

ORDINANCE NO. 2018-17

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTER 21 OF THE PEORIA CITY CODE, BY AMENDING SECTION 21-320 SITE PLAN REVIEW, 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 May 3, 2018 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 April 13, 2018; and

WHEREAS, the Planning and Zoning Commission of the City of Peoria, Arizona at its regularly convened meeting of May 3, 2018 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 Chapter 21 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 Section 21-320 Site Plan Review, of Chapter 21 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 21 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 5<sup>th</sup> day of June, 2018.

\_\_\_\_\_  
Cathy Carlat, Mayor

\_\_\_\_\_  
Date Signed

ATTEST:

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Rhonda Geriminsky, City Clerk

APPROVED AS TO FORM:

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Vanessa P. Hickman, City Attorney

Published in: Peoria Times  
Publication Date: June 15, 2018  
Effective Date: \_\_\_\_\_

Exhibit A

21-320 Site Plan

A. Purpose and Applicability

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

B. Application Requirements

An application for Site Plan Review must include all information required in the official process guide and application packet for Site Plan Review applications made available by the Department, in addition to other information required by the Planning Manager or designee based on the nature of the proposed development.

C. Approval Criteria

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

D. Notice of Decision.

1. The Department shall notify the applicant, in writing, of the decision to approve or deny the application, and shall state any conditions for approval or reasons for denial in said letter.

2. The Department shall provide notice of the site plan decision to all required parties identified within Section 21-315.E.
3. If no appeal is filed within the specified timeframe within Section 21-322.E, than the decision of the Department shall be final.

E. Appeal Criteria and Procedure

1. The Notice of Decision by the Department may be appealed by the applicant, or any City of Peoria property owner or property owners within the notification area identified within Section 21-315 Notices of the Zoning Ordinance.
2. The purpose of the appeal criteria provided herein is to fairly accommodate appeal rights of persons aggrieved by City decisions, while also ensuring that appeals are conducted fairly and expeditiously in a manner that protects the rights of all parties and ensures finality in land use decisions and development permitting.
3. An appeal of a Site Plan decision is limited to instances where the aggrieved party alleges there was an error in a decision or determination in the enforcement of the Zoning Ordinance or applicable regulatory requirements.
4. To initiate an appeal the Department's decision regarding a site plan application:
  - a. A written notice of appeal shall be submitted on a form prescribed by the Department and includes specific citations from the Zoning Ordinance or other regulatory documents in which the Appellant believes the Site Plan does not comply with; and
  - b. Be received by the Department within fifteen (15) calendar days after the Notice of Decision has been issued. The deadline shall be extended to the end of the next business day when the deadline occurs on a non-business day.
5. The filing of an appeal will be considered complete upon receipt of the written appeal by the Department Director within the specified timeframe and meets all of the appeal criteria as specified within 21-322.E above.

F. Determination by Department Director

1. Appeals filed with the intent to contest the proposed land use, the zoning designation, or an approval of a conditional use permit shall be determined by the Department Director to be invalid and shall not be forwarded to an appeal body for consideration.
2. Upon receipt of a valid appeal, the Department Director shall make a determination as to the nature of the appeal and shall determine the appropriate Hearing Officer to hear the appeal.
3. Appeals of a technical nature, such as but not limited to utility locations, grading and drainage, or traffic mitigation measures shall be heard by the City Engineer, or designee thereof, acting in capacity of the Hearing Officer.

4. Appeals regarding exactions or dedications associated with the site plan shall be heard by the Land Use Hearing Officer, which shall be the City Manager or designee.
5. For all other types of appeals, they shall be heard by the Land Use Hearing Officer, which shall be the City Manager or designee.

G. Action of Hearing Officer

1. The Hearing Officer shall hold a hearing and provide the appellant, applicant, Department staff, and those property owners and registered homeowner's associations within the required notification radius of the subject property an opportunity to present their position. Such hearings shall be informal and the rules of evidence and civil procedure shall not apply. The hearing officer shall have the authority to approve, deny, or modify the request.
2. The Hearing Officer's decision shall be in writing and shall be provided to the appellant, applicant, the Department, and any property owners and homeowner's association representatives who attended the hearing.
3. The decision of the Hearing Officer shall be final.

H. Building Permits Based upon Approved Site Plan

1. For all development subject to Site Plan review, an approved Site Plan and proper zoning are required prior to the commencement of any construction or development on the site.
2. The applicant shall obtain the necessary building and/or construction permits within eighteen (18) months of the date of approval of the Site Plan application, if not obtained within the eighteen (18) month time frame, the applicant may, prior to the date of expiration, file a request for an extension, whereupon the Planning Manager may authorize a one-time, six (6) month extension. If the time frame has expired, the applicant shall submit a new Site Plan, together with the applicable documents and fees as stipulated in the above provisions.

I. Amendments to Approved Site Plans

1. When a site plan has been previously approved and alterations to the proposed buildings or site improvements are desired, a site plan amendment will be required if those changes are deemed by the Planning Manager or designee to be substantial in nature.
2. Substantial changes may include, but not be limited to a ten (10) percent increase in a project gross land area, a building or buildings' square footage, or a multi-family project's density, or a material change to the project's land use, or an alteration to the project's circulation pattern.
3. A site plan amendments shall be submitted, reviewed and approved in accordance with the same Site Plan approval criteria as identified herein.
4. Any modification which does not substantially change the approved site plan, shall be not require the applicant to obtain new site plan approval and may be addressed through the building permit process.