

**MINUTES
ORO VALLEY PLANNING AND ZONING COMMISSION
REGULAR SESSION
April 3, 2012
ORO VALLEY COUNCIL CHAMBERS
11000 N. LA CAÑADA DRIVE**

CALL TO ORDER AT OR AFTER 6:00 P.M.

Chair Swope called the meeting to order at 6:00 p.m.

ROLL CALL

PRESENT: Robert Swope, Chair
Don Cox, Vice Chair
John Buette, Commissioner
Alan Caine, Commissioner
Bill Leedy, Commissioner
Bill Rodman, Commissioner

EXCUSED: Mark Napier, Commissioner

PLEDGE OF ALLEGIANCE

Chair Swope led the audience in the Pledge of Allegiance.

CALL TO AUDIENCE

Chair Swope opened the Call to Audience.

Linc Keilman, Oro Valley resident, and president of the Highlands Board of Directors, spoke in regards to the proposed AT&T cell phone tower that was to be located at the Highlands.

Bill Adler, Oro Valley resident, spoke in regards to land use development.

Chair Swope closed the Call to Audience.

COUNCIL LIAISON COMMENTS

Councilmember Hornat was not present.

REGULAR AGENDA

1. **REVIEW AND/OR APPROVAL OF THE DECEMBER 6, 2011, JANUARY**

3, 2012 AND FEBRUARY 7, 2012, MEETING MINUTES

MOTION: A motion was made by Vice Chair Cox and seconded by Commissioner Buette to approve the December 6, 2011 and February 7, 2012 meeting minutes as written, and to approve the January 3, 2012 meeting minutes as amended.

MOTION carried, 6-0.

2. PUBLIC HEARING: CONDITIONAL USE PERMIT FOR A PROPOSED GAS STATION IN THE MERCADO AT CANADA HILLS CENTER LOCATED AT THE NORTHEAST CORNER OF N. LA CANADA DRIVE AND W. LAMBERT LANE (OV812-001)

Karen Berchtold, Senior Planner, presented the following:

- Request Summary
- Context Map
- Public Participation Process and Neighborhood Concerns
- Overview of Proposal
- Proposed Site Plan
- Conditional Use Permit: Review Criteria and Evaluation
- Zoning Code Requirements
- Proposed Mitigation
- Summary/Recommendation

David Laws, Permitting Manager, explained how the Engineering staff determined the traffic volume for that area.

Jeff Guyette, applicant, representing Fry's Food Store Real Estate Department, addressed the following concerns:

- Community and resident impact
- Corner fuel station and Fry's proposed gas station
- Landscaping
- Aesthetics and elevations
- Delivery truck hours

Chair Swope opened the public hearing.

The following individuals spoke in opposition of the Conditional Use Permit:

- Jim Harrison, Oro Valley resident
- Mike Prout, Oro Valley resident
- Donald Bristow, Oro Valley resident

- Sheila Browning, Oro Valley resident
- Bill Adler, Oro Valley resident

Chair Swope closed the public hearing.

Will Loesche, Fire Marshal for Golder Ranch Fire District, responded to the Board's traffic concern in regard to the fire station egress on La Cañada Dr.

MOTION: A motion was made by Commissioner Caine and seconded by Vice Chair Cox to recommend approval of OV812-001, Fry's Food Stores conditional use permit for a gas station at Lot 8, Mercado at Canada Hills, with the conditions specified in Attachment 1, finding that the request meets the required criteria for granting a conditional use permit.

During discussion, additional conditions and friendly amendments were added.

MOTION: A motion was made by Commissioner Caine and seconded by Chair Swope to recommend approval of OV812-001, Fry's Food Stores conditional use permit for a gas station at Lot 8, Mercado at Canada Hills, with the conditions specified in Attachment 1, and to include the following conditions: the canopy width be limited to 40 feet; fuel deliveries be limited to daylight hours; and to include buffering and landscape buffers on both sides of the street, as can be accomplished by staff, specifically with trees planted on the west side of the street.

**Attachment 1
Conditions of Approval**

Request for Conditional Use Permit
Gas Station at Mercado at Canada Hills
OV812-001

1. Shrubs and accent plants shall be replaced in the buffer between Lot 8 and La Canada Drive, consistent with the approved Landscape Plan for Mercado at Canada Hills.
2. No external loudspeakers, outdoor music, or audio advertising shall be allowed at the site.
3. Total merchandise display area may occupy no more than half the total façade length of the kiosk building.
4. Landscape planters must be provided at the north, west, and east elevations of the kiosk building.
5. The proposed gas station is limited to the minimum illumination permitted for gas station canopies.

MOTION carried, 5-1 with Commissioner Rodman opposed.

Chair Swope recessed the meeting at 7:42 p.m. The meeting resumed at 7:52 p.m.

3. PUBLIC HEARING: AMENDMENT TO SECTION 22.2 OF THE ORO VALLEY ZONING CODE REVISED AND A MINOR GENERAL PLAN AMENDMENT TO UPDATE THE PROCEDURES RELATIVE TO GENERAL PLAN AMENDMENTS (OV711-10 & OV1112-01)

Chad Daines, OV Principal Planner, presented the following:

- Amendment Background & Summary
- Current Ordinance Timing of Neighborhood Meetings
- Commission Discussion - Neighborhood Meetings
- Existing GPA Neighborhood Meetings
- Commission Preferred Alternative for Additional Neighborhood Meetings
- Major General Plan Amendment Statute
- Current OV Definition Major GPA
- Major Amendment Threshold
- Unclear language between the General Plan and Zoning Code
- Recommendation

Chair Swope opened the public hearing.

M. Camille McKeever, Oro Valley resident, spoke in opposition.

Bill Adler, Oro Valley resident, addressed the issue of the Zoning Code criteria in regards to determining major or minor uses.

John Musolf, OV resident, spoke in regard to understanding the definition of land usage before understanding what major and minor are.

Chair Swope closed the public hearing.

MOTION: A motion was made by Commissioner Rodman and seconded by Vice Chair Cox to adopt the recommendation with the change that we maintain the "like" land use if it is greater than or equal to 10 acres but not contiguous to a like land use designation it would require a major amendment.

MOTION carried, 5-1 with Chair Swope opposed.

4. PUBLIC HEARING: AMENDMENT TO SECTION 23.6 OF THE ORO VALLEY ZONING CODE REVISED TO MODIFY THE SETBACKS AND OTHER DEVELOPMENT STANDARDS FOR ACCESSORY BUILDINGS IN LOW DENSITY RESIDENTIAL ZONING DISTRICTS (OV712-002)

Mr Daines, presented the following:

- Request Summary

- Amendment Background
- Large Lot Example
- Amendment Summary
- Current Zoning Code Limitation
- Proposed Amendment
- Recommendation

Chair Swope opened the public hearing.

Bill Adler, OV resident, spoke in favor of the amendment.

Chair Swope closed the public hearing.

MOTION: A motion was made by Commissioner Buette and seconded by Commissioner Leedy to recommend approval of the proposed amendments to Section 23.6 of the Zoning Code as provided on Attachment 2.

**Zoning Code Amendment – Accessory Buildings
OV 712-02
Attachment 2
Page 1 of 2**

Note: Additions to text are shown in ALL CAPS

C. R1-144 Single-Family District

The provisions of Section 23.6.A shall apply. The following additional requirements shall apply in this district:

1. Detached Accessory Buildings Setbacks.

Twenty (20) feet from side and forty (40) feet from rear if building is not used for poultry or animals; one hundred (100) feet if building is used for poultry or animals, except that it may be reduced to fifty (50) feet if a solid wall a minimum of six (6) feet high is provided to restrict view and sound.

2. ACCESSORY BUILDINGS ARE PERMITTED IN THE FRONT YARD, SUBJECT TO THE FOLLOWING:

a. FRONT SETBACK: 50 FEET

b. SIDE SETBACK: 20 FEET

c. LOT COVERAGE: 20% OF FRONT YARD AREA

d. BUILDINGS USED FOR LIVESTOCK OR POULTRY SHALL MAINTAIN 100 FOOT SETBACKS FROM ALL PROPERTY LINES, EXCEPT THAT IS MAY BE REDUCED TO FIFTY (50) FEET IF A SOLID WALL A MINIMUM OF SIX (6) FEET HIGH IS PROVIDED TO RESTRICT VIEW AND SOUND.

- e. NO MORE THAN TWO (2) ACCESSORY BUILDINGS ARE PERMITTED IN FRONT YARD.
- f. NO INDIVIDUAL ACCESSORY BUILDING MAY EXCEED 1,500 SQ. FT.
- g. ACCESSORY BUILDINGS SHALL NOT EXCEED 120% OF THE HEIGHT OF THE MAIN BUILDING, OR 18 FEET, WHICHEVER IS LOWER.
- h. SECTION 25.2.A.3. OF THE ZONING CODE SHALL NOT APPLY IN THIS DISTRICT.

D. R1-72 Single-Family Residential District

The provisions of Sections 23.4 and 23.6.A shall apply. The following additional requirements shall apply in this district.

1. Detached Accessory Buildings Setbacks:

Side and rear: thirty-five (35) feet.

Zoning Code Amendment – Accessory Buildings

OV 712-02

Attachment 2

Page 2 of 2

2. Grading Limits:

Twenty thousand (20,000) square feet.

3. ACCESSORY BUILDINGS ARE PERMITTED IN THE FRONT YARD, SUBJECT TO THE FOLLOWING:

- a. FRONT SETBACK: 50 FEET
- b. SIDE SETBACK: 35 FEET
- c. LOT COVERAGE: 20% OF FRONT YARD AREA
- d. BUILDINGS USED FOR LIVESTOCK OR POULTRY, WHERE ALLOWED, SHALL MAINTAIN 100 FOOT SETBACKS FROM ALL PROPERTY LINES, EXCEPT THAT IS MAY BE REDUCED TO FIFTY (50) FEET IF A SOLID WALL A MINIMUM OF SIX (6) FEET HIGH IS PROVIDED TO RESTRICT VIEW AND SOUND.
- e. NO MORE THAN TWO (2) ACCESSORY BUILDINGS ARE PERMITTED IN FRONT YARD.
- f. NO INDIVIDUAL ACCESSORY BUILDING MAY EXCEED 1,500 SQ. FT.
- g. ACCESSORY BUILDINGS SHALL NOT EXCEED 120% OF THE HEIGHT OF THE MAIN BUILDING, OR 18 FEET, WHICHEVER IS LOWER.

h. SECTION 25.2.A.3. OF THE ZONING CODE SHALL NOT APPLY IN THIS DISTRICT.

MOTION carried, 6-0.

5. INITIATION OF AN AMENDMENT TO CHAPTER 22 OF THE ORO VALLEY ZONING CODE REVISED TO MODIFY VARIOUS PROVISIONS OF THE DESIGN REVIEW PROCESS AND GRADING EXCEPTION PROVISIONS (OV712-01)

Mr. Daines, presented the following:

- Request Summary
- Amendment Purpose and Background
- Specific Amendments

MOTION: A motion was made by Commissioner Rodman and seconded by Commissioner Leedy to initiate a Zoning Code Amendment to Chapter 22 of the Oro Valley Zoning Code Revised to amend various provisions related to Design Review as recommended by staff.

MOTION carried, 6-0.

6. DISCUSSION AND POSSIBLE ACTION REGARDING SUPPLEMENTAL PLANNING & ZONING COMMISSION (P&ZC) RULES AND OPERATING PROCEDURES

Matt Michels, Senior Planner, presented the following:

- Background
- Supplemental Rules and Procedures
- Sections not included in the Draft
- Recommendation

Mr. Michels noted an error on Attachment 4, Section 3.2; staff is not recommending inclusion

MOTION: A motion was made by Vice Chair Cox and seconded by Commissioner Leedy to recommend that the Town Council approve the Revised P&ZC Supplementary Rules and Operating Procedures, to become an addendum to the Town Council Parliamentary Rules and Procedures and Rules of Conduct, as shown in Attachment #3

Chair Swope added a friendly amendment to request staff to bring the Ex Parte issue up in front of Council to be put back in the rules.

MOTION: A motion was made by Vice Chair Cox and seconded by Commissioner Leedy to recommend that the Town Council approve the Revised P&ZC Supplementary Rules and Operating Procedures, to become an addendum to the Town Council Parliamentary Rules and Procedures and Rules of Conduct, as shown in Attachment #3; and for staff to discuss with Town Council the consideration of including Ex Parte Contact in the rules.

Attachment #3

TOWN OF ORO VALLEY, ARIZONA

TOWN COUNCIL

**PARLIAMENTARY RULES & PROCEDURES
AND
CODE OF CONDUCT**

Amended 12/1/10 by Resolution No. (R) 10-88

TOWN OF ORO VALLEY, ARIZONA
TOWN COUNCIL
PARLIAMENTARY RULES & PROCEDURES
AND
CODE OF CONDUCT

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PREFACE

- A. **General Purpose:** The Town Council of the Town of Oro Valley, Arizona, in attempting to fulfill its responsibilities to govern the Town and to fully and faithfully perform its duties in the best possible manner, formulates these Rules & Procedures for use by the Council. It is intended that these Rules & Procedures shall set standards and usual procedures for the conducting of public meetings of the Council. These Rules & Procedures shall be in effect for all Council meetings.
- B. **Council Indoctrination:** It is recommended that all Councilmembers review these Rules & Procedures as soon as possible after they take office and annually thereafter.

SECTION 1. RULES & PROCEDURES

1.1 RULES & PROCEDURES

The following are the basis for, and are used in conjunction with, these Rules & Procedures for meetings of the Council:

- A) Arizona Open Meetings Act
(Arizona Revised Statute (ARS) § 38-431 et. seq.)
- B) Town Code
- C) Town Council Policies
- D) Town Standard Operating Procedures
- E) Roberts Rules of Order

1.2 PARLIAMENTARIAN

- A) **Council Meetings:** The Town Attorney shall serve as Parliamentarian for all Council meetings. The Town Clerk shall act as Parliamentarian in the absence of the Town Attorney; and the Town Manager shall act as Parliamentarian in the absence of both the Town Attorney and Town Clerk.
- B) **Boards/Commissions/Committees/Task Forces:** The Departmental liaison, or designee, shall serve as Parliamentarian for their respective Board, Commission, Committee, or Task Force.

SECTION 2. DEFINITIONS

2.1 AGENDA

As set forth in Section 5.2(B), Agendas, an Agenda is a formal listing of items to be considered by the Councilmembers at a noticed meeting of the Council.

2.2 COUNCIL

The term Council shall include all members of the Mayor and Council unless otherwise required by the context of the sentence.

2.3 COUNCIL PACKET

A compilation of documents supporting the items listed on the Agenda and requiring Council action, which may be used by Council, Staff, and the public for more in-depth information than may be presented in an oral report. The Packet is organized as set forth in Section 5.2(D), Agendas; and is provided or made available to the Councilmembers according to Section 5.2(C), Agendas.

2.4 MEETINGS

A meeting is the gathering, in person or by technological devices, of a quorum of the Councilmembers, at which they discuss, propose, or take legal action, including any deliberations by a quorum with respect to such action. If a quorum is not present, those in attendance will be named for the record and in the absence of the Presiding Officer, the Town Clerk will adjourn the meeting. The types of Council meetings are as follows:

- A. Regular
- B. Executive
- C. Special
- D. Study
- E. Emergency

2.5 NEWSPAPER

Typically, a daily or weekly paid publication containing recent news, feature articles, editorials and general advertisements.

2.6 NOTICE

A formal announcement to the public that sets forth the name of the Council, date, time and place for which a meeting of the Council will be held. Giving formal notice of meetings is done as provided by Statute, these Rules & Procedures, or other rules or regulations of the Council.

2.7 ORDINANCE

An ordinance is Council action setting forth a rule of public conduct that is considered long-term. Long-term rules include zoning issues, annexations, abandonments, laws of the Town and such. The ordinance, in addition to being referenced by number and brief title in the Minutes, will be recorded and maintained in numerical sequence as a permanent record of the Town. Effective dates of ordinances shall be as provided by law.

2.8 QUORUM

A quorum is the minimum number of Councilmembers that must be present in order for business to be legally transacted.

- A. Quorum. A quorum is the simple majority of the total number of authorized members. With a five-member body, a quorum is three (3) members. With a seven-member body, a quorum is four (4) members.
- B. Posting of Notice of Quorum. A Notice of Quorum is a notice informing the public that a possibility of a majority of the Councilmembers may be present at an upcoming social event and/or any other function.

2.9 RESOLUTION

A resolution is generally used for Council action on special or temporary matters or for any other purpose except where an ordinance is required by law. A resolution is less solemn and less formal than an ordinance and is frequently used to exercise the Council's legislative power as it proposes to resolve general policy issues, give direction, and to express the intent of public policy of the Town. The resolution, in addition to being referenced by number and brief title in the Minutes, will be recorded as provided by law and maintained in numerical sequence as a permanent record of the Town. The effective date of a resolution shall be provided by law.

SECTION 3. PRESIDING OFFICER

3.1 MAYOR

The Mayor, or in the Mayor's absence, the Vice-Mayor is the Presiding Officer of all meetings of the Council. In an anticipated absence of the Mayor and Vice-Mayor, a Mayor Pro Tempore shall be appointed by the Mayor, or by the Council if the Mayor is unable to make such an appointment, and that person shall serve until the return of the Mayor or Vice-Mayor. In the absence of both the Mayor and the Vice-Mayor and a Mayor Pro Tempore has not been appointed, the meeting shall be called to order by the Town Clerk, whereupon, the Town Clerk shall immediately call for the selection of a Mayor Pro Tempore.

3.2 SUSPENSION OF RULES

The Council may suspend the operation of any or all of these Rules & Procedures, and any or all applicable provision of Robert's Rules of Order upon motion, second, and two-thirds vote of the Council. In the event of a conflict between these Rules & Procedures and Robert's Rules of Order, these Rules & Procedures shall govern.

SECTION 4. MEETINGS

4.1 REGULAR MEETINGS

- A) The Council of the Town of Oro Valley shall hold Regular meetings at or about 6:00 p.m. in the Council Chambers located at the Oro Valley Council Chambers, 11000 North La Cañada Drive, or another place, date or time if necessary, on the first and third Wednesday of each month. Meetings are held for the purpose of discussion or action of the Council on various issues deemed necessary to further the business of the Town. These meetings may provide for "Citizen Comments/Appearances from the Floor" as determined by the Presiding Officer or the majority of the Councilmembers present.

- B) When the day for a Regular meeting of the Council falls on a legal holiday, no meeting shall be held on such holiday, but a Special meeting may be held at such time and such location as scheduled by the majority of the Council.
- C) In order to accommodate vacation scheduling of Councilmembers, Council may, by vote or consensus, adjust the schedule of the two per month Regular meetings as Special meetings on a mutually convenient date and time, or cancel the meeting.

4.2 ADJOURNED MEETINGS

Any meeting may be adjourned to a time, place and date certain, but not beyond the next Regular meeting. Once adjourned, the meeting may not be reconvened except at the time, date, and place provided for in the motion.

4.3 SPECIAL MEETINGS

- A) In accordance with Section 2-4-2 of the Oro Valley Town Code, Special meetings may be called by the Mayor or two (2) Councilmembers, and notice shall be posted by the Town Clerk at least twenty-four (24) hours prior to the meeting.
- B) Special meetings are held for the purpose of presentations, discussion, or action of the Council on various issues as deemed necessary to further the business of the Town. These meetings may provide for "Citizen Comments/Appearances from the Floor," as determined by the Presiding Officer or the majority of the Councilmembers present.

4.4 STUDY SESSIONS

- A) Study Sessions offer the Council an opportunity to study items in an informal manner. No action may be taken during a Study Session meeting. Such meetings may be called as provided for in Section 4.3(A). In the absence of having a quorum, a Study Session shall be declared a Sub-Committee meeting of the Council, and shall continue to follow these Rules & Procedures.
- B) Study Sessions are held for the purpose of presentations and discussions on such issues that require more in-depth consideration of the Council than may be possible at a Regular meeting. No formal action of the Council may be taken at such meetings, other than general consensus or conveying direction to Staff for further action. These meetings may provide for "Citizen Comments/Appearances from the Floor," as determined by the Presiding Officer or the majority of the Councilmembers present.

4.5 EXECUTIVE SESSIONS

- A) Executive Sessions may be placed on an agenda under the same circumstances as any other agenda item. The Town may hold an Executive Session in accordance with ARS § 38-431.03 for the following purposes.
 - 1) Discussion or consideration of employment and/or appointment of employees, Council, or other public officers
 - 2) Discussion or consideration of records, information, or testimony that is confidential and/or exempt from disclosure
 - 3) Legal advice from an attorney for the Town

- 4) Discussion or consultation with attorneys for the Town to: a) Consider its position and to instruct the Council regarding litigation; b) Attempt to avoid and/or resolve litigation through settlement; and c) To provide guidance in contract negotiations
 - 5) Discussion or consultation with the Council to consider its position and to instruct the Council regarding collective bargaining negotiations
 - 6) Discussion or consultation for international and interstate negotiations or for negotiations with representatives of Indian reservations located within or adjacent to the Town
 - 7) Discussion or consultation with the Council to consider its position and to instruct the Council regarding the purchase, lease, and sale of real property
- B) Under normal circumstances, Executive Sessions shall be attended only by the Mayor and Council, Town Manager, Assistant Town Manager, Town Clerk, and Town Attorney. A majority of the Council may vote at the public session prior to the Executive Session to have other individuals attend the Executive Session. These other individuals must be necessary for the consideration of the item, and may not remain in the Executive Session once that particular item has been discussed.
- C) The Town Clerk, or designee, shall take written Minutes of Executive Sessions to document the nature and extent of the discussions. All minutes of Executive Sessions shall be sealed and retained by the Town Clerk as a confidential, non-public record. In accordance with ARS § 38-431.03(C), the Town may only disclose the Minutes of an Executive Session to the Attorney General or the Pima County Attorney upon receipt of a written complaint alleging a violation of this provision at an Executive Session of the Town, and upon being presented with a court order.
- D) All Executive Session discussions and materials are considered confidential and non-public information. No discussion or materials may be disseminated to anyone outside of the Mayor and Council, Town Manager, Town Attorney, and Town Clerk. Any discovered or suspected violation shall be reported to the Town Attorney immediately.

4.6 EMERGENCY MEETINGS

As provided for in ARS § 38-431.02(D), the Mayor and Council may call a Emergency meeting to discuss or take action on an unforeseen issue where time is of the essence and sufficient time does not provide for the posting of a meeting notice twenty-four (24) hours or more before the meeting. Notice of an Emergency meeting of the Mayor and Council will be posted within twenty-four (24) hours following the holding of an Emergency meeting. The Notice will include the agenda and a brief, but complete, description of the nature of the emergency. Emergency meetings may provide for a "Citizen Comments/Appearances from the Floor," as determined by the Presiding Officer or the majority of the Councilmembers present.

4.7 MEETINGS TO BE PUBLIC

- A) With exception of Council Executive Sessions, all Regular, Special, Emergency, and Study Session meetings of the Council shall be open to the public.

- B) All public meetings may be recorded by means of audio, video or photographic equipment provided that there is not interference in the orderly conduct of the meeting, and that said equipment is placed in non-hazardous locations as designated by the Town Manager.

4.8 MINUTES OF COUNCIL MEETINGS

- A) The Town Manager shall ensure Staff attendance at all Regular, Special, Study Session, Emergency, and Executive Session meetings of the Council for the purpose of taking notes and/or audio recordation of the meeting.
- B) Written Synopsis Minutes instead of Verbatim Minutes shall be taken so that a brief accounting of the issues discussed and actions taken is compiled and entered into the permanent Minute Book of the Town and kept on file in the Office of the Town Clerk. Open meetings may be recorded by means of audio or video technology, which will be retained for a period of time in accordance with current Town policy.
- C) All Minutes of the Council are deemed to be Public Records, with the exception of Executive Session Minutes, which, while they fall under the definition of and are considered Public Records by State Statute, are deemed confidential and are only available under limited conditions or by court order. Transcribed Minutes, or the audio or video recording of all open meetings of the Council, must be on file in the Office of the Town Clerk, and available for public review by 5:00 p.m. on the third working day following each meeting, or as provided by ARS § 38-431.01.
- D) Minutes of all meetings of the Council are made available at the Town Clerk's office, and may be available through the Town's Web Site.

SECTION 5. NOTICE AND AGENDA

5.1 PREPARATION AND POSTING NOTICES

- A) The Town Clerk, or designee, shall prepare all public meeting notices of the Council, and shall ensure posting of the meeting notices no less than twenty-four (24) hours before the date and time set for said meetings in accordance with ARS § 38-431.02(C).
- B) Meeting notices shall be posted on an outside bulletin board located at the Town Hall Courtyard at 11000 North La Cañada Drive, Oro Valley, Arizona, in the lobby of the Town Hall, and in the lobby of the Oro Valley Police Department at 11000 North La Cañada Drive, Oro Valley Arizona, or as established by the Disclosure Statement of the Town Council.

5.2 AGENDAS

- A) Agendas for Council meetings shall be prepared by the Agenda Committee, which shall be made up of the Mayor (or Vice-Mayor), Town Manager, Town Clerk, and one Councilmember, with review of the proposed final agenda by the Town Attorney. The Councilmember shall be selected by the Council and his/her term shall last for three (3) months ending with the second

Regular Council meeting of the third month and at which time a new Councilmember shall be selected.

- B) Pursuant to ARS § 38-431.09, the agenda shall provide information as is reasonably necessary to inform the public of matters to be discussed or decided. All items requiring prior legal review shall be submitted to the Town Attorney on or about fourteen (14) days prior to submission to the Town Clerk's office.
- C) Council packets will be delivered to the office of all Councilmembers on or about seven (7) days prior to the Council meeting. These deadlines may be waived for any particular item by the Mayor or Town Manager only if it is determined that it is impossible to meet the deadline.
- D) The agenda sequence for Regular Council meetings shall be as follows:
 - 1. Call to Order
 - 2. Roll Call
 - 3. Pledge of Allegiance
 - 4. Upcoming meeting announcement
 - 5. Mayor will review the Order of Business
 - 6. Call to Audience
 - 7. Consent Agenda
 - 8. Business
 - 9. Town Manager's Report
 - 10. Call to Audience
 - 11. Adjournment
- E) The Consent Agenda shall be in accordance with the Oro Valley Town Code Section 2-4-6.

SECTION 6. DUTIES AT MEETINGS

6.1 MAYOR

- A) The Mayor shall call the meeting of the Council to order, and shall preserve order and decorum at all meetings of the Council. The Mayor may move, second, and debate from the chair, subject only to such limitations of any of the rights and privileges of a Councilmember. The Mayor shall determine whether a member of the public shall be heard consistent with the Arizona Open Meeting Laws. Public participation shall be on an item-by-item basis and at the discretion of the Mayor except for listed public hearings.
- B) In the event of unruly behavior of any member of the public or of the Council, as determined by the Mayor or raised by a Councilmember in a Point of Order, the Mayor or in the Mayor's refusal, the Council, shall issue a verbal warning that such continued unruly behavior may result in removal from the meeting. A second verbal warning may result in removal of the offender from the meeting. In the determination of unruly behavior of any member of the public by the Mayor, (or Council upon a majority vote), the Sergeant-at-Arms shall be directed to remove the person from the meeting room until such time as the person agrees and publicly acknowledges to the Mayor that there will be no further disturbances. If a person makes the public acknowledgement, they may be allowed to return to the meeting.

6.2 TOWN CLERK

The duties of the Town Clerk, at meetings of the Council, shall be in accordance with state law and the Oro Valley Town Code Section 3-2-2, but not limited to the following listed duties. The Town Clerk shall take the Roll Call. The Town Clerk shall announce each agenda item, reading into the record the item as listed on the agenda, sufficiently to advise the Council and public as to what business is about to be considered by the Council. The Mayor or at the Mayor's discretion, the Town Clerk, may restate the motion into the record before the Council votes.

6.3 SERGEANT-AT-ARMS

The Police Chief, or designee, shall serve as the Sergeant-at-Arms of the Council meetings, and shall carry out all orders and instructions given by the Mayor (and/or a majority of the Councilmembers) for the purpose of maintaining order and decorum at the Council meeting. Upon instructions by the Mayor (or a Council majority) following the process listed above, it shall be the duty of the Sergeant-at-Arms to remove any person who violates the order and decorum of the meeting.

SECTION 7. ATTENDANCE REQUIREMENTS

7.1 COUNCILMEMBERS

It is the duty of the Councilmembers to attend all Council meetings. A vacancy of office of a Councilmember shall be when there is an absence and ceasing to discharge the duties of office for a period of three (3) consecutive months, and/or may be deemed vacant from and after the occurrence of any events described in ARS § 38-291. The measured time for an absence starts as of the first unexcused absence from a Council Study Session or meeting missed. Pursuant to Oro Valley Town Code Section 2-1-4, in the event of a vacancy, the Council shall fill such vacancy, by appointment, for the unexpired term of the vacancy.

SECTION 8. PROCEDURES FOR MEETINGS

8.1 CALL TO ORDER

The Mayor shall call all Council meetings to order.

8.2 ROLL CALL

Roll shall be called by the Town Clerk.

8.3 AGENDA ORDER

The order of business shall be as provided for in the agenda and any item shall be considered during the course of the Council meeting at the discretion of the Mayor, so long as there is no attempt to deny the public of the opportunity to participate in public hearings. The Mayor may amend the order of the agenda at the beginning and during the course of a meeting with the approval of a majority of the Council.

8.4 APPROVAL OF MINUTES/ABSTENTIONS

The Town Clerk shall present Minutes to the Council for approval. Councilmembers who were not present at a previous meeting may abstain from the vote approving those Minutes. The Council may approve multiple Minutes by one vote, and if one or more Councilmembers

expressed a desire to abstain from the vote on one set of Minutes, the motion shall be to approve the Minutes “except as noted by Councilmember(s) _____.”

8.5 CALL TO THE AUDIENCE

The Council may make an open Call to the Audience during a public meeting so those individuals may address the Council on any issue within the jurisdiction of the Council. Each speaker must speak in a courteous and respectful manner and may be limited to three (3) minutes. If necessary, the Mayor or Council may limit the total time offered speakers. **All such remarks shall be addressed to the Council as whole, and are not to be addressed to any specific Councilmember.** Should any item be addressed to a specific Councilmember, it shall be ignored, and the Mayor shall remind the speaker that they must address the question to the entire Council. No person other than the speaker shall enter into the discussion without the permission of the Mayor. At the conclusion of the open Call to the Audience and pursuant to state law, the Council may respond, but they may not take action on any item raised by the public during a call to the audience unless that item was properly placed on the agenda.

8.6 PUBLIC INPUT AT NON-PUBLIC HEARINGS

In the event a person in the audience wishes to address the Council on an issue on the agenda which is not a public hearing, the person should fill out a blue card located in the back of the Council Chambers and submit it to the Town Clerk. The Mayor, or upon a majority vote of the Council, shall determine whether the Council will hear from the public. Any such public address may be limited to no more than three (3) minutes per person. Written communications related to an agenda item should be delivered to the Town Clerk three (3) full working days in advance of the Council meeting and will be copied and delivered to each Councilmember two (2) full working days in advance of the Council meeting. However, all such written communications shall not be read into the record by the Town Clerk unless, by a majority vote of the Councilmembers present, the Council votes to have the Town Clerk read the item into the record. Written communication may be delivered to the Town Clerk at the time of a person’s address to the Council but these documents may not be reviewed, addressed, or commented on at the Council meeting by the Council.

8.7 COUNCIL COMMUNICATIONS

A Councilmember may ask Staff about a particular issue in the report, but discussion and action on any item mentioned in a Council Communication may not be held unless that item is properly placed on the agenda.

8.8 ORDER OF PRESENTATION

The Town Clerk shall introduce each agenda item as it comes to Council for consideration and/or action. Following the introduction of the agenda item by the Town Clerk and presentation of Staff reports, the Mayor shall entertain questions from the Council and, where appropriate, permit public participation. Next, a motion may be made and a vote may be had as provided for in these Rules & Procedures.

8.9 TOWN MANAGER, COUNCIL, AND STAFF REPORTS

The Town Manager’s, Council’s, and Staff reports may be in writing or oral in accordance with the Arizona Open Meeting Law. Any Councilmember may ask the Town Manager, Councilmember,

or Staff member about a particular item in the report, but discussion and action on any item mentioned in the report may not be held unless that item is properly placed on the agenda.

8.10 FUTURE AGENDA ITEMS

Any Councilmember may request that an item be placed on a future agenda by contacting a member of the Agenda Committee. This provision applies to the Mayor and Councilmembers. However, if two (2) or more Councilmembers request that an item go on the agenda, then it shall be put on the agenda if it is submitted to the Agenda Committee twelve (12) days before the Council meeting date.

SECTION 9. PUBLIC HEARING PROCEDURE

9.1 AGENDA PROCEDURE FOR PUBLIC HEARING

A Public Hearing may be placed on the agenda under the same agenda item as the discussion and action of the Council. The normal procedure for Public Hearings shall be as set forth hereafter.

- A) The agenda item shall be called by the Town Clerk as any other agenda item.
- B) Staff shall have an opportunity to report on the issue and answer questions by the Council.
- C) The proponent may make an opening statement in order to explain the item to the Council and public. The Mayor or Council may limit the time for this statement as necessary. All documents shall have sufficient copies so that Councilmembers and Staff have a copy to review and any exhibit presented shall be of sufficient size to permit the Council and public to view the exhibit.
- D) The Mayor shall declare that the Council is now in Public Hearing. At this time, the public may address the Council, though once the Public Hearing has been closed, no further verbal/written input shall be taken.
- E) In the event a person in the audience wishes to address the Council on an issue on the agenda which is a Public Hearing, the person should fill out a blue card located in the back of the Council Chambers and submit it to the Town Clerk. That person may be permitted to speak; however, any such public address may be limited to three (3) minutes per person. All persons addressing the Council shall speak into the microphone so that the comments may be recorded. Written communications related to an agenda item should be delivered to the Town Clerk three (3) full working days in advance of the Council meeting and shall have been copied and delivered to each Councilmember two (2) full working days in advance of the Council meeting. However, all such written communications shall not be read into the record by the Town Clerk unless, by a majority vote of members present, the Council votes to have the Town Clerk read the item into the record. Once Public Hearing has been closed, no further verbal/written input shall be taken. Written communications may be delivered to the Town Clerk at the time of a person's address to the Council but these documents will not be reviewed, addressed, or commented on at the Council meeting by the Council.
- F) Unless a majority of the Councilmembers object, the Mayor shall declare the Public Hearing as ended. Once the Public Hearing is closed, no additional oral or written communication may be accepted from the audience.

- G) The proponent shall be allowed to answer questions posed by the Council, a brief statement to rebut the statements made by the public, and/or to offer a compromise.
- H) The Mayor and the Council may ask one person who spoke from the audience to rebut a proponent's final summation. Such person may be chosen in one of the following manners:
 - 1) The Council may ask that, if more than one person spoke on an issue, they decide among themselves to have one person present a rebuttal to the proponent's summation. If the group can not agree on one spokesperson, then there will be no rebuttal from the public on that issue.
 - 2) At the discretion of the Mayor and Council.
- I) The agenda item will then be discussed and action taken as on any other agenda item.

SECTION 10. DISCUSSION AND VOTING PROCEDURES

10.1 QUORUM

It will be necessary for a quorum to be present in order for the Council to consider or act upon any business. A quorum shall consist of a majority of the Councilmembers. In the event a quorum is not present, the only motion that can be made, considered, or passed, after Roll Call, is a motion for adjournment of non-action since an official meeting cannot be held for lack of a quorum.

10.2 CONFLICTS OF INTEREST

Each Councilmember has a responsibility for compliance with ARS § 38-501 et seq., concerning conflicts of interest. See Section 12. Any member of the Council, who believes he or she has a conflict of interest, may want to discuss such issue with the Town Attorney. Immediately upon determining that a conflict exists, the Councilmember shall declare a conflict of interest by completing a Conflict of Interest Disclosure Memorandum (See Appendix A) and returning the form to the Town Clerk. That Councilmember shall then leave the room and shall refrain from taking any part in the discussion, consideration, or determination of that issue and the Councilmember shall be excused from that agenda item unless it would result in the loss of a quorum, which would therefore result in continuing that item. If that issue is not resolved at that meeting, that Councilmember shall not discuss the matter with any other Councilmember until the matter is finally resolved. The Councilmember who declared the conflict may return to his/her seat when that agenda item is completed.

10.3 GETTING THE FLOOR

Every Councilmember desiring to speak shall address the Mayor, and upon recognition by the Mayor, shall confine himself/herself to the question under debate.

10.4 INTERRUPTIONS

When an individual has been given the floor, that Councilmember or member of the public shall not be interrupted as long as such individual is proceeding in accordance with these Rules & Procedures.

10.5 MAKING AND SECONDING A MAIN MOTION

In the majority of Town Council actions, motion(s) should be made in the affirmative. There can be no discussion after a main motion is made until there is a second to the motion. If a second to the motion is not made, then the motion will die for lack of a second.

10.6 AMENDMENTS TO A MAIN MOTION

- A) **Voluntary**: At any time before the question is called on a pending motion, the Councilmember who made the motion may ask that his/her motion be amended. If the Councilmember who seconded the main motion agrees, then the motion shall be considered amended voluntarily. No more than one amendment to an amendment shall be permitted for any item.
- B) **Involuntary**: At any time before the question is called on a pending motion, a Councilmember may make a motion to amend the motion. At that time the discussion of the underlying issue will stop. If there is not a second to the motion to amend, then discussion on the underlying issue will continue. If the motion to amend is adopted by a majority of the Council, discussion will continue on the (now) amended motion. If the motion to amend fails, discussion will continue on the original motion on the floor.
- C) **Voluntary Withdrawal**: At any time before the question is called on a pending motion, the Councilmember who made the motion may ask that his/her motion be withdrawn. The motion will be withdrawn only in the event that the Councilmember who seconded the motion agrees to withdraw the motion.

10.7 CALLING THE QUESTION

Discussion shall end at the time the question is called, or at the time the Mayor determines that there is no further need for discussion. However, when there is a Call for the Question, the Mayor moves to close discussion. A second to the motion and two-thirds vote of the Council is required to do so. This action shall close the discussion against the will of even one member who wishes to speak. If the Mayor attempts to close discussion and a Councilmember wishes to continue the discussion, the question that should be raised by that Councilmember is a Point of Order. A Point of Order, raised by a Councilmember, calls upon the Mayor for a ruling and an enforcement of the rules.

10.8 TAKING THE VOTE

The Mayor shall ask Councilmembers to designate his/her vote by announcing "aye" or "nay." If a Councilmember abstains from voting, that vote is considered a neutral vote. The effect of the abstention, whether through deliberate neutrality or otherwise, may have the effect of a "nay" vote.¹ If, prior to the vote or after the vote, any Councilmember requests a Roll Call vote, the Town Clerk shall call Roll, and each Councilmember shall state his/her vote aloud.

10.9 ANNOUNCING THE RESULT OF THE VOTE

After the vote, the Mayor shall announce whether the motion passed or failed, and the results of the vote.

¹ If the Council vote is 2-2-1 with a Councilmember abstaining, then the matter would not pass for lack of a majority. If the Council vote is 2-1-1 with a Councilmember abstaining, then the matter would also not pass for lack of a majority.

10.10 TIE VOTES

In the case of a tie in votes on any motion, the motion shall be considered lost.

10.11 ORDINANCE EMERGENCY CLAUSE

When an ordinance includes an emergency clause, it shall be prepared as provided by law and it shall become immediately effective. An emergency clause requires a three-fourths vote pursuant to ARS § 19-142(B).

SECTION 11. MOTIONS

11.1 RECONSIDERATION OF MOTIONS

Reconsideration of any action taken by Council must be by motion by a Councilmember who was on the prevailing side of the vote.

- A. Once an item is discussed at a meeting and the Council has gone on to another agenda item, the item considered cannot be again considered at that same meeting unless it can be positively determined that all persons who were present when the item was first considered are still present.
- B. Said reconsideration of any action taken by Council must be by motion by a Councilmember who was on the prevailing side of the vote. Such motion must be filed with the Council (Town Clerk's office) and the Town Clerk shall place that item on the agenda prior to the next regularly scheduled Council meeting. At the time of that meeting before the matter may be considered, there must be a second to the Motion to Reconsider.
- C. If the motion to reconsider failed, the Council will skip the next agenda item, which will be the discussion and vote of the original issue.
- D. If the motion to reconsider was successful, the Council will continue that item to a specific date in the future.

11.2 MOTIONS TO ADJOURN

A motion to adjourn may be made at any time, and this motion takes precedence over all other motions in accordance with Roberts Rules of Order.

11.3 MOTIONS TO RECESS

A motion to recess may be made at any time.

11.4 MOTIONS WITH A FIXED TIME TO ADJOURN

A motion with a fixed time to adjourn is not in order when another has the floor. This motion requires a second, is not debatable, is amendable, requires a majority vote, and may be reconsidered.

11.5 MAIN MOTION

A main motion is a motion to consider action and should be phrased in the positive.

SECTION 12. CONFLICT OF INTEREST

12.1 INTRODUCTION

Occasionally, a Councilmember may find himself/herself in a situation which requires that Councilmember to remove himself/herself from participation in the decision making process and from voting on a matter before the Council. This situation exists when the Councilmember has a "conflict of interest" as defined by applicable laws. These laws establish minimum standards for the conduct of Councilmembers who, in their official capacity, are, or may become involved with, a decision which might unduly affect their personal interests or those of their close relatives. Arizona law defines those close relatives to include "spouse, child, grandchild, parent, grandparent, brother or sister of whole or half blood and their spouses, and the parent, brother, sister or child of a spouse."

12.2 PURPOSE OF CONFLICT OF INTEREST LAWS

The purpose of Arizona's conflict of interest laws is to prevent self-dealing by Councilmembers and other public officials. The financial interest of Councilmembers must not conflict with the unbiased performance of their public duties. One cannot serve two masters with conflicting interests. The object of the statutes is to remove or limit any improper influence, direct or indirect, which might bear on an official's decision, as well as to discourage deliberate dishonesty.

12.3 THE ARIZONA CONFLICT OF INTEREST LAW

Pursuant to ARS § 38-503:

- A) Any Councilmember who has, or whose close relative has, a substantial interest in any contract, sale, purchase or service to the Town shall make known that interest in the official records of the Town and shall refrain from voting upon or otherwise participating in any manner as a Councilmember in such contract, sale or purchase.
- B) Any Councilmember who has, or whose relative has, a substantial interest in any decision of the Town shall make known such interest in the official records of the Town and shall refrain from participating in any manner as a Councilmember in such decision.

12.4 SUBSTANTIAL INTEREST

The preceding subsection tells us that disqualification is required where a Councilmember has a "substantial interest" in the pending matter. But, what is a "substantial interest?" The law tells us that a "substantial interest" is basically any financial interest of the Councilmember or close relative, which is not a "remote interest."

The Legislature has determined that certain economic interests are so remote that they do not unduly influence a person's decisions or actions. These "remote interests" are discussed below. Unless the interest is one of the nine remote interests described in the following subsection, the interest is substantial and creates a conflict of interest.

To determine whether a substantial interest exists, a Councilmember should ask the following questions:

- A) Will the decision affect, either positively or negatively, an interest of the Councilmember or a close relative?

- B) Is the interest a pecuniary or proprietary interest, i.e. does it affect a financial or property interest?
- C) Is the interest other than one of the nine remote interests described below?

If the answer to each of these questions is yes, then a substantial interest exists which requires disclosure and disqualification by the Councilmember.

Although Councilmembers may not themselves have a substantial interest in a decision in which they are about to participate, if one of their close relatives has a substantial interest in the decision, the Councilmember must disclose the interest and refrain from participating in the decision.

12.5 REMOTE INTERESTS

Arizona law excludes from the definition of a substantial interest certain enumerated remote interests. Any interest in a decision or contract not falling within the following remote interests is a substantial interest requiring withdrawal from participation:

- A) Non-Profit Corporations. If the Councilmember or their close relative is a non-salaried officer of a nonprofit corporation, he or she has a remote interest in any decision affecting that corporation.
- B) Landlord/Tenant of a Contracting Party. If a Councilmember or their close relative is a landlord or tenant of a party contracting with the Town, the Councilmember has a remote interest in a decision regarding the contract.
- C) Attorney of a Contracting Party. If the Councilmember or their close relative represents a client contracting with the Town, he/she has a remote interest in a decision affecting the client's contract. For example, if the Council is considering awarding a contract to a contractor, which is represented by an attorney, who is related to the Councilmember, that Councilmembers interest in the awarding of the contract is remote.
- D) Nonprofit Cooperative Marketing Associations. If a Councilmember or their close relative is a member of a nonprofit cooperative marketing association, he/she has a remote interest in any decision affecting that association.
- E) Insignificant Stock Ownership. If a Councilmember or their close relative owns less than three percent of the shares of a corporation for profit, and if the income from those shares does not exceed five percent of the person's total annual income, he/she has a remote interest in any decision affecting that corporation.
- F) Reimbursement of Expenses. If a Councilmember or their close relative is being reimbursed for actual and necessary expenses incurred in the performance of official duties, he/she has a remote interest in any decision affecting that reimbursement.
- G) Recipient of Public Services Generally Available. If the Councilmember or their close relative is a recipient of public services provided by the Town, and if those services are available to the general public, the Councilmember has a remote interest in any decision affecting those services.
- H) Class Interests. If the Councilmember or their close relative is a member of a trade, business, profession or other class of persons, and the interest is no

greater than the interest of the other members of the class, the Councilmember has a remote interest in any decision affecting the class. For example, if the Council was considering a decrease in Bed Tax and a Councilmember's son owned a business subject to the tax, the interest is remote because the son benefits no more or less than other owners of such a business.

- l) Interests of Other Agencies. A Councilmember may participate in a decision that indirectly affects a close relative who is an officer or employee of another public agency. For example, the head of the state agency responsible for allocating funds to local governments could participate in such decisions even though his/her spouse was an officer or employee of the local government. If, however, the decision confers some direct economic benefit or detriment resulting in the termination of a spouse's employment by the local government, a conflict of interest is present.

12.6 RESTRICTIONS ON CONTRACTS FOR SUPPLIES OR SERVICES

Pursuant to ARS § 38-503(C)(2), a Councilmember, or their close relative as described in § 12.1, may sell to the Town any supplies or equipment valued at not more than \$300 in any single transaction, or \$1,000 in any one year, except as provided for by State law and if the policy for such purchases is approved annually.

12.7 DISCLOSURE OF INTEREST

Pursuant to ARS § 41-1346, the Town shall maintain an active system for the management of public records so that all documents necessary to memorialize disclosures of substantial interest are made available for public inspection. Any Councilmember who has a conflict of interest in any decision must disclose that interest. The Councilmember shall file with the Town Clerk a signed Conflict of Interest Disclosure Memorandum (See Appendix A) fully disclosing the interest, and declaring the existence of the conflict and the reasons at a Council meeting.

12.8 WITHDRAWAL FROM PARTICIPATION

Councilmembers shall immediately and publicly declare a conflict in matters which the Councilmember, or whose close relative, would have a substantial interest due to a pecuniary interest or bias. Having disclosed the conflict of interest and withdrawn in the matter, the Councilmember must not communicate about the matter with anyone involved in the decision making process in order to avoid the appearance of impropriety. Further, the Councilmember should not otherwise attempt to influence the decision and should withdraw from the Council chambers while the matter is considered. If that issue is not resolved at that meeting, that Councilmember shall not discuss the matter with any other Councilmember until the matter is finally resolved. The Councilmember who declared the conflict may return to their seat when that agenda item is completed.

12.9 RULE OF IMPOSSIBILITY (CONFLICT OF THE MAJORITY)

ARS § 38-508 (B) specifically permits a Councilmember(s) to vote in the event of an apparent conflict as provided for in ARS § 38-503 when the failure to vote would prevent the Council from taking action. The Councilmember must disclose the substantial interest in the public records of the Town prior to voting on that issue.

12.10 IMPROPER USE OF OFFICE FOR PERSONAL GAIN

Pursuant to ARS § 38-504(C), Councilmembers are prohibited from using or attempting to use their official position to secure valuable things or benefits for themselves, unless those are part of the compensation they would normally be entitled to for performing their duties. Pursuant to ARS

§ 13-2602, it is a class 4 felony for a Councilmember to solicit, accept, or agree to accept any benefit upon an understanding that his or her vote, opinion, judgment, or other official action may thereby be influenced. Pursuant to ARS § 38-444, it is a class 6 felony for a Councilmember to ask to receive any unauthorized gratuity or reward or promise of a gratuity or reward for doing an official act.

12.11 SANCTIONS FOR VIOLATIONS

- A) Pursuant to ARS § 38-510 (A), a Councilmember who knowingly or intentionally violates any provision of the conflict of interest law may be charged with a class 6 felony.
- B) Pursuant to ARS § 38-510 (B), a Councilmember who negligently or recklessly violates the law may be charged with a class 1 misdemeanor. This means that a person may be prosecuted for failure to disclose a conflict of interest, even though that person was not aware of the conflict.
- C) Pursuant to ARS § 38-510 (C), upon conviction of a violation of the conflict of interest laws, a Councilmember forfeits the public office.
- D) Pursuant to ARS § 38-511, as amended, any contract made by the Town is subject to cancellation if anyone significantly involved in the contract process on behalf of the Town was or is also employed by or acted as consultant to any other party to the contract during the time the contract or extension to the contract is in effect.
- E) Any person who is affected by a Town decision made in violation of the conflict of interest laws, may sue to have the contract or decision declared null and void. The court may award costs and attorney's fees to the prevailing party. Persons claiming that a Councilmember had a pecuniary interest in making a decision against them may also file suit in state or federal court alleging a violation of their civil rights. In this instance, a Councilmember is thought to have engaged in self-dealing through the powers of a Councilmember, and by placing oneself ahead of the welfare of the Town, the Councilmember lies outside of his/her official capacity.

12.12 NON-STATUTORY CONFLICTS OF INTEREST

Occasionally, a Councilmember may feel that he/she should ethically refrain from participation in a decision even though the circumstances may not amount to a conflict of interest under the state law described above. It is the policy of the Council to encourage Councilmembers to adhere to strongly held ethical values, which are exercised in good faith. However, participation is encouraged in the decision making process unless the matter involves the Councilmembers personal conduct or a conflict of interest set forth by statute. Councilmembers are expected to weigh these considerations and follow their conscience.

SECTION 13. CODE OF CONDUCT

13.1 COMPETENT REPRESENTATION

Councilmembers shall provide competent representation for Town residents. Competent representation requires the knowledge, skill, thoroughness and preparation reasonably necessary to make an informed decision regarding issues coming before the Council which directly affects the residents that they represent.

13.2 ARIZONA OPEN MEETING LAW

Councilmembers shall meet in accordance with the Arizona Open Meeting Law and as required by Arizona State law discussing only those issues noted on the agenda. Councilmembers shall only discuss and decide issues at a properly noticed public meeting.

13.3 CONFIDENTIALITY

Councilmembers shall maintain confidentiality of matters discussed in Executive Session and those issued under a 'confidential' and 'attorney-client privilege' caption by legal counsel. Pursuant to ARS § 38-431.03, a Councilmember shall not disclose such information except to the Attorney General or County Attorney pursuant to an official request made in connection with an authorized audit as provided by law. In accordance with ARS § 38-431.07(A), a Councilmember shall neither knowingly aid, agree to aid, or attempt to aid another person in the unauthorized disclosure of Executive Session and/or confidential material in any form, which carries a minimum civil penalty not to exceed \$500 per infraction.

13.4 POLITICAL SYSTEM

Councilmembers shall demonstrate respect for the political system and for those who serve it, including other public officials.

13.5 LEGAL ADVICE

Councilmembers shall seek advice from the Town Attorney at any point that a legal issue arises or where litigation is alleged.

13.6 RESPECT

Councilmembers shall show respect to all colleagues by acting in a professional and dignified manner whether in support of the issue or expressing an adverse point of view.

13.7 COMMUNICATION

Councilmembers shall communicate openly and honestly with Town residents so as to instill confidence and trust.

13.8 WEIGHT OF RULES AND LAWS

Councilmembers shall consider the weight of the rules, laws, and ordinances on the majority of the residents and the long-term effects upon the Town.

13.9 INFORMATION

All Councilmembers shall be provided equal access to information, documents, or materials.

13.10 REPRESENTATIVE

A Councilmember may serve as a representative of the Town on boards of outside agencies or internal boards, commissions and committees as appointed by vote of the Council. Such appointments are intended for the purpose of gathering information and sharing viewpoints and Council policy regarding issues, which will directly affect the Town. Councilmembers shall inform the entire Council in regard to the information or proposed regulations, which will affect the Town and share with the agency the majority decision or viewpoint of the Council.

13.11 AVAILABILITY

Councilmembers shall be available at reasonable times to Town residents for the conduct of official Town business.

13.12 IMPROVEMENT

Councilmembers shall seek improvement of the laws, rules, regulations and quality of services rendered and which promote the health, safety, and welfare of all Town residents.

13.13 RESPONSIBILITY

As an elected public official, a Councilmember has a responsibility to assure that regulations promulgated by it are in the public interests.

APPENDIX A

CONFLICT OF INTEREST DISCLOSURE MEMORANDUM

APPENDIX “B” – amended

APPOINTMENT PROCESS OF TOWN OF ORO VALLEY VOLUNTEERS TO BOARDS, COMMISSIONS, COMMITTEES ADVISORY BOARDS AND TASK FORCES

In accordance with Oro Valley Town Code Section 2-4-8, the Mayor and Council may create any Town Board, Commission, Committee, Advisory Boards, or Task Force (“Board”), standing or special, as it deems necessary. Therefore, the process surrounding appointments to a Board should be streamlined in order to facilitate an efficient and courteous appointment as follows:

Advertising: Post calls for applicants at Town hall, in the local newspaper, on the Town web page, and other appropriate electronic formats, including Town-sanctioned social media.

Application: Volunteers must complete an application to be considered for appointment to a Board, which is submitted to the Town Clerk. If the volunteer is not selected, the application remains in a database for 2 years, which is reviewed when any vacancies occur depending upon interest of the volunteer as stated in the application. Those members wanting to be considered for reappointment must send a letter to the staff representative indicating their interest in reappointment and include any information that would supplement their application which is on file with the Town Clerk.

Interview Committee: Following an interview of volunteer applications, the interview committee makes a determination, and then forwards their recommendation for appointment/reappointment to the Board before the Mayor& Council for determination at a regular Town Council meeting. The Interview Committee Panel consists of Council Liaison, Board Chair (or Vice-Chair if term of the Chair is due to expire), and Department Director (or Division Manager) responsible for staff support to that particular Board.

Notification:

New Volunteer Recommended for Appointment: Prospective appointment is forwarded a copy of the Council Communication naming those volunteers recommended for appointment along with a

personal letter notifying the prospective appointee of the Council meeting date at which they shall be recommended for appointment.

New Volunteer Not Recommended for Appointment: The volunteer not chosen for appointment is forwarded the Council Communication naming those volunteers recommended for appointment along with an explanation that their volunteer application will be kept on file for 2 years.

Current Volunteer Not Recommended for Reappointment: The volunteer not recommended for reappointment is forwarded the Council Communication naming those volunteers recommended for appointment along with notification from the Council Liaison sitting on the Interview Committee explaining the decision surrounding the recommendation.

Criteria for Appointment: 1) Availability, and 2) Completion or commitment to complete the Community Academy.

Criteria for Reappointment: 1) Minimum Performance and Attendance, and 2) Board training in addition to the completion of the Community Academy within the volunteer's 2-year term.

Terms: Appointments shall be made for 2-year terms (or 3-year terms when applicable), and the volunteer shall continue service until reappointed or replaced. Upon successful completion of one term, the volunteer may be considered for reappointment without a formal interview with the interview committee panel. If the volunteer does not wish to be considered for reappointment, the position becomes open to other applicants.

Term Limits: No volunteer shall serve more than 2 consecutive terms, either 2-year terms (4 consecutive year maximum) or 3-year terms (6 consecutive years maximum) depending upon the Board. Once a volunteer has completed the maximum number of terms on a Board the volunteer may not be eligible for appointment to that Board for a period of 1 year following completion of their term.

Appointment of a member to complete the remaining portion of an unexpired term of a former member shall not be counted against the term limits established by this section for the newly appointed member.

Concurrent Office: No volunteer shall serve on more than one Standing Board at any time. A standing Board is that Board appointed by the Council for an unspecified duration and has regularly scheduled meetings.

Town Employee: Town Employees shall not serve on any standing Board with the exception of the Conceptual Design Review Board.

Attendance: A vacancy shall be deemed to have occurred upon three (3) consecutive unexcused absences, or as determined by the individual Board rules and procedures.

Training: All new volunteers and those seeking reappointment shall commit to the completion of the Community Academy offered by the Town of Oro Valley, and are encouraged to seek out additional training opportunities such as conferences, seminars and workshops relevant to the subject matter or discipline of their respective Board. The Town shall make every effort to provide the logistics and payment for any and all training workshops attended by the volunteer. The Town Clerk shall monitor compliance with volunteer training requirements.

Amended 1/21/04 by Resolution No. (R) 04-03

Amended 12/1/10 by Resolution No. (R) 10-88

APPENDIX “C”

CONSIDERATIONS FOR SERVICE ON TOWN OF ORO VALLEY BOARDS, COMMISSIONS, COMMITTEES AND OTHER VOLUNTEER PUBLIC BODIES

Introduction: Members of Town boards, commissions, committees and other volunteer public bodies (“appointed public bodies”) are appointed by the Town Council. Council Members are the constituents of the members of the various appointed public bodies in that such members have been authorized to act as the agents of the Council for the limited purposes relating to each such appointed public body. With the exception of the members of the Board of Adjustment, these members serve at the pleasure of the Council. Board of Adjustment members are appointed for two-year terms, and may be removed by Council for “neglect of duty, inefficiency, or misconduct in office.” OVZCR 21.6.D.

1. The general purpose of the appointed public bodies is to serve the interests of the Town, as a whole, in accordance with the overall direction established by the Council. It is expected that appointed members will act consistently with this general principle. Each appointee is also expected to act within the scope of his or her authority, and act consistently with the Town Codes, ordinances, resolutions, policies and procedures and applicable federal and state law including specifically the Open Meeting Law, Public Records Law and the laws concerning conflicts of interest and financial disclosure.
2. Certain boards, commissions, committees and other volunteer public bodies primarily advise the Council concerning general matters of interest to the community at large. An example of this type of appointed public body is the Parks and Recreation Advisory Board. Other boards, commissions, committees and other volunteer public bodies regularly handle contested cases. A “contested case” is a matter or proceeding before a Town board, commission or boards, commissions, committees and other volunteer public bodies in which legal interests, rights, duties or privileges of one or more specific parties are addressed by a decision or recommendation of that appointed public body. An example of this is the Planning and Zoning Commission. In certain instances appointed public bodies are part of the Town proceedings for the establishment or setting rates and fees. Appointees involved in contested cases or participating in rate or fee setting proceedings, in particular, are expected to act in careful regard of their responsibilities and these guidelines.
3. It is expected that an appointee will avoid the appearance of partiality or unfairness as a decision-maker in any matter before the public body of which he or she is a member. Among the actions that may assist an appointee in avoiding the appearance of partiality or unfairness are:
 - Treating all public participants with the same degree of politeness and formality before and during a meeting, including breaks, to avoid the impression that some participants may expect special treatment.
 - Not meeting with a party or a particular side concerning a “contested case” outside of the meeting of the public body to avoid the impression that certain parties have the privilege of special access to promote their particular interests before the public body. Generally, public meetings are the proper venue for members of a public body to gather information upon which to base a decision.
 - Waiting until all the facts are presented to the appointed public body before passing public judgment as an individual member. The official record upon which a decision or recommendation may appropriately be based is the record of public proceedings, not simply one’s personal back-ground knowledge.
 - An appointee removing himself or herself from any particular proceeding of the appointed public body relating to a matter in which the appearance of impartiality and fairness has been compromised by activities and/or public statements of the appointee.
4. It is expected that an appointee who disagrees with fellow public officials, decisions of the Town Council, Town administration, the decisions of his or her own public body or the

decisions of other boards, commissions, committees and other volunteer public bodies will do so constructively, based on facts, consistent with applicable law, and avoiding personal attacks, misleading statements or unsupported accusations.

5. It is expected that an appointee will respect the proceedings of other appointed public bodies by:

- Addressing members and staff during the meeting through the person who is chairing the meeting, avoiding the use of first names.
- First identifying whether he or she is appearing as a private citizen or is appearing officially on behalf of the public body of which he or she is a member.
- Avoiding lecturing members of a sister board, commission, committee or other volunteer public body on their responsibilities and authority as members of that public body.
- Not disrupting the proceedings of another public body by approaching the dais or staff desk area while the public body is in session, unless invited to do so by the person chairing the meeting.
- First raising any questions or concerns about the decisions or proceedings of another public body with staff or the chairperson.

6. It is expected that an appointee will be considerate of the fact that the elected Council Members are ultimately responsible for setting Town policy and directing its implementation. An appointee may be opposed to a course of action or decision by Council, or implementation of the same, and still continue to serve as a member of his or her public body. In the event, however, that an appointee wishes to actively and publicly oppose a course of action or decision by Council, or the implementation of the same, then it is expected that the appointee will resign rather than act in public opposition to the administration he or she has been appointed to serve.

Adopted by (R)05-119, 12-7-05
Amended 12/1/10 by Resolution No. (R) 10-88

MOTION carried, 6-0.

7. **PLANNING DIVISION MANAGER UPDATE (INFORMATIONAL ONLY)**

David Williams, Planning Division Manager, gave updates on the following:

- Karen Berthold's Resignation
- Spring Community Academy
- Major GPA for Desert Springs
- Community Event Sign Code Amendment
- Neighborhood Meetings
- Town Centre Project
- Community Outreach Forum

8. **FUTURE AGENDA ITEMS**

Mr. Williams announced there would be a Special Session on April 24, 2012, and a Regular Session on May 1, 2012, for a new Planned Area Development at Linda Vista Blvd. and Oracle Road.

ADJOURNMENT

MOTION: A motion was made by Vice Chair Cox and seconded by Commissioner Leedy to adjourn the meeting at 9:00 p.m.

MOTION carried, 6-0.

Prepared by:

Suzanne Molinar
Recording Secretary

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular session of the Town of Oro Valley Board of Adjustment of Oro Valley, Arizona held on the 3rd day of April, 2012. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this _____ day of _____, 201__.