

**Chapter 5**

**GENERAL PROVISIONS**

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- 5.03 Redividing of Recorded Lots.**
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- 5.06 Yard, Lot, and Area Requirements.**
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**Section 5.01 Application**

Except as hereinafter provided, no building, structure, or premises shall be used and no building or structure or part thereof shall be constructed, altered, repaired, improved, moved, removed, erected, demolished, or materially altered except in conformity with these provisions and the provisions of the zone in which it is located. Any use that is not specifically allowed or not analogous is hereby declared to be prohibited.

**Section 5.02 Use Restrictions**

- A. Permitted Uses:** Those uses listed as permitted uses shall be allowed to be established within any zoning district in which they are listed, subject to the specific requirements of this ordinance. All other uses shall be prohibited except as otherwise provided in this ordinance.
- B. Special Uses:** Those uses listed as special uses shall require a special use permit in order to be established within the zoning district in which they are listed, and shall be subject to all conditions and requirements imposed by the Town Council in connection with the special use permit.
- C. Accessory Uses:** A use which is incidental, related, appropriate, and clearly subordinate to the main use of the lot or building, and which does not alter the principal use of the lot or building, shall be allowed to be established within any given zoning district, but may not be constructed more than six (6) months prior to the erection of the main building.
- D. Unspecified Uses:** Whenever a use is proposed which is not listed as a permitted or special use in any zoning district, the Community Development Director may make such a determination concerning its applicability. The Planning and Zoning Commission may be consulted to determine the appropriate zoning classification of such use. In making their determination, the Planning and Zoning Commission shall consider similar uses, which are listed in the Code.

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**Section 5.03     Redividing of Recorded Lots**

**General Provisions:**

- A.** No lot may be divided to create a lot not in conformance with these regulations. No lot shall be divided or combined in any manner other than through subdivision procedures as specified by the subdivision regulations of the Town of Fountain Hills.
  
- B.** In addition to meeting the minimum lot width and lot area regulations of Section 10.09 of this ordinance, any proposed single-family zoned lot shall have a lot width and lot size that is consistent with the lot widths and lot sizes of existing platted lots in the immediate vicinity. Lot width consistency shall mean that no lot shall be created having less than ninety (90) percent of the lot width of the average of all platted lots in the same zoning district that are located within Eight-Hundred (800) feet of the proposed lot. Lot size consistency shall mean that no lot shall be created having less than ninety (90) percent of the lot size of the average of all platted lots in the same zoning district that are located within eight-hundred (800) feet of the proposed lot.

**Section 5.04     Street Dedication Requirements**

- A.** All lots shall abut a dedicated and accepted public street connecting to the publicly dedicated and accepted street system. Through the Planned Unit Development process as described in Section 2.05 of this ordinance, the Town Council may allow private streets.
  
- B.** Except for lots abutting private streets which have been specifically permitted in Planned Unit Developments, a building permit shall not be issued for a recorded lot, which does not abut a dedicated and accepted public street or an un-dedicated portion of a partially dedicated street and the abutting street does not connect the publicly dedicated and accepted street system.
  
- C.** Prior to the acceptance by the Town of the dedication of a public street, such street shall be designed, graded, and paved in accordance with the provisions of all applicable street standards of the Town of Fountain Hills.

### **Section 5.05 Site Unsuitability**

No land shall be used or structure erected where the land is held by the Planning and Zoning Commission to be unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, low percolation rate or bearing strength, erosion susceptibility, or any other features likely to be harmful to the health, safety and general welfare of the community. The Planning and Zoning Commission, in applying the provisions of this section, shall state in writing the particular facts upon which its conclusions are based. The applicant shall have the right to present evidence contesting such determination to the Council if (s)he so desires, whereupon the Council may affirm, modify or withdraw the determination of the unsuitability.

### **Section 5.06 Yard, Lot, and Area Requirements**

#### **A. Hammerhead Cul-de-Sacs:**

Front or street side yards that abut the hammerhead right-of-way on lots that are located on the outlet side of and immediately abutting the hammerhead terminus shall be calculated by disregarding the perpendicular portion of the hammerhead if all of the following criteria are met:

- 1.** The lot immediately adjacent to the subject lot and at the end of the hammerhead terminus is developed, and;
- 2.** The Town Engineer has determined that safe vehicular ingress and egress is maintained for the abutting developed lot due to any encroachment, such as a building, wall or fence, into the front or street side yard of the subject lot.

#### **B. Application:**

No building shall be erected, nor shall any existing buildings be altered, enlarged, moved, or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity with the yard, lot, area and building location regulations hereinafter designated for the zone in which such building or open space is located, except as otherwise specifically provided.

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**C. Yards:**

Except as provided herein, every part of a required yard shall be open to the sky and unobstructed. Trees, shrubbery, etc. and accessory structures as allowed in this ordinance, shall not be considered obstructions. No yard or other open space provided about any building for the purpose of complying with the provisions of these restrictions shall be considered as a yard or open space for any other building and/or yard, nor shall any other open space on one lot be considered as a yard or open space for a building on any other lot. A flagpole as permitted in Section 5.07.B.7 may be located in a required front or street side yard.

**D. Projections Over and Into Required Yards:**

1. Awnings, window-type refrigeration units, suspended or roof evaporative coolers, and similar features, may project not more than five (5) feet over any required yard, provided that they shall be no closer than three (3) feet from any lot line.
2. Architectural details such as canopies, cornices, and eaves may project not more than two (2) feet over any required yard, provided that they shall be no closer than two (2) feet from any lot line.
3. Sills, leaders, belt courses and similar ornamental features may project not more than six (6) inches over or into any required yard.

**E. Patios and Steps:**

Unroofed terraces, patios, steps or similar features not over thirty (30) inches in height above grade, may project into any required yard, provided that they shall be no closer than two (2) feet from any lot line.

**F. Small Accessory Buildings (Detached):**

Any detached accessory building One-Hundred-Twenty (120) square feet or less in size in any zone shall not be located in the required front or street side yard, shall be at least six (6) feet from the main structure, shall be at least three (3) feet from any rear and interior side lot lines, shall be located behind the front line of the primary structure on the front, and behind the street

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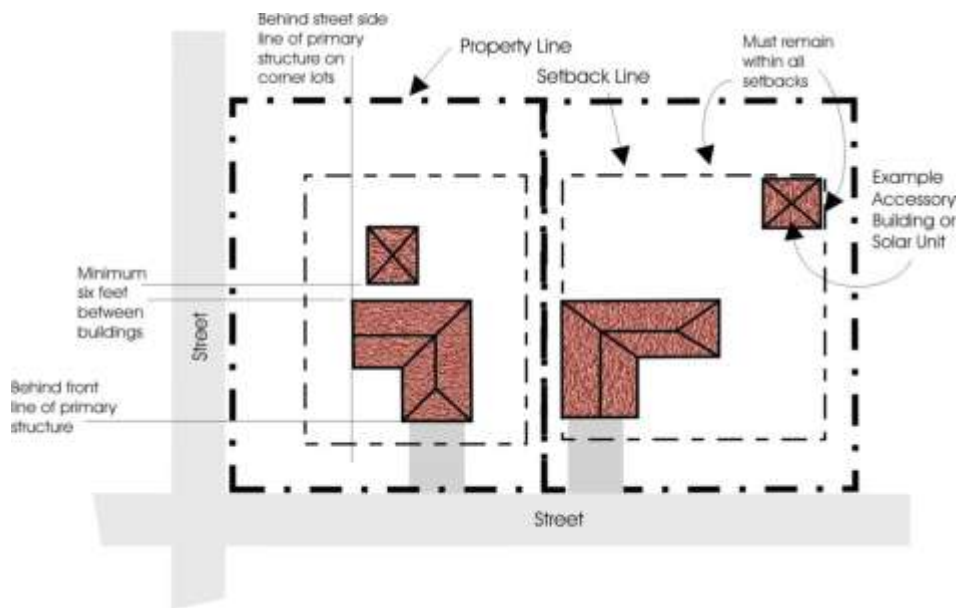
side of the primary structure on the street side of a corner lot, and shall not exceed twelve (12) feet in height.

**G. Large Accessory Buildings (Detached):**

Any detached accessory building greater than 120 square feet in size, shall not be located in any building setback, shall be at least six (6) feet from the main structure, shall be located behind the front line of the primary structure on the front, and behind the street side of the primary structure on the street side of a corner lot, and shall not exceed fifteen (15) feet in height.

**H. Solar Units:**

Solar heating, cooling units, solar greenhouses and associated apparatus shall be located behind the front line of the primary structure on the front, and behind the street side of the primary structure on the street side of a corner lot, shall not cover more than thirty (30) percent of any side or rear yard, shall be at least three (3) feet from any rear and side lot lines, shall be at least six (6) feet from any other structure, and shall not exceed twelve (12) feet in height. With the exception of the solar panels, any solar heating or cooling unit shall be screened from public view. An application for a Solar Unit that does not meet the above requirements may be appealed to the Town Council by Special Use Permit.



**I. Service Station Pumps:**

No automobile service station pump shall be located closer than twenty (20) feet from a street property line.

**J. Parking Shade Structures Adjacent To an Alley in Multi-Family Zoning Districts:**

In addition to other approved locations, a parking shade structure located adjacent to an alley in a multi-family district may be permitted in the rear or side building setback, provided it (i) meets the requirements in this Section 5.06, (ii) is at least ten (10) feet from any rear lot line, side lot line, and alley and (iii) does not exceed twelve (12) feet in height.

**Section 5.07 Building Height Requirements**

**A. Application:**

No building shall be erected, reconstructed, or structurally altered to exceed in height the limit hereinafter designated for the zone in which such building is located, except as otherwise specifically provided.

**B. Exceptions:**

Height regulations established elsewhere in this ordinance shall not apply:

1. In any district, to church spires, belfries, cupolas and domes not for human occupancy; water tanks; provided that such structure shall be so located and constructed that if it should collapse, its reclining length would still be contained on the property on which it was constructed.
2. In any non-residential district, to noncommercial radio or television antennas.
3. In industrial districts, to conveyors or similar structures wherein the industrial process involved customarily requires a height greater than otherwise permitted, provided that such structure shall be so located that if it should collapse, its reclining length would still be contained on the property on which it was constructed.

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4. In any district, to solar heating or cooling apparatus, the plans of which have been approved by the Zoning Administrator.
5. Chimneys in residential zoning districts may be two (2) feet above the roofline of the residential structure, even if the roofline is at the maximum building height. However, there shall be no height exception allowed for a chimney if there is a two (2) foot or greater vertical clearance within a ten (10) foot radius of the chimney.
6. Wireless communications towers and antennas as approved in accordance with the requirements and provisions stated in Chapter 17 of this ordinance.
7. In any zoning district, one flagpole per lot flying the American Flag, Arizona State Flag and/or the Town of Fountain Hills Flag so located and constructed that if it should collapse, its reclining length would be contained on the property on which it was constructed. In any commercial or industrial zoning district, one flagpole flying the American Flag, Arizona State Flag and/or the Town of Fountain Hills Flag may be located per lot in a required front yard or street side yard setback as long as the flagpole does not exceed the building height permitted in the underlying zoning district.

**C. Residential Accessory Buildings:**

No building, which is accessory to any residential building, shall be erected to a height greater than one (1) story or fifteen (15) feet except as otherwise may be permitted by a particular zone regulation.

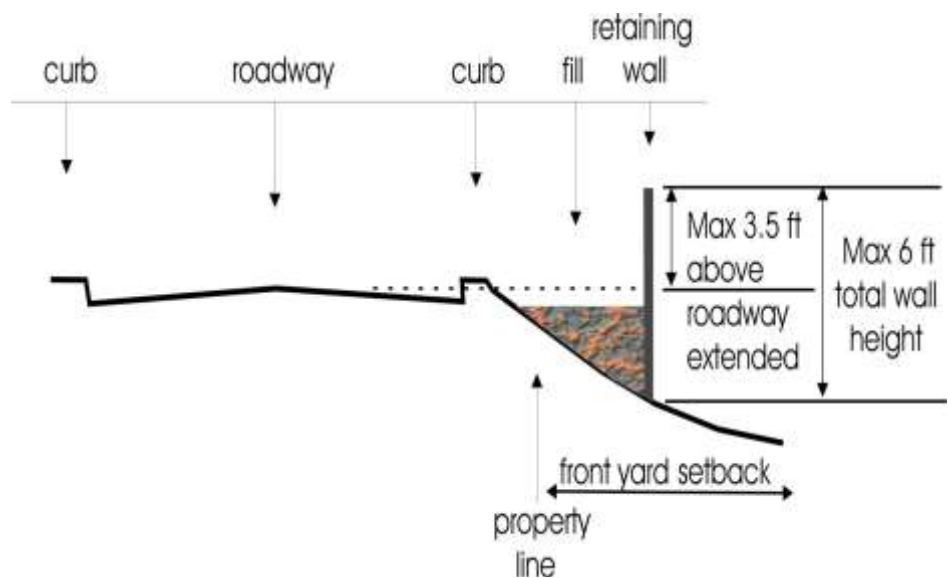
**Section 5.08 Height Limitations on Corner Lots**

Within a triangle formed by the street front and side lot lines and a line connecting these lot lines at points measured along these lot lines a distance of twenty-five (25) feet from their intersection, all fixtures, walls, fences, construction, hedges, shrubbery, and other planting shall be limited to a height not more than three (3) feet above the elevation of the street line level at the same intersecting streets. Within the said triangle, and in cases where front yards are terraced, the ground elevation of such front yards shall not exceed three (3) feet above the established street line elevation at the said intersecting streets.

**Section 5.09 Walls and Fences**

**A. Height:**

- 1.** Except as otherwise provided, no wall (whether retaining or not), fence or hedge, more than three (3) feet six (6) inches high shall be constructed or maintained nearer to the front or street side property line than the required front or street side building setback line. Retaining walls that lie within the front or street side yard may be allowed to a maximum height of six (6) feet if all of the following three (3) criteria are met:
  - a.** The retaining wall is on a slope gradient that is lower in elevation than the finished roadway surface.
  - b.** Both the retaining wall does not exceed three and one-half (3 ½) feet above an imaginary line created by a horizontal extension of the roadway-finished surface.
  - c.** No vehicular sight lines are obstructed and road “clear zones” are established that are approved by the Town Engineer and meet with approved Traffic Engineering Standards.



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Fences or hedges, which exceed the above heights, may be built around schools and other public or quasi-public institutions when necessary for the safety or restraint of the occupants thereof, within Industrial Zoning Districts, when a special use permit has been secured for such purposes. Except as otherwise provided, no non-retaining wall or fence shall exceed six (6) feet in height. Retaining wall heights and non-retaining walls on top of retaining walls with less than fifty (50) percent openness, shall follow the standards in Section 5.06 of the Town of Fountain Hills Subdivision Ordinance, however in no case shall the non-retaining wall exceed six (6) feet in height. These height regulations shall not apply when fences of greater height are required by the Planning and Zoning Commission or Town Council in order to provide adequate screening as required by this ordinance. Note: Those utility companies, which are regulated by the Arizona Corporation Commission, may be allowed increased fence heights due to national, state or local standards.

Golf ball fences may be developed by Special Use Permit if all of the following characteristics apply:

- a.** Golf ball fences may only be developed on lots that directly abut a golf course or driving range, however, they may not be developed within any front or street-side yard setback.
- b.** Golf ball fences should only be developed within Six-Hundred (600) feet of the forward-most golf course tee box or driving range position. Golf course fences to protect against errant secondary golf shots may be approved due to unusual site or course layout circumstances.
- c.** Golf ball fences shall be set back from any abutting residential property at a distance not less than the height of the fence. Golf ball fences may be located nearer to such a property line with the prior written consent of the abutting residential property owner.
- d.** The maximum height of a golf ball fence shall not exceed twenty-five (25) feet.
- e.** Pole color must blend in with background features as viewed from neighboring properties to minimize its visibility. Net color shall be black.

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- f. Landscaping should be used where appropriate to obscure the poles from neighboring properties.
2. **Exceptions:** When necessary to meet pool enclosure requirements, the height of a freestanding fence may exceed six (6) feet.
- a. This section shall only apply when all of the following conditions exist:
    - (1) The exempted fence serves as a pool enclosure, and
    - (2) The exempted fence intersects a retaining wall and such retaining wall is perpendicular to the exempted fence, and
    - (3) The intersecting retaining wall exceeds eighteen (18) inches in height.
  - b. If all of the conditions listed in subparagraph (a) above are present, the height of a freestanding fence may exceed six (6) feet by an amount to be determined as follows:
    - (1) The maximum allowable height in excess of six feet shall be equal to the height of the lower side of the intersecting retaining wall plus five (5) feet.
    - (2) The additional fence height as calculated in subparagraph (1) above shall not extend horizontally more than fifty-four (54) inches as measured from the point of intersection with the lower side of the retaining wall.
    - (3) Any fence sections erected in excess of six (6) feet according to this section shall be constructed so there are no horizontal members between the top of the fence section and the bottom of the fence section. A minimum of fifty percent (50%) openness is not required in this fence section.

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- B. Arches:** When not located in any required building setback area, an arch in a facade wall may be placed in front of the primary structure at a height not to exceed twelve (12) feet and a width not to exceed ten (10) feet. One arch, not exceeding twelve (12) feet in height and ten (10) feet in width, may be located along the side or the rear of the primary structure if it is not located in the required side (interior or street) and required rear yard setback areas.
- C. Materials and Design:** Fences and walls in all Zoning Districts shall be constructed of material in good repair and be of conventional design. The exterior of any wall or fence must be finished using paint, stucco, decorative block, or any similar process or finish approved by the Zoning Administrator.
- D. Swimming Pools:** Enclosures are required for private swimming pools along with incidental installations, such as pumps and filters. Such pool and incidental installations are to be located in other than the required front yard and completely enclosed from adjoining lots by a solid wall or protective fence of not less than five (5) feet in height and provided such pool sets back from all lot lines a distance of not less than three (3) feet. Residential structure walls containing an exterior entry door may be used in meeting the pool enclosure requirement.

Any fence/wall used for pool enclosure may not contain any openings that might be used for foothold climbing purposes. Every opening in a required pool fence/wall shall be provided with a minimum five (5) foot high self-closing gate, which shall open outward away from the pool and shall have a self-latching latch or lock in good condition, with the latch/lock placed at least fifty (50) inches above the underlying ground and with the closing device (spring, pneumatic, etc.) at least thirty-six (36) inches above the underlying ground. Any vertical opening or opening at ground level in a pool enclosure fence (e.g. wrought iron) shall be of such size that a spherical object four (4) inches in diameter cannot pass through the openings. Wrought iron or wood barriers or enclosures shall be constructed with at least fifty-four (54) inches between the top surfaces of the horizontal members. All fishponds and other contained bodies of water, either above or below ground level, with the container being eighteen (18) inches or more in depth and/or wider than eight (8) feet at any point measured on the long axis shall conform to the location and enclosure requirements for swimming pools. Irrigation and storm water retention facilities and the water features in public parks and golf courses are exempt from

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the fencing requirements of this provision. It is the responsibility of the property owner to ensure that any pool enclosure fence and its appurtenances (e.g., gates, latching devices, locks, etc.) are maintained in safe and good working order.

- E. Tennis courts:** A tennis court may have a tennis court fence that shall not exceed twelve (12) feet in height and shall maintain a minimum of 50% openness. Such fences shall be located no more than ten (10) feet from the edge of the court. Any outdoor lighting shall conform to the standards specified in Chapter 8 of this Ordinance.
- F. Basketball Courts:** A full court basketball court may have a court fence that shall not exceed twelve (12) feet in height and shall maintain a minimum of 50% openness. Such fences shall be located no more than ten (10) feet from the edge of the court. Any outdoor light shall conform to the standards specified in Chapter 8 of this Ordinance.
- G. Day Care Centers and Home Day Care Centers:** Day care centers and home day care centers which have swimming pools, fish ponds and other contained bodies of water, either above or below ground level, with the container being eighteen (18) inches or more in depth and/or wider than eight (8) feet at any point measured on the long axis shall conform to the location and enclosure requirements for swimming pools, must provide a separate enclosure between the day care facility and the body of water. Such barrier shall be a solid wall or protective fence of not less than five (5) feet in height and of a distance of not less than three (3) feet from the pool or the day care facility. The day care facility exterior entry door may not be used in meeting the pool enclosure requirement. Any fence/wall used for pool enclosure may not contain any openings that might be used for foothold climbing purposes. Every opening in a required pool fence/wall shall be provided with a minimum five (5) foot high self-closing gate, which shall open outward away from the pool and shall have a self-latching latch or lock in good condition, with the latch/lock placed at least fifty (50) inches above the underlying ground and with the closing device (spring, pneumatic, etc.) at least thirty-six (36) inches above the underlying ground. Any vertical opening or opening at ground level in a pool enclosure fence (e.g. wrought iron) shall be of such size that a spherical object four (4) inches in diameter cannot pass through the openings. Wrought iron or wood barriers or enclosures shall be constructed with at least fifty-four (54) inches between the top surfaces of the horizontal members.

**Section 5.10 [RESERVED]**

**Section 5.11 Land Disturbance Standards**

**A. Incorporated by Reference:** The grading standards, cut and fill standards, drainage standards, retaining wall standards and height of structures at graded sites standards shall be governed by the provisions set forth in Article V of the Town of Fountain Hills Subdivision Ordinance, which are incorporated as if fully set forth herein, and a violation of which shall also be deemed a violation of this Section 5.11.

**B. Procedural Regulations:**

**1. Plan of Development:** Prior to the issuance of a zoning clearance, a plan of development or grading plan shall be submitted to and approved by the Town Engineering Department, and the Community Development Department. The approval of the plan of development may include reasonable additional requirements as to grading, cut and fill, slope restoration, signs, vehicular ingress and egress, parking, lighting, setbacks of buildings, etc., to the extent that the noted purpose and objectives of this Chapter are maintained and ensured.

**2. Application Requirements:** In addition to the otherwise noted procedural and information requirements of this provision, all applications for a zoning clearance, subdivision approval, or grading plan approval shall contain the following materials and information:

a. Site plan, prepared by an Arizona Registered Land Surveyor or Arizona Registered Civil Engineer with the following information:

(1) A topographic survey at least ten (10) feet beyond the exterior property line of the site.

(2) Contour interval not exceeding two (2) feet within twenty (20) feet of any proposed improvement and five (5) foot intervals for the remainder of the lot or parcel.

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- (3) Scale of the site plan shall be not less than One (1) inch equals twenty (20) feet. For large-scale projects, the Community Development Director may allow a different scale.
- (4) If structures are proposed, show cross-sections through site and building at twenty-five (25) foot intervals perpendicular to slope, giving percentage of slope at each and showing exact heights of structures at each existing contour.
- (5) If structures are proposed, each floor level shall be shown with different heading and with a legend giving grade or elevation of each level.
- (6) If a garage(s) is proposed, give proposed elevation or grade at garage floor and at existing street level at drive entry. Give percentage of total average slope, and percent and length of single steepest portion of driveway.
- (7) List the individual square footage of buildings, garages, patios, footprint, disturbance area and , if applicable, pool.
- (8) Shade all disturbed (or graded) areas and show the proposed method of final treatment. Indicate all retaining walls, showing the actual and allowable heights.
- (9) Show how drainage is altered, and if so, how it is redirected to original channel and show that the requirements regarding storm water runoff and drainage have been met.
- (10) Show location of all proposed utility lines.
- (11) Give legal description, property dimensions and heading, along with the name, address, and telephone number of applicant.

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- b. Elevations, to be submitted if structures are proposed.
  - (1) Show all exterior building elevations, giving accurate existing and proposed grades lines (Scale ¼" – 1'0").
  - (2) Show total height of buildings and give height and square footage of all retaining walls.
- 3. **Special Use Permit:** A special use permit shall be required for any persons, firm, or corporation to undertake clearing or any work regulated by the International Building Code when not in accordance with a Plan of Development as determined by the Community Development Director.

**Section 5.12 Outdoor Storage**

**A. Definitions:**

- 1. **"Outdoor Storage":** The location of any goods, wares, merchandise, commodities, junk, debris, or any other item outside of a completely enclosed building for a continuous period longer than twenty-four (24) hours.

- B. **Outdoor Storage:** With the exception of retail sales displays in an approved commercial area, outdoor storage shall be screened from public view by a six (6) foot-high solid masonry fence or a fence or screening of a height and material as allowed or required by the Planning and Zoning Commission. The presence of hazardous materials not to be used on-site is prohibited.

- C. **Existing Outdoor Storage:** All outdoor storage existing at the time of the passage of this ordinance shall, within thirty (30) days of its passage, be made to comply fully with these requirements or be removed.

- D. **Prohibited Dumping:** The use of land for the dumping or disposal of scrap metal, junk, garbage, rubbish, refuse, ashes, slag, or industrial wastes or by-products, shall be prohibited in every district except as otherwise provided in Chapter 13.

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- E. Vending Machines:** Up to three (3) vending machines placed outdoors on one property is permitted. Permission to maintain in excess of three (3) vending machines outdoors on one property shall be by special use permit.

**Section 5.13 Reserved - 04-10 (Deleted per Ordinance 2004-10; Storage and Parking of Mobile Homes, Boats, Aircraft, Truck Campers, Camping Trailers, Travel Trailers and Other Trailers is hereby deleted in its entirety.) Refer to Chapter 7; Section 7.02**

**Section 5.14 Home Occupations**

Home occupations shall be permitted in any residential zone, subject to the following requirements:

- A. Home Occupations:** Shall be clearly incidental and subordinate to the use of the property and dwelling unit for dwelling purposes, shall be conducted entirely within the dwelling or garage, and shall not change the residential character thereof. Carports, accessory buildings, and yards may not be used for home occupations.
- B. Area:** No more than twenty-five (25) percent of the gross floor area of the dwelling shall be devoted to the home occupation.
- C. Employees:** There shall be no employees other than members of the immediate family residing in the dwelling unit where the home occupation is being operated.
- D. Delivery Vehicles:** No business shall be conducted which requires delivery vehicles or other services not customary to a residence.
- E. Nuisances:** There shall be no external evidence of the activity such as outdoor storage, displays, noise, dust, odors, fumes, vibration, or other nuisances discernible beyond the property lines.
- F. Signs:** No signs signifying the business or any commercial product or service are allowed. Signs on business vehicles, regardless of their storage, shall not display the address of the home occupation.
- G. Traffic:** Customer/patron and shipping/receiving trip generation shall not exceed five (5) trips a day.

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- H. Exception:** An exception to these requirements shall be made for the operation of a group home for the handicapped and adult care, day care centers, home day care centers, model homes and swim schools.
- I. Hazardous Materials:** Any home occupation desiring to use hazardous materials, as defined in this ordinance, must first secure a special use permit. No home occupation may use hazardous material without a special use permit. Special use permits for the use of hazardous materials will only be issued after the Town and Fire District are assured that proper handling, storage, and disposal safeguards can and will be followed for the health, safety and welfare of the neighborhood and community.
- J. Uses Not Permitted:** The following uses that are not permitted as a home occupation include, but are not necessarily limited to, the following: The physical sale or distribution of commodities on the premises and motor vehicle repair. The Community Development Director or his designee shall render decisions on home occupations permitted with appeal to the Town Council.

**Section 5.15     Animals and Pets**

- A. Household Pets:** Except as otherwise permitted in this ordinance, the keeping of animals in connection with each dwelling shall not exceed a total of four (4) household pets, with no more than one (1) litter up to six (6) weeks of age.
- B. Indoor Pets:** The provisions of this Section shall not apply to birds, fish and other pets which at all times are kept within a fully enclosed building or accessory building, and which do not create odor or sound which is detectable on an adjoining lot.
- C. Non-household Animals:** Animals other than household pets shall be allowed in OSR, R-190, R1-43, R1-35H, and R1-35 zoning districts as follows:
  - 1.** Horses: One (1) animal for every twenty thousand (20,000) square feet of area.
  - 2.** Hogs and pigs are not allowed.

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3. All non-household animals shall not be kept within fifty (50) feet of an occupied structure unless the said occupied structure is occupied by the owner or person in control of the said animal.

**Section 5.16 Temporary Carnivals, Circuses, Revivals, Rodeos, Swap Meets, Outdoor Retail Sales and Similar Activities**

- A. **Applicability:** The provisions of this Section do not apply to garage sales or rummage sales. All other temporary carnivals, circuses, revivals, rodeos, swap meets, outdoor sales, and similar activities may be permitted only in OSR, Commercial and Industrial Zone Districts subject to the restrictions of Subsection B of this Section.
- B. **Temporary Use Permit:** A temporary use permit shall be obtained from the Zoning Administrator in accordance with the following:
  1. The Zoning Administrator shall ensure that health and safety are considered, and shall obtain the approval of the Maricopa County Health Department, the Fire Department, and the Town Marshal's Office prior to issuing the temporary use permit.
  2. The Zoning Administrator shall ensure that land area is adequate for the proposed use and consequent parking, and shall ensure that traffic safety is considered.
    - a. Submit a site plan, to scale, showing the proposed locations of temporary structures and activities and identify the available parking areas.
    - b. All parking areas must be paved or have an approved method of dust control from the Town Engineer.
    - c. If the proposed temporary use location is within an existing parking area the number of parking spaces shall not be reduced more than ten (10) percent of the total spaces existing unless otherwise approved by Council.
  3. The Zoning Administrator shall require any measures necessary to protect surrounding property.
  4. A time limit shall be established for each use conducted under the temporary use permit. Unless otherwise approved by the Town Council, the time limit shall not exceed seven (7)

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consecutive days, nor shall there be more than one (1) temporary use permit issued for the same use during any calendar year. The Town Council may grant permission for the same use to be held more than one (1) time during a calendar year. Outdoor retail sales and similar uses such as swap meets and farmers markets may be permitted under a single temporary use permit subject to the following:

- a. The recurring event shall not exceed a maximum of fifty (50) days during a calendar year.
  - b. The event permitted under the temporary use permit shall recur within thirty (30) days of the prior event held under such permit; if the period of recurrence is greater than thirty (30) days, a separate temporary use permit shall be obtained for each occurrence.
  - c. The Town Council shall approve all temporary use permits for outdoor retail sales recurring more than once (1) in a calendar year.
5. Permanent structures shall not be permitted under a temporary use permit.

**Section 5.17 Public Service Facilities**

Special use permit shall be required by all public service companies in order to establish or substantially expand utility buildings, structures, or appurtenances thereto, in any residential zoning district. Extension of public service lines in public or private right-of-way is exempt from these requirements.

**Section 5.18 Trash Enclosures**

A permanent enclosure for temporary storage of garbage, refuse and other waste materials shall be provided for every use, other than a single-family dwelling or multiple-family developments containing four (4) or less dwelling units. Additional common trash enclosures shall be provided for multiple-family developments having five (5) or more units such that 1/3 cubic yard (9 cubic feet) of disposal capacity is provided per unit, rounding up, and such enclosure(s) shall be located no further than two-hundred-fifty (250) walking feet to the main entrance of the units they are intended to serve. A minimum of one (1) trash enclosure is required for commercial, industrial, and other

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non-residential or institutional developments. Additional trash enclosures shall be provided at a number and at locations as determined by the Director of Community Development. The enclosure shall be entirely surrounded by screen walls or buildings. Trash enclosures shall comply with the following regulations:

- A. Construction:** Trash enclosures shall be so constructed that contents are not visible from a height of five (5) feet above grade from any abutting street and shall be constructed of solid or ornamental pierced masonry walls with solid concrete floor sloped for drainage and maintenance of sanitary conditions. Enclosures shall be of sufficient height to conceal contents, including containers, but in no case shall any enclosure be less than four (4) feet in height above grade. Gates are required and shall be solid or baffled, equal in height to the enclosure and equipped with latches to ensure closure when not in use. Central trash enclosures shall be provided for multiple-family developments having five (5) or more dwelling units, and must be accessed in a forward motion at points of ingress/egress.
  
- B. Location:** Trash enclosures shall not be located in any required front or side yard.

**Section 5.19 Performance Standards**

Any permitted or special use must conform to the following performance standards. In conjunction with the plan review, the developer-applicant shall provide to the Zoning Administrator information, which is sufficient to show that the proposed use and the manner of its conduct will meet the following performance standards:

- A. Noise:** At no point on the property line shall the sound pressure level of any individual operation exceed the decibel levels in the designated octave bands shown on the following page, (excluding operation of motor vehicles or other transportation facilities).

Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association. Measurements shall be made using the flat network of the sound level meter. Impulsive type noises shall be subject to the performance standards provided that such noises shall be capable of being accurately measured with such equipment. Noises capable of being so measured, for the purpose of this section, shall be those noises which cause

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rapid fluctuations of the needle of the sound level meter with a variation of not more than plus or minus two (2) decibels.

	Octave band levels in decibels Cycles per second	Maximum sound pressure level in decibels 0.0002 dynes per cm <sup>2</sup>
	<u>Sunrise to 11:00 PM</u>	<u>11:00 PM to Sunrise</u>
0 to 75	79	72
75 to 150	78	67
150 to 300	73	59
300 to 600	67	52
600 to 1200	61	46
1200 to 2400	55	40
2400 to 4800	50	34
Above 4800	46	32

Special events or occurrences that will exceed the above noise levels may be permitted by a special use permit only.

- B. Smoke:** No emission of smoke from any source shall be permitted to exceed a greater density than that density described as No. 1 on the Ringlemann Chart. However, smoke may be emitted, which is equal to but not darker than No. 2 on the Ringlemann Chart, for not more than four (4) minutes in any thirty (30) minute period. For the purpose of grading, the density of smoke, the Ringlemann Chart, as published by the U.S. Bureau of Mines, shall be the standard.
  
- C. Glare or Heat:** Any activity producing intense glare or heat shall be performed within a completely enclosed building in such a manner as not to create a nuisance or hazard along lot lines.
  
- D. Vibration:** No vibration shall be permitted which is discernible beyond the lot line to the human sense of feeling for three (3) minutes or more duration in any one (1) hour of the day between the hours of 7:00 a.m. to 7:00 p.m., or of thirty (30) seconds or more duration in any one (1) hour during the hours of 7:00 p.m. and 7:00 a.m.

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- E. Fly Ash, Dust, Fumes, Vapors, Gases and Other Forms of Air Pollution:** No emission shall be permitted which can cause damage to health, to animals, or vegetation, or other forms of property, or which can cause any excessive soiling.
- F. Liquids and Solid Waste:** No wastes shall be discharged in the public sewerage system, which endanger the normal operation of the public sewerage system.
- G. Odors:** No emission of odorous gases or other odorous matter shall be permitted in such quantities as to be offensive in such a manner as to create a nuisance or hazard beyond the property lines.

**Section 5.20 Recreational Vehicle Parks**

- A. Special Use Permit:** Recreation vehicle (RV) parks shall be allowed only within the zoning districts, which specifically allows this use, and shall require a special use permit issued by the Town Council in accordance with Section 2.02 of this Ordinance.
- B. Staff Review:** RV Parks shall require approval by the staff in accordance with the provisions of Section 2.04 of this Ordinance. The staff shall ensure adequate provision of streets, driveways, walkways, proper layout of the park, proper sanitary facilities, adequate fire protection, adequate protection of surrounding properties, adequate water supply, and compliance with the provisions of this ordinance and codes of the Town of Fountain Hills.
- C. Site Specifications:**
  - 1.** Sites must be clearly defined, well drained, and reasonably level.
  - 2.** Each recreational vehicle site must be no less than one thousand two hundred (1200) square feet in area, and shall be designed to allow a minimum of fifteen (15) feet between adjoining recreational vehicles.
- D. Office and Registration Facilities:** Each campground must provide an adequate and easily identifiable office or registration area. Registration facilities must be located so as not to interfere with the normal flow of traffic into and out of the RV Park.

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- E. Rest Room Facilities:** Each RV Park must have the following rest room facilities as a minimum:
- 1.** One (1) toilet for each twenty-five (25) sites, or fraction thereof. There shall be a minimum of one toilet provided for each men's and women's rest room regardless of number of campsites. Urinals may be provided for fifty (50) percent of the toilet requirement of the men's rest room. Toilets shall be partitioned for occupant privacy.
  - 2.** One (1) hot water shower shall be provided for each twenty-five (25) sites or fraction thereof. There shall be a minimum of one shower for each men's and women's rest room regardless of the number of campsites. Showers shall be partitioned for occupant privacy.
  - 3.** One (1) sink with hot water shall be provided for each twenty-five (25) sites or fraction thereof. There shall be a minimum of one (1) sink for each men's and women's rest room regardless of the number of campsites.
  - 4.** Each rest room shall contain shelf space and/or hooks adequate for toilet articles and towels, a good well-lighted mirror directly above each sink, an electric outlet convenient to the sink, ample general illumination, wastebaskets, and windows and doors designed for complete privacy.
- F. Maintenance:** RV Parks must be well maintained in all areas. This includes the grounds, rest room facilities, buildings and any recreational areas and equipment.

**Section 5.21 Temporary Construction Equipment and Storage Yards for Construction Activity in Public Rights-of-Way and Easements**

Construction equipment and material storage for projects in public rights-of-way and easements may be allowed in any zoning district, except the Open Space Recreational Zoning District, with a temporary use permit. At a minimum, the following regulations are placed upon any such a use:

- A.** No outdoor lighting shall be permitted in residentially zoned areas. Any outdoor lighting in commercial or industrial zoned areas shall be placed so as to reflect light away from any adjoining residential uses.

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- B.** The construction equipment and storage yards shall be enclosed by a fence at least six (6) feet and not more than eight (8) feet in height to provide effective site screening from adjoining properties, uses or streets by the use of fencing materials that obscures at least ninety-five (95%) percent of wall plane of the fence.
- C.** The fence shall not encroach into the required front yard or street side yard areas of the lot or parcel.
- D.** There shall be no automobile parking, equipment parking, or material storage outside of the fenced area.
- E.** All employee parking shall be within the approved fenced construction equipment and storage yard.
- F.** All uses shall be maintained in such a manner that they are neither obnoxious nor offensive by reason of emission of odor, dust, smoke, gas, noise, vibration, electromagnetic disturbance, radiation, or other similar causes detrimental to the public health, safety or general welfare.
- G.** The storage yard must be surfaced with a dust free material approved by the Town Engineer.
- H.** All activities in the construction equipment and storage yard shall conform to the time limitations specified in Article 7-6 of the Town Code.
- I.** Only the areas which have a slope of less than fifteen percent (15%) and the percentage of the aggregate area with a slope of fifteen percent (15%) or greater that does not exceed the maximum lot coverage allowance as prescribed in the respective primary zoning district may be disturbed.
- J.** No site may be permitted for more than six (6) months.
- K.** Vegetation shall be reestablished on all exposed fill slopes, cut slopes, and graded surfaces by means of a mixture of grasses, shrubs, trees or cacti to provide a basic ground cover which will prevent erosion and permit natural revegetation upon removal of the construction equipment and storage yard activity. Revegetation plans must be submitted to and approved by the Town of Fountain Hills prior to the granting of the temporary use permit. Revegetation of cut and fill

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slopes shall be done in such fashion as to restore those graded slopes to an appearance approximating, as closely as possible, their natural state. Indigenous plant materials or low water usage shrubs, trees and grasses must be used.

**Section 5.22 Prohibition of Fractional Ownership Projects**

Fractional Ownership Projects are hereby prohibited within any zoning district other than the Lodging Zoning Districts (L-1, L-2 and L-3), as set forth in Section 16.02 (A) (4).

**Section 5.23 Low Water Use Landscaping Standards**

Any person who makes alterations or improvements to a lot containing a single family residence or a multifamily residence with four (4) or fewer units, which alterations or improvements cause the lot to be a Significantly Altered Lot, as defined in Section 1.12 of this Zoning Ordinance, shall conform to the provisions of this Section 5.23 and to the provisions of Article VI, Section 6.09 of the Fountain Hills Subdivision Ordinance.