

ORDINANCE No. 17-133

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, COUNTY OF YAVAPAI, ARIZONA, AMENDING THE TOWN OF DEWEY-HUMBOLDT, ARIZONA CODE OF ORDINANCES, TITLE III ADMINISTRATION, CHAPTER 30 TOWN COUNCIL AND OFFICIALS, SUBCHAPTER COMMUNICATIONS, BY DELETING § 30.086 QUASI-JUDICIAL ROLE IN ITS ENTIRETY AND AMENDING TITLE XV LAND USAGE, CHAPTER 153 ZONING REGULATIONS, SUBCHAPTER ADMINISTRATION; ENFORCEMENT, § 153.021 BOARD OF ADJUSTMENT, RELATED TO THE BOARD OF ADJUSTMENT'S QUASI-JUDICIAL ROLE AND EX PARTE COMMUNICATIONS; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES.

**Whereas**, on January 17, 2017, the Town Council approved Ordinance No. 17-132, establishing a separate Board of Adjustment and ending the Council's responsibility to hear certain matters in a quasi-judicial role; and

**Whereas**, the newly created Board of Adjustment has responsibilities that involve it to act in a quasi-judicial role with respect to the decisions it makes,

**Now, therefore**, be it ordained by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona, as follows:

The Town of Dewey-Humboldt, Arizona Code of Ordinances, Title III Administration, Chapter 30 Town Council, Subchapter Communications, is hereby amended to delete Section 30.086 Quasi-Judicial Role; Ex Parte Communications in its entirety.

The Town of Dewey-Humboldt, Arizona Code of Ordinances, Title XV Land Usage, Chapter 153 zoning Regulations, Subchapter Administration; Enforcement, Section 153.021 Board of Adjustment is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

§ 153.021 BOARD OF ADJUSTMENT; ZONING ADMINISTRATOR.

\* \* \*

(E) *Hearings and rulings.* The Board of Adjustment shall hold at least one public hearing, within a reasonable time from the date of application, after giving a minimum of 15 days' notice thereof to parties of interest and the public, by posting at the property of application (if property is involved) and by publishing once in a newspaper of general circulation in the town. The Board of Adjustment shall render a decision within 30 days after the initial hearing on same, unless an extension is agreed to by the Board and the applicant.

\* \* \*

(3) Decisions of the Board of Adjustment may be appealed to the Superior Court within 30 days of the decision by the Board.

(4) QUASI-JUDICIAL ROLE; EX PARTE COMMUNICATIONS

(a) THE BOARD OF ADJUSTMENT ACTS IN A QUASI-JUDICIAL MANNER AND, TO ENSURE THAT THE DECISION-MAKING PROCESS IS FAIR AND IMPARTIAL, NO MEMBER OF THE BOARD SHALL, DIRECTLY OR INDIRECTLY, ENTERTAIN, ACCEPT OR PARTICIPATE IN ANY EX PARTE COMMUNICATION RELEVANT TO AN APPLICATION PENDING BEFORE THE BOARD.

(b) EX PARTE COMMUNICATIONS ARE ORAL OR WRITTEN COMMUNICATIONS RELATED TO THE MATTER TO BE HEARD BY THE BOARD AND WHICH ARE MADE TO OR BY A MEMBER OF THE BOARD, INCLUDING IN PERSON, TELEPHONIC OR ELECTRONIC COMMUNICATIONS THAT OCCUR OUTSIDE OF A PUBLIC MEETING OF THE BOARD.

(c) EXCEPTIONS. THIS PROHIBITION SHALL NOT APPLY TO COMMUNICATIONS BETWEEN THE MEMBERS OF THE BOARD AND TOWN STAFF. THIS PROHIBITION IS NOT INTENDED TO PREVENT SITE VISITS, THE RECEIPT OF EXPERT OPINIONS, AND THE REVIEW OF MAIL AND OTHER CORRESPONDENCE RELATING TO THE PROCEEDINGS.

(d) IF A BOARD MEMBER RECEIVES AN EX PARTE COMMUNICATION, THE BOARD MEMBER SHALL PLACE THE COMMUNICATION IN THE PUBLIC RECORD OR SHALL ENTER INTO THE RECORD A STATEMENT DESCRIBING THE TIME, PLACE, AND CONTENT OF THE COMMUNICATION.

Section II. Savings Clause

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance as amended 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 remainder of this Ordinance.

Section III. Repeal of Conflicting Ordinance

All other code provisions, ordinances, or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed as of the effective date hereof.

**PASSED AND ADOPTED** by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona, this 21<sup>st</sup> day of March, 2017, by the following vote:

AYES: 7

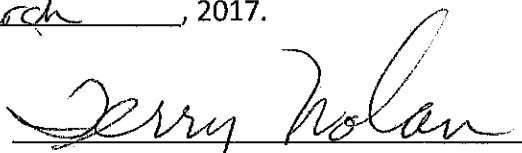
NAYES: 0

ABSENT: 0


EXCUSED: 0

ABSTAINED: 0

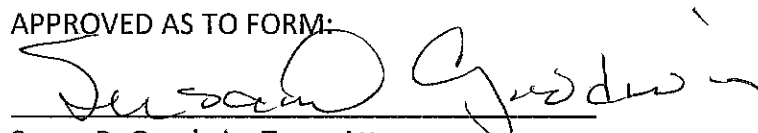
APPROVED this 21<sup>st</sup> day of March, 2017.

  
Terry Nolan, Mayor

ATTEST:

  
Judy Morgan, Town Clerk

APPROVED AS TO FORM:

  
Susan D. Goodwin, Town Attorney

I, JUDY MORGAN, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 17-133 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, ARIZONA ON THE 21<sup>st</sup> DAY OF March, 2017, WAS POSTED IN THREE PLACES ON THE 29<sup>th</sup> DAY OF March, 2017.

  
Judy Morgan, Town Clerk