

**ORDINANCE NO. (O)20-08**

**AN ORDINANCE OF THE TOWN OF ORO VALLEY, ARIZONA, AMENDING CHAPTER 22, REVIEW AND APPROVAL PROCEDURES, SECTION 22.13, VARIANCES AND SECTION 31, DEFINITIONS, OF THE ORO VALLEY ZONING CODE UPDATING THE REQUIRED FINDING FOR A VARIANCE; 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**, 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**, review of Section 22.13, Variances and Section 31, Definitions showed that these sections needed to be updated to align with state law; and

**WHEREAS**, the proposed amendment to Section 22.13, Variances and Section 31, Definitions, updates the required findings for variance cases and aligns the findings with state law; and

**WHEREAS**, the Planning and Zoning Commission held a meeting on August 11, 2020 and voted to recommend approval of amending Section 22.13, Variances and Section 31, Definitions; and

**WHEREAS**, the Mayor and Council have considered the proposed amendments and the Planning and Zoning Commission’s recommendation regarding an updating the required findings for variance cases, and finds that they are consistent with the Town's General Plan and other Town ordinances and are in the best interest of the Town.

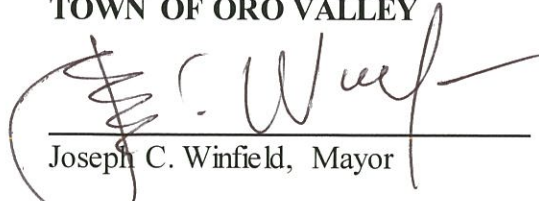
**NOW, THEREFORE, BE IT ORDAINED by the Mayor and Town Council of the Town of Oro Valley that:**

**SECTION 1.** that certain document entitled Section 22.13, Variances and Section 31, Definitions, of the Oro Valley Zoning Code, attached hereto as Exhibit “A”, and incorporated by reference, and declared a public record on October 7th is hereby adopted.

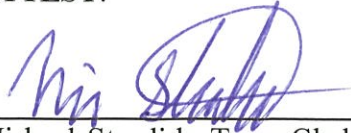
**SECTION 2.** All Oro Valley ordinances, resolutions or motions and parts of ordinances, resolutions or motions of the Council in conflict with the provision of this Ordinance are hereby repealed.

**PASSED AND ADOPTED** by the Mayor and Council of the Town of Oro Valley, Arizona, this 7<sup>th</sup> day of October, 2020.

TOWN OF ORO VALLEY

  
\_\_\_\_\_  
Joseph C. Winfield, Mayor

ATTEST:

  
\_\_\_\_\_  
Michael Standish, Town Clerk

Date: 10/7/2020

PUBLISH: DAILY TERRITORIAL  
OCTOBER 13, 14, 15, 16, 2020

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Tobin Sidles, Legal Services Director

Date: 10/6/20

POSTED: 10/13/20 - 11/13/20

# EXHIBIT “A”

Code Amendment to Section 22.13 and Chapter 31 of the Oro Valley Zoning Code Revised:

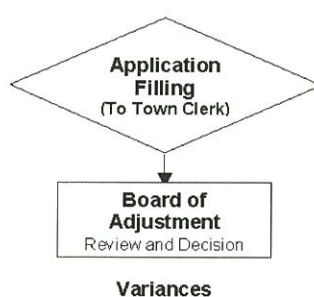
Additions shown in CAPS and deletions shown with ~~strikethrough~~.

---

## Section 22.13 Variances

### A. Application

Application for a variance of zoning regulations shall be made to the BOA in the form of a written application. Said application shall be filed with the Town Clerk upon forms provided by the BOA and shall be accompanied by:



1. Plans and description sufficient to indicate the nature of the project involved and the proposed use with ground plans and elevations of all proposed buildings.
2. Evidence satisfactory to the BOA of the ability and intention of the applicant to proceed with actual construction work in accordance with said plans within six (6) months after issuance of the variance.
3. A filing fee according to the fee schedule adopted by the Town Council. The owner of a nonconforming sign shall not be required to pay a filing fee when applying for a variance from the ordinance that renders the sign nonconforming.
4. From the time of filing the application until the time of such hearing, the application and all maps, plans and other accompanying data shall be available for public inspection during office hours at the office of the Town Clerk.

### B. Hearings and Notice

Upon receipt in proper form of any such application, the BOA shall proceed to hold a public hearing upon said application not more than thirty (30) days, nor less than fifteen (15) days, after such filing, at which time all persons shall be given an opportunity to be heard. Such BOA shall cause one (1)

notice of such hearing to be published in a newspaper of general circulation in the Town and one (1) notice to be posted on the subject property, giving at least fifteen (15) days' notice of said hearing, and the time and place where said hearing will be held. Said notice, both as published and posted, shall also show the nature of the variance or exception requested and state that anyone wanting to protest may appear in person or by writing. All property owners within three hundred (300) feet must be notified.

### C. Findings

A variance from the provisions of this Code shall not be authorized unless the Board shall find upon sufficient evidence:

1. That there are special circumstances or conditions applying to the property ~~referred to in the application including~~ STRICTLY RELATED TO its size, shape, topography, location, or surroundings, which do not apply to other properties in the district. EXISTING BUILDING CONFIGURATION SHALL BE INCLUDED ONLY WHEN CONSTRAINED BY THE SPECIAL CIRCUMSTANCES OR CONDITIONS OF THE PROPERTY; and
2. That THE special circumstances OR CONDITIONS AS DEFINED IN SUBSECTION C.1 OF THIS SECTION were not created by ~~the~~ A PREVIOUS OR CURRENT owner ~~or applicant~~; and
3. That the authorizing of the variance is necessary for the preservation ~~and enjoyment~~ of ~~substantial property~~ PRIVILEGES AND rights ENJOYED BY OTHER PROPERTIES OF THE SAME CLASSIFICATION IN THE SAME ZONING DISTRICT; and
4. That any variance granted ~~imposes~~ IS SUBJECT TO such conditions as will assure that the authorizing of the adjustment shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located; and
5. That the authorizing of the variance will not be materially detrimental to persons residing in the vicinity, to adjacent property, to the neighborhood or the public welfare in general.

### D. Action

The Board shall prescribe, in connection with any variance, such conditions as the Board may deem necessary in order to fully carry out the provisions and intent of this Code. Such conditions may include, among other things, a limitation of the time for which such variance shall be valid. Violation of any such condition shall be a violation of this Code and such violation shall render the variance null and void.

#### E. *Review*

Any person aggrieved by a decision of the Board after hearing on application made by any taxpayer or municipal officer may petition for a writ of certiorari to review the Board's decision pursuant to A.R.S. Section 9-465 (1956) as amended.

## **Chapter 31 Definitions**

### *Variance*

A modification of the literal provisions of this zoning code granted by the Board of Adjustment upon a finding that strict enforcement of the provisions would cause undue hardship owing to circumstances unique to the individual property for which the variance is granted. ~~and not caused by the applicant for said variance.~~