

ORDINANCE NO. 2016-08

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTER 14 OF THE PEORIA CITY CODE (1977 EDITION), BY AMENDING ARTICLE 14-39 ADMINISTRATIVE PROCEDURES, OF THE PEORIA CITY CODE; PROVIDING FOR SEPARABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Peoria, Maricopa County, Arizona, held a public hearing on February 4, 2016 to consider proposed amendments to the Peoria City code, after notice in the manner provided by law; and

WHEREAS, due and proper notice of such Public Hearing was given in the time, form, substance, and manner provided by law including publication of such in the Peoria Times on December 18, 2015; and

WHEREAS, the Planning and Zoning Commission of the City of Peoria, Arizona at its regularly convened meeting of February 4, 2016 voted to recommend to the Mayor and Council of the City of Peoria, Arizona, that amendments be made to the Peoria City Code (1977 edition) and Article 14-39 Administrative Procedures of the Peoria City Code; and

WHEREAS, the Mayor and Council of the City of Peoria, Arizona, have considered the recommendation of the Planning and Zoning Commission of the City of Peoria, Arizona, and deem it to be in the best interest of the public health, safety and welfare of the residents of the City of Peoria, Arizona to amend Article 14-39 Administrative Procedures, of Chapter 14 of the Peoria City Code (1977 edition):

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Peoria, Arizona as follows:

SECTION 1. of Chapter 14 of the Peoria City Code (1977 edition) shall be amended to read as indicated on Exhibit A.

SECTION 2. Effective Date. This Ordinance shall become effective on the date provided by law.

SECTION 3. SEPARABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria,
Maricopa County, Arizona this 1st day of March, 2016.



Cathy Carlet, Mayor

3/7/2016

Date Signed

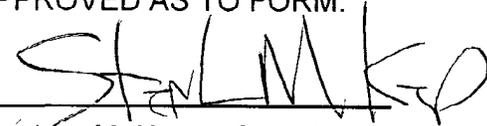
ATTEST:



Rhonda Geriminsky, City Clerk



APPROVED AS TO FORM:



Stephen M. Kemp, City Attorney

Published in: Peoria Times
Publication Date: March 11, 2016
Effective Date: 4/6/2016

EXHIBIT A

(Proposed Changes – Case TA15-0006)

ARTICLE 14-39

ADMINISTRATIVE PROCEDURES

(Ord. No. 2011-03, 2012-05, 2012-16, 2013-16, 2014-21 and 2015-08)

CONTENTS

- 14-39-2 INTERPRETATION
- 14-39-8 REZONINGS
- 14-39-9 INITIAL ZONINGS UPON ANNEXATION
- 14-39-10 ZONING ORDINANCE TEXT AMENDMENTS
- 14-39-11 SITE PLAN REVIEW
- 14-39-12 CONDITIONAL USE PERMITS

14-39-2 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 14-39-~~12~~14, "Appeals to Board of Adjustment," of this Ordinance.

14-39-8 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* (Ord. No. 05-25)

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 Article, ~~said Site Plans shall be submitted together with the rezoning application.~~

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. (Ord. No. 05-25)
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* (Ord. No. 07-22)

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 ~~Public~~ Citizen Participation Process ("CPP") shall not be required for initial zoning cases per 14-39-9 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 parties~~ persons shall be notified pursuant to ~~according to the requirements of~~ Section 14-39-6, "Notices". 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.
1. *Timing of Citizen Participation Meetings and Communications* (Ord. No. 05-25, & Ord. No. 07-22). 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. ~~City staff will initially review the application for completeness and may identify issues and make recommendations and comments related to the request. The applicant shall revise the application as necessary.~~ 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 applicant may appeal the requirements or conditions contained in the CPP approval and shall submit a request to have the requirements or conditions reviewed by the Planning Manager. Such request shall be in writing and shall be submitted within 10 days after the approved plan has been delivered to the applicant. The Planning Manager shall provide a written decision within 14 days of receipt of the request. (Ord. No. 05-25)~~

~~3. Action by the Planning Manager may be appealed by the applicant to the Department Director as the point of final appeal. The request for review by the Department Director shall be submitted in writing within 10 days from the date of delivery of the Planning Manager's decision to the applicant. The Director shall provide a written decision within 14 days from receipt of the request. (Ord. No. 05-25)~~

~~4. After the applicant submits an application that the Department determines to be complete and prepared in accordance with the above, City Departments shall review the application. The Department shall transmit to the applicant the comments from City Departments. The applicant then shall revise and resubmit the application materials to address all of the concerns and issues raised in the comments. When the application is complete, the Department shall write a report with a recommendation, set a date for a public hearing with the Planning and Zoning Commission, and forward the report to the Commission.~~

25. 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. (Ord. No. 07-14)

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 (Ord. No. 05-35):
 - 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. (Ord. No. 05-35)
 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. (Ord. No. 05-35)
 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. (Ord. No. 05-35)
- 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 14-39-~~911~~, "Site Plan Review," of this Article.
 - 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 rezoning Ordinance any condition(s) or schedule(s) imposed pursuant to this Section.
4. Modification of Adopted Conditions and Schedules. ~~If an applicant would like to request a modification to~~ A request to modify the condition(s) or schedule(s) of approval adopted by Council ~~upon the rezoning of the property, the applicant shall be~~ is subject to the following:
 - a. The applicant ~~may~~ must file a written request with the ~~Planning and Zoning Commission Department, requesting for~~ a modification to the adopted requirements. The Department shall forward the request to the Commission shall consider the request and submit a 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 Sub-section J, "City Council Hearing and Action."
- 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.

14-39-9 INITIAL ZONINGS UPON ANNEXATION

- A. *Legal Requirements.* Pursuant to ARS §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 ARS §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. (Ord. No. 05-25)

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.

14-39-10 ZONING ORDINANCE TEXT AMENDMENTS

A. *General.* The City Council may, ~~from time to time as the public necessity, convenience, general welfare, or good zoning practice require,~~ 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 ~~write a report with a recommendation,~~ set a date for a public hearing with the Planning and Zoning Commission, ~~and forward~~

~~the report to the 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 make forward a recommendation to the City Council for consideration, ~~in accordance with the same procedures herein prescribed for Rezoning Amendments.~~
- 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.

14-39-11 SITE PLAN REVIEW

A. *Applicability*

1. All development in the City of Peoria, except detached or attached single-family units on individual lots, shall be subject to Site Plan Review as provided in this Ordinance.

- B. *Application for Site Plan Review.* An application for Site Plan Review 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 Site Plan and Design Review Process Guides. The application shall contain sufficient information for the City to determine whether the proposed development meets the development requirements of the City.

- C. *Plans Review.* The City shall review Site Plan applications in accordance with the Process Guides. If the Department determines that the proposed Site Plan 1) is consistent with the health, safety, and welfare of the community; 2) is in harmony with the purposes and intent of this Ordinance, the General Plan, and ~~the any~~ any plan for the area; and 3) will not cause traffic related concerns that cannot be mitigated ~~congestion or seriously depreciate surrounding property values~~, then the Department may grant Site Plan Approval and may impose such conditions and safeguards as the Department deems necessary to satisfy the provisions in this Ordinance. The Department may determine that the conditions required for approval do not exist and, thereupon, deny Site Plan approval. (Ord. No. 07-14, and 2014-21)

- D. *Appeals.* The applicant or any member of the public may ~~file a request to appeal~~: (a) the decision to approve or deny a site plan; (b) a site plan stipulation; or (c) an exaction or dedication associated with the site plan. (Ord. No. 05-19)

1. *Appeal to Planning and Zoning Commission.* The Planning and Zoning Commission shall hear appeals related to decisions to approve or deny a site plan, and for site plan stipulations other than stipulations for exactions or dedications. The Commission may approve in whole or in part, modify, or deny the request, or continue the appeal. The decision of the Planning and Zoning Commission shall be final.

- a. *Filing.* The appealing party shall file ~~the a written request for appeal, whether to the Planning and Zoning Commission or to the Land Use Hearing Officer~~, within fifteen

~~(15) calendar days of the Notice of Decision. ten (10) calendar days of the Notice of Decision.~~ The filing of an appeal will be considered complete upon receipt of the appeal by the Department Director. The ~~request~~ written appeal shall include the specific reasons for the appeal. ~~and be filed in writing.~~ If no appeal is filed within the fifteen (15) calendar days of the day the notice of decision was issued, ~~within ten (10) calendar days of the Notice of Decision,~~ the decision of the Department shall be final.

2. *Appeal to Land Use Hearing Officer for Exactions or Dedications.* The Land Use Hearing Officer shall hear appeals related to exactions or dedications associated with the site plan, in accordance with Article 14-37, "Administrative and Decision Making Bodies," Section 14-37-9.C., "Land Use Hearing Officer."

E. *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.

F. *Amendments to Approved Site Plans.* Any change or modification to an approved Site Plan shall be considered an amendment to the Site Plan. For all Site Plan amendments, revised Site Plans incorporating the changes shall be submitted to the Department. Site Plan amendments shall be classified as Major or Minor and processed accordingly.

1. *Criteria for Major Amendments.* Any modification which, as determined by the Department, substantially changes the approved site plan, shall be considered a major site plan amendment. The Department shall consider all amendments that would increase project gross land area, building square footage, or residential densities by more than ten (10) percent, materially change project land use, or alter circulation patterns to be Major Site Plan Amendments.
2. *Criteria for Minor Amendments.* Any modification which, as determined by the Department, does not substantially change the approved site plan, shall be considered a Minor Site Plan Amendment. The Department shall consider changes such as minor dimensional building configuration and landscape changes, as well as the addition of shade structures, to be Minor Site Plan Amendments.
3. *Approval of Major Amendments.* If the Department determines that an application is for a Major Site Plan Amendment, a new application form together with the revised Site Plan, associated materials, and the application fee shall be submitted to the Department and shall be subject to the Application, Site Plan Review, and Appeal processes as herein set forth.

4. *Approval of Minor Amendments.* If the Department determines that an application is for a Minor Site Plan Amendment, the Department shall approve or deny the application through the Building Permit process.

14-39-12 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 chapter to permit conditional uses in appropriate zoning districts, ~~but only in specific locations within such districts and only~~ 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 City's Zoning Code.

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 Article as non-conforming as described in Article 14-26, "Non-Conforming Uses," and its continuance shall be governed by all non-conforming use regulations stipulated in this Ordinance.
3. When issued, a Conditional Use Permit shall be ~~personal to the permitted and~~ 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 Article, 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. (Ord. No. 05-19)

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 ~~Plan~~ Process

1. If ~~Written~~ opposition to a Conditional Use Permit application is received by ~~Planning staff the Department~~, within 21 days, ~~of the initial application submittal to the Planning Division, a Citizen Participation Plan~~ a neighborhood meeting shall be required as part of the process of identifying and addressing potential ~~negative~~ impacts that the proposed use may impose on the surrounding area. The Citizen Participation ~~Plan~~ Process ("CPP") shall include the following:
 - a. The applicant shall hold at least one neighborhood meeting ~~with persons who may be affected or have an interest in the application~~. 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 14-39-6, "Notices".
 - 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 *Public Hearing*

1. The Planning and Zoning Commission shall ~~conduct a hearing to consider the Conditional Use Permit.~~ 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 shall will, by motion, set forth written findings of fact identifying identify the basis for the denial and the specific criteria in this ~~e~~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. The matter shall not be continued except by request of the applicant, or at the request of the Planning and Zoning Commission if the applicant concurs with the commission's request.
 2. The decision of the Commission shall be is final and effective fifteen (15) calendar days ~~ten (10) calendar days~~ following the hearing date of decision ~~unless an appeal has been~~ is filed pursuant to this Article.
- 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. ~~Such~~The appeal shall be filed in writing must be in writing and filed with the Department, within fifteen (15)ten (10) calendar days of the date of the ~~hearing,~~ with the Department 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.