ten (10) days) notify the Town of such action, and a copy of any letter or other document evidencing such action shall be delivered to the Town within ten (10) days of its receipt by the health care facility.

**HK.** Reasonable Accommodation. Reasonable accommodation will be made by the Town to qualified individuals with disabilities who request reasonable accommodation seeking relief from the requirements of this chapter to the Town Manager. Requests for relief from the requirements

of this chapter shall be made by the individual with a disability or another person acting on their behalf orally or in writing to the Town Manager certifying that the applicant is a qualified individual with a disability, setting forth the section(s) of this chapter that the applicant seeks relief from, and setting forth the accommodation, modification or adjustment that will enable the qualified individual to enjoy equal benefits and privileges of the residential care facility. The Town Manager will review the application, hold a hearing when necessary, and issue a written response or ruling within thirty (30) days of the receipt of the application. A case-by-case determination will be made by the Town Manager about what constitutes a reasonable accommodation. All reasonable accommodation proceedings shall be private and confidential, except that the Town Manager may consult with attorneys to help ensure that reasonable accommodation is available to qualified individuals.

**17.104.1370** Enforcement, Penalties. Enforcement and penalties for violation of this chapter shall be as set forth in Chapter [17.132](#). (Ord. 15-393 § 1 (part); Ord. 15-391 § 1; Ord. 07-292)

\* Code reviser's note: Ord. 15-393 amended this section without taking into account the amendments of Ord. 15-391. Those amendments have been retained.

#### **17.104.1370 Home occupations.**

A. Home Occupations. A "home occupation" is an activity or pursuit in which the owner or possessor of a home or a resident member of that person's family is engaged and which is a permitted secondary or accessory use in residential districts conducted in accordance with this section. All home occupations shall be conducted in such a manner that they are compatible with the residential character of the neighborhood. A home occupation shall not interfere with the peace, quiet, and dignity of the neighboring property owners. For purposes of this section, "neighboring property owners" means all persons who live nearby and who can see, hear, smell, or are otherwise impacted to the slightest degree by the home occupation.

B. Restrictions. Home occupations shall be subject to the following limitations and restrictions:

1. A valid Town business license, and other required licenses and certificates, ~~including transaction privilege tax license for the sale of any goods, shall be required and maintained for all home occupations.~~
2. ~~Home occupations shall be conducted in such a manner that is compatible with the residential character of the neighborhood.~~ Home occupations shall be conducted in such a manner as not to give an outward appearance of a business.
3. Home occupations shall be clearly secondary, ~~incidental~~ and subordinate to the use of the property ~~and dwelling unit for residential purposes.~~
4. The home occupation shall be conducted entirely from within the principal residence, garage, or other accessory building ~~lawfully on the property. Carports and yards may not be used for home occupations.~~

5. A home occupation shall not create any nuisance, hazard, or other offensive condition, ~~such as that resulting from noise, smoke, fumes, dust, odors, or other noxious emissions beyond the property lines. Other than what a normal home produces, electrical or mechanical equipment that causes fluctuations in line voltage, creates any interference in either audio or video reception, or causes any perceivable vibration on neighboring properties is not permitted.~~

6. ~~No more than twenty (20%) percent of the gross floor area of the dwelling shall be devoted to the home occupation.~~

7. ~~There shall be no employees working in the dwelling unit where the home occupation is being operated other than members of the family residing there, except that a maximum of one (1) other employee who is not a family member residing at the home occupation site may be allowed to work at the home occupation with Town approval by conditional use permit. This section shall not restrict the employment of other persons by a home occupation, so long as they do not work, pick up or deliver at the home occupation site.~~

8. Goods related to the home occupation shall not be visible from beyond the property lines.

9. Outdoor storage of goods, materials, or equipment related to the home occupation shall not be permitted.

10. ~~Except for signs permitted by subsection E of this section, or Chapter 17.108, the home occupation use shall not alter the exterior appearance or character of the residence in which it is conducted, either by exterior construction, lighting, graphics, or otherwise.~~

11. Visitors shall not block neighborhood traffic circulation and visits shall occur only between 8:00 a.m. and 9:00 p.m., Monday through Saturday.

12. ~~No vehicle used in conjunction with the home occupation with a payload rating of greater than one (1) ton shall be stored on the site. The commercial vehicle is limited to a passenger car, van, or pickup truck. The commercial vehicle may not be more than twenty (20) feet in overall length and not more than seven (7) feet in overall height and must be parked on private property in a carport or garage or shielded from view from adjoining properties by landscaping, fencing, or screening material.~~

13. ~~Parking incidental to the home occupation shall be provided only in driveways, not on streets. Any such parking shall not create hazards or street congestion.~~

14. No flammable, combustible, explosive, or other hazardous material as defined by Arizona Revised Statutes Title 26, Chapter 2, Article 1, or any hazardous material designated pursuant to the Hazardous Materials Transportation Act of 1974 (P.L. 93-633; 88 Stat. 2156; 49 U.S.C. § 1801) shall be used, created or stored on site. Materials

considered hazardous such as common household cleaning agents or paint may be stored in amounts that are customary and usual for residential use.

C. ~~Acceptable Home Occupation Uses. The following are some examples of uses that might be~~ Home offices and businesses are acceptable as home occupations, provided the use complies in all respects with the regulations in this section. A conditional use permit may be required for any home occupation if the Director determines that the nature or intensity of the intended use, the concerns of neighbors or other objective reasons require a conditional use permit. Appeals from decisions of the Director may be made to the Board of Adjustment in accordance with Chapter [17.120](#).

- ~~1. Home offices for any business.~~
- ~~2. Artists, sculptors, composers.~~
- ~~3. Craftwork, such as jewelry making, pottery, clothing, or glass or wood products.~~
- ~~4. Music lessons, tutoring and other instruction.~~
- ~~5. Personal services such as catering, guide service for fishing or hunting, or seamstress services.~~
- ~~6. Investment brokerage, mortgage brokerage and other businesses conducted primarily with computers or on the telephone.~~
- ~~7. Telephone answering, message services, word processing and other similar computer or communications services.~~
- ~~8. Door to door sales, cosmetics delivery sales, or party sales which are not conducted at the premises.~~
- ~~9. Other similar home occupations which the Director deems similar and which meet all of the requirements of this section.~~

D. Conditional Use Permit is Required. ~~Home occupations only may include~~ for the following uses with the Town's issuance of a conditional use permit:

1. Home day care.
2. Bed and breakfast establishments.
3. Other uses, ~~including those listed in subsection C of this section,~~ which because of the nature or intensity of use, complaints by neighbors, or other reasons cause the Director to require a conditional use permit. Appeals from decisions of the Director may be made to the Board of Adjustment in accordance with Chapter [17.120](#).



4. Other similar home occupations which the Director determines a conditional use permit should be required. Appeals from decisions of the Director may be made to the Board of Adjustment in accordance with Chapter [17.120](#).

E. Permitted Signs. One (1) small sign, not larger than eight (8) square feet in area shall be allowed. Unless allowed by conditional use permit, the sign shall be placed only on the primary structure. Signs shall also conform to the Town sign regulations, Chapter [17.108](#).

~~FG.~~ Reporting Complaints or Violations. All complaints or violations of this section shall be directed to the Director or to the Code Enforcement Officer. ~~The Director or his designee will try to work with the involved parties to mitigate or eliminate the problem or violation.~~ Appeals from decisions of the Director may be made to the Board of Adjustment in accordance with Chapter [17.120](#).

~~GF.~~ Termination of Home Occupation.

~~1.2.~~ The Director or his designee shall investigate any complaint or violation of this section, and if there appears to be a violation contact with the alleged violator shall be made to mitigate the problem or complaint or to cease and desist the violation. If the problem is resolved, a written notation of the complaint, violation and action taken shall be placed in the business license file for the business or activity.

~~2.1.~~ A violation of any requirement of this section may be cause for termination by the Director or his designee of the home occupation use. ~~Complaints by neighbors may be cause for termination of the home occupation use if appropriate measures cannot be undertaken to mitigate the complaint or violation.~~

3. If the complaint or violation cannot be resolved informally, a civil citation may be issued and civil penalties levied in accordance with Sections [1.20.060](#), [1.20.070](#), and [1.20.080](#). In addition to any civil penalty levied by the court, the court may order other appropriate restrictions on the home occupation use up to and including termination of the home occupation use, and forfeiture of the business license. (Ord. 15-393 § 1 (part); Ord. 07-301 § 1)

~~H. Violations and Penalties. Violators of this section may be cited as a civil violation, and penalized or fined in accordance with Section [1.20.070](#) or [1.20.080](#). In addition to any civil penalty levied by the court, the court may order other appropriate restrictions on the home occupation use up to and including termination of the home occupation use, and forfeiture of the business license. (Ord. 15-393 § 1 (part); Ord. 07-301 § 1)~~