

ORDINANCE N^o 10-70

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, COUNTY OF YAVAPAI, ARIZONA, AMENDING § 153.091 OF THE TOWN CODE REGARDING USE PERMITS; PROVIDING THAT THIS ORDINANCE SHALL BE EFFECTIVE AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW; PROVIDING FOR A SAVINGS CLAUSE; AND PROVIDING FOR REPEAL OF ANY ORDINANCE OR PART OF ORDINANCES OR CODE PROVISIONS IN CONFLICT THEREWITH.

Whereas, prior to the incorporation of the Town of Dewey-Humboldt, Yavapai County established certain zoning districts over portions of land wherein landowners could reasonably expect that compatible uses would be maintained within those said zoning districts;

Whereas, subsequent to the incorporation of the Town, the Town Zoning Administrator determined that the previous approval of some Use Permits to allow a more intense use or activity had been made as permanent and therefore effectively established spot zoning within more restrictive zoning districts;

Whereas, this Ordinance is adopted for the purpose of allowing for consideration of Use Permits which heretofore may only be considered temporary in nature and shall be subject to specific conditions in order to protect the health, safety, and general welfare of the residents of the Town in such cases.

Now, Therefore, be it ordained by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona:

1. Amendment of Use Permits. Town Code § 153.091 is hereby amended in its entirety as set forth by the following:

(A) Purpose and Definition

The Use Permit process is established to ensure the orderly use of land for uses that may require special limitations and conditions. A Use Permit is a conditional use which is not permitted outright in a zoning district and may be granted at the discretion of the Town Council, when it is found that it:

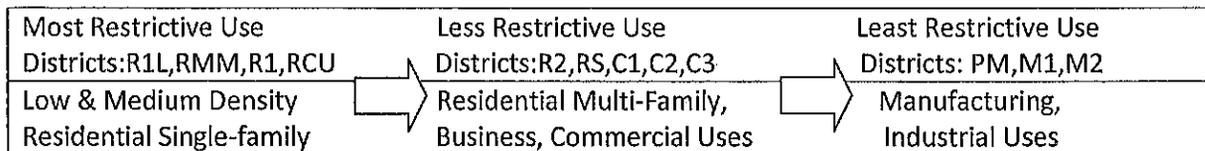
- (1) is compatible with permitted uses in the underlying zoning district;
- (2) is in compliance with the Town's General Plan and applicable Town regulations; and,
- (3) meets or exceeds the conditions and criteria described in this section.

(B) Applicability

(1) All uses allowed in the Use District where a Use Permit is specified shall be processed in accordance with the regulations of this section;

(2) A Use Permit may also be requested for a use that is first permitted in a less restrictive zoning district, except for those specifically excluded as noted in subsection (B)(5) below. Zoning Districts as described in Sec 153.035 (B) through Sec 153.047 allow uses of varying intensities that range from:

- (a) most restrictive, such as low density residential single family to medium density residential single-family,
- (b) to less restrictive uses, such as higher density residential multi-family and commercial-business uses,
- (c) and to the least restrictive uses, such as manufacturing-industrial uses.



(3) Use Permits are granted at the sole discretion of the Town Council and refusal is not the denial of a right.

(4) The granting of a Use Permit by the Town Council does not constitute a permanent use nor does it grant a vested right beyond the term of the permit.

(5) Uses which are excluded from the granting of a Use Permit (i.e., can not be granted) are those specifically prohibited in the Town Code including but not limited to landfill disposals, solid waste landfills and any similar storage or processing of solid waste; and those specified within each Use District including but not limited to the exclusion of the following:

TABLE OF USES EXCLUDED FROM USE PERMIT APPLICATIONS BY DISTRICT							
USES EXCLUDED FROM USE PERMIT APPLICATION BY DISTRICT	USE DISTRICTS						
	R1L, R1, RMM, RCU, R2	C-1	C-2	C-3	PM	M-1	M-2
Public utility business offices, repair or storage facilities	X						
Commercial driving ranges or miniature putting courses	X						
The keeping of swine	X						
Facilities for the preparation of food in quarters attached to the principal dwelling for servants and/or non-paying guests	X						
Intoxicating beverage sale on-site	X	X					
Retail sales off-site, vending from openings in buildings (no drive through windows)	X	X					
Public recitals, concerts or dances	X	X					
Vending for on- or off-site consumption of foods, confections, non-intoxicating drinks and other refreshments through openings in buildings within three hundred feet (300') of a public or parochial grade or high school	X	X	X				
On-site incineration in veterinary clinics and hospitals and in pet shops	X	X	X				
Milling and planing operations in lumber yards	X	X	X	X			
Livestock sales in public auctions	X	X	X	X			
Vehicle and portable machinery repair	X	X	X	X			
Dwelling units and mobile home courts				X	X	X	X
Rooming and boarding houses and similar	X: R1L, RMM			X	X	X	X
Motels, hotels and similar	X				X	X	X
General retail sales & service or other uses that cater to the general public	X				X		
Open land facilities	X	X	Lmt	Lmt	X		
Emission of such nuisances as fumes, odors, noise, glare and vibration	X	X	X	X	X		
Wrecking yards	X	X	X	X	X	X	
Slaughtering of other than rabbits and poultry	X	X	X	X	X	X	
Landfill disposals, solid waste landfills, and any similar storage or processing-facilities of solid waste	PROHIBITED IN ALL DISTRICTS						

* (X) denotes excluded use in individual Use District; generally any use that is prohibited in a less restrictive Use District is also prohibited in a more restrictive Use District, except as noted in the table above.

* (Lmt) indicates some limitations on specific usage; see Use District

(C) Conditions and Criteria for Use Permits

(1) Use Permits may contain specific limitations on the scope, nature and duration of the use as deemed proper to secure the objectives of the Town's General Plan and to be in accordance with the following conditions and criteria.

(a) Use Permits may be granted for duration of no more than five (5) years. A request for renewal/extension (to extend the duration of the permitted use as originally approved) must be processed in the same manner as the original Use Permit request, except that the Town Council may review and extend a Use Permit upon its expiration without posting or publication, provided no material condition of the Use Permit is altered.

(2) The applicant must demonstrate to the satisfaction of the Town Council that any structure or use requested will not be detrimental to persons or property in the vicinity and that the use is in the best interests of the public health, safety and welfare; criteria to be considered include the following:

(a) any significant increase in vehicular or pedestrian traffic;

(b) nuisances arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;

(c) contributions to the deterioration of the neighborhood or to the downgrading of property values;

(d) incompatibility with existing adjacent structures and uses;

(e) nuisances from inadequate control of disruptive behavior both inside and outside the premises

(3) The applicant must demonstrate the ability to comply with any specific conditions imposed by the Town Council.

(D) Use Permit Procedures

(1) Use Permits shall be applied for in the same manner as zoning district changes as specified in Sec 153.022 Amendments, reviewed at Public Hearings of both the Planning & Zoning Advisory Commission and the Town Council.

(2) Where an application involves a definite scheme, the applicant must submit a layout and landscape plan, building elevations and other pertinent data as may be requested.

(3) Permittees must obtain building permits within one year from the permit date and diligently pursue completion. Failure of such shall void the UP unless a longer time has been granted or an extension of time has been applied for with the Zoning Administrator prior to the expiration of the one-year period.

(a) The Zoning Administrator may administratively grant up to a one-year extension of time for obtaining building permits and completion of improvements as conditioned. Any further requests for such extensions of time must be applied for and approved by both the Planning and Zoning Commission and Town Council prior to the expiration of the administrative extension of time.

(4) Use Permits for temporary special events such as festivals, seasonal agricultural events, farmers markets, parades, carnivals and other community activities may be administratively granted subject to meeting all conditions and criteria of this section, and subject to compliance with regulatory codes for safety and health, and are of a temporary, limited duration appropriate to the activity.

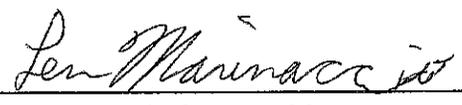
(5) Violation of the terms of the UP or this section voids the Use Permit.

(6) If the use or uses for which a UP has been granted are discontinued for a continuous period of twelve months, the UP shall be voided.

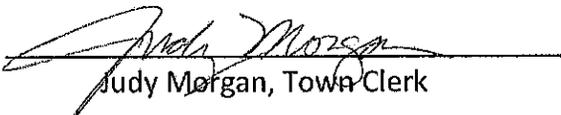
- (7) Decisions by the Zoning Administrator which result in the voiding of a Use Permit may be appealed to the Town Council subject to an application for appeal being on file with the Zoning Administrator within 30 days of notification of the Use Permit being voided.
- (8) Within 30 days permittees shall notify the Zoning Administrator of any change of address of the permittee, any change of use of the permitted property, and/or any change of ownership or operator of the permitted use.
 - (a) The new owner/operator of the use shall apply for a transfer of the Use Permit within 30 days of the effective date of the change. Such transfer of the Use Permit shall be reviewed for compliance with all conditions imposed in the original Use Permit Application approval.
 - (b) Any modifications, alterations or increased intensities that conflict with the Use Permit and/or conditions of approval shall result in the requirement of a new Use Permit Application in compliance with the procedures listed in this section.

- 2. Effective Date. That this Ordinance shall be effective at the soonest date after its passage and approval, according to law.
- 3. Savings Clause. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance as amended 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 remainder of this Ordinance.
- 4. Repeal. All other code provisions, ordinances, or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed as of the effective date hereof.

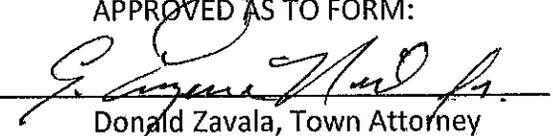
PASSED AND ADOPTED by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona, this 6th day of July 2010.



Len Marinaccio, Mayor

ATTEST:


Judy Morgan, Town Clerk

APPROVED AS TO FORM:


Donald Zavala, Town Attorney