ARTICLE 14-39
ADMINISTRATIVE PROCEDURES

(Ord. No. 2011-03, 2012-05, 2012-16)

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14-39-1 INTENT

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

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, “Appeals to Board of Adjustment,” of this Ordinance.

14-39-3 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.

14-39-4 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.

14-39-5 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.

14-39-6 NOTICES (Ord. No. 2010-24)

Table 14-39-6 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]** *Applicant's responsibility* Notification Distance Radius
Administrative Relief	No	N/A	No	No	No	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	**	**	Yes	Yes (Applicant)	No	**
PAD/PCD Minor Amendment	Map Amendments only (300 ft)	No	Text Amendments only	No	No	N/A
Rezoning	**	**	Yes	Yes (Applicant)	No	**
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	**	Yes	Yes (City)	No	N/A

* Specific site posting sign requirements are located in the Site Posting Requirements guide available from the Planning Division.

** 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 14-39-13.E. If required, the City shall be responsible for posting signage on the subject property.

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 14-39-6 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 14-39-6 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 14-39-6 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 14-39-6 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 14-39-6, 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 ARS §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.

14-39-7 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.

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, PC, or detached or attached single-family units on individual lots, shall be accompanied by a Site Plan prepared in accordance with this Article; said Site Plans shall be submitted together with the rezoning application.

2. Rezonings 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 Participation Process 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 shall be notified 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.

3. *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.

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.

5. 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 14-39-9, “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. 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

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 Rezonings, 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 TEXT AMENDMENTS

A. *General*. The City Council may, from time to time as the pubic 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 pubic hearing with the Planning and Zoning Commission, and forward the report to the Commission.

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 a recommendation 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 plan for the area; and 3) will not cause traffic 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. The Planning Manager shall not approve or recommend approval of any Site Plan 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 Site Plan 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 and is consistent with the health, safety, and welfare of the community. (as required by element 1, above) (Ord. No. 07-14)

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 request for appeal, whether to the Planning and Zoning Commission or to the Land Use Hearing Officer, within ten (10) calendar days of the Notice of Decision. The request shall include the reasons for the appeal and be filed in writing. If no appeal is filed 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*

1. If Written opposition to a Conditional Use Permit application is received by Planning staff within 21 days of the initial application submittal to the Planning Division, a Citizen Participation Plan 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 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. *Public Hearing*

   1. The Planning and Zoning Commission shall conduct a hearing to consider the Conditional Use Permit.

   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, by motion, set forth written findings of fact identifying the basis for the denial and the specific criteria in this ordinance that have not been met.

c. Continuance. 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 final and effective ten (10) calendar days following the hearing unless an appeal has been 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 to the City Council. Such appeal shall be filed in writing, within ten (10) calendar days of the date of the hearing, with the Department.

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 Article, criteria set forth in Article 14-9 "Non-Residential Districts" pertaining to Adult Uses, and b) guidelines promulgated by the Planning Manager in accordance with said Articles.

J. *Adult Uses.* Applications for uses that are classified as Adult Uses, pursuant to Article 14-2, "Definitions" 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 Article 14-9, "Non-Residential Districts."

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 Article or in Article 14-9, "Non-Residential Districts".

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 Title 12, Chapter 7, Article 6, Arizona Revised Statutes.

14-39-13 TEMPORARY USE PERMITS

A. *Intent*.

1. In addition to regulating uses which are permanent in nature, it is the intent of this Ordinance to provide for certain temporary uses for limited periods of time. Allowing temporary uses, as herein provided for, is not intended to permit uses otherwise prohibited by the Zoning Ordinance or to allow permanent uses to be established.

2. The purpose of this Section is to establish the procedures and outline the review criteria to be used by the Department when considering an application for a Temporary Use Permit. All Temporary Uses shall be conducted so as not to be detrimental to the surrounding properties and shall be subject to the standards and regulations contained herein. The Department shall not grant a Temporary Use Permit until adequate assurances have been provided ensuring compliance with the provisions of this Ordinance and all other applicable City codes.

B. *General*. Every Temporary use on private property shall require a Temporary Use Permit as herein stipulated.

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. (Ord. No. 2012-05)

C. *Permitted Temporary Uses*. The City may grant a Temporary Use Permit for any of the following uses.

1. Carnivals, circuses, or similar special events.

2. Outdoor sales events, such as Christmas tree sales, pumpkin sales, or similar holiday-related events.

3. Outdoor sales of consumer permissible fireworks. (Ord. No. 2011-03)

4. Temporary municipal uses. (Ord. No. 05-22)

5. Off-site retail sales of souvenirs, gifts, and food incidental to a sporting or cultural event.

6. Tent revival or fellowship meetings.

7. Craft shows, home and garden shows, festivals, or similar events.

8. Outdoor concerts, paid admission events, and events involving the distribution of alcoholic beverages.

9. Such other uses as the City may deem to be within the intent and purpose of this Section.

D. *Application*. A property owner or duly authorized agent may submit an application for a Temporary Use Permit. The applicant shall obtain the official application materials from the Department. Submittal requirements shall be as outlined on the official form and any other requirements that the Department deems necessary to understand the proposal, including Site Plans prepared in accordance with Section 14-39-11, "Site Plan Review," of this Article. The applicant shall submit the official application and associated materials, together with the applicable fee, to the Department.

E. *Posting*. Temporary Uses which, in the opinion of the Department, meet all the following criteria shall not require posting:

1. The use and/or structure complies with all applicable codes and Ordinances;

2. The use and/or structure does not interfere with pedestrian access ways, fire lanes, driveway entrances, or traffic visibility at driveways or street intersections;

3. Parking on the property is adequate to serve any existing permanent use and the temporary use;

4. The temporary use shall not be conducted between the hours of 10 P.M. and 7 A.M.; and

5. The City Engineer, or designee thereof, approves vehicular access for the proposed temporary use.

Temporary uses which, in the opinion of the Department, do not meet all of the above criteria shall be posted. For such temporary uses, the City shall post the subject property within five (5) working days following submittal of the application

F. *Review and Approval*

1. Application for a Temporary Use Permit shall be reviewed by the Department who shall approve, conditionally approve, or disapprove the application. Approval 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.

   In considering the application, the Department may include, but are not be limited to, the following conditions:

   a. Regulation of parking, dust control measures, and site lighting.

   b. Regulation of hours of operation.

   c. Regulation of site ingress and egress.

   d. Assurance of compliance with building, fire, electrical, and all other appropriate codes.

   e. Such other conditions deemed necessary to carry out the intent and purpose of this Section.

f. All signage proposed for the temporary use or event shall be in compliance with Article 14-34, "Signs." All signage shall obtain a separate sign permit. (Ord. No. 04-211)

2. 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.

3. Issuance of Permits. To be issued a permit, the applicant shall sign an agreement with the City stating that within 72 hours of cessation of the use or expiration of the permit, whichever occurs first, the site shall be restored to the same condition prior to commencement of the temporary use.

4. Time Limits and Renewal of Permits. All Temporary Use Permit approvals shall be subject to a time limit as set forth by the Department.

   a. Temporary Use Permits for off-site construction yards or residential sales may be permitted for the duration of the project, or as determined by the City.
   b. 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.
   c. Each occurrence of a Temporary Use and each distinct Temporary Use on a property shall require separate submittal and approval of a Temporary Use Permit Application.

G. *Appeal of Decision to Board of Adjustment*

1. Upon receiving notification of the Department's decision to approve or deny the application for a Temporary use Permit, the applicant or any party in interest, aggrieved by the decision may file an appeal to the Board of Adjustment. Such appeal shall be filed in writing, within seven (7) calendar days of the decision. Any appeal to the Board of Adjustment shall follow the procedures outlined in this Article, Section 14-39-14, "Appeals to Board of Adjustment," Sub-section I, "Temporary Use Permit."

2. Upon appeal, the Department shall file all material on the matter with the Board of Adjustment. The Board shall review the case based on the material filed by the Department and on information presented at the hearing. The Board shall uphold the action of the Department, remand the matter back to the Department with instructions for further review, or overturn the action of the Department.

14-39-14 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 on 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. (Ord. No. 03-06)

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. Title 12, Chapter 7, Article 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 Sub-section

(G)(3), "Evidence Required," of this Section 14-39-14 "Appeals to Board of Adjustment," 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) Non-conforming uses or violations related to lands, uses, or structures in the same zoning district

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.

H. *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 City's 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.

I. *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 ARS §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 14-39-13, "Temporary Use Permits," of this Ordinance.

14-39-15 ADMINISTRATIVE RELIEF (Ord. No. 03-03)

A. *Applicability*. This "Administrative Relief" section pertains to minor deviations from property development standards as described in Article 14-5, "Single-Family Residential Districts," Section 14-5-5, "Property Development Standards for Permitted Residential Uses," and Article 14-19A "Suburban Ranch Districts (SR-43 and SR-35), Section 14-19A-5, "Property Development Standards for Permitted Principal Uses" and all amendments thereof.

B. *General*

1. Requests for Administrative Relief shall fall into one of the following categories:

   a. Subdivision Plat. A modification from the front, rear or side yard setbacks, as shown in a recorded subdivision plat, that are more restrictive that the corresponding setbacks required in the City's Zoning Ordinance. However, the modification shall not result in front, rear, or side yard setbacks that are less than those required in the City's Zoning Ordinance.

   b. Other than Subdivision Plat. A modification, from the front, rear, or side yard set backs or from the maximum percentage of lot coverage, for an amount that is not greater than five percent (5%) of the setback or lot coverage required in the City's Zoning Ordinance.

2. All other modifications shall be considered Variances and shall be forwarded to the Board of Adjustment for a hearing in accordance with procedures herein outlined in Section 14-39-14, "Appeals to Board of Adjustment," Sub-section G, "Variance."

3. Requests for Administrative Relief shall be acted upon by the Planning Manager and shall adhere to the procedures in this Section.

C. *Conditions for Approval*. The Planning Manager may authorize Administrative Relief when a literal enforcement of any provision(s) of Article 14-5, Section 14-5-5, and all amendments thereof, pertaining to property development standards for permitted principal uses would result in unnecessary property hardship and when evidence is presented demonstrating to the satisfaction of the Planning Manager that all of the following conditions are fulfilled:

1. The request is not part of multiple applications from an individual homebuilder for a specific subdivision or planned community;

2. The requested modification will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general;

3. The granted Administrative Relief is the minimum development standard modification that will make possible the reasonable use of the land and/or structure; and

4. 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, or any department, agency, or division of the City of Peoria, of Maricopa or Yavapai County, of the State of Arizona, or of the federal government.

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. *Protest*

1. If no protest is received by the Department from any notified property owner within ten (10) days of the mailing date of notice, the Planning Manager shall act on the request.

2. If a protest is received by the Department from any notified property owner within ten (10) days of the mailing date of notice, the matter shall be reclassified as a Variance and submitted to the Board of Adjustment. In these cases, no additional filing fees will be charged.

F. *Appeal*. If the decision of the Planning Manager is not satisfactory to the applicant, the applicant may appeal the decision to the Board of Adjustment in accordance with procedures set forth in Section 14-39-14, “Appeals to Board of Adjustment”.

G. *Null and Void*. A violation of any condition stipulated by the Planning Manager shall be a violation of this Section and such a violation shall render the granted Administrative Relief null and void. An approval shall also be null and void if the use has not commenced or if a building permit has not been obtained within sixty (60) days of authorizing the variance or within any greater or lesser time stipulated by the Planning Manager, not to exceed one (1) year.

14-39-16 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 Article 14-22A (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 Article 14-22A, “Hillside Development Overlay District.” 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 Article 14-22A 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.

14-39-17 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.