

## **ORDINANCE NO. (O)11-13**

**AN ORDINANCE OF THE TOWN OF ORO VALLEY, ARIZONA, AMENDING THE ORO VALLEY ZONING CODE REVISED, AMENDING CHAPTER 21, REVIEW AND DECISION-MAKING BODIES, SECTION 21.4, PLANNING AND ZONING DEPARTMENT AND SECTION 21.6, BOARD OF ADJUSTMENT; REPEALING ALL RESOLUTIONS, ORDINANCES AND RULES OF THE TOWN OF ORO VALLEY IN CONFLICT THEREWITH; PRESERVING THE RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS THAT HAVE ALREADY BEGUN THEREUNDER**

**WHEREAS**, the Town of Oro Valley is a political subdivision of the State of Arizona vested with all associated rights, privileges and benefits and is entitled to the immunities and exemptions granted municipalities and political subdivisions under the Constitution and laws of the State of Arizona and the United States; and

**WHEREAS**, on March 13, 1981, the Mayor and Council approved Ordinance (O)81-58, which adopted that certain document entitled "Oro Valley Zoning Code Revised (OVZCR); and

**WHEREAS**, the amendment to Chapter 21, Review and Decision-Making Bodies, Section 21.4, Planning and Zoning Department, provides that any interpretations issued by the Planning and Zoning Administrator shall be published on the Town's website; and

**WHEREAS**, the amendment to Chapter 21, Review and Decision-Making Bodies, Section 21.6, Board of Adjustment, clarifies the requirements for appeal of interpretations of the Planning and Zoning Administrator to the Board of Adjustment; and

**WHEREAS**, the Planning and Zoning Commission reviewed the proposed amendments to Chapter 21, Review and Decision-Making Bodies, Sections 21.4, Planning and Zoning Department and 21.6, Board of Adjustment at a duly noticed public hearing on April 5, 2011 in accordance with State Statutes and recommended approval to the Town Council; and

**WHEREAS**, the Oro Valley Town Council has considered the proposed amendments to Chapter 21, Review and Decision-Making Bodies, Section 21.4, Planning and Zoning Department and Section 21.6, Board of Adjustment and the Planning and Zoning Commission's recommendation and finds that they are consistent with the Town's General Plan and other Town ordinances.

**NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Town of Oro Valley, Arizona, that:**

**SECTION 1.** Chapter 21, Review and Decision-Making Bodies, Section 21.4, Planning and Zoning Department and Section 21.6, Board of Adjustment, attached hereto as Exhibit "A", are hereby amended with additions being shown in ALL CAPS and deletions being shown in ~~strikethrough~~ text.

**SECTION 2.** That the existing Sections 21.6.G through 21.6K of Chapter 21 are hereby renumbered to Sections 21.6.H through 21.6.L.

**SECTION 3.** All Oro Valley Ordinances, Resolutions, or Motions and parts of Ordinances, Resolutions, or Motions of the Council in conflict with the provisions of this Ordinance are hereby repealed.

**SECTION 4.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

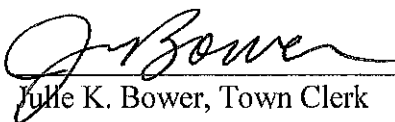
**PASSED AND ADOPTED** by the Mayor and Council of the Town of Oro Valley, Arizona this 4th day of May, 2011.

**TOWN OF ORO VALLEY**

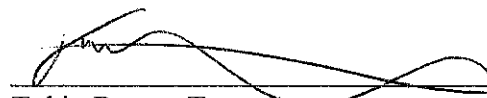
  
Dr. Satish I. Hiremath, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

  
Julie K. Bower, Town Clerk

Date: 5/10/11

  
Tobin Rosen, Town Attorney

Date: 5/10/11

PUBLISH: DAILY TERRITORIAL  
MAY 16, 17, 18, 19, 2011

POSTED: 5/10/11 - 6/10/11

# EXHIBIT “A”

**EXHIBIT "A"**  
**Ordinance (O) No. 11-13**

**NOTE: Language to be added is ALL CAPS. Language to be deleted is struck**

**Section 21.4 Planning and Zoning Department**

...

**B. Powers and Duties of the Planning and Zoning Administrator**  
The Planning and Zoning Administrator, with the applicable staff, performs the following duties in accordance with the A.R.S.:

...

**9. Interpretation**

a. ~~The Planning and Zoning Administrator interprets the provisions of this Code.~~ **SHALL BE RESPONSIBLE FOR INTERPRETATION OF THE ZONING CODE. INTERPRETATIONS MAY BE CONSIDERED IF THERE IS A QUESTION OF CLARITY OF ANY PROVISION OF THE ZONING CODE, OR A DETERMINATION OF ANALAGOUS USE IS REQUIRED WITHIN THE PERMITTED USES OF A SPECIFIED ZONING DISTRICT.**

**B. AN INTERPRETATION IS A FORMAL EXPLANATION OF A PROVISION OF THE ZONING CODE ISSUED IN WRITING BY THE PLANNING AND ZONING ADMINISTRATOR BASED ON A REQUEST, AS DIFFERENTIATED FROM AN ADMINISTRATIVE DECISION PURSUANT TO SECTION 22.12 WHICH IS THE ROUTINE APPLICATION OF THE ZONING CODE.**

**C. REQUESTS FOR INTERPRETATION SHALL BE FILED WITH THE PLANNING AND ZONING ADMINISTRATOR WITH THE REQUIRED FEE. THE PLANNING AND ZONING ADMINISTRATOR MAY ALSO INITIATE AN INTERPRETATION. THE PLANNING AND ZONING ADMINISTRATOR SHALL ISSUE A WRITTEN INTERPRETATION WITHIN TEN (10) DAYS FOLLOWING RECEIPT OF THE REQUEST.**

**D. PLANNING AND ZONING ADMINISTRATOR INTERPRETATIONS MAY BE APPEALED TO THE BOARD OF ADJUSTMENT IN ACCORDANCE WITH SECTION 21.6.G.**

**E. INTERPRETATIONS ISSUED PURSUANT TO THIS SECTION SHALL BE PUBLISHED ON THE TOWNS WEBSITE. ADDITIONALLY, A RECORD OF INTERPRETATIONS SHALL BE MAINTAINED AND AVAILABLE FOR PUBLIC REVIEW AND INSPECTION AT THE OFFICE OF THE TOWN CLERK.**

**Section 21.6 Board of Adjustment**

...

**G. APPEALS FROM PLANNING AND ZONING ADMINISTRATOR INTERPRETATIONS**  
**APPEALS MAY BE TAKEN TO THE BOARD OF ADJUSTMENT BY PERSONS AGGRIEVED BY A PLANNING AND ZONING ADMINISTRATOR INTERPRETATION WITHIN 20 DAYS FROM THE DATE THE INTERPRETATION IS PUBLISHED ON THE TOWNS WEBSITE. THE APPEAL SHALL BE FILED WITH THE TOWN CLERK, THE BOARD OF ADJUSTMENT SHALL ISSUE A DECISION WITHIN 30 DAYS FOLLOWING RECEIPT OF THE APPEAL.**

**Renumber existing Sections 21.6.G. through K to Sections 21.6.H. through L.**



Development and Infrastructure Services Department

**EXHIBIT "B"**

**Amendment - Interpretation, OV711-002**

**03/23/11 DRAFT**

**DATE:** February 11, 2011

**SUBJECT: ZCI 11-01 Laboratories as Accessory Use to Business and Professional Office Use**

This Zoning Interpretation is applicable to Laboratories as an Accessory Use to a Business and Professional Office within the R-S, R-6, C-N, C-1 and C-2 Zoning Districts.

**APPLICABLE REFERENCES:**

Accessory Use: Shall mean a use customarily subordinate to the main use of the lot or building, which accessory use does not alter the principal use of the subject lot or building or adversely affect other properties in the district. (Oro Valley Zoning Code – Chapter 31.6 Definitions – Accessory Use).

Section 23.3.A. Uses Permitted by Right Accessory uses are permitted as a matter-of-right in the R-S, R-6, C-N, C-1 and C-2 Zoning Districts, subject to compliance with all applicable regulations in this Code. (Oro Valley Zoning Code - Section 23.3.A. Uses Permitted by Right). Table 23-1 Permitted Uses.

Subordinate *adj* 1: placed in or occupying a lower class, rank or position (Merriam. – Webster's Collegiate Dictionary – Eleventh Edition 2003)

Laboratory *n* 1a: a place equipped for experimental study in a science or for testing and analysis. (Merriam – Webster's Collegiate Dictionary – Eleventh Edition 2003)

International Building Code (IBC) 2006. Both office and laboratory are classified as a Class B Occupancy by the IBC. The IBC limits accessory uses to 10% of any story of a building.

**ANALYSIS / DETERMINATIONS**

The R-S, R-6, C-N, C-1 and C-2 Zoning Districts allow Business and Professional Offices as a use permitted by right. These districts further allow accessory uses as permitted by right. Accessory uses are defined as a use customarily subordinate to the main use of the lot or building as listed above.

<i>Planning</i>	<i>Permitting</i>	<i>Inspection &amp; Compliance</i>	<i>Engineering</i>	<i>Operations</i>	<i>Transit</i>
(520) 229-4832	(520) 229-4815	(520) 229-4815	(520) 229-4894	(520) 229-5070	(520) 229-4990

*Caring for our heritage, our community, our future.*

11000 N. La Cañada Drive • Oro Valley, Arizona 85737  
fax: (520) 742-1022 • [www.orovalleyaz.gov](http://www.orovalleyaz.gov)

In analyzing the Zoning Code, the following determinations were made: An accessory use is a use customarily subordinate to the main use of the lot or building. The definition of "subordinate" requires that any proposed laboratory must occupy significantly less building floor area. A laboratory use may not adversely affect other properties in the district and may not involve any materials and processes determined by the Planning and Zoning Administrator to adversely affect other properties in the district.

**INTERPRETATION:**

Based upon the proceeding determinations, the following interpretation is hereby rendered:

1. Accessory Use: Subordinate laboratory use is determined to be an allowable accessory use within a completely enclosed business or professional office. Laboratory areas and equipment are commonly associated with professional offices such as medical and dental offices.
2. Subordination: Subordinate laboratory uses must occupy significantly less building floor area than the principal use of the building. An illustrative example would be a two story, 42,000 square foot professional office with a 2,000 square foot laboratory proposed on one of the floors. In this example, the proposed laboratory comprises less than 5% of the total building square footage and less than 10% of the building's first floor. The IBC limits Accessory Occupancy to less than 10% of any story of a building. The proposed laboratory square footage in the illustrative example is less than the 10% IBC standard.

Therefore, the laboratory as illustrated above is determined to be a subordinate, accessory use.

---

David Williams, AICP

Planning and Zoning Administrator