

**ORDINANCE NO. (O)20-09**

**AN ORDINANCE OF THE TOWN OF ORO VALLEY, ARIZONA, AMENDING CHAPTER 23, ZONING DISTRICTS, SECTION 23.5, MEASUREMENTS AND EXCEPTIONS, OF THE ORO VALLEY ZONING CODE FOR AN ADMINISTRATIVE REVIEW AND POTENTIAL APPROVAL PROCESS FOR MINOR BUILDING SETBACK REDUCTIONS; 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**, the proposed amendment to section 23.5 allows for an administrative review and potential approval process for minor building setback reductions; and

**WHEREAS**, currently, an building setback reduction, no matter how minor, must be considered as a variance case by the Board of Adjustment; and

**WHEREAS**, the Planning and Zoning Commission held a meeting on September 8, 2020 and voted to recommend approval of amending Section 23.5, Measurements and Exceptions; and

**WHEREAS**, the Mayor and Council have considered the proposed amendments and the Planning and Zoning Commission’s recommendation regarding an administrative review and potential approval process for minor building setback reductions, 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:**

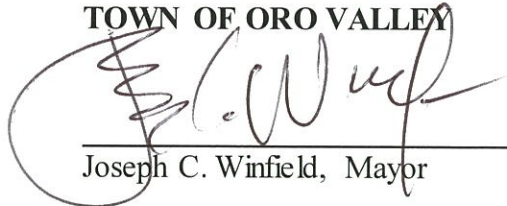
**SECTION 1.** that certain document entitled Section 23.5, Measurements and Exceptions, of the Oro Valley Zoning Code, attached hereto as Exhibit “A”, and incorporated by reference, with additions being shown in ALL CAPS and deletions being shown in strikethrough text and declared a public record on October 7<sup>th</sup> 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parts of ordinances, resolutions or motions of the Council in conflict with the provision of this Ordinance are hereby repealed.

**SECTION 3.** 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 7<sup>th</sup> day of October, 2020.

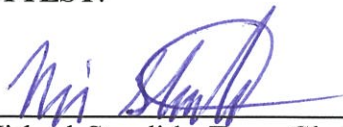
**TOWN OF ORO VALLEY**



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Joseph C. Winfield, Mayor

**ATTEST:**



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Michael Standish, Town Clerk

Date: 10/7/2020

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

**APPROVED AS TO FORM:**



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Tobin Sidles, Legal Services Director

Date: 10/8/20

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

# EXHIBIT “A”

Code Amendment to Section 23.5 of the Oro Valley Zoning Code Revised: Additions shown in CAPS and deletions shown with ~~strikethrough~~.

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## Section 23.5.C.2.g

Setbacks for an attached feature of a main or accessory building, as provided in SUBSECTIONS A–F of this section, may be further ~~reduced~~–ENCROACHED UPON by an additional twenty percent (20%) when all of the following applies:

- i. The nearest property line to the attached feature abuts a property where no building or occupancy could take place such as common areas, riparian or open spaces excluding areas of ingress/egress.
- ii. A minimum six (6) foot solid wall is added to obscure the view of the building.
- iii. A minimum of three (3) feet is maintained from the property line.

In no case will an element of the main or accessory building be permitted to extend into, or be built above or over, an area intended to remain clear and unobstructed such as a designated environmentally sensitive area or ingress/egress.

## SECTION 23.5.C.2.H

RESIDENTIAL SETBACK REDUCTIONS MAY BE APPROVED BY THE PLANNING AND ZONING ADMINISTRATOR SUBJECT TO THE FOLLOWING:

### I. APPLICABILITY

THIS CODE PROVISION SHALL APPLY TO THE FOLLOWING:

- A) SINGLE-FAMILY DWELLING UNITS.
- B) DETACHED ACCESSORY STRUCTURES.

II. THE SETBACK REDUCTION PROCEDURE SHALL NOT APPLY TO ANY PROPOSED SETBACK REDUCTION THAT RESULTS IN:

- A) CHANGES TO A SUBDIVISION DESIGN. SETBACK REDUCTION REQUESTS SHALL BE CONSIDERED INDIVIDUALLY ON A PARCEL-BY-PARCEL BASIS. IN NO INSTANCE SHALL THIS CODE PROVISION BE APPLIED AS PART OF THE REZONING, FINAL DESIGN REVIEW OR PLATTING PROCESS.
- B) AN INCREASE IN THE PERMITTED LOT COVERAGE FOR A DETACHED ACCESSORY STRUCTURE.

C) A CHANGE TO A DEVELOPMENT STANDARD THAT WAS PREVIOUSLY REDUCED THROUGH A SEPARATE MODIFICATION OR VARIANCE.

D) A CHANGE TO A DEVELOPMENT STANDARD THAT WAS A CONDITION OF APPROVAL FOR A REZONING OR CONCEPTUAL SITE PLAN.

E) A MODIFICATION OF A REQUIREMENT OF AN OVERLAY ZONE, SCENIC CORRIDOR, OR THE ENVIRONMENTALLY SENSITIVE LANDS ORDINANCE INCLUDING, BUT NOT LIMITED TO, SETBACKS (SECTION 27.10.F.3.B) AND FLEXIBLE DESIGN OPTIONS (SECTION 27.10.F.2.C).

F) AN ADDITIONAL SETBACK ENCROACHMENT THAN WHAT IS PERMITTED IN SECTION 23.5.C.2 OF THIS CODE.

G) A CHANGE TO THE SETBACK REQUIREMENTS FOR MULTIPLE FRONTAGE LOTS AS DEFINED IN SECTION 23.5.C.1.B OF THIS CODE.

III. ALL RESIDENTIAL SETBACK REDUCTION REQUESTS MUST MEET THE FOLLOWING STANDARDS:

A) A FRONT, REAR OR SIDE YARD BUILDING SETBACK MAY BE REDUCED BY LESS THAN TEN (10) PERCENT TO A MAXIMUM OF FIVE (5) FEET FROM ANY PROPERTY LINE.

B) REQUESTS MAY NOT BE MATERIALLY DETRIMENTAL TO DIRECTLY AFFECTED PROPERTIES INCLUDING SAFETY, VIEWS, NOISE, HEALTH, AND GENERAL WELFARE AS DETERMINED BY THE PLANNING AND ZONING ADMINISTRATOR.

C) REQUESTS ARE SUBJECT TO CONDITIONS, AS DETERMINED BY THE PLANNING AND ZONING ADMINISTRATOR, TO MITIGATE ANY POTENTIAL NEGATIVE IMPACTS.

D) ALL REQUESTS MUST BE UNOPPOSED BY ALL DIRECTLY AFFECTED PROPERTIES AS DEFINED IN SUBSECTION IV OF THIS SECTION.

IV. ALL DIRECTLY AFFECTED PROPERTY OWNERS MUST BE NOTIFIED BY MAIL AND INCLUDE:

A) ALL PROPERTY OWNERS ADJACENT TO THE APPLICANT'S PROPERTY FOR A FRONT YARD SETBACK REQUEST.

B) ALL PROPERTY OWNERS ABUTTING THE APPLICANT'S PROPERTY FOR A SIDE OR REAR YARD SETBACK REQUEST.

C) ADDITIONAL PROPERTIES WHEN IT IS APPARENT THEY WILL BE MATERIALLY AFFECTED BY THE REQUEST AS DETERMINED BY THE PLANNING AND ZONING ADMINISTRATOR.

V. DETERMINATION AND ACTION IF THERE IS OPPOSITION TO THE REQUEST BY DIRECTLY AFFECTED PROPERTY OWNERS:

A) AFFECTED PROPERTY OWNERS HAVE 15 DAYS AFTER DATE OF MAILING TO RESPOND; IF NO RESPONSE IN OPPOSITION IS RECEIVED BY TOWN STAFF, THE APPLICATION SHALL BE CONSIDERED UNOPPOSED.

B) IF A RESPONSE IN OPPOSITION TO A SETBACK REDUCTION REQUEST IS RECEIVED WITHIN THE 15-DAY COMMENT PERIOD BY A DIRECTLY AFFECTED PROPERTY OWNER, THE PLANNING AND ZONING ADMINISTRATOR MAY MEET WITH THE OPPOSING PROPERTY OWNER AND APPLICANT TO REACH A CONSENSUS.

C) IF OPPOSITION REMAINS, THE APPLICATION MUST BE DENIED.

VI. REVIEW AND APPEAL PROCESS:

A) THE PLANNING AND ZONING ADMINISTRATOR MAY APPROVE, APPROVE WITH CONDITIONS, OR DENY THE SETBACK REDUCTION REQUEST UPON EVALUATION OF CODE COMPLIANCE.

B) A DECISION BY THE PLANNING AND ZONING ADMINISTRATOR MAY BE APPEALED TO THE BOARD OF ADJUSTMENT IN ACCORDANCE WITH SECTION 22.12 OF THIS CODE.

C) THE APPLICANT RETAINS THE ABILITY TO APPLY FOR A VARIANCE AS PROVIDED IN SECTION 21.6.J OF THIS CODE.