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21-301 Intent *3

The intent of this Section is to outline the roles played by the decision-making bodies involved in the zoning processes, and to set forth the procedures for application, review, and approval of land development requests governed by this Ordinance.

21-302 City Council

A. Authority

Pursuant to provisions of the Peoria City Charter and limitations imposed by the State of Arizona, the Peoria City Council is vested with all the powers of the City.

B. General Powers and Duties

The organization, powers, and duties of the City Council shall be as prescribed in Section II of the City Charter with all amendments thereof. The Council exercises broad approval authority and approves many types of land-use proposals contained in this ordinance. The Council has the power to create or abolish boards, commissions, or committees and may grant to them such powers and duties as are consistent with the provisions of the City Code.

21-303 Planning and Zoning Commission

The City has established the Planning and Zoning Commission pursuant to Chapter 3, Section 3-47, of the Peoria City Code (1992).

21-304 Zoning Administrator and Enforcement Official

A. Authority

The Community Development Director or designee(s) thereof shall carry out all responsibilities or the office(s) of the Zoning Administrator and Enforcement Official as defined in A.R.S. §9-462 and as set forth hereafter.

B. General Powers and Duties

Powers and duties of the Community Development Director acting in capacity of the Zoning Administrator and Enforcement Official shall include, but not be limited to, the following:

1. Administration and interpretation of this ordinance, including clarification of the intent, review of land uses described and included in a zoning district, and delegation of responsibilities for administering procedures and requirements of the ordinance;
2. Preparation of application guidelines, forms, and administrative procedures; and,
3. Enforcement of this ordinance.

21-305 Board of Adjustment

The City has established the Board of Adjustment pursuant to A.R.S. §9-462 and the City Code, Chapter 20, Section 20-31, and all amendments thereof.

21-306 Design Review Board

The City has established the Design Review Appeals Board pursuant to the City Code, Chapter 3, Section 3-18, and all amendments thereof.

21-307 Historic Preservation Board

The City has established the Historic Preservation Commission pursuant to the City Code, Chapter 3, Section 3-23, and all amendments thereof.

21-308 Administrative Hearing Officer

A. Authority

Pursuant to A.R.S. §9-462.08 and in accordance with Chapter 20, Section 20-41 of the City Code (1992), the City has the authority to establish administrative hearing officer(s) and delegate to the hearing officer(s) the authority to conduct hearings.

B. Appointment

Hearing officers shall be appointed by the City Manager on the basis of technical training and experience which qualifies them to conduct hearings and make findings and conclusions on the matters heard.

C. Land Use Hearing Officer

Pursuant to Subsection A of this Section, the City has established a Land Use Hearing Officer. The Land Use Hearing Officer shall hear appeals for the following: ^{*4}

1. Decisions of the Community Development Department regarding administration of the requirements of the Hillside Development Overlay District as described in Section 21-710 and in accordance with Section 21-311 through Section 21-327.
2. Determinations for exactions or dedications required by the City as a condition of granting approval for the use, improvement, or development of real property, in accordance with this Ordinance and all amendments thereto.
3. Other matters as the Council may provide by Ordinance

21-309 Planning Agency

A. Establishment

The City has established the Community Development Department to carry out the functions of the Planning Agency, pursuant to A.R.S. §9-461-01 and the City Code, Chapter 20, Section 20-1, and further described herein.

B. General Powers and Duties

The Community Development Department shall perform but not be limited to, the following functions:

1. Develop and maintain a General Plan.
2. Develop such specific plans as may be necessary to implement the General Plan.
3. Develop and administer a zoning code which will serve as an implementation vehicle for the General Plan and specific area plans.
4. Perform such other planning functions as directed by the City Manager, Mayor and City Council.

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21-310 Intent ^{*15-21}

The intent of the Administrative Procedures Section of this Ordinance is to set forth the procedures used for application, review, and decision-making for land development request governed by this Ordinance.

21-311 Interpretation

- A. The Department Director or designee thereof, shall interpret the provisions of this Ordinance, and shall interpret uses within each district as provided in the intent and regulations governing the subject district. The Director or designee shall respond in writing to written requests for Ordinance interpretations within forty-five (45) days from the date of receipt of the written request.
- B. Ordinance interpretations may be appealed to the Board of Adjustment (BOA). Such appeals may be initiated by an office, department, board, or commission of the City or by any aggrieved party. The appeals shall be processed in accordance with Section 21-323 of this Ordinance.

21-312 Enforcement

- A. General

The City of Peoria shall diligently enforce the provisions of this Ordinance to protect the health, safety, and welfare of the residents of the City of Peoria and to promote the City’s planning efforts.

 - 1. Enforcement shall include but not be limited to the following:

- a. Receipt and examination of applications for zoning compliance certificates and occupancy permits, and issuance of said certificates and permits
 - b. Inspections of buildings, structures, and premises as necessary for enforcing the provisions of this Ordinance
 - c. Revocation of any zoning compliance certificate or occupancy permit wherein a use not permitted in the district or a structure not meeting the regulations of this Ordinance was erroneously authorized, in which case the certificate or permit shall be void
 - d. Carrying out the orders of Boards issued in accordance with the provisions of this Ordinance
2. Enforcement of the provisions of this Ordinance shall in no case entail the following:
- a. Granting exceptions to the actual meaning of any clause, order, or regulation contained in this Ordinance
 - b. Making changes in, or varying the terms of, this Ordinance
 - c. Refusing to issue a zoning compliance certificate or occupancy permit when the applicant has complied with all provisions of this and other applicable Ordinances and codes, despite any violations of contracts, covenants, or private agreements which may result therefrom.
- B. Occupancy Permits
- It is unlawful to use or occupy, or permit the use or occupancy of, any building or structure except a single-family residence, or to change or extend any use of land unless and until an occupancy permit has been issued.
1. Issuance of Occupancy Permits
Within two (2) working days after receiving notice that the building, structure, premises, or part thereof has been completed and is ready for final use or occupancy, the City Staff shall make an inspection. An occupancy permit shall be issued to the owner upon determining that the construction has been completed in conformity with the provisions of this Ordinance.
 2. Temporary Occupancy Permits
The City may issue a temporary occupancy permit for a part of a building, structure, or use prior to completion of the entire building, structure, or use upon determining that said part is in conformity with all provisions of this Ordinance and is considered safe and suitable for use and occupancy. Such temporary occupancy permit shall remain in force until the entire building, structure, or use has been completed and inspected, and an occupancy permit has been issued.
- C. Inspection Fees
- Prior to the issuance of a Zoning Compliance Certificate or Occupancy Permit, the applicant shall pay the applicable inspection fee(s) to the City.

21-313 Violations

- A. Any structure upon which construction is started or any structure which is altered, enlarged, or repaired, or any use of land which is begun or changed after enactment of this Ordinance and which is in violation of any of its provisions, is hereby declared a nuisance per se. Any Court of

competent jurisdiction shall order such nuisance abated and the owner or agent in charge of such building or premises shall be adjudged guilty of maintaining a nuisance per se.

- B. Any person who violates any provision of the Ordinance shall be guilty of a separate offense, and upon conviction thereof, shall be liable to all applicable penalties of the City Code and other laws. For purposes of this Section, "person" shall include the owner of any structure or land or part thereof, and any person, architect, builder, contractor, plumber, or agent employed in connection therewith, who has assisted knowingly in the commission of any such violation.

21-314 Fees

Fees charged by the Department shall be as adopted in the City Code.

- A. Waivers

In cases where the applicant is the City Council, City Planning and Zoning Commission, Department, or an official or agency of the City, County, State, or Federal government, fees for administrative procedures associated with this Ordinance shall be waived.

- B. Non-Profit Organizations

For non-profit community organizations, the Department shall reduce fees to ten percent (10%) of the fees required under this Ordinance. A non-profit community organization for purposes of this Ordinance is defined as a corporation organized under the laws of the State of Arizona as a non-profit organization and having been certified by the United States Internal Revenue Service of 1986 as amended.

- C. Hardship

In cases where hardship exists and can be demonstrated to the satisfaction of the City Council, the City Council shall have the authority to waive, reduce, or otherwise adjust the normal fee as it deems appropriate.

300 ADMINISTRATION AND PROCEDURES

21-315 Notices *14, *18, *25

Table 21-316 Notices

	Notice of Application [Postcard] Property Owner Notification Distance Radius	Notice of Hearing [Postcard] Property Owner Notification Distance Radius	Newspaper Ad	Site Posting (Responsible Party) •	Notice of Decision [Postcard] Property Owner Notification Distance	Notice of Neighborhood Meeting [Letter] <i>Applicant's responsibility</i> Notification Distance Radius
Administrative Relief #	Abutting Properties only	N/A	No	No	Abutting Properties only	N/A
Conditional Use Permits	600 FT	600 FT	Yes	Yes (Applicant)	No	If meeting is required, 600 FT
Hillside Appeals	No	300 FT	Yes	Yes (City)	No	N/A
PAD/PCD Major Amendment	o	o	Yes	Yes (Applicant)	No	o
PAD/PCD Minor Amendment	Map Amendments only (300 FT)	o	Text Amendments only	No	No	N/A
Rezoning	o	o	Yes	Yes (Applicant)	No	o
Site Plans	300 FT	If appealed, 300 FT	If appealed	No	300 FT	N/A
Site Plan Major Amendment	300 FT	If appealed, 300 FT	No	No	300 FT	N/A
Temporary Use Permits	No	If BOA hearing is required, 300 FT	If BOA hearing is required	♦	No	N/A
Zoning Ordinance Text Amendment	No	No	Yes	No	No	N/A
Variance	No	300 FT	Yes	Yes (Applicant)	No	N/A
Zoning, Initial	No	o	Yes	Yes (City)	No	N/A

- Specific site posting sign requirements are located in the Site Posting Requirements guide available from the Planning Division.
- o If the property to be rezoned is less than 40 acres, the notification distance shall be six hundred (600) feet. In cases where the property to be rezoned is forty (40) acres or larger, the notification distance shall be 1320 feet.
- ♦ Site posting may be required per 21-322.E. If required, the City shall be responsible for posting signage on the subject property.
- # Subject to the notification requirements outlined in Section 21-324.E.

A. Notice of Application

1. For all cases requiring a Notice of Application within three (3) working days of the submittal date of the application, the Department shall send notice by first class mail to each owner of real property as last disclosed by County real estate tax records, situated wholly or partially within the notification distances specified in Table 21-316 and to each Neighborhood Association and Home Owners Association that has registered with the City and is affiliated with a neighborhood located within a one (1) mile radius of the subject site.

B. Newspaper Ad

1. For all cases requiring a newspaper ad, notice shall be published at least once in a newspaper of general circulation in the city. The notice shall include a general description of the subject property and a statement of the proposed application.
 - a. For cases involving a public hearing, the ad shall be published at least fifteen (15) days prior to the hearing. Such public notice may be combined with public notice for other matters to be heard at the same public hearing.
 - b. Newspaper ads for Zoning Ordinance Text Amendment cases shall also include a general description of any regulations proposed to be amended. The text of the proposed amendment shall be provided either in the newspaper ad or through the City's website.

C. Notice of Hearing

1. For all cases requiring a Notice of Hearing, at least 15 days prior to the hearing, the Department shall send notice by first class mail to each owner of real property as last disclosed by County real estate tax records, situated wholly or partially within the notification distances specified in Table 21-316 and to each Neighborhood Association and Home Owners Association that has registered with the City and is affiliated with a neighborhood located within a one (1) mile radius of the subject site.
2. In proceedings involving rezoning of land that abuts other municipalities or unincorporated areas of Maricopa or Yavapai County, or a combination thereof, the Department shall transmit copies of the notice of the public hearing to the planning agency of the applicable governmental unit. In proceedings involving land in the vicinity of a military airport, the Department shall mail a copy of the notice to the airport.

D. Site Posting

1. For all cases requiring site posting, the responsible party identified in Table 21-316 shall post the site in a conspicuous location on the subject property. The sign shall be designed and constructed in accordance with the adopted administrative guidelines for such signs. If the applicant is responsible for the posting, they shall provide the City with a photo exhibit and affidavit attesting to such posting at least fifteen (15) days prior to the hearing.

E. Notice of Decision

1. For all cases requiring a Notice of Decision, the Department shall send notice by first class mail to each owner of real property as last disclosed by County real estate tax records, situated wholly or partially within the notification distances specified in Table 21-316 and to each Neighborhood Association and Home Owners Association that has registered with the City and is affiliated with a neighborhood located within a one (1) mile radius of the subject site.

F. Notice of Neighborhood Meeting

1. For all cases requiring a Notice of Neighborhood Meeting, the applicant shall send written notice by first class mail to interested and affected persons no later than ten (10) days prior to the neighborhood meeting, including but not limited to, each owner of real property as last disclosed by County real estate tax records, situated wholly or partially within the notification distances specified in Table 21-316, and each Neighborhood Association, Condominium Association, Home Owners Association, and apartment management office that has registered with the City and is affiliated with a neighborhood located within a one (1) mile radius of the subject site. The notice shall provide a description and map of the request, a mailing address, telephone number, and email address where comments regarding the application will be received.
2. For all rezoning cases, the applicant shall also send Notice of Neighborhood meeting to adjacent jurisdictions and affected school districts, public utilities, and state and federal agencies.

G. Failure to Receive Notice

1. In accordance with A.R.S. §9-462.04.A.7, notwithstanding the notice requirements herein set forth, the failure of any person or entity to receive notice shall not constitute grounds for any court to invalidate the action for which the notice was given.

21-316 Expiration of Applications

- A. All applications submitted to the Planning Division for staff review will expire and be deemed withdrawn if more than twelve (12) months pass from the latest date that staff has provided the applicant with review comments, unless a full re-submittal of case materials occurs. This includes, but is not limited to, applications for Rezoning, PAD Amendments, Zoning Ordinance Text Amendments, Site Plan Reviews, Major Site Plan Amendments, Conditional Use Permits, Temporary Use Permits, Requests for Administrative Relief, Requests for Variance, Hillside Ordinance Appeals, Design Review Appeals, Preliminary Plats, and Sign Permits. Prior to the date of expiration, the applicant may file a request for an extension. The Planning Manager may authorize a one-time, six (6) month extension. The Applicant contact of record shall be provided written notice no less than thirty (30) days prior to the date of application expiration.

21-317 Rezonings

A. General

In accordance with the provisions of A.R.S. §9-462.01, The City Council may from time to time change the zoning of parcels of land within the municipality. These changes in zoning classification are intended to meet the land use needs of the residents of the City and conform to the City's General Plan.

B. Applicability

The procedures herein described shall apply to all rezone requests within the City of Peoria.

C. Mandatory Pre-Application Conference, Plan Submittal and Approval ^{*9}

The applicant must attend a pre-application conference prior to applying for rezoning. The requirement for a Citizen Participation Plan and required meetings with the adjacent neighborhoods and interested persons will be reviewed at the conference.

D. Application for Rezoning

1. All applications for rezoning, except those involving a PAD, PCD, or detached or attached single-family units on individual lots, shall be accompanied by a Site Plan Review application prepared in accordance with this Section.
2. Rezoning may be initiated by the City Council, the Planning and Zoning Commission, the Department, or an owner or duly authorized agent of property proposed for rezoning. In the case of an application that includes property not owned by the applicant, and where the applicant is not the City Council, the Planning and Zoning Commission, or the Department, the application shall include the signatures of the real property owners representing at least seventy five percent (75%) of the land in the subject area.
3. Any person or entity who seeks a rezoning shall submit an application on the official form provided by the Department. Submittal requirements shall be as established administratively by the Department, and shall include but not be limited to the legal description of the property, the present zoning classification, the recommended use of the property in the City's General Plan, a scaled diagram of the subject parcel and surrounding area, and a Citizen Participation Plan. ^{*9}
4. The applicant shall present evidence of ownership or the type of controlling interest in the property (e.g., option to purchase) to the Department. The applicant shall submit the application together with the applicable fee to the Department.

E. Citizen Participation Process ^{*13}

A Citizen Participation Process shall accompany all rezone requests. The purpose of the Citizen Participation Process is to provide a forum for public involvement and resolution of concerns prior to the formal public hearing process. The Citizen Participation Process ("CPP") shall not be required for initial zoning cases per 21-319 and minor amendments to approved Planned Area Developments and Planned Community Developments.

1. The applicant shall hold at least one neighborhood meeting with persons who may be affected or have an interest in the application; said persons shall be notified pursuant to Section 21-316. The neighborhood meeting shall be held in a neutral location within the general area of the request.
2. The applicant shall prepare and submit a report to the Department that describes the meeting, numbers in attendance, any comments received at the meeting or any other form of communication received regarding the application, how these comments will be evaluated, and any mitigation issues identified as a result of the comments and concerns received.
3. Timing of Citizen Participation Meetings and Communications.^{*9,*13} The required neighborhood meeting shall be conducted within forty-five (45) calendar days of submittal of the application. No hearing date shall be scheduled until the meeting report is submitted and validated by the Department.

F. Department Review

1. The Department shall review the application in accordance with provisions set forth in the Process Guide. After an application has been deemed complete by the Department, the application shall be routed to City Departments and affected external agencies for review. Upon the completion of each review, the Department shall transmit the comments to the applicant. The applicant shall then revise and resubmit the application materials to address the outstanding issues and concerns raised in the comments. Upon final completion of the

review or a determination by the Planning Manager, that the application is ready to proceed, the Department shall set a date for a public hearing with the Planning and Zoning Commission. The Department shall prepare and submit a written report and recommendation to the Commission.

2. The Planning Manager shall not approve or recommend approval of any rezoning unless the Planning Manager has received a Waiver of Proposition 207 from the Owner or Owners of the property that is the subject of the rezoning or has determined that the absence of such a waiver of Proposition 207 is consistent with the City's General Plan and zoning goals and requirements. ^{*12}

G. Planning and Zoning Commission Hearing and Recommendations

1. The Department shall refer all rezonings to the Planning and Zoning Commission for study and public hearing.
2. In its deliberations on the matter, the Commission shall consider oral or written statements from the applicant, the public, City staff, and its own members. The Commission shall recommend to the Council that the application be granted as requested, be denied, or be granted subject to specific conditions.
3. In its deliberations, the Commission may continue the public hearing concerning the application; however, the Commission shall not continue the public hearing more than three meetings in succession without again providing notice in the above prescribed manner.

H. City Council Hearing and Action

1. The City Council may adopt the Planning and Zoning Commission's recommendations without holding a second public hearing unless: ^{*10}
 - a. The applicant (for the rezoning request), aggrieved party, member of the public, or a member of the City Council objects to adoption of the recommendation of the Planning and Zoning Commission without a City Council hearing. Said objection shall be filed in writing within ten (10) calendar days after the Commission renders its recommendations.
 - b. The Planning and Zoning Commission has recommended approval of the proposed amendment and a written legal protest, as defined in A.R.S. §9-462.04.H., as amended or renumbered, has been filed.

2. Council Action

The City Council, after receiving the report and recommendation of the Planning and Zoning Commission, may take action as follows:

- a. Affirm in whole or in part the action of the Commission;
- b. Reverse in whole or in part the action of the Commission;
- c. Modify any decision, determination, or requirement of the Commission; or
- d. Remand the matter back to the Commission for further consideration. ^{*10}

3. Legal Protest

A Legal Protest occurs when protests are filed in accordance with A.R.S. §9-462.04.H., as amended or renumbered. The protests must be filed in writing, with the Department, within ten (10) calendar days after the Commission renders its recommendations. Actions involving

Legal Protest require a supermajority vote of the City Council in accordance with A.R.S. §9-462.04.H., as amended or renumbered. *10

4. Withdrawal of Objection, Protest, or Request for Public Hearing

To withdraw a protest, objection, or request for public hearing, the applicable party must provide a request in writing to the Department. *10

I. Application Withdrawn or Denied

In the event that a rezoning amendment is denied by Council or is withdrawn after the Commission hearing, the Commission shall not reconsider an application for the same request, or any other application for the same zoning requirement that applies to the same property described in the original application or any part thereof, for a period of one year from the date of said denial, unless, as determined by the Department, the conditions upon which the original denial was based have changed.

J. Conditions of Approval

As part of any rezoning approval, the Planning and Zoning Commission may recommend and the City Council may adopt conditions and/or schedules for the development of the property.

1. Conditions

The City Council may condition approval of a rezoning upon the occurrence of one or more of the following:

- a. Development in accordance with a specific Site Plan and/or obtaining Site Plan approval in accordance with Section 21-320 of this Section.
- b. Reduction in the otherwise applicable floor area ratio, lot coverage, building height, or density requirements.
- c. Increases in the otherwise applicable building setback, lot area, parking space, landscaping, or open space requirements.
- d. Public dedication of rights-of-way as streets, alleys, public ways, drainage, utility, and/or other public improvements, and/or the installation of off-site improvements as are reasonably required by or related to the effect of rezoning.
- e. Such other conditions as may be allowed by law.
- f. Completion of a re-use plan as determined by the Department.

2. Schedules

The City Council may require as part of a rezoning approval specific time schedules for any or all of the following:

- a. Approval of a final site plan
- b. Submission and approval of a preliminary plat for the subdivision of the subject property
- c. Submission and approval of the final plat for the subdivision of the subject property
- d. Application for and issuance of a building permit to commence construction of one or more buildings upon the subject property.
- e. Commencement of on-site construction on the subject property in accordance with the final site plan as approved

- f. Completion of a specified percentage of construction on the subject property in accordance with the final site development plan
 3. Adoption of Ordinance
The City Council shall set forth in the Zoning Ordinance any condition(s) or schedule(s) imposed pursuant to this Section.
 4. Modification of Adopted Conditions and Schedules
A request to modify the condition(s) or schedule(s) of approval adopted by Council is subject to the following:
 - a. The applicant must file a written request with the Department, requesting a modification to the adopted requirements. The Department shall forward the request to the Commission for consideration and recommendation to the Council. The Council shall thereupon determine whether or not the modifications will be approved.
 5. Failure to Comply with Adopted Conditions and Schedules
If an applicant fails to comply with any condition(s) or schedule(s) adopted by Council upon the rezoning of the property, the applicant shall be subject to the following:
 - a. The applicant may file a request with the Planning and Zoning Commission for an extension of the time schedule for meeting the adopted requirements. The Commission shall consider the request and submit a recommendation to the Council. The Council shall thereupon determine whether or not the extension will be approved.
 - b. The Department Director, or designee thereof, may file an application with the Planning and Zoning Commission requesting reversion of the zoning, based upon the applicant's failure to comply with the adopted conditions for the rezoning. The Commission shall consider the Director's application and may accept, modify, or reject and shall thereupon recommend acceptance, modification, or rejection of the application to the City Council.
 - c. Upon action by the Commission, the Director's application together with the Commission's recommendation shall be submitted to the City Council for final action. The Council may accept, reject, or modify the recommendations of the Commission in accordance with the foregoing, outlined above in Subsection J.
- K. Change of Classification of Requested Zoning Districts
In cases where an application is made to request a change from a more restrictive to a less restrictive zoning district, the City Council may elect to grant the amendment for a district that is more restrictive than the requested district but less restrictive than the current district. The City Council may take such action without requiring a new or amended application and with providing new or additional notice.
- L. Right-of-Way Dedication
Pursuant to A.R.S. §9-462.01, the City Council may require, as a condition to the change or zoning, the dedication of right-of-way necessary for roadways and other public improvements as a reasonably required by or related to the effect of the rezoning.
- M. Effective Date of Rezoning
Rezoning amendments shall become effective thirty (30) days after the date of adoption by the City Council.

N. Public Participation

Pursuant to A.R.S. §9-462.01, the City is required to establish a public participation process for rezoning applications that require a public hearing. The notice requirements set forth above shall constitute the City's adopted Public Participation process.

21-318 Initial Zoning upon Annexation**A. Legal Requirements**

Pursuant to A.R.S. §9-462.04 (E), the City shall consider areas annexed to the City of Peoria, until officially zoned by the City Council, to be zoned as shown on the official zoning map of the original jurisdiction at the time of the annexation. The original jurisdiction's zoning shall be effective for a maximum of six (6) months after annexation. Pursuant to A.R.S. §9-462.04 (E) and §9-471 (L), the City shall, within six (6) months of the annexation, adopt zoning classifications which permit densities and uses no greater than those permitted by the County immediately before annexation

B. Application

The Department shall file applications for the initial zoning of annexed land. Once filed, such applications shall be subject to the same procedures herein outlined for Rezoning, with the exception that a Notice of Application as described therein shall not be required. Changes in zoning of the annexed territory that occur after the initial zoning shall thenceforth be subject to the Rezoning procedures contained herein. Citizen Participation Plans shall not be required for the initial zoning of property subsequent to annexation. *9

C. Building Permits

1. The City shall honor Maricopa County building permits, lawfully issued not more than sixty (60) days prior to the effective date of annexation. Within sixty (60) days after the effective date of annexation, the City shall issue a building permit when construction details conforming to City building codes and County zoning regulations, in effect at the time the County permit was issued, are provided to the City. Any fee paid to the County for the County permit shall apply towards the City permit fee, and only the balance shall be paid to the City before a City permit is issued.
2. A City building permit shall not be required for buildings legally under construction, with a building permit issued by Maricopa County prior to the effective date of annexation, in cases where exterior walls have been completed to the plate line or beyond. The City shall require that building construction be structurally safe and in conformance with pertinent County zoning regulations in effect at the time the County permit was issued.

21-319 Zoning Ordinance Text Amendments**A. General**

The City Council may amend, change, repeal, or supplement the regulations established in this Ordinance.

B. Application

1. Changes or amendments to the text of regulations contained in this Ordinance may be initiated by the City Council, Planning and Zoning Commission, Board of Adjustment, City Staff, or any member of the public.

2. An applicant shall submit an application for a text amendment on the official form provided by the Department. Submittal requirements shall be as established administratively by the Department and are set forth in the Process Guide. The application shall include the existing language in the Ordinance that is proposed to be changed, the proposed language, and the reason for the requested amendment. The applicant shall submit the application materials together with the applicable fee to the Department.
- C. Department Review
- The application shall be reviewed by appropriate City Departments. After the review is complete, the Department shall set a date for a public hearing with the Planning and Zoning Commission. The Department shall prepare and submit a written report and recommendation to the Commission, prior to the date of the public hearing.
- D. Planning and Zoning Commission Hearing and Recommendation
- The Department shall refer all proposed text amendments to the Planning and Zoning Commission. The Commission shall conduct a public hearing, review the proposal, and forward a recommendation to the City Council for consideration.
- E. City Council Hearing and Action
- The City Council, after receiving the report and recommendation of the Planning and Zoning Commission, shall consider the proposal. If there is no protest related to the amendment, the Council may adopt the recommendation of the Commission without holding a second public hearing. In cases where there is written protest to an application for a text amendment, the Council shall hold a public hearing.

21-320 Site Plan ^{*23}

- A. Purpose and Applicability
1. New development and existing developments which are proposing qualifying building additions, alterations and/or site improvements shall be subject to Section 21-320 of the Zoning Ordinance (“Site Plan Review”). Detached or attached single-family units on individual lots shall not be subject to the Site Plan process.
 2. The Department is authorized by the provisions of the City Code to review site plan applications, and make a determination that the proposed project, or alterations and site improvements are in compliance with the underlying zoning and other applicable ordinances, codes, and regulatory requirements.
 3. The regulations provided herein are intended to facilitate the orderly present and future development of the City by promoting the public health, safety, and general welfare, and aesthetic character of the community.
 4. This Section establishes the application requirements, review procedures, and approval criteria utilized by the Department when considering an application for a Site Plan.
- B. Application Requirements
- An application for Site Plan Review must include all information required in the official process guide and application packet for Site Plan Review applications made available by the Department, in addition to other information required by the Planning Manager or designee based on the nature of the proposed development.

C. Approval Criteria

1. The Department shall review Site Plan applications in accordance with applicable Zoning Ordinance regulations, Peoria Design Review Manual, applicable City Code provisions, and other regulatory requirements.
2. Approval of a Site Plan application shall be given only when in the judgement of the City, such an approval is consistent with the intent and purpose of this Section, and it is determined that the proposed application is:
 - a. Consistent with the health, safety, and welfare of the community;
 - b. In harmony with the purposes and intent of this Ordinance, the General Plan, and any adopted plan for the area; and
 - c. Will not cause traffic related concerns that cannot be mitigated as determined by the City Engineer.

D. Notice of Decision.

1. The Department shall notify the applicant, in writing, of the decision to approve or deny the application, and shall state any conditions for approval or reasons for denial in said letter.
2. The Department shall provide notice of the site plan decision to all required parties identified within Section 21-315.E.
3. If no appeal is filed within the specified timeframe within Section 21-322.E, than the decision of the Department shall be final.

E. Appeal Criteria and Procedure

1. The Notice of Decision by the Department may be appealed by the applicant, or any City of Peoria property owner or property owners within the notification area identified within Section 21-315 Notices of the Zoning Ordinance.
2. The purpose of the appeal criteria provided herein is to fairly accommodate appeal rights of persons aggrieved by City decisions, while also ensuring that appeals are conducted fairly and expeditiously in a manner that protects the rights of all parties and ensures finality in land use decisions and development permitting.
3. An appeal of a Site Plan decision is limited to instances where the aggrieved party alleges there was an error in a decision or determination in the enforcement of the Zoning Ordinance or applicable regulatory requirements.
4. To initiate an appeal the Department's decision regarding a site plan application:
 - a. A written notice of appeal shall be submitted on a form prescribed by the Department and includes specific citations from the Zoning Ordinance or other regulatory documents in which the Appellant believes the Site Plan does not comply with; and
 - b. Be received by the Department within fifteen (15) calendar days after the Notice of Decision has been issued. The deadline shall be extended to the end of the next business day when the deadline occurs on a non-business day.

5. The filing of an appeal will be considered complete upon receipt of the written appeal by the Department Director within the specified timeframe and meets all of the appeal criteria as specified within 21-322.E above.
- F. Determination by Department Director
1. Appeals filed with the intent to contest the proposed land use, the zoning designation, or an approval of a conditional use permit shall be determined by the Department Director to be invalid and shall not be forwarded to an appeal body for consideration.
 2. Upon receipt of a valid appeal, the Department Director shall make a determination as to the nature of the appeal and shall determine the appropriate Hearing Officer to hear the appeal.
 3. Appeals of a technical nature, such as but not limited to utility locations, grading and drainage, or traffic mitigation measures shall be heard by the City Engineer, or designee thereof, acting in capacity of the Hearing Officer.
 4. Appeals regarding exactions or dedications associated with the site plan shall be heard by the Land Use Hearing Officer, which shall be the City Manager or designee.
 5. For all other types of appeals, they shall be heard by the Land Use Hearing Officer, which shall be the City Manager or designee.
- G. Action of Hearing Officer
1. The Hearing Officer shall hold a hearing and provide the appellant, applicant, Department staff, and those property owners and registered homeowner's associations within the required notification radius of the subject property an opportunity to present their position. Such hearings shall be informal and the rules of evidence and civil procedure shall not apply. The hearing officer shall have the authority to approve, deny, or modify the request.
 2. The Hearing Officer's decision shall be in writing and shall be provided to the appellant, applicant, the Department, and any property owners and homeowner's association representatives who attended the hearing.
 3. The decision of the Hearing Officer shall be final.
- H. Building Permits Based upon Approved Site Plan
1. For all development subject to Site Plan review, an approved Site Plan and proper zoning are required prior to the commencement of any construction or development on the site.
 2. The applicant shall obtain the necessary building and/or construction permits within eighteen (18) months of the date of approval of the Site Plan application, if not obtained within the eighteen (18) month time frame, the applicant may, prior to the date of expiration, file a request for an extension, whereupon the Planning Manager may authorize a one-time, six (6) month extension. If the time frame has expired, the applicant shall submit a new Site Plan, together with the applicable documents and fees as stipulated in the above provisions.
- I. Amendments to Approved Site Plans
1. When a site plan has been previously approved and alterations to the proposed buildings or site improvements are desired, a site plan amendment will be required if those changes are deemed by the Planning Manager or designee to be substantial in nature.

2. Substantial changes may include, but not be limited to a ten (10) percent increase in a project gross land area, a building or buildings' square footage, or a multi-family project's density, or a material change to the project's land use, or an alteration to the project's circulation pattern.
3. A site plan amendments shall be submitted, reviewed and approved in accordance with the same Site Plan approval criteria as identified herein.
4. Any modification which does not substantially change the approved site plan, shall be not require the applicant to obtain new site plan approval and may be addressed through the building permit process.

21-321 Conditional Use Permits

A. Intent

1. Every zoning district contains certain buildings, structures, and uses of land which are normal and complementary to permitted principal uses in the district, but which, by reason of their physical or operational characteristics, influence on the traffic function of adjoining streets or similar conditions, are often unnecessarily incompatible with adjacent activities and uses. It is the intent of this Section to permit conditional uses in appropriate zoning districts, when designed and developed in a manner which ensures maximum compatibility with adjoining uses. It is the purpose of this Ordinance to establish principles and procedures for the development and control of such uses.
2. A Conditional Use Permit shall be issued for all designated conditional uses under the Peoria Zoning Ordinance.

B. General Regulations

1. Zoning district regulations established elsewhere in this Ordinance specify that certain buildings, structures, and uses of land may be allowed by the Commission as permitted conditional uses in a given district subject to the provisions of this Ordinance and to requirements set forth in the district regulations.
2. The Department shall consider any building, structure, or use existing on the effective date of this Ordinance as meeting the requirements and conditions of this Ordinance provided that the building, structure, or use is listed as a Permitted Conditional Use in the applicable zoning district. Continuance of the use shall not require the issuance of a new or additional Conditional Use Permit. However, the Department shall consider a building, structure, or use that fails to conform to the requirements of this Section as non-conforming as described in Section 21-860 and its continuance shall be governed by all non-conformity regulations stipulated in this Ordinance. ^{*4, *22}
3. When issued, a Conditional Use Permit shall be applicable only to the specific use and to the specific property for which it is issued. However, once all zoning and site development requirements imposed in connection with the permit have been satisfied and an occupancy permit has been issued, the Conditional Use Permit shall thereafter be transferable and shall run with the land. Thenceforth, maintenance of special conditions imposed by the permit, as well as compliance with other provisions of this Section, shall be the responsibility of the property owner.

4. A Conditional Use Permit shall terminate upon any interruption or cessation of the use authorized by the Conditional Use Permit for a period of one-hundred and eighty (180) days.
5. A Conditional Use Permit shall expire within eighteen (18) months of the date of approval of the application in the event that: (a) the use has not been exercised; or (b) a building permit or another regulatory permit, or demonstrable evidence to obtain such, is not obtained within this timeframe. ^{*7}

C. Mandatory Pre-Application Conference

1. The applicant must attend a pre-application conference prior to applying for a Conditional Use Permit. Submittal requirements specific to the desired use will be discussed at the conference.

D. Application

An application for a Conditional Use Permit shall be submitted to the Department on an official form provided by the Department. The application shall satisfy the submittal requirements as provided in the Conditional Use Permit Process Guide. Submittal requirements shall be as outlined in the Process Guide and shall include, but not be limited to, the following:

1. Identification of impacts upon adjacent residential neighborhoods within one quarter mile, or such other distance deemed appropriate by the Planning Manager, from the subject site and of the means proposed to address the identified impacts.
2. Specific conditions proposed by the applicant to make the proposed use compatible with existing permitted principal and conditional uses.
3. Other data as may be required by the Planning Manager in order to determine whether the proposed use qualifies as a conditional use under the Zoning Ordinance and the City's codes and guidelines.

E. Review

The Department shall review applications for Conditional Use Permits and make a recommendation for approval or denial to the Planning and Zoning Commission based on the following criteria;

1. Whether the use is designated as a permitted Conditional Use within the zoning district in which the property is located.
2. Whether the use meets the locational and development standards provisions, as applicable for the Conditional Use Permit, for the zoning district in which the property is located.
3. Whether the use is consistent with the goals, policies, and intent of the General Plan and any adopted Specific Plan applicable to the site where the proposed use is located.
4. Whether the use is consistent with documentation and recommendations provided by reviewing City Departments.
5. Whether the use complies with all applicable City Codes, standards, and guidelines governing such use.
6. Whether the use will be materially detrimental to the health, safety, or general welfare of persons residing or working in the vicinity of the property, to the neighborhood, or to the public welfare; or if the use will unreasonably interfere with the use and enjoyment of nearby properties. Consideration shall include, but not be limited to the following factors:

- a. Damage or nuisance arising from noise, smoke, odor, dust, vibration, or illumination;
 - b. Impact on surrounding areas resulting from an unusual volume or character of traffic;
 - c. Ingress and egress to the property and proposed structures;
 - d. Pedestrian and vehicular circulation with particular reference to fire protection;
 - e. Parking and loading; and,
 - f. Impact on public services, including schools, utilities, and recreation.
7. The Planning Manager shall not approve or recommend approval of any Conditional Use Permit unless the Department has received a Waiver of Proposition 207 from the Owner(s) of the property that is the subject of the Conditional Use Permit or has determined that the absence of such a Waiver of Proposition 207 is consistent with the City's General Plan and zoning goals and regulations.
8. For Adult Uses
Whether the use complies with specific guidelines established by the Planning Manager for all Adult Uses. Such guidelines are designed to ensure compatibility with existing principal permitted uses and conditional uses and conform with the intent and purpose for which Conditional Use Permits are granted. Such guidelines must be in writing and on file before the date of the application of the Conditional Use Permit for the Adult Use and copies shall be on file with the Department, City Clerk Department, and Office of the City Attorney.

F. Citizen Participation Process

1. If written opposition to a Conditional Use Permit application is received by the Department within 21 days, a neighborhood meeting shall be required as part of the process of identifying and addressing potential impacts that the proposed use may impose on the surrounding area. The Citizen Participation Process ("CPP") shall include the following:
 - a. The applicant shall hold at least one neighborhood meeting. The neighborhood meeting shall be held in a neutral location within the general area of the request.
 - b. At a minimum, the applicant shall send written notice to interested and affected persons; said parties shall be notified according to the requirements of Section 21-316.
 - c. The applicant shall prepare and submit a report to the Department that describes the meeting, number of individuals in attendance, any comments received at the meeting or any other form of communication received regarding the application, how these comments will be evaluated, and any mitigation issues identified as a result of the comments and concerns received.

G. Planning and Zoning Commission Public Meeting

1. The Planning and Zoning Commission shall consider a request for a Conditional Use Permit at a public meeting. The Commission Chair may choose to open a portion of the meeting to public comment if the Chair believes it is necessary to further address the health, safety and welfare of the neighborhood.
 - a. If the Commission approves the application, the Department shall issue a Conditional Use Permit setting forth all conditions and requirements imposed pursuant to this Ordinance and adopted by the Commission as part of the approval governing such use.

- b. If the Commission denies the application, the Commission will identify the basis for the denial and the specific criteria in this Ordinance that have not been met by the applicant.
 - c. Continuance. A continuance may be requested by City staff, the Planning and Zoning Commission, or the applicant. All requests for continuance shall be to a date certain, unless otherwise agreed to by the applicant.
2. The decision of the Commission is final and effective fifteen (15) calendar days following the date of decision unless an appeal is filed pursuant to this Section.

H. Appeal of Decision of Planning and Zoning Commission to City Council

Any member of the public, including the applicant, may appeal a decision of the Planning and Zoning Commission, regarding a Conditional Use Permit, to the City Council. The appeal must be in writing and filed with the Department, within fifteen (15) calendar days of the date of the decision. The filing of an appeal will be considered complete upon receipt by the Department Director.

The Department shall set the hearing date for an appeal of a Conditional Use Permit no more than seventy-five (75) days after the date the appeal is filed.

1. Notice

The Department shall ensure that notice is provided in the manner described above for the Planning and Zoning Commission hearing.

2. Hearing

a. The City Council shall hold the hearing and shall reverse, affirm, or modify the decision of the Commission. The Council shall base its decision on the written findings previously issued by the Commission, applicable law, the review criteria stipulated in this Section, and guidelines promulgated by the Department.

b. If the City Council reverses or modifies the decision of the Commission, the Council shall direct the City Attorney to prepare written findings setting forth the basis for the reversal or modification.

3. Continuance

The matter shall not be continued except by written request of the applicant prior to the hearing or upon oral request of the applicant on the record at the hearing. The City Council may request a continuance as long as the applicant is in concurrence of said request.

I. Continuing Jurisdiction and the Revocation, Modification, or Suspension of Permits

1. Conditional Use Permits

a. The Planning Manager shall have continuing jurisdiction over all Conditional Use Permits and may recommend that a permit be revoked, modified, or suspended should any of the following occur:

- 1) The permit was obtained by fraud or misrepresentation;
- 2) The use authorized by the permit has been exercised in violation of the conditions of its approval;
- 3) A change in circumstances consisting of any of the following has occurred:
 - a) Impacts from the approved conditional use to neighboring properties.
 - b) Changes in aesthetic or environmental impacts such as noise, odors, or pollution.

- 4) The use authorized by the permit has been exercised in a manner that is detrimental to the public health, safety, or welfare of the community or in a manner that constitutes a nuisance to neighboring property owners, adjacent neighborhoods, or the City.
 - a) Notice and a public hearing shall be provided in the same manner as for Conditional Use Permit applications
- 5) Conditional Use Permits for Adult Uses. For proceedings to revoke, modify, or suspend the approval of a Conditional Use Permit for an Adult Use, the Commission shall consider no criteria other than the a) criteria set forth in this Section, criteria set forth in Section 21-500 pertaining to Adult Uses, and b) guidelines promulgated by the Planning Manager in accordance with said Sections.

J. Adult Uses

Applications for uses that are classified as Adult Uses, pursuant to Section 21-200 shall be made in the same manner as all other Conditional Uses; however, such uses shall be subject to the additional stipulations set forth in Section 21-500.

1. Conditions or Limitations

When granting of a Conditional Use permit for any Adult Use, the Planning and Zoning Commission may impose only those conditions or limitation upon the establishment, location, construction, maintenance, or operation of the Adult Use specifically authorized in this Section or in Section 21-500.

2. Denied Application

No application for a regulated use which has been denied in whole or in part shall be resubmitted for a period of one (1) year from the date of the denial.

3. Appeal

An applicant may appeal a denial of a Conditional Use permit by the City Council in accordance with A.R.S. §12-7.6.

21-322 Temporary Use Permits ^{*24}

A. Purpose and Applicability

1. In addition to regulating uses which are permanent in nature, it is the intent of Section 21-322 of the Zoning Ordinance, otherwise referred to as the Temporary Uses Section, or Section herein, to accommodate reasonable requests for interim or temporary uses for a limited period of time when such activities are appropriate.
2. The Temporary Use Section authorizes the City to allow short-term land uses if the use does not interfere with surrounding uses, or pose a threat to public health, safety, and welfare. Allowing temporary uses, as provided for herein is not intended to permanently establish or authorize uses otherwise prohibited by the Zoning Ordinance.
3. These regulations are intended to ensure that the temporary use is conducted in a manner to maintain compatibility between the temporary use and surrounding area. Any review or approval by the City is solely intended to address City ordinances and regulations, and is not intended to supersede applicable state or federal regulations.

4. Temporary uses shall be permitted on private property with the issuance of a Temporary Use Permit (TUP) as specified within this Section. Events or activities conducted on City of Peoria owned property, or within public streets or public right-of-way shall obtain a Special Event Permit, which is administered by the City.
 5. This Section establishes the procedures, and criteria to be used by the Department when considering an application for a Temporary Use Permit.
- B. Temporary Use Permit:

1. Temporary Uses Allowed, Permit Required

The Temporary Uses identified below shall obtain a Temporary Use Permit pursuant to the procedures set forth in this Section. Temporary Uses shall mean events such as, but not limited to:

- a. Carnivals, circuses, craft shows, exhibitions, fairs, festivals, home and garden shows, temporary outdoor sales events, or similar special events not otherwise excluded within this Section.
- b. Donation/Recycling Drop-Off Boxes
- c. Outdoor concerts, and paid admission events.
- d. Events held on unimproved surfaces or lots.
- e. Such other uses as the City may deem to be within the Purpose and Applicability of this Section.

2. Temporary Use Permit Exemptions, No Permit Required

All temporary uses identified below are not required to submit an application for a Temporary Use Permit, but are required to comply with Subsection 21-322.C (“General Requirements for All Temporary Uses”). Those events which do not comply with the exemptions provided herein shall obtain a Temporary Use Permit as provided within this Section.

- a. Events utilizing City property, public streets or public right-of-way, provided that the applicant shall coordinate the event with the City as part of the Special Event application process.
- b. Ancillary activities on residential properties, including but not limited to, residential garage or yard sales, open houses, etc.,
- c. HOA events or activities, intended for residents only, located on HOA property,
- d. On-site school events,
- e. Other intermittent activities deemed by the Department to be ancillary to the customary use of the property.
- f. Other uses not defined in 21-322.B.1 which meet all of the following criteria:
 - 1) Limited activity area:
 - a) An activity area, which is limited to the following size requirements and summarized within the Table below:
 - i. Four thousand (4,000) square feet or less on a site or center that is greater than one (1) acre, but less than five (5) acres in size, or

- ii. Ten thousand (10,000) square feet or less on a site or center that is greater than or equal to five (5) acres in size.

Minimum Site or Center Size	Maximum Exemption Area
≤ 1 acre	No Exemption
> 1 & < 5 acres	≤4,000 square feet
≥ 5 acres	≤10,000 square feet

- b) For the purposes of this Section, an activity area means the area housing the proposed use and any associated storage. The activity area does not take in to account patron parking for the purposes of tabulating the square foot allowances identified above.
 - c) An improved surface without blocking primary drive aisles or site and building general or emergency access.
 - i. For the purposes of this Section, an improved site means a site with paved access to the grounds, including curb-cuts as necessary to access public rights-of-way, and paved or dust-proof surfaces for the area occupied by the subject temporary use and associated parking.
 - 2) Uses which do not operate between the hours of 10:00 p.m. and 7:00 a.m., and do not occur for more than two (2) days within a thirty (30) day period, per site.
 - 3) Uses which are located at least two hundred (200) feet away from a residential structure.
 - 4) Uses which provide for all necessary pedestrian and vehicular queuing to occur outside of the right-of-way and outside of any primary or emergency drive aisles.
 - 5) Events occurring within a designated Entertainment District. Such Entertainment Districts may be adopted by resolution from time to time by the City Council in accordance with A.R.S §4-207.
 - a) All boundaries of the temporary use must remain at least 200 feet away from Grand Avenue right-of-way.
 - b) There is no limit on activity area size to qualify as an exempt temporary use when the use is located within a designated Entertainment District.
- C. General Requirements for all Temporary Uses. All temporary uses shall meet the following general requirements, unless otherwise specified in the Temporary Uses Section:
1. Structures utilized for the Temporary Uses of outdoor sales and/or displays that exceed seven (7) days in duration shall be limited only to the following: tents, canopies, and/or membrane structures.
 2. Permanent alterations to the site are prohibited.
 3. All temporary signs associated with the temporary use shall comply with Section 21-827 of the City Code, and all associated signs shall be removed upon completion of the activity.

4. The temporary use standards of this Section do not exempt the applicant or operator from any other required permits, such as health department permits.
 5. If the property is undeveloped, it shall contain sufficient land area to support the temporary use, including but not limited to, adequate parking and traffic movement to support the event.
 6. Tent and or generator permits shall be required for all uses in accordance with the applicable Fire or Building code, regardless of any Temporary Use Permit Exemptions identified within Subsection 21-322.B.
 7. All uses shall comply with adopted City noise ordinances contained within the City Code.
 8. All Temporary Uses shall prevent activity across improved landscape areas that would negatively impact the landscaped areas.
- D. Application Requirements. An application for a Temporary Use Permit:
1. Must be submitted at least thirty (30) calendar days prior to the proposed commencement of the temporary use. Application made within 30 days of the start date of the event will not be accepted;
 2. Must include all information required in the official process guide and application packet for Temporary Uses made available by the Department. The Planning Manager or designee may require additional information as necessary, based on the nature of the proposed temporary use.
 3. Each occurrence of a non-exempt Temporary Use as defined within section 21-322.B shall require a separate submittal and approval of a Temporary Use Permit Application.
- E. Posting
1. Temporary uses that will operate after 10:00pm or before 7:00am shall require notice to be posted on site. The notice shall contain the date, time, duration, location and brief description of the event. Notice shall be posted by the City within five (5) City business days.
- F. Approval Criteria
1. Review of the Temporary Use Permit application requires reviews and approval from the Department in addition to other City Departments (e.g. Fire, Police, Building Division, etc.).
 2. Approval of the Temporary Use Permit shall be given only when in the judgment of the City such approval is consistent with the intent and purpose of this section of this Ordinance, and it is determined that the use is compatible with nearby uses and will not:
 - a. Impair the normal, safe, and effective operation of a permanent use on the same site;
 - b. Create an traffic hazard or congestion;
 - c. Adversely affect public health, safety, welfare, or convenience; or
 - d. Interfere with the normal conduct of uses and activities in the vicinity.
 3. The Department shall notify the applicant, in writing, of the decision to approve or deny the application, and shall state any conditions for approval or reasons for denial in said letter.
- G. Conditions of Approval. The Department may issue conditions of approval of a Temporary Use Permit as needed to make the determinations required in compliance with Section 21-833.E

Approval Criteria. These conditions of approval may be required to minimize effects on nearby uses, and may include, but not be limited to, standards for hours of operation, frequency of use, parking, traffic circulation, screening of use from off-site, and site restoration.

- H. Restoration and Cleanup. A person engaging in a temporary use allowed in compliance with this Section shall remove all debris, litter, and other evidence of use from the site within 72 hours of cessation of the use or expiration of the permit, whichever occurs first. At such time, the site shall be restored to the same condition it was prior to commencement of the temporary use.
- I. Permit Duration, Renewal and Revocation. All Temporary Use Permit approvals shall be subject to a time limit as set forth below:
 - 1. Temporary Use Permits for off-site construction yards or residential sales trailers may be permitted for the duration of the project, or as determined by the City.
 - 2. Temporary Use Permits for Donation/Recycling Drop-Off Boxes may be permitted for a renewable duration not to exceed twelve (12) months, or as determined by the City. Each renewal requires a new Temporary Use Permit application and fee.
 - 3. All other Temporary Use Permits shall be limited to a maximum of thirty (30) consecutive days per event, and the cumulative total of all Temporary Uses shall not exceed ninety (90) days per calendar year per lot. Not more than twelve (12) Temporary Use Permits shall be granted per lot or complex per calendar year.
 - 4. The Department may revoke a Temporary Use Permit at any time, if the use no longer satisfies the criteria required in compliance with Section 21-322 or poses a threat to public health, safety, and welfare.
- J. Appeal of Decision. Upon receiving notification of the Department's decision to approve or deny the application for a Temporary Use Permit, the applicant or any party of interest aggrieved by the decision may file an appeal to the Board of Adjustment pursuant to Section 21-323.I.

21-323 Appeals to Board of Adjustment

A. General

The Board of Adjustment shall 1) hear and decide appeals from decisions of the Department concerning the interpretation of provisions of the Ordinance; 2) hear appeals from decisions of administrative hearing officers; 3) act on applications for temporary use permits, and 4) act on applications for variances (other than those variances determined to be minor).

B. Stay of Proceedings

Upon filing of an appeal by the appellant, all proceedings in the matter shall be stayed, unless the Department Director or designee certifies to the Board, after receipt of such appeal, that a stay would cause imminent peril to life and property and the Board issues an order.

C. Limitations of Power

The Board of Adjustment shall be subject to the following limitations of power:

- 1. Under no circumstances shall the Board allow a use not permissible under the terms of this Ordinance, whether expressly or by implication, in the zoning district in which the property is located.

2. Every decision of the Board shall be based upon finding of fact, and every finding of fact shall be supported in the record of its proceedings. A mere finding of recitation of the enumerated conditions, unaccompanied by the findings of specific fact, shall not be deemed findings of fact and shall not be deemed in compliance with this Ordinance.
3. The Board shall not hear any matter arising out of an exaction provided by a Zoning.

D. Hearing and Presentation of Evidence

1. Parties in interest shall have the right to present their case by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination of witnesses as may be required for a full and true disclosure of the facts, in accordance with the following:
 - a. The submission of documentary evidence shall not, by reason of its written form, prejudice the interest of any party.
 - b. The Board shall, as a matter of policy, provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence, and, in the furtherance of this policy, may limit cross-examination.
 - c. A petition to the Board signed by persons not parties in interest to an appeal, as defined herein, shall not be considered documentary evidence and shall have no bearing on the Board's decision, nor shall any person presenting such petition be considered the agent of its signers.
2. No order of the Board permitting the erection or alteration of a building shall be valid for a period longer than 18 months, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is commenced and proceeding toward completion in accordance with the terms specified by the Board. ^{*5}

E. Jurisdiction

The Department Director or designee may request the opinion of the Office of the City Attorney as to the jurisdiction of the Board. The Board shall consider the opinion of the Office of the City Attorney prior to the accepting jurisdiction and hearing the matter.

F. Appeal to Superior Court

Pursuant to A.R.S. §12-7.6., an affected party may file an appeal to a decision of the Board of Adjustment to the Superior Court.

G. Variance

1. General

The Board of Adjustment may grant a variance that departs from the terms of these zoning regulations pertaining to 1) height or width of structures, 2) size of yard and open spaces, or 3) other development standards where such departure will not be contrary to the public interest, and where, owing to conditions peculiar to the property because of its size, shape, or topography, and not as a result of the action of the applicant, the literal enforcement of this Ordinance would deprive the owner of the reasonable use of the land and/or building involved.

2. Application

A request for variance shall be made by filing an official application and development plan, together with the applicable fee, with the Department, at least thirty (30) days prior to the Board meeting. The application shall identify the exceptional conditions and the peculiar and

practical difficulties being claimed as a basis for the requested variance. The development plan shall contain sufficient information for the Board to consider the request and make a proper decision on the matter. Such additional materials required for submittal are described in greater detail in the Process Guide.

3. Evidence Required

At the public hearing the applicant shall present a statement and adequate documentation to demonstrate the following:

- a. Special circumstances or conditions exist on the subject property that does not exist on other property in that zoning district.
- b. The literal interpretation of the provisions of this Ordinance would deprive the appellant of rights commonly enjoyed by other properties in the same zoning district.
- c. The alleged hardship caused by literal interpretation of the provisions of this Ordinance includes more than personal inconvenience and financial hardship and is not the result of actions by the appellant.
- d. Granting the variance will not confer upon the applicant any special privilege that is denied by this Ordinance to other land, parcels, structures, or buildings in the same zoning district.
- e. Granting the variance will not interfere with or substantially or permanently injure the appropriate use of adjacent conforming properties in the same zoning district.

4. Board of Adjustment Action

a. Approval

In the event the Board of Adjustment determines that the applicant demonstrates compliance with conditions set forth above in Subsection G.3, of this Section 21-323 it may approve or conditionally approve the variance. Approval may be granted only upon the affirmative vote of the majority of the Board members present.

b. Findings

In approving or conditionally approving the variance, the Board shall find that

- 1) The reasons set forth in the appeal justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and
- 2) Granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

c. Conditions of Approval

In granting any variance, the Board may impose such conditions and safeguards as it deems appropriate to ensure that the purpose and intent of this Ordinance will be fulfilled and to ensure that the integrity and character of the zoning district is maintained.

d. Considerations

The Board shall not consider the following when considering grounds for granting a variance:

- 1) Violations related to uses or structures in the same zoning district ^{*22}

- 2) Permitted uses or structures in other zoning districts
 - e. Denied Application. In the event the Board of Adjustment denies an application for a variance, no permits shall be issued.
 5. Propriety of Variance
Every variance granted shall be personal to the appellant; however, the variance shall be transferable and run with the land after an occupancy permit for any authorized structure or structures has been issued.
 6. Time Limits
If a variance is granted, the applicant shall obtain site plan approval, where applicable, or a building permit in cases where no site plan is required within eighteen (18) months of the date of approval of the variance.
 7. Guarantees
The Board of Adjustment may require guarantees in such form as it deems suitable to ensure compliance with any conditions of approval
 8. Violations
The violation of any condition under which a variance is granted shall cause the variance to cease to exist and any permit(s) therewith shall become null and void.
- B. Interpretation
1. General
The Board shall hear and decide any appeal in which it is alleged there is an error in an order, requirement, or decision made by the Department in the administration or enforcement of the Peoria Zoning Ordinance.
 2. Application
Applications for an appeal of an interpretation shall be filed in writing, with the Department, within thirty (30) days after the action appealed from, together with the applicable fee, and shall specify the grounds thereof. An appeal concerning interpretation or administration of this Ordinance may be filed by any office, department, board, or commission of the City or by an aggrieved person(s), which for the purpose at hand shall be deemed to be any persons(s) who demonstrate to the BOA substantial interest in the appeal or who receive a particular and direct impact from the interpretation that is distinguishable from the effects or impacts upon the general public.
 3. Board of Adjustment Action
Pursuant to A.R.S §9-462.02.G, the Board shall reverse or affirm, wholly or partly, or modify the order, requirement or decision of the Department being appealed, and make such order, requirement, decision, or determination as necessary.
- C. Temporary Use Permit
1. General
The Board shall hear and act upon appeals for temporary use permits for those uses which are specifically authorized in this Ordinance. The applicant or any party in interest aggrieved by the decision of the Department concerning a Temporary Use Permit may file a notice of appeal with the Board of Adjustment.

2. Application

An aggrieved person who shall be construed to be the applicant or any party in interest may file an appeal with the Board for a decision of the Department on a Temporary Use Permit. Applications for the appeal shall be filed in writing, with the Department, on the official form provided by the Department, together with the applicable fee, within seven (7) days after the Department’s decision, and shall specify the grounds for the appeal. The Department shall transmit to the Board all papers constituting the record upon which the action appealed from is taken.

3. Board of Adjustment Action

- a. Pursuant to A.R.S. §9-462.06, the Board shall reverse or affirm, wholly or partly, or modify the order, requirement, or decision of the Department being appealed, and make such order, requirement, decision, or determination as necessary.
- b. As part of the terms of any temporary use permit, the Board may stipulate certain restrictions and limitations in accordance with Section 21-322 of this Ordinance.

21-324 Administrative Relief ^{*4, *25}

A. Applicability

This Section pertains to minor deviations from single-family residential property development standards as described in Section 21-405, Section 21-412, and Section 21-420.

B. General

- 1. Requests for Administrative Relief shall be limited to a modification from the front, rear, or side yard setbacks or from the maximum percentage of lot coverage, in an amount that is not greater than ten percent (10%) of the setback, or five percent (5%) of the maximum lot coverage permitted by the underlying zoning.

Zoning	Existing Lot Coverage	Modified Lot Coverage	Existing Setbacks	Modified Setbacks
R1-10	45%	47.25%	Front- 10 [♦] Front- 20 ^{♦♦} Side- 5/15 Rear- 15 Corner- 10	Front- 9 Front- 18 Side- 4.5/13.5 Rear- 13.5 Corner- 9
10,000 SF	4,500 SF	4,725 SF		

♦ 10-foot front setback for side-entry garage
 ♦♦ 20-foot front setback for front-facing garage

- 2. Requests for Administrative Relief shall be acted upon by the Planning Manager and shall adhere to the procedures in this Section.
- 3. A property owner may seek Administrative Relief for both setback and lot coverage, to be evaluated by the Planning Manager.
- 4. Requests to deviate from the development standards of the zoning district that do not meet the above criteria shall not be considered a minor deviation available for Administrative Relief, but to be considered a Variance as outlined in Section 21-325.

C. Conditions of Approval

The Planning Manager may authorize Administrative Relief when all of the following conditions are fulfilled:

1. The requested modification is the minimum modification for the reasonable use and enjoyment of the land and/or structure;
2. The relief shall not be contrary to the purpose and intent of this Ordinance;
3. Any proposed improvement is for the accommodation of a use designated as a permitted principal, conditional, or accessory use within the zoning district in which the property is located;
4. The request is filed for the use and enjoyment of the current property owner, and is not part of multiple applications from an individual homebuilder for a specific subdivision or planned community;
5. The requested modification will not unduly impact the peace and enjoyment of abutting properties; and
6. Appropriate and specific conditions as may be deemed necessary in order to fully carry out the intent of this Section have been stipulated by the Planning Manager.

D. Application for Administrative Relief

1. A request for Administrative Relief may be filed by any property owner within the City of Peoria.
2. An applicant shall submit an application for Administrative Relief to the Department on an official form provided by the Department, together with the applicable fee(s). The application shall specify the modifications from the zoning code that are being requested, the reason for the request, and the desired decision.

E. Notification

The noticing requirements for Administrative Relief are outlined below:

1. The Department shall send a Notice of Application to each owner of real property that abuts the property requesting an Administrative Relief.
2. The Department shall send a Notice of Decision regarding the Planning Manager's decision to each owner of real property that abuts the subject property requesting an Administrative Relief.

F. Appeal Criteria and Procedure

1. The purpose of the appeal criteria provided herein is to accommodate appeal rights of persons aggrieved by City decisions, while also ensuring that appeals are conducted in a manner that protects the rights of all parties and ensures finality in land use decisions.
2. An appeal of the Planning Manager's decision is limited to instances where the aggrieved party alleges there was an error in a decision in the enforcement of the Zoning Ordinance or applicable regulatory requirements.
3. An appeal of the Planning Manager's decision shall be appealed to the Board of Adjustment in accordance with procedures set forth in Section 21-323.

4. If the nature of the appeal goes beyond the conditions of approval outlined in Section 21-324.C, the Planning Director shall determine the validity of the appeal to go before the Board of Adjustment.
5. To initiate an appeal of the Planning Manager's decision regarding an Administrative Relief application:
 - a. A written notice of appeal shall be submitted on a form prescribed by the Department and includes specific citations from the Zoning Ordinance or other regulatory documents which the applicant or appellant contends has been incorrectly applied; and
 - b. The appeal must be received by the Department within fifteen (15) calendar days after the date of the decision. The deadline shall be extended to the end of the next business day when the deadline occurs on a non-business day.
 - c. If an appeal is received by the Department within fifteen (15) days of the mailing date of notice, the matter shall be heard by the Board of Adjustment.
- G. Allowance. The granted Administrative Relief shall run with the land.

21-325 Hillside Appeals

A. Applicability

The Land Use Hearing Officer shall hear appeals from decisions of the Department arising from the administration of requirements contained in Section 21-710 (Hillside Development Overlay District). The applicant or any property owner within three hundred (300) feet of the subject property shall file such appeal. The Land Use Hearing Officer shall also consider applications for variance from the provisions of Section 21-710. The owner for the subject property shall file such application.

B. Filing

The applicant shall file an application for an appeal in writing, with the Department. The application shall 1) describe the basis of the variance request, 2) specifically set forth those provisions of Section 21-710 from which a variance is being sought, and 3) specifically set forth those decisions of the Department that are being appealed. The Department shall transmit a copy of the appeal to the Hearing Officer.

C. Determination of Hearing Officer

Upon receipt of an appeals application, the Department Director shall make a determination as to the nature of the appeal and shall determine the appropriate appeal hearing officer to hear the case. Those appeals of a technical nature such as utility locations, final grading and drainage, or heights of cut and fill shall be heard by the City Engineer, or designee thereof, acting in the capacity of hearing officer. All other appeals including slope category determination, allowable densities, lot coverage, and disturbance calculations shall be heard by the Land Use Hearing Officer. The Land Use Hearing Officer shall be the City Manager or designee.

D. Action of Hearing Officer

1. The hearing officer shall hold a hearing and provide the applicant, Department staff, and owners of property located wholly or partially within three hundred (300) feet of the subject property an opportunity to present their position. Such hearings shall be informal and the

rules of evidence and civil procedure shall not apply. The hearing officer shall have the authority to approve, deny, or modify the request.

2. The Hearing Officer's decision shall be in writing and shall be provided to the applicant, the Department, and all property owners within three hundred (300) feet of the subject property.

E. Appeal to City Council

1. Any member of the public may appeal the decision of the hearing officer to the City Council. The appeal shall be in writing and shall specifically set forth the decision of the hearing officer that is being appealed. The appeal shall be filed with the Department Director within ten (10) days of the decision.
2. The Department shall transmit to the City Council a copy of the appeal letter, the decision of the hearing officer, and supporting material. At a regularly scheduled Council meeting, the applicant and the hearing officer shall present their positions. Owners of property located wholly or partially within three hundred (300) feet of the subject property shall also be provided an opportunity to present their position.
3. The City Council shall have the authority to affirm, overrule, or modify the decision of the hearing officer or remand the matter back to the hearing officer.

21-326 Design Review Appeals

A. Filing

1. The applicant may appeal a final decision of the Department on a design review submittal to the Design Review Board. Such appeal shall be filed on the official form provided by the Department, within ten (10) calendar days of the Department's decision, to the Department, together with any applicable fee. The appeal shall specifically indicate those items of the final decision by the Department being appealed.
2. The Department shall submit any response to the appeal and relevant background material on file to the Design Review Board for the next scheduled meeting.

B. Action of the Design Review Board

The Design Review Board shall hear an appeal within thirty (30) calendar days of submission of the appeal. The Board shall make a decision on the date of the hearing, unless continued at the discretion of the Board, and shall transmit the decision to the applicant in writing. The decision of the Design Review Board shall be final.

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Establishment of Zoning Districts

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21-327 Classification of Zoning Districts ^{*2}

The City of Peoria, Arizona is hereby divided into the following specific zoning districts as shown below. Each zoning district will have its own development standards to ensure a cohesive and compatible pattern of land use throughout the City. All buildings, structures, uses, lots, and developments shall comply with the requirements of their respective zoning district as set forth in this Zoning Ordinance. ^{*22}

A. Residential Districts

- R1-43 Single-family Residential ^{*11}
- R1-35 Single-family Residential
- R1-18 Single-family Residential
- R1-12 Single-family Residential
- R1-10 Single-family Residential
- R1-8 Single-family Residential
- R1-6 Single-family Residential
- RM-1 Multi-family Residential
- RMH-1 Mobile Home Subdivision
- RMH-2 Recreational Vehicle Resort
- SR-43 Suburban Ranch ^{*11}
- SR-35 Suburban Ranch ^{*11}

B. Non-Residential Districts

- O-1 Office Commercial ^{*11}
- C-1 Convenience Commercial
- PC-1 Planned Neighborhood Commercial
- PC-2 Planned Community Commercial
- C-2 Intermediate Commercial
- C-3 Central Commercial
- C-4 General Commercial ^{*11}
- C-5 Regional Commercial ^{*11}
- BPI Business Park Industrial
- PI-1 Planned Light Industrial
- I-1 Light Industrial
- I-2 Heavy Industrial ^{*11}

C. Special Districts

- AG General Agricultural
- FP Flood Plain
- SU Special Use
- PUD Planned Unit Development Option
- PAD Planned Area Development
- PCD Planned Community District ^{*11}
- OTMU Old Town Mixed-Use

21-328 Classification of Annexed Areas

Lands annexed into the City of Peoria shall be considered zoned as shown on the official zoning map of the original jurisdiction until the City adopts Initial Zoning for said lands in accordance with Section 21-319 and pursuant to A.R.S. §9-462.04.E. *3

21-329 Classification of Vacated Streets

Whenever a public street or alley is vacated by official action of the council, the zoning districts adjoining each side of such street or alley shall automatically be extended to the centerline thereof, and all land area thus vacated shall then and henceforth be subject to all regulations of the extended districts.

21-330 Official Zoning District Map

A. Establishment

The areas and boundaries of zoning districts are hereby established as shown on the official zoning district map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Section.

B. Identification

The official zoning district map shall be identified by the signature of the Mayor attested by the City Clerk and bear the Seal of the City. Regardless of the existence of purported copies of the official zoning district map which may, from time to time, be made or published, the official zoning district map, which shall be located in the office of the City Clerk, shall be the final authority as to the current zoning status of land area, buildings and other structures in the city.

C. Changes

If, in accordance with the provisions of this Section, changes are made in district boundaries or in other matters portrayed on the official zoning district map, such changes shall be made on said map promptly after the amendment has been approved by the Council, together with an entry signed by the City Clerk certifying to the accuracy and date. No amendment to this Section which involves matter portrayed on the official zoning district map shall become effective until after such change and entry have been made on said map, and all conditions under Section 21-331.D have been fulfilled. No changes of any nature shall be made in the official zoning district map or matters shown thereon except in conformity with the provisions of this Section. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Section and punishable as hereinafter provided.

D. Notwithstanding the provisions of this Section of Chapter 21 of the Peoria City Code as it existed prior to the effective date of this Subsection, any zoning resulting in an amendment to the official zoning map of the City of Peoria, Arizona shall be deemed unconditional irrespective of whether the conditions of this Section have been met and such zoning shall be deemed unconditional and final in the event all other provisions of the Peoria City Code were complied with. *1

E. Replacement

In the event that the official zoning district map becomes damaged, destroyed, lost or difficult to interpret due to the nature of number of changes and additions, the Council may, by resolution, adopt a new official zoning district map which shall supersede the former map. The new official zoning district map may correct drafting or other errors or omissions in the former map, but no such correction shall have the effect of amending the original Zoning Ordinance or any subsequent amendment thereof. The new official zoning district map shall be identified by the signature of

the Mayor attested by the City Clerk and bear the Seal of the City under the following words: "This is to certify that this official zoning district map supersedes and replaces the official zoning district map adopted October 26, 1976 as part of Chapter 14 of the City Code of Peoria, Arizona".
*3

F. Interpretation

Where, due to scale, lack of detail or illegibility of the official zoning district map, there is an uncertainty, contradiction or conflict as to the intended location of any district boundary shown thereon, the exact location of such boundary shall be determined by the Board, after having received the recommendation of the Commission. The Board, in reaching its determination, shall apply the following standards: *3

- a. Zoning district boundary lines are intended to follow lot lines or be parallel or perpendicular thereto, and centerline of streets, alleys, right-of-way, unless otherwise fixed by dimensions shown on the official zoning district map.
- b. In subdivided property or where a zoning district boundary divides a lot, the exact locations of such boundary, unless otherwise indicated by dimensions shown on the official zoning district map, shall be determined by use of the map scales included thereon.
- c. If, after application of the foregoing rules, uncertainty still exists as to the exact location of a zoning district boundary, the Board shall determine and fix the location of such boundary in accordance with the purposes and intent of this Section.

References

Adopted by Ord. No.: 2019-29

Previous Ordinances:

- *1 90-60
- *2 93-12
- *3 02-80
- *4 03-03
- *5 03-06
- *6 04-211
- *7 05-19
- *8 05-22
- *9 05-25
- *10 05-35
- *11 06-16
- *12 07-14
- *13 07-22
- *14 2010-24
- *15 2011-03
- *16 2012-05
- *17 2012-16
- *18 2013-16
- *19 2014-21
- *20 2015-08
- *21 2016-08
- *22 2016-29
- *23 2018-17
- *24 2018-18
- *25 2019-29