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# Zoning Code Amendment

## Administrative Refinements

### TA24-01

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#### Applicable Sections of Chapter 21 Zoning Ordinance:

21-100, 21-300, 21-400, 21-500, 21-600, 21-700, 21-800 and 21-900\*

#### Overview of Revisions:

1. Rename *Section 21-100 Introduction* to *21-100 Introductory Provisions and Administration*
2. Append and update Administrative regulations from 21-300 into *Section 21-100*
3. Rename *21-300 Administration and Procedures* to *21-300 General Provisions and Standards*
4. Relocate and renumber 21-800 through 21-814 into 21-300
5. Standardize formatting for interior setback within Section 21-420 to match other tables.
6. Within Section 21-400, add note to clarify when corner setback minimum distance is applicable versus an interior setback.
7. In Section 21-600, standardize PAD / PCD references to match existing practices.
8. Eliminate regulations within Section 21-701 through 21-709 known as *Senior Citizen Overlay Zoning District*
9. Consolidate provisions within Section 21-710 through 21-734 and append into revised *21-600 Special Uses, Districts and Overlays*
10. Rename subsections to clarify topics of individual sections for easier reference.
11. Update cross-references within individual regulations to point to new section numbers.
12. Create uniformity in use of terms for Zoning Administrator and Department references.

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#### HOW TO READ THIS DOCUMENT

Applicable Sections of the Zoning Ordinance are denoted by **highlighted bold text** for ease of readability during the drafting process.

Unless otherwise stated, provisions or graphics that are being deleted are shown in bold red strikethrough text or a line through the graphic, like this: ~~Provisions that are being deleted are shown with a bold red strikethroughs text~~. Graphics containing bold red strikethrough are intended to remove the graphic in its entirety as well as any text that is embedded in the graphic.

Provisions or graphics that are being added are shown in double-underlined bold blue text, like this: Provisions that are being added are shown in double-underlined bold blue text. Graphics containing bold double underline underneath the graphic are intended to add the graphic in its entirety as well as any text that is embedded in the graphic.

Unless otherwise specifically addressing changes to a particular section or subsection of the code through the above referenced methods changes are only intended for those specific sections and subsections of the code that are addressed herein.

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## Exhibit A - City Code Amendment

Amendment for Adoption to the Peoria City Code, Chapter 21

**Section 1. Amend Chapter 21 - Zoning, Section 21-100 Introduction, only as follows, leaving all other sections and subsections not specifically referenced unchanged:**

### Sec. 21-100. INTRODUCTORYION PROVISIONS AND ADMINISTRATION.

#### Sec. 21-101. Intent.

The intent of this Section is to secure adequate light and air, to prevent the overcrowding of land and undue concentration of population, to secure safety from fire, panic and other dangers, to lessen or avoid congestion in the streets, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public facilities, and otherwise to promote the health, safety, morals, convenience and general welfare of the citizens of the City of Peoria, Arizona.

#### ~~Sec. 21-102. Conflicting Regulations.~~

~~A. Relation to Other Regulations. Wherever any provision of this Section imposes more stringent requirements, regulations, restrictions, or limitations than are imposed or required by the provisions of any other law or ordinance, the provisions of this Section shall govern.~~

~~B. Applicability to Property. This Ordinance shall apply, to the extent permitted by law, to all property within the City of Peoria, including all uses, structures and land. For property located within the City of Peoria, the zoning designation is as stated in this Zoning Ordinance unless otherwise modified by this Ordinance and its successive editions.~~

#### Sec. 21-102. Title.

Chapter 21 of the City Code shall be known and cited as the "City of Peoria Zoning Ordinance," "Zoning Ordinance of the City of Peoria," "Zoning Ordinance", or "this Ordinance". Whenever reference is made to any portion of the ordinance set out in Chapter 21, or of any other law or ordinance, the reference applies to all amendments and additions to this Title made hereafter.

#### ~~21-103. Private Agreements.~~

~~It is the intent of this Section not to interfere with, abrogate or annul any easement, covenant, deed restriction or other agreement between parties; provided, however, that whenever this Section imposes a greater restriction upon the use of buildings, structures or land, the provisions of this Section shall govern.~~

#### Sec. 21-103. Structure.

Organization of Regulations. This Ordinance consists of nine (9) sections:

[Section 21-100. Introductory Provisions and Administration](#)

[Section 21-200. Definitions](#)

[Section 21-300. General Provisions and Development Standards](#)

[Section 21-400. Residential Districts](#)

[Section 21-500. Non-Residential Districts](#)

[Section 21-600. Special Uses, Districts and Overlays](#)

[Section 21-700. Signage](#)

[Section 21-800. Landscape](#)

[Section 21-900. Parking and Loading](#)

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### Sec 21-104. Types of Regulations.

Four types of zoning regulations control the use and development of property in the City:

- A. **Administrative Regulations.** Section 21-100 contains regulations and detailed procedures for the administration of this Ordinance, and include responsibilities of the Zoning Administrator and planning agency, common procedures, processes and standards for entitlement and conceptual planning applications, and other permits.
- B. **General Terms and Use Classifications.** Section 21-200 contains a list of use classifications and a list of terms and definitions used in this Ordinance.
- C. **Land Use Regulations.** These regulations specify land uses permitted, conditionally permitted or specifically prohibited in each zone, and include special requirements, if any, applicable to specific uses. Certain regulations, applicable in some or all of the districts, and performance standards that govern special uses, are in Sections 21-400, 21-500 and 21-600.
- D. **Development Regulations.** These regulations control the height, bulk, density, intensity, location and appearance of structures on development sites. General provisions applicable to all of the districts, along with certain regulations applicable in some of the districts, are in Sections 21-300, 21-700, 21-800, and 21-900.

### Sec 21-105. Relationship to the General Plan.

It is the intention of the City Council that this Zoning Ordinance implement the vision, goals and policies adopted by the City Council and ratified by the voters as reflected in the General Plan. The City Council affirms its commitment that this Zoning Ordinance and any amendments will be in conformity with the adopted planning polices as expressed in the General Plan, specific area plans, and any amendments.

### Sec. 21-106. General Rules For Applicability of Zoning Regulations

- A. **Applicability to Property.** This Ordinance shall apply, to the extent permitted by law, to all property within the City of Peoria, including all uses, structures and land. For property located within the City of Peoria, the zoning designation is as stated in this Zoning Ordinance unless otherwise modified by this Ordinance and its successive editions.
- B. **Compliance with Regulations.** No land shall be used, and no structure shall be constructed, occupied, enlarged, altered, demolished or moved in any zoning district, except in accordance with the provisions of this Ordinance.
- C. **Provisions Interpreted as Minimum Requirements.** In interpreting and applying the provisions of Chapter 21, the applicant shall meet or exceed the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare.
- D. **Relationship to Other Regulations.** The Zoning Ordinance, along with other regulations of the City of Peoria, including but not limited to the Subdivision Ordinance, Peoria Engineering Standards Manual (PESM), and applicable International Building and Fire Codes, as amended, is a tool to implement the Peoria General Plan. In regulating future development or redevelopment within the City of Peoria, the requirements of the Zoning Ordinance shall be construed as minimum requirements.
- E. **Relationship to Private Agreements.** It is the intent of this Section not to interfere with, abrogate or annul any easement, covenant, deed restriction or other agreement between parties; provided, however, that whenever this Section imposes a greater restriction upon the use of buildings, structures or land, the provisions of this Section shall govern.

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- F. **Conflicting Regulations.** Wherever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions, or limitations than are imposed or required by the provisions of any other law or ordinance, the provisions of this Ordinance shall govern.

### Sec. 21-107. Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the code adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

### **Sec. 21-1084. Vested Rights.**

This Section and any of the provisions herein established are not intended and shall not be construed to establish any vested rights in or on behalf of any person, firm or corporation, in respect to the continuation of any particular, use, zoning district classification or any activity occurring in connection therewith.

### **Sec. 21-1095. Statutory Exemptions.**

Nothing contained in this Section shall be construed as:

- A. Unreasonably affecting existing uses of property or the right to its continued use or the reasonable repair or alteration thereof for the purpose for which used prior to the effective date of this Section.
- B. Preventing, restricting or otherwise regulating the use or occupation of and improvements for railroad, metallurgical, grazing or general agricultural purposes, as herein defined, if the tract concerned is not less than two (2) contiguous acres.

### ~~Sec. 21-106. Jurisdiction.~~

~~The jurisdiction of this Section shall include all lands and waters within the corporate limits of the City of Peoria, Arizona.~~

### **Sec. 21-~~110.107.~~ ADMINISTRATION.**

~~Responsibility for the administration of this Section is hereby vested in the Zoning Inspector. Zoning, as a police power vested in the City, is a primary means of regulating the specific, current and immediate future use of land in the community. Zoning regulations must therefore be comprehensive and reasonable and must be adjusted and expanded as necessary to meet new and changing conditions. To this end, the Planning and Zoning Commission shall, from time to time as the need arises, undertake and carry out such special studies and make such revisions, modifications and amendments of zoning standards, requirements, regulations, procedures and maps as may be necessary to improve the effectiveness of this Section, and keep it responsive to Peoria's needs. The Commission shall be assisted in its duties by the Zoning Inspector, and by such outside consultants as the Council may retain for the purpose.~~

### Sec. 21-111. Zoning Administrator.

The City Manager, or such other city employee as the City Manager may designate, shall carry out all responsibilities of the Zoning Administrator as defined in A.R.S. § 9-462 and as set forth hereafter. Responsibility for the administration of Chapter 21 Zoning Ordinance is hereby vested in the Zoning Administrator. The Zoning Administrator may delegate to a designee those duties as assigned by the Zoning Ordinance to the Zoning Administrator.

### **Sec. 21-~~112311.~~ Interpretations and Decisions.**

- A. The Zoning Administrator ~~Department Director~~ or designee ~~thereof~~, shall interpret the provisions of this Zoning Ordinance (or Ordinance), and shall interpret uses within each district as provided in the intent and regulations governing the subject district. The Zoning Administrator ~~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. A record of the Zoning Administrator's responses shall be available for public review.

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- B. The appeal of Zoning Ordinance interpretations or other decisions by the Zoning Administrator may be initiated by any aggrieved person or by any officer, department, board or commission of the city affected by the interpretation or decision of the Zoning Administrator. For purposes of this subsection an aggrieved person is one who receives a particular and direct adverse impact from the interpretation or decision which is distinguishable from the effects or impacts upon the general public. Appeals must be filed pursuant to Section 21-162. ~~Ordinance interpretations may be appealed to the Board of Adjustment (BOA). Such appeals may be initiated by an office, department, board, or commission of the City, or by any aggrieved party. The appeals shall be processed in accordance with Section 21-323 of this Ordinance.~~
- C. When the provisions of this Zoning Ordinance are interpreted or applied they shall be held to be the minimum requirements for the promotion of the public safety, health and general welfare.
- D. The Zoning Administrator shall interpret uses within each district. The presumption established in this Zoning Ordinance is that all general uses of land are permissible within at least one (1) zoning district in the city's planning jurisdiction. The use regulations set forth in each district cannot be all inclusive, and may include general use descriptions that encompass several specific uses. Uses specified in each district shall be interpreted liberally to include other uses which have similar impacts to the listed uses.
- E. Inspections may be made by the Zoning Administrator. If such inspection reveals that any property or portion of a project is not in compliance with the requirements of the applicable ordinances and codes, the Zoning Administrator shall report the discrepancy to the property owner, developer or their representative and shall order work on the project stopped or corrective action taken as appropriate.

### Sec. 21-113. Amendments.

- A. ~~107.~~ Zoning, as a police power vested in the City, is a primary means of regulating the specific, current and immediate future use of land in the community. Zoning regulations must therefore be comprehensive and reasonable and must be adjusted and expanded as necessary to meet new and changing conditions.

To this end, the Zoning Administrator ~~Planning and Zoning Commission~~ shall, from time to time as the need arises, undertake and carry out such special studies and make such revisions, modifications and amendments of zoning standards, requirements, regulations, procedures and maps as may be necessary to improve the effectiveness of this ~~Section~~ Chapter, and keep it responsive to Peoria's needs. The ~~Commission~~ Zoning Administrator shall be assisted in its duties by the ~~Zoning Inspector~~, and by such outside consultants as the City Council or the City of Peoria, through the procurement process, may retain for the purpose.

- B. ~~109.~~ References within this Ordinance to provisions, or Sections within this Ordinance shall be deemed to refer to said provision or Section as most recently amended, including cases in which such amendment may be located in a new or different Section of this Ordinance or be otherwise renumbered.

### Sec. 21-114. ~~108.~~ Enforcement Official.

- A. **Authority.** The City Manager, or such other city employee as the City Manager may designate, shall carry out all responsibilities of the Enforcement Official as defined in A.R.S. § 9-462 and as set forth hereafter. Responsibility for the enforcement of ~~this Section the~~ Chapter 21 Zoning Ordinance, as hereinafter provided, is hereby vested in the office of the Enforcement Official. The Enforcement Official may delegate to a designee those duties as assigned by the Zoning Ordinance to the Enforcement Official.

- B. **Enforcement Official.** The Enforcement Official shall enforce this Zoning Ordinance in accordance with the subsections below: ~~Zoning Inspector, who shall be a city official appointed by the City Council.~~

1.A.—Unless expressly stated otherwise, violations of this Section may be enforced alternatively by civil or criminal penalties; however, no person served with a notice charging a civil violation may be subject to

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criminal charge arising out of the same offense. However, prior civil determinations of responsibility for the same offense may be used to enhance penalties imposed upon a subsequent criminal conviction for an offense.

~~2.B.~~—Civil violations of this Section shall be enforced as provided in Chapter 5 and Chapter 17, Section 17-51 of the City Code.

~~3.C.~~—Criminal violations of this Section shall be enforced as provided in Chapter 5 and Chapter 17, Section 17-51 and pursuant to state statute.

~~4.D.~~—In addition to other enforcement actions that may be taken pursuant to this code or ordinance, the City Manager or designee may issue an order of abatement pursuant to Chapter 17, Section 17-59 of the City Code.

~~5.E.~~—Violations of this Ordinance are in addition to any other violation enumerated within the City ordinances or the City Code and in no way limits the penalties, actions or abatement procedures which may be taken by the City for any violation of this ordinance, which is also a violation of any other ordinance or Code provision of the City or statutes of the State.

### Sec. 21-~~115.327~~-**Classification Establishment of Zoning Districts.**

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

#### A. Residential Districts

Suburban Ranch (SR-43 and SR-35)

~~R1-43~~ Single-family Residential (R1-43, R1-35, R1-18, R1-12, R1-10, R1-8 and R1-6)

~~R1-35 Single-family Residential~~

~~R1-18 Single-family Residential~~

~~R1-12 Single-family Residential~~

~~R1-10 Single-family Residential~~

~~R1-8 Single-family Residential~~

~~R1-6 Single-family Residential~~

~~RM-1~~ Multi-family Residential (RM-1)

~~RMH-1~~ Mobile Home Subdivision (RMH-1)

~~RMH-2~~ Recreational Vehicle Resort (RMH-2)

~~SR-43 Suburban Ranch~~

~~SR-35 Suburban Ranch~~

#### B. Non-Residential Districts

~~O-1~~ Office Commercial (O-1)

~~C-1~~ Convenience Commercial (C-1)

~~PC-1~~ Planned Neighborhood Commercial (PC-1)

~~PC-2~~ Planned Community Commercial (PC-2)

~~C-2~~ Intermediate Commercial (C-2)

~~C-3~~ Central Commercial (C-3)

~~C-4~~ General Commercial (C-4)

~~C-5~~ Regional Commercial (C-5)

~~BPI~~ Business Park Industrial (BPI)

~~PI-1~~ Planned Light Industrial (PI-1)

~~I-1~~ Light Industrial (I-1)

~~I-2~~ Heavy Industrial (I-2)

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### C. Special Districts and Overlay Districts

- ~~PAD~~-Planned Area Development ([PAD](#))
- ~~PCD~~-Planned Community District ([PCD](#))
- ~~PUD~~-Planned Unit Development ~~Option~~ ([PUD](#))
- [Historic Preservation \(HP\)](#)
- ~~AG~~-General Agricultural ([AG](#))
- ~~FP~~-Flood Plain ([FP](#))
- ~~SU~~-Special Use ([SU](#))
- ~~OTMU Old Town Mixed Use~~
- [Downtown \(D\)](#)
- [Special Use Permit \(SP\)](#)
- [Hillside Development Overlay District \(HDOD\)](#)
- [Desert Lands Conservation Overlay \(DLCO\)](#)

### Sec. 21-~~116328~~— Classification of Annexed Areas.

Lands annexed into the City of Peoria shall be considered zoned as shown on the official zoning map of the original jurisdiction until the City adopts Initial Zoning for said lands in accordance with Section 21-~~117318~~ and pursuant to A.R.S. § 9-462.04.E.

### Sec. 21-~~117318~~—Initial Zoning upon Annexation.

- A. *Legal Requirements.* Pursuant to A.R.S. § 9-462.04(E), the City shall consider areas annexed to the City of Peoria, until officially zoned by the City Council, to be zoned as shown on the official zoning map of the original jurisdiction at the time of the annexation. The original jurisdiction's zoning shall be effective for a maximum of six (6) months after annexation. Pursuant to A.R.S. § 9-462.04(E) and § 9-471(ML), 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 [rezoning procedures specified within Section 21-153 and notification requirements outlined in Section 21-146.](#) ~~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.~~
- 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 the City building codes and County 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 effectiveness date of annexation, in cases where exterior walls have been completed to the plat 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.

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### D. Public Participation and Process.

1. The Citizen Participation Process outlined within Section 21-153 shall not apply to initial zoning cases.
2. Public Notice shall be provided pursuant to Table 21-146.
3. Initial Zoning applications shall be reviewed and processed in accordance with Section 21-153.

### **Sec. 21-~~118329~~-Classification of Vacated Streets.**

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

### **Sec. 21-~~119330~~- Official Zoning District Map.**

- A. *Establishment.* The areas and boundaries of zoning districts are hereby established as shown on the official zoning district map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Section.
- B. *Identification.* The official zoning district map shall be identified by the signature of the Mayor attested by the City Clerk and bear the Seal of the City. Regardless of the existence of purported copies of the official zoning district map which may, from time to time, be made or published, the official zoning district map, which shall be located in the office of the City Clerk, shall be the final authority as to the current zoning status of land area, buildings and other structures in the city.
- C. *Changes.* If, in accordance with the provisions of this Section, changes are made in district boundaries or in other matters portrayed on the official zoning district map, such changes shall be made on said map promptly after the amendment has been approved by the Council, together with an entry signed by the City Clerk certifying to the accuracy and date. No amendment to this Section which involves matter portrayed on the official zoning district map shall become effective until after such change and entry have been made on said map, and all conditions under Section 21-~~119331.D~~ have been fulfilled. No changes of any nature shall be made in the official zoning district map or matters shown thereon except in conformity with the provisions of this Section. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Section and punishable as hereinafter provided.
- D. Notwithstanding the provisions of this Section of Chapter 21 of the Peoria City Code as it existed prior to the effective date of this Subsection, any zoning resulting in an amendment to the official zoning map of the City of Peoria, Arizona shall be deemed unconditional irrespective of whether the conditions of this Section have been met and such zoning shall be deemed unconditional and final in the event all other provisions of the Peoria City Code were complied with.
- E. *Replacement.* In the event that the official zoning district map becomes damaged, destroyed, lost or difficult to interpret due to the nature of number of changes and additions, the Council may, by resolution, adopt a new official zoning district map which shall supersede the former map. The new official zoning district map may correct drafting or other errors or omissions in the former map, but no such correction shall have the effect of amending the original Zoning Ordinance or any subsequent amendment thereof. ~~The new official zoning district map shall be identified by the signature of the Mayor attested by the City Clerk and bear the Seal of the City under the following words: "This is to certify that this official zoning district map supersedes and replaces the official zoning district map adopted October 26, 1976 as part of Chapter 14 of the City Code of Peoria, Arizona".~~
- F. *Interpretation.* Where, due to scale, lack of detail or illegibility of the official zoning district map, there is an uncertainty, contradiction or conflict as to the intended location of any district boundary shown thereon, the exact location of such boundary shall be determined by the Zoning Administrator Board, ~~after having received~~

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~~the recommendation of the Commission.~~ The Zoning Administrator Board, in reaching its determination, shall apply the following standards:

- ~~1. a.~~ Zoning district boundary lines are intended to follow lot lines or be parallel or perpendicular thereto, and centerline of streets, alleys, right-of-way, unless otherwise fixed by dimensions shown on the official zoning district map.
- ~~2. b.~~ In subdivided property or where a zoning district boundary divides a lot, the exact locations of such boundary, unless otherwise indicated by dimensions shown on the official zoning district map, shall be determined by use of the map scales included thereon.
- ~~3. c.~~ If, after application of the foregoing rules, uncertainty still exists as to the exact location of a zoning district boundary, the Zoning Administrator Board shall determine and fix the location of such boundary in accordance with the purposes and intent of this Section.

### **Sec. 21-~~120860.~~ Legal Non-Conformance. ~~Intent.~~**

This Section establishes provisions for the regulation of non-conforming uses, buildings, structures, lots, and sites. These regulations are designed to identify legal non-conforming rights, but discourage their perpetuation and expansion.

### **Sec. 21-~~121861.~~ Establishment of Legal Non-Conformance. ~~ity.~~**

Legal non-conforming status is the result of a use, building, structure, lot, or site that was legally established prior to the adoption or amendment of this Zoning Ordinance or annexation into the City, but which would be prohibited, regulated, or restricted differently under the terms of this Zoning Ordinance. The burden of establishing lawfulness of a non-conformity shall be upon the owner.

### **Sec. 21-~~122862.~~ General Provisions.**

All legal non-conformities may be continued so long as they remain otherwise lawful, subject to the following provisions:

#### **A. *Non-Conforming Buildings and Structures.***

1. Only routine repair and maintenance, which does not increase the non-conformity are permitted.
2. The replacement of damaged or partially destroyed non-conforming buildings or structures due to fire, flood, or other calamity, to an extent of:
  - a. Fifty percent (50%) or less of the gross floor area may be restored to its previous condition(s), provided a building permit for such restoration has been obtained within one (1) year of calamity.
  - b. Greater than fifty percent (50%) of the gross floor area shall not be reconstructed except in conformance with the regulations for the current zoning district in which it is located.
3. Should any such building or structure be moved for any reason, for any amount of time, any distance, it shall thereafter conform to the regulations for the current zoning district in which it is located after moving.

#### **B. *Non-Conforming Uses.***

1. The expansion of a non-conforming use within an additional building, structure, or land area is prohibited.
2. Whenever a non-conforming use has been discontinued or abandoned for a period of one (1) year, such use shall not thereafter be re-established and any future uses shall be in conformance with the current regulations for the current zoning district in which the property is located.

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- a. If the non-conforming use was forced to cease operations due to a fire, flood, or other calamity, the Zoning Administrator may extend the one (1) year deadline if a delay in recommencing was shown to be caused by unforeseen circumstances beyond the control of the property owner.
- b. Once changed to a conforming use, no building, structure or land shall be permitted to revert back to a non-conforming use.

### C. *Non-Conforming Lots.*

~~1.~~ A non-conforming lot shall develop in conformance with the regulations for the current zoning district in which it is located.

### D. *Non-Conforming Sites.*

~~1.~~ All sites deemed non-conforming due to non-compliance with current applicable development standards, to include, but not limited to parking, circulation, and landscaping, shall be subject to the Site Plan Amendment process in Section 21-~~154320~~.

### Sec. 21-~~123863~~. Exceptions.

- A. Additions to a non-conforming single-family dwelling shall be permitted if the added portion conforms to all current development standards as regulated by the current zoning district in which it is located.
- B. Any non-conformity will be required to be brought into conformance, in a timely manner, if such compliance is mandated by State or Federal Law.
- C. Nothing in this section shall prevent the full restoration of a building or structure that is listed on the National Register of Historic Places, the Arizona State Register of Historic Places, or the Peoria Register of Historic Places.
- D. Non-conforming signs shall be subject to Section 21-838.

### Sec. 21-124 through 21-129 Reserved.

### Sec. 21-130.301- Decision-Making Officials and Bodies. ~~Intent.~~

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

### Sec. 21-~~131.309~~-Planning Agency.

- A. *Establishment.* The City has established the Planning and Community Development Department (or otherwise referred to interchangeably as the "Planning Department" or "Department") to carry out the functions of the Planning Agency, pursuant to A.R.S. § 9-461.01 and the City Code, Chapter 20, Section 20-1, and further described herein.
- B. *General Powers and Duties.* The Planning ~~Community Development~~ Department shall perform but not be limited to, the following functions:
  1. Develop and maintain a General Plan.
  2. Develop such specific plans as may be necessary to implement the General Plan.
  3. Develop and administer a zoning code which will serve as an implementation vehicle for the General Plan and specific area plans.
  4. Perform such other planning functions as directed by the City Manager, Mayor and City Council.

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### Sec. 21-~~132.308~~- Administrative Hearing Officer.

- A. *Authority.* Pursuant to A.R.S. § 9-462.08 and in accordance with Chapter 20, Section 20-41 of the City Code (1992), the City has the authority to establish administrative hearing officer(s) and delegate to the hearing officer(s) the authority to conduct hearings.
- B. *Appointment.* Hearing officers shall be appointed by the City Manager on the basis of technical training and experience which qualifies them to conduct hearings and make findings and conclusions on the matters heard.
- C. *Land Use Hearing Officer.* Pursuant to Subsection A. of this Section, the City has established a Land Use Hearing Officer. The Land Use Hearing Officer shall hear appeals for the following:
1. Decisions of the ~~Planning Community Development~~ Department regarding administration of the requirements of the Hillside Development Overlay District as described in Section 21-~~640710~~ and in accordance with Section 21-~~112311~~ through Section 21-~~115327~~.
  2. Determinations for exactions or dedications required by the City as a condition of granting approval for the use, improvement, or development of real property, in accordance with this Ordinance and all amendments thereto.
  3. Other matters as the Council may provide by Ordinance.

### Sec. 21-~~133.302~~- City Council.

- A. *Authority.* Pursuant to provisions of the Peoria City Charter and limitations imposed by the State of Arizona, the Peoria City Council is vested with all the powers of the City.
- B. *General Powers and Duties.* The organization, powers, and duties of the City Council shall be as prescribed in Section II of the City Charter with all amendments thereof. The Council exercises broad approval authority and approves many types of land-use proposals contained in this ordinance. The Council has the power to create or abolish boards, commissions, or committees and may grant to them such powers and duties as are consistent with the provisions of the City Code.

### Sec. 21-~~134.303~~- Planning and Zoning Commission.

The City has established the Planning and Zoning Commission pursuant to Chapter 3, ~~Section 3-53~~, of the Peoria City Code. ~~(1992)~~.

### Sec. 21-~~135.305~~- Board of Adjustment.

The City has established the Board of Adjustment pursuant to A.R.S. § 9-462 and the [Chapter 3 of the Peoria City Code](#), ~~Chapter 3 Section 3-15~~, and all amendments thereof.

A. ~~21-323.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 [rezoning Zoning](#).

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### B. ~~21-323.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.

### **Sec. 21-~~136.306.~~ Design Review Board.**

The City has established the Design Review Appeals Board pursuant to the [Chapter 3 of the Peoria City Code](#), ~~Chapter 3, Section 3-18~~, and all amendments thereof.

### **Sec. 21-~~137.307.~~ Historic Preservation Board.**

The City has established the Historic Preservation Commission pursuant to the [Chapter 3 of the Peoria City Code](#), ~~Chapter 3, Section 3-23~~, and all amendments thereof.

### **Sec. 21-138. Zoning Administrator.**

As set forth within this Zoning Ordinance or elsewhere within the Peoria City Code, the Zoning Administrator or designee shall have the authority and duties, and carry out all responsibilities identified within Sections 21-111 and 21-112.

### **21-139 Reserved**

### **Sec. 21-140. Development Applications and Procedures.**

#### **Sec. 21-141. ~~310.~~ Intent.**

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

#### **Sec. 21-142. Processing of Planning Applications and Permits.**

The Planning Department shall establish review process and procedures, submittal requirements, and applicable guidelines in conformance with the requirements of Chapter 21 Zoning Ordinance and the Peoria Community Design Guidelines for all planning applications and permits.

These development applications may include, but not limited to the following: General Plan amendments, Specific Area Plan adoption and amendments, Zoning Ordinance text amendments, zoning district map amendments, conditional use permits, conditional use permit, site plan and amendments thereto, preliminary plats, waivers, administrative relief, and variances. Planning permits may include, but are not limited to the following: sign permits, temporary use permits, and native plan permits.

#### **Sec. 21-143. Development Application Review.**

- A. **Pre-application Meeting.** Before filing any applications described Sections 21-150 through 21-165 below, the applicant shall submit a preliminary description of the proposal for review and comment by City staff.

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This preliminary description shall include, at minimum, those items noted in the pre-application meeting guide, and contain sufficient scope and detail so as to allow a basic review of location, land area, land use, land use intensity, traffic generation and adjacent streets, stormwater drainage, utility service, and previous case history. The need for the conference and fee may be waived by the Zoning Administrator if it is determined sufficient information already exists regarding the request and case site.

**B. *Applicants.*** The following persons may file an application:

1. The owner of the subject property; or
2. An agent representing the owner, duly authorized to do so in writing by the owner.

**C. *Applications.*** Applications required by this ordinance shall be filed with the office of the Planning Department and include all of the following:

1. An application, provided by the City.
2. The required documents and information in a form acceptable to the Planning Department.
3. Additional materials, as required. The Zoning Administrator may require the submission of supporting materials as part of the application, including but not limited to, statements, photographs, plans, drawings, renderings, models, material samples and other items necessary to describe existing conditions and the proposed project.
4. The required fee.

**D. *Determination of Completeness.*** The Zoning Administrator, or designee, shall determine whether an application is complete.

1. *Incomplete Application.* If an application is deemed incomplete, notification to the applicant shall be provided in writing listing any additional forms, information, and/or fees that are necessary to complete the application within fourteen (14) days.
2. *Complete Application.* When all necessary information has been provided, and fees have been paid, then the application is determined to be complete. A notation of the date shall be made on the application record and initiation of the review process may begin.

**E. *Request for Corrections.*** During the review of the application, the Zoning Administrator or designee may issue a comprehensive written or electronic request for corrections, referred to herein this Section as the “Review Comment Letter”. If after the Zoning Administrator or designee has conveyed a comprehensive written or electronic request for corrections, and the applicant has not provided the documentation or information corrected in a timely manner, the application may be deemed inactive and administratively withdrawn in accordance with Section 21-145.

**E. *Review and Decision.*** Review and decision criteria for each type is specified within Section 21-150 through 21-165 below.

### **Sec. 21-~~144.314~~-Fees.**

**A. *Schedule of Fees.*** Fees charged by the Planning Department shall be as adopted in the City Code. Payment of the fee is required in order for an application to be deemed complete. No application shall be processed without payment of the applicable fee unless a fee waiver or hardship has been approved by the Planning Department Director.

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**B. ~~A.~~—Waivers.** In cases where the applicant is the City Council, ~~City-Peoria~~ Planning and Zoning Commission, City 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.

**D. *Refund of Fees.*** Once an application is filed with the Planning Department, no part of any application fee shall be refundable, unless the Planning Department Director determines such a refund is justified on the basis of unique financial hardship and factual circumstances. No refund shall be made for any application that has been denied.

### **Sec. 21-~~145.316.~~ Application Expiration and Approval Extensions. ~~of Applications.~~**

~~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.~~

#### **A. *Application Inactivity.***

**1. *Applicability.*** This section is applicable to ~~This includes~~, but ~~is~~-not limited to, applications for General Plan Amendments, Rezoning, PAD or PCD 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 including ~~A~~appeals, Preliminary Plats, Waivers, and Sign Permits.

#### **2. *Resubmittal Deadline.***

**a.** Upon the city's issuance of a "Review Comment Letter" as defined within Section 21-143.E, the applicant is required to submit all requested documents, materials, and requested information within a six (6) month period, beginning the day after the Zoning Administrator or designee issues the Review Comment Letter.

**b.** The last day of the resubmittal period shall be defined herein as the "Resubmittal Deadline". It is incumbent on the applicant to ensure understanding of, and compliance with, all resubmittal deadlines.

**c.** Should the need arise for the city to alter or revise the comments or list of documents, materials or requested information needed after issuance of the Review Comment Letter, the Resubmittal Deadline shall be restarted upon the day after the reissuance.

**d.** Should the Resubmittal Deadline transpire without a complete resubmittal by the applicant, the application shall be deemed expired and "inactive".

**e.** Should subsequent requests for corrections occur after a resubmittal is received, the city shall issue a subsequent "Review Comment Letter", and a new Resubmittal Deadline shall be established in accordance with the provisions herein.

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3. *One-Time Extension.* Prior to the expiration of the application, the applicant may submit a written request for a one (1) time extension, for up to six (6) months, from the Zoning Administrator. The request shall include an explanation as to why the requested information cannot be provided within the resubmittal timeframe. Should the extension be granted, the Resubmittal Deadline shall be extended to no more than six (6) months from the original expiration date. No additional extensions may be granted.
4. *Administrative Withdraw.* Once the application status becomes inactive, the Zoning Administrator or designee shall administratively withdraw the application without notice.

### B. *Approval Expiration.*

Prior to the date of expiration of the approval for site plan applications, site plan amendment, preliminary plats, and design reviews, the applicant may file a request for an extension. The Zoning Administrator ~~Planning Manager~~ may authorize a one-time, ~~six (6)~~ twelve (12) month extension upon receipt of an approval extension request and any applicable fee. ~~The Applicant contact of record shall be provided written notice no less than thirty (30) days prior to the date of application expiration.~~

### C. *Permit Approval Timeframe.*

1. The Zoning Administrator, Planning and Zoning Commission, Board of Adjustment, or City Council, in granting of any permit, also referred to as discretionary approval, or permit modification, for which the body has authority, may specify the time within which the proposed use must be undertaken and actively and continuously pursued.
2. The Zoning Administrator, Planning and Zoning Commission, Board of Adjustment, or City Council, may impose upon the permit a term of such period of time as is found to be consistent with the purposes of the use and necessary to safeguard the public safety, health and welfare.
3. If no time period is otherwise specified by the decision-making body, any permit granted under this Ordinance may be declared expired, and no further force and effect, if it is not exercised or extended within the timeframe specified within this Ordinance.

### **Sec. 21-~~146.315~~. Notification Requirements.**

The purpose of these requirements are to facilitate the provision of information to the impacted property owners, interested persons, government agencies, neighborhood and homeowner's association representatives that are registered with the City, the general public, and utilities (hereafter, the "Public") regarding development applications that have been submitted to the City, neighborhood meetings, and public hearings. In addition, the intent of these provisions are to provide opportunities to the Public to participate in neighborhood meetings and public hearings, and discuss an application with the applicant's representative(s) and City Staff during the City's application review process.

- A. *Requirement.* Notice shall be provided for applications identified in Table 21-~~146.315.A~~, and in accordance with the method(s) specified.

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**Table 21-146.315.A Notice Requirements<sup>1</sup>**

Application Type	Notice of Application and Notification Distance	Notice of Hearing and Notification Distance	Newspaper Ad	Site Posting	Notice of Decision Notification Distance	Notice of Neighborhood Meeting and Notification Distance
<b>Minor General Plan (Major/Minor) or Specific Area Plan Amendment</b>	Yes <sup>3, 4</sup>	Yes <sup>3, 4</sup>	Yes	Yes <sup>2</sup>	No	Yes <sup>2, 3, 4</sup>
<b>Zoning Ordinance Text Amendment</b>	No	No	Yes	No	No	N/A
<b>Zoning, Initial</b>	No	Yes <sup>3, 4</sup>	Yes	Yes	No	N/A
<b>Rezoning (Non PAD/PCD)</b>	Yes <sup>3, 4</sup>	Yes <sup>3, 4</sup>	Yes	Yes <sup>2</sup>	No	Yes <sup>2, 3, 4</sup>
<b>PAD/PCD Minor Amendment</b>	Map Amendments only (300 FT)	Yes <sup>3, 4</sup>	Text Amendments Only	No	No	N/A
<b>PAD/PCD Major Amendment</b>	Yes <sup>3, 4</sup>	Yes <sup>3, 4</sup>	Yes	Yes <sup>2</sup>	No	Yes <sup>2, 3, 4</sup>
<b>Preliminary Plat</b>	300 FT	Yes, if appealed, 300 FT	Yes, if appealed	No	300 FT	N/A
<b>Site Plan and Site Plan Amendments</b>	300 FT	Yes, if appealed, 300 FT	Yes, if appealed	No	300 FT	N/A
<b>Conditional Use Permits</b>	600 FT	600 FT	Yes	Yes <sup>2</sup>	No	If a meeting is required, 600 FT
<b>Temporary Use Permits</b>	No	If a BOA hearing is required, 300 FT	If a BOA hearing is required	Yes <sup>5</sup>	No	N/A
<b>Administrative Relief <sup>6</sup></b>	Abutting Properties only	N/A	No	No	Abutting Properties only	N/A
<b>Hillside Appeal</b>	No	300 FT	Yes	Yes	No	N/A
<b>Variance</b>	No	300 FT	Yes	Yes <sup>2</sup>	No	N/A

**Notes:**

1. The Department shall provide the required notices and site postings unless Table 21-146.315.A indicates that they are to be provided by the applicant.
2. The applicant is to provide the notice/site posting.
3. Notification distance for a site area less than or equal to forty (40) acres: 600 feet.
4. Notification distance for a site area greater than forty (40) acres: 1,320 feet.
5. A sign shall be posted on the subject property for those temporary uses that operate during the qualifying hours specified in Section 21-160.322.E.
6. Subject to the notification requirements outlined in Section 21-164.324.E.

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### B. *Notice to Impacted Associations, Entities, Governmental Agencies, Property Owners, and Interested Persons.*

1. The following notices shall be sent by first-class mail:
  - a. Notice of Application;
  - b. Notice of Neighborhood Meeting;
  - c. Notice of Hearing; and
  - d. Notice of Decision.
2. Each required notice shall be sent to the:
  - a. Owner of real property as last disclosed by County real estate tax records, situated wholly or partially within the notification distances for the application type specified in Table 21-~~146.315.A~~
  - b. Neighborhood Association(s) and Home Owners Association(s) that have registered with the City and is affiliated with a neighborhood located within a one (1) mile radius of the subject property; and
  - c. Interested persons.
3. Additional Notice Requirements for General Plan, Specific Area Plan and Rezoning Applications. In addition to the notices set in accordance with subsection B.2. of this section, a Notice of Application and Notice of Hearing shall be sent electronically, or another method approved by the Zoning Administrator, to:
  - a. The military airport or facility if the subject property is in the Territory in the Vicinity of the military airport or facility described in A.R.S. § 28-8461, as amended;
  - b. The planning agency for the municipalities and unincorporated areas of counties whose corporate area is situated wholly or partially within one (1) mile of the subject property; and
  - c. Any other governmental agency, school district or public utility required by the Zoning Administrator.

### C. Notice Timeframes and Additional Requirements.

1. *Notice of Application.* When the notice is required in Table 21-~~146.315.A~~, it shall be mailed prior to the completion of the Department's first review of an application.
2. *Notice of Neighborhood Meeting and Notice of Public Hearing.*
  - a. When the notice is required in Table 21-~~146.315.A~~, it shall be sent at least fifteen (15) calendar days prior to a meeting and public hearing. The number of days stated herein excludes the day that the mailing is sent, and the day of the neighborhood meeting and public hearing.
  - b. The notice shall provide:
    - 1) A general description of the purpose of the application and property location map;
    - 2) Contact information (mailing address, telephone number, and email address) for City Staff and the applicant; and

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- 3) The time, date, and place or method (e.g. electronic virtual meeting or hearing) that the meeting or hearing will be held.
3. *Notice of Decision.* When the notice is required in Table 21-~~146.315.A~~, it shall be mailed within fourteen (14) calendar days of the last action on the application.
4. *Newspaper Ad.*
  - a. When a newspaper notice is required in Table 21-~~146.315.A~~, it shall be published in a newspaper of general circulation in the City at least fifteen (15) calendar days prior to the hearing. The number of days stated herein excludes the day of the publication and the day of the hearing. The notice shall provide:
    - 1) A general description of the purpose of the application and property location;
    - 2) Contact information (mailing address, telephone number, and email address) for City Staff and the applicant; and
    - 3) The time, date, and place or method (e.g. electronic virtual hearing) that the hearing will be held.
  - b. Zoning Ordinance Text Amendment. The notice shall be a "display ad" covering not less than one-eighth (1/8) of a full-page. The proposed text of the amendment shall be provided in the notice or available on the City's website.
  - c. All Other Applications. The notice shall be a "display ad" covering not less than one-eighth (1/8) of a full-page. The notice may be combined with other notices to be heard at the same hearing.
5. *Site Posting.*
  - a. The subject property shall be posted in a conspicuous location with a minimum of one sign when it is required in Table 21-~~146.315.A~~. The Zoning Administrator may require additional signs for an application that is greater than ten (10) acres, abuts multiple streets, or requires additional sign area to provide application-related information. The sign shall conform with the site posting guide available from the Department.
  - b. The site posting, including any updates to the sign, shall be completed at least fifteen (15) calendar days prior to a neighborhood meeting and public hearing. The number of days stated herein excludes the day that the sign is posted, any day that the sign is updated, and the day of the hearing and neighborhood meeting. If the applicant is responsible for the posting and updating of the sign, the applicant shall provide the City with a photo exhibit and affidavit attesting to the posting and updating of the sign within the timeframe state herein.
  - c. All site postings required by this section shall be removed within fourteen (14) calendar days of the last action, withdrawal, or expiration of an application.

### *D. Failure to Receive Notice.*

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

### Sec. 21-148 through 21-149 Reserved

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### Sec. 21-150. Specific Application Procedures.

#### Sec.21-151 Annexation Procedures.

Annexations shall be considered by City Council in accordance with the adopted policies and procedures on file with the Planning Department.

#### Sec. 21-152. General Plan Amendments.

- A. **General.** The chapters of the General Plan may be amended, supplemented or modified. Requests to amend the General Plan may be initiated by the Department, Planning and Zoning Commission, City Council or property owner of the real property which is the subject of the application.
- B. **Application.** Refer to Arizona State Law and the General Plan for procedures, criteria and processing of amendments. Additionally, refer to Table 21-146 for notice requirements for minor amendments.

#### **Sec. 21-~~153.~~317. Rezoning.**

- 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. For initial zoning applications, refer to Section 21-117.
- C. ~~**Mandatory Pre-Application Conference, Plan Submittal and Approval.**~~ 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 Planned Area Development (PAD), Planned Community District (PCD), or detached or attached single-family units on individual lots, shall be accompanied by a Site Plan Review application prepared in accordance with this Section.
  - 2. Rezoning may be initiated by the City Council, the Planning and Zoning Commission, the Department, or an owner or duly authorized agent of property proposed for rezoning. In the case of an application that includes property not owned by the applicant, and where the applicant is not the City Council, the Planning and Zoning Commission, or the Department, the application shall include the signatures of the real property owners representing at least seventy five percent (75%) of the land in the subject area.
  - 3. Any person or entity who seeks a rezoning shall submit an application on the official form provided by the Planning Department. Submittal requirements shall be as established administratively by the Planning 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 Report Plan.

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4. The applicant shall present evidence of ownership or the type of controlling interest in the property (e.g., option to purchase) to the [Planning](#) Department. The applicant shall submit the application together with the applicable fee to the [Planning](#) Department.
- E. **~~Citizen Participation Process. A Citizen Participation Process shall accompany all rezone requests.~~** The purpose of the Citizen Participation Process is to provide a forum for public involvement and resolution of concerns prior to the formal public hearing process. The Citizen Participation Process ("CPP") shall not be required for initial zoning cases per Section 21-~~117.319~~ and minor amendments to approved Planned Area Developments ([PADs](#)) and Planned Community ~~Districts~~ **Developments** ([PCDs](#)).
1. **Number of Meetings.** The applicant shall hold at least one neighborhood meeting with persons who may be impacted or have an interest in the application; said persons shall be notified pursuant to Section 21-~~146.315~~.
  2. **Venue.** The neighborhood meeting shall be held in person at a neutral location within the general area of the request, unless an alternative meeting method, including but not limited to an electronic virtual meeting or similar method, is approved or required by the Zoning Administrator. The Zoning Administrator may approve, or require the use of, an alternative meeting method in place of, or in addition to, an in person meeting. The notice of the neighborhood meeting and the format and manner of an alternative meeting method shall conform with the neighborhood meeting guide available from the [Planning](#) Department.
  3. **Citizen Participation Report.** The applicant shall prepare and submit a "[Citizen Participation Report](#)" ~~report~~ to the [Planning](#) 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.
  4. ~~3.~~ **Timing of Neighborhood Meeting(s).** The required neighborhood meeting shall be conducted after the applicant receives notice that the [Planning](#) Department has completed its review of the first submittal of the application, and before the applicant's second submittal of the application.  
  
Upon completion of the Department's review of the first submittal of an application, if the Zoning Administrator determines that a subsequent application submittal is not required, the applicant shall conduct a neighborhood meeting at least thirty (30) calendar days before the Planning and Zoning Commission's first public hearing.
  5. ~~3.~~ **Validation of Report.** A hearing date shall not be scheduled until the applicant has held the neighborhood meeting and the applicant's Citizen Participation Report has been submitted and validated by the [Planning](#) Department.

F. **~~Department~~ Review.**

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

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determination by the ~~Zoning Administrator~~ ~~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 ~~Zoning Administrator~~ ~~Planning Manager~~ shall not approve or recommend approval of any rezoning unless the ~~Zoning Administrator~~ ~~Planning Manager~~ has received a Waiver of Claim for Diminution in Value 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 ~~w~~Waiver of Claim for Diminution in Value Proposition 207 is consistent with the City's General Plan and zoning goals and requirements.

### G. *Planning and Zoning Commission Hearing and Recommendation.*

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:
  - 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 fifteen (15) ~~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.*

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

- 1) Affirm in whole or in part the action of the Commission;
- 2) Reverse in whole or in part the action of the Commission;
- 3) Modify any decision, determination, or requirement of the Commission; or
- 4) Remand the matter back to the Commission for further consideration.

b. Rezone applications shall be approved or denied by the City Council within one hundred and eighty (180) days from the date of "Determined Completeness", pursuant to Sec. 21-143.D.

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- 1) The City may extend the timeframe to approve or deny the request beyond the timeframe noted above for any of the following reasons:
- a) For extenuating circumstances, the City may grant a onetime extension of not more than thirty (30) days.
  - b) If an applicant requests an extension, the City may grant an extension of thirty (30) days for each extension granted.
  - c. Section 21-153.H.2.b shall not apply to rezone applications or amendments for Planned Area Developments (PADs), Planned Community Districts (PCDs), or lands designation as a District of Historical Significance pursuant to A.R.S. §9-462.01.A.10 as amended or renumbered, or any area designated Historic on the National Register of Historic Places.
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 ~~s~~ must be filed in writing and received by Peoria City Clerk within the specified time limit identified in A.R.S. § 9-462.04.H., as amended or renumbered. ~~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.
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.
- I. *Application Withdrawn or Denied.* In the event that a rezoning amendment is denied by Council or is withdrawn after the Commission hearing, the Commission shall not reconsider an application for the same request, or any other application for the same zoning requirement that applies to the same property described in the original application or any part thereof, for a period of one year from the date of said denial, unless, as determined by the Department, the conditions upon which the original denial was based have changed.
- J. *Conditions of Approval.* As part of any rezoning approval, the Planning and Zoning Commission may recommend and the City Council may adopt conditions and/or schedules for the development of the property.
- 1. *Conditions.* The City Council may condition approval of a rezoning upon the occurrence of one or more of the following:
    - a. Development in accordance with a specific Site Plan and/or obtaining Site Plan approval in accordance with Section 21-~~156329~~ of this Section.
    - b. Reduction in the otherwise applicable floor area ratio, lot coverage, building height, or density requirements.
    - c. Increases in the otherwise applicable building setback, lot area, parking space, landscaping, or open space requirements.
    - d. Public dedication of rights-of-way as streets, alleys, public ways, drainage, utility, and/or other public improvements, and/or the installation of off-site improvements as are reasonably required by or related to the effect of rezoning.
    - e. Such other conditions as may be allowed by law.
    - f. Completion of a re-use plan as determined by the Planning Department.

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2. *Schedules*. The City Council may require as part of a rezoning approval specific time schedules for any or all of the following:
    - a. Approval of a final site plan.
    - b. Submission and approval of a preliminary plat for the subdivision of the subject property.
    - c. Submission and approval of the final plat for the subdivision of the subject property.
    - d. Application for and issuance of a building permit to commence construction of one or more buildings upon the subject property.
    - e. Commencement of on-site construction on the subject property in accordance with the final site plan as approved
    - f. Completion of a specified percentage of construction on the subject property in accordance with the final site development plan
  3. *Adoption of Ordinance*. The City Council shall set forth in the Zoning Ordinance any condition(s) or schedule(s) imposed pursuant to this Section.
  4. *Modification of Adopted Conditions and Schedules*. A request to modify the condition(s) or schedule(s) of approval adopted by Council is subject to the following:
    - a. The applicant must file a written request with the [Planning](#) Department, requesting a modification to the adopted requirements. The [Planning](#) Department shall forward the request to the Commission for consideration and recommendation to the Council. The Council shall thereupon determine whether or not the modifications will be approved.
  5. *Failure to Comply with Adopted Conditions and Schedules*. If an applicant fails to comply with any condition(s) or schedule(s) adopted by Council upon the rezoning of the property, the applicant shall be subject to the following:
    - a. The applicant may file a request with the Planning and Zoning Commission for an extension of the time schedule for meeting the adopted requirements. The Commission shall consider the request and submit a recommendation to the Council. The Council shall thereupon determine whether or not the extension will be approved.
    - b. The [Zoning Administrator](#) ~~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 [Zoning Administrator](#) ~~Department 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 [Zoning Administrator](#) ~~Department Director~~'s application together with the Commission's recommendation shall be submitted to the City Council for final action. The Council may accept, reject, or modify the recommendations of the Commission in accordance with the foregoing, outlined above in Subsection J.
- K. *Change of Classification of Requested Zoning Districts*. In cases where an application is made to request a change from a more restrictive to a less restrictive zoning district, the City Council may elect to grant the amendment for a district that is more restrictive than the requested district but less restrictive than the current district. The City Council may take such action without requiring a new or amended application and with providing new or additional notice.

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- 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.

### Sec. 21-~~154.319~~ Zoning Ordinance Text Amendments.

- A. *General.* The City Council may amend, change, repeal, or supplement the regulations established in this Ordinance.
- B. *Application.*
  - 1. Changes or amendments to the text of regulations contained in this Ordinance may be initiated by the City Council, Planning and Zoning Commission, Board of Adjustment, City Staff, or any member of the public.
  - 2. An applicant shall submit an application for a text amendment on the official form provided by the [Planning](#) Department. Submittal requirements shall be as established administratively by the Planning 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 [Planning](#) Department.
- C. ~~Department~~ *Review.*
  - 1. **[Review and Findings.](#)** The application shall be reviewed by appropriate City Departments. After the review is complete, the Department shall set a date for a public hearing with the Planning and Zoning Commission. The Department shall prepare and submit a written report and recommendation to the Commission, prior to the date of the public hearing.
  - 2. **[Review of Projects in Progress.](#)** Any site plan, design review, preliminary plat, or similar type of application for a project that has been submitted for review, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of any text amendment to this Zoning Ordinance, shall be reviewed in accordance with the Zoning Ordinance in effect on the date the application was deemed complete.  
  
If the applicant fails to comply with any applicable required period for submittal or other procedural requirements, the application shall expire, and subsequent applications shall be subject to the requirements of the Zoning Ordinance in effect. Any re-application for an expired project approval shall meet the standards and regulations in effect at the time of re-application.
- D. *Planning and Zoning Commission Hearing and Recommendation.* The Department shall refer all proposed text amendments to the Planning and Zoning Commission. The Commission shall conduct a public hearing, review the proposal, and forward a recommendation to the City Council for consideration.

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- 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.

### Sec. 21-~~155~~~~321~~. Conditional Use Permits.

#### A. *Intent.*

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

#### B. *General Regulations.*

1. Zoning district regulations established elsewhere in this Zoning Ordinance specify that certain buildings, structures, and uses of land may be allowed by the Planning and Zoning 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 Planning 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 Planning Department shall consider a building, structure, or use that fails to conform to the requirements of this Section as non-conforming as described in Section 21-~~120,860~~<sub>z</sub> "Legal Non-Conformance," and its continuance shall be governed by all non-conformity regulations stipulated in this Zoning Ordinance.
3. When issued, a Conditional Use Permit shall be applicable only to the specific use and to the specific property for which it is issued. However, once all zoning and site development requirements imposed in connection with the permit have been satisfied and an occupancy permit has been issued, the Conditional Use Permit shall thereafter be transferable and shall run with the land. Thenceforth, maintenance of special conditions imposed by the permit, as well as compliance with other provisions of this Section, shall be the responsibility of the property owner.
4. A Conditional Use Permit shall terminate upon any interruption or cessation of the use authorized by the Conditional Use Permit for a period of one hundred and eighty (180) days.
5. A Conditional Use Permit shall expire within eighteen (18) months of the date of approval of the application in the event that: (a) the use has not been exercised; or (b) a building permit or another regulatory permit, or demonstrable evidence to obtain such, is not obtained within this timeframe.

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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 Zoning Administrator ~~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 Zoning Administrator ~~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.*

1. The Zoning Administrator or designee ~~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 identified within this Section.
2. The Zoning Administrator may recommend to the Planning and Zoning Commission any conditions which are deemed necessary to mitigate potential impacts and ensure compatibility of the use with surrounding development and the City as a whole, and which are required to preserve the public health, safety and general welfare.
3. The Zoning Administrator shall not recommend approval unless the Department has received a Waiver of Claim for Diminution in Value 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 Claim for Diminution in Value is consistent with the City's General Plan and zoning goals and regulations.
- ~~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:~~

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- ~~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. Findings. Prior to approving a conditional use permit, the Planning and Zoning Commission shall make the following findings.

1. The proposed use is consistent with the General Plan and all applicable provisions of this Zoning Ordinance, and applicable state and federal regulations;
2. The proposed use is consistent with the purpose and intent of the zoning district in which it is located and meets any applicable use-specific standards within this Zoning Ordinance;
3. The proposed use is compatible with adjacent uses in terms of scale, site design, and operating characteristics (such as, but not limited to, hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);
4. Any significant adverse impacts anticipated to result from the use will be mitigated or offset to the maximum extent practicable;
5. Facilities and services (including sewage and waste disposal, water, gas, electricity, police and fire protection, and roads and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service for existing development;
6. Adequate assurances of continuing maintenance have been provided; and
7. Any significant adverse impacts on the natural environment will be mitigated to the maximum extent practicable.

GF. *Citizen Participation Process.*

1. If written opposition to a Conditional Use Permit application is received by the Department within 21 days, a neighborhood meeting shall be required as part of the process of identifying and addressing potential impacts that the proposed use may impose on the surrounding area. The Citizen Participation Process ("CPP") shall include the following:

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- ~~1.-a.~~ The applicant shall hold at least one neighborhood meeting. The neighborhood meeting shall be held in a neutral location within the general area of the request.
- ~~2.-b.~~ At a minimum, the applicant shall send written notice to interested and affected persons; said parties shall be notified according to the requirements of Section 21-~~146~~**315**.
- ~~3.-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. Conditions.

The Planning and Zoning Commission may place any conditions which are deemed necessary to mitigate potential impacts and ensure compatibility of the use with surrounding development and the City as a whole, and which are required to preserve the public health, safety and general welfare. These conditions may include but are not limited to:

1. Requirements for setbacks, open spaces, buffers, fences or walls, and landscaping to mitigate conflicts from visual, noise, lighting and similar impacts associated with the use;
2. Dedication of street or other public rights-of-way, and control in location of access points and on-site circulation to mitigate traffic impacts from increased volumes or nature of traffic activity associated with the use;
3. Regulations pertaining to hours of operation, methods of operation, and phasing of the development of the site to mitigate impacts to surrounding properties and the neighborhood;
4. Time limits on the duration of the permit to determine if the use, after a temporary period of operation, is materially detrimental to public health, safety, or welfare or to evaluate whether changed conditions in the neighborhood effect the capability of the use to continue to adequately mitigate impacts to the surrounding area or the City as a whole.

### H. Public Notice and Action by the Planning and Zoning Commission *Public Meeting.*

1. Prior to the public hearing, notice shall be provided in accordance with Section 21-146.
2. At the public hearing, the Planning and Zoning Commission may approve, approve with conditions, continue, or deny any application after conducting a public hearing. ~~The Planning and Zoning Commission shall consider a request for a Conditional Use Permit at a public meeting. The Commission Chair may choose to open a portion of the meeting to public comment if the Chair believes it is necessary to further address the health, safety and welfare of the neighborhood.~~
  - a. If the Commission approves the application, the Department shall issue a Conditional Use Permit setting forth all conditions and requirements imposed pursuant to this Ordinance and adopted by the Commission as part of the approval governing such use.
  - b. If the Commission denies the application, the Commission will identify the basis for the denial and the specific criteria in this Ordinance that have not been met by the applicant.
  - c. Continuance. A continuance may be requested by City staff, the Planning and Zoning Commission, or the applicant. All requests for continuance shall be to a date certain, unless otherwise agreed to by the applicant.

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32. The decision of the Commission is final and effective fifteen (15) calendar days following the date of decision unless an appeal is filed pursuant to this Section.

I.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.~~

1. Filing. Appeals may be filed by:

- a. The owner of the property that is the subject of the Planning and Zoning Commission decision.
- b. Any City of Peoria property owner or property owners within the notification area identified within 21-146.

2. Deadline.

- a. The appeal must be in ~~writing and~~ filed with the Planning Department, within fifteen (15) calendar days of the date of the Planning and Zoning Commission decision.
- b. The filing of an appeal will be considered complete upon receipt by the Planning Department. ~~Director.~~

3. Form. The appeal shall be filed using the form provided by the Planning Department, and must specify the grounds of the appeal.

4. Determination of Validity.

- a. Appeals filed with the intent to contest prior City Council authorization of the use as a conditionally permitted use or the zoning designation shall be determined by the Zoning Administrator to be invalid, and shall not be forwarded to the appeal body for consideration.
- b. Upon receipt of a valid appeal, the Zoning Administrator shall forward the appeal to City Council as outlined below.

J. City Council Hearing.

~~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 Planning Department shall ensure that notice is provided in the manner described above for the Planning and Zoning Commission hearing.
2. *Hearing.*
  - a. 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.
  - b.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 Planning and Zoning Commission, applicable law, the review criteria stipulated in this Section, and guidelines promulgated by the Planning Department.
  - c.b. If the City Council reverses or modifies the decision of the Planning and Zoning Commission, the City Council shall direct the City Attorney to prepare written findings setting forth the basis for the reversal or modification.

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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.

### K. *Continuing Jurisdiction and the Revocation, Modification, or Suspension of Permits.*

#### 1. Continuing Jurisdiction ~~Conditional Use Permits.~~

- a. The Zoning Administrator ~~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.

#### 2. Revocation, Modification, or Suspension.

a. An approved Conditional Use Permit may be revoked, modified, or suspended by the Planning and Zoning Commission at a public hearing if the holder thereof fails to comply with the conditions or terms of approval for such conditional use permit.

b. The Zoning Administrator shall provide notice of the hearing to the conditional use permit holder via certified mail no later than thirty (30) days prior to the hearing.

c.a) Notice and a public hearing shall be provided in the same manner as for Conditional Use Permit applications.

d.5) Conditional Use Permits for Adult Uses. For proceedings to revoke, modify, or suspend the approval of a Conditional Use Permit for an Adult Use, the Commission shall consider no criteria other than the a) criteria set forth in this Section, criteria set forth in Sections 21-501 through 21-506 pertaining to Adult Uses, and b) guidelines promulgated by the Zoning Administrator ~~Planning Manager~~ in accordance with said Sections.

e. All notification shall be completed at the city's expense.

f. The decision of the Planning Commission shall be final.

L. Reapplication. If a conditional use permit has been denied or revoked, no application shall be accepted by the Zoning Administrator or designee for a conditional use permit that is:

1. For the same or substantially similar use;

2. Located on the same site; and

3. Submitted within one (1) year from the date of the final denial or revocation.

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### Sec. 21-~~156~~~~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-~~156~~~~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 Zoning Administrator ~~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. The Zoning Administrator, or their designee, shall be referred interchangeably hereinafter in this Section as Department.
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 Zoning Administrator ~~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 Community Design Guidelines ~~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 decision in accordance with the provisions of Section 21-~~146~~~~315.F.3~~. If no appeal is filed within the timeframe specified in subsection E.4.b. of this section, then the decision of the Department shall be final.

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### 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-~~146315~~, 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 ~~the S~~subsection ~~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.

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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 Zoning Administrator ~~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 Zoning Administrator ~~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.

### Sec. 21-~~157~~ **856**. Special Use Permit. ~~Intent~~

~~The Special Use Permits allow for uses, which would otherwise be prohibited in the conventional zoning districts. These special uses usually do not conform to traditional use groupings, and because of their unique characteristics, and nature of operation, require specific safeguards or design constraint to be in place prior to their development. In addition, a special use shall be permitted only when adequate mitigation measures have been provided to eliminate or reduce any potential negative impacts the use may have on surrounding properties.~~ A Special Use Permit is intended to provide a zoning overlay on conventional zoning districts for specific uses. Refer to Section 21-670 for a list uses subject to a Special Use Permit.

### Sec. 21- ~~158~~**858**. Special Use Permit Application Process.

#### A. *Application.*

1. An application for a Special Use Permit shall be submitted to the Planning Community Development Department on an official application provided by the Department. Submittal requirements shall be as outlined in the Special Use Permit Process Guide and shall include, but

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not be limited to, the following:

- a. A detailed site plan prepared in accordance with the provisions set forth in Section 21-~~156320~~ of this Ordinance.
- b. A design review submittal in ~~accordance with Chapter 20 of the Peoria City Code (1992) and the City's Community Design Guidelines Review Manual~~, and any other applicable provisions.
- c. Identification of off-site impacts and adequate measures proposed to mitigate those impacts including, but not limited to, dust, smoke, noise, odors, lights, or storm water run-off.

B. ~~Application~~ Review.

1. The ~~Community Development~~ Planning Department shall review the application in accordance with provisions set forth in the Site Plan and ~~the Community Design Guidelines Design Review Process Guide~~. City staff will provide initial review of the proposal and will identify issues related to the overall project. Staff will then provide the applicant recommendations and comments on the initial concept of the proposal and the applicant shall revise the proposal accordingly prior to formal submittal of the application.
2. After the submittal of the application, the ~~Community Development~~ Planning Department will transmit the application to the applicable City Departments for formal review. The ~~Community Development~~ Planning Department shall transmit all comments in writing to the applicant. The applicant shall then revise and resubmit the application materials that address all of the concerns and issues raised in the comments. Upon final submittal, the ~~Community Development~~ Planning Department shall establish the hearing dates for the proposal and shall provide a written report with a recommendation to both the Planning and Zoning Commission and the City Council.

C. *Public Notice and Hearing*. The Special Use Permit serves as a zoning overlay, the public notice and hearing process shall be conducted in the same manner as set forth in Section 21-~~146317~~.

D. *Site Developments Standards*.

1. The Planning Commission or the City Council may establish additional or more stringent standards to mitigate the negative impacts that the proposed special use may have on the surrounding areas. These standards may include but not be limited to the following:
  - a. Site coverage, structure height and setback requirement;
  - b. Screening;
  - c. Off-street parking and loading specifications and improvements;
  - d. On-site and off-site street and drainage improvements;
  - e. Traffic circulation to include point of vehicular ingress and egress;
  - f. Landscaping;
  - g. Control of noise, vibration, odor, emissions, hazardous materials and other potentially dangerous or objectionable elements;
  - h. Hours of operation;
  - i. Time limits within which the Special Use Permit shall cease to exist;
  - j. Storm run-offs and water conservation measures; and
  - k. Hazardous materials handling.

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- E. *Findings.* In considering an application for a Special Use Permit or an Appeal of a decision denying a Special Use Permit, the Planning and Zoning Commission and City Council shall base the decision on the following findings:
1. The proposed use is consistent with the goals, policies, objectives and future land use map of the Peoria General Plan and specific elements of the General Plan and any adopted Specific Plan applicable to the site where the proposed special use is located.
  2. The proposed use is in compliance with documentation and recommendations provided by reviewing City Departments.
  3. The proposed use is in compliance with all applicable City Codes, standards and guidelines governing such use.
  4. The proposed special use is adequately served by essential public services, such as street, drainage facilities, fire protection, and public water and sewer.
  5. The proposed special use is designed and landscaped to preserve the character of the neighborhood and that it will not discourage appropriate development or use of surrounding properties.
  6. The proposed special use will not generate adverse impacts on adjoining properties and land uses.
  7. The proposed special use will not be injurious to the public health, safety and welfare of the community.
  8. The Zoning Administrator ~~Planning Manager~~ shall not approve or recommend approval of any Special Use Permit unless the Zoning Administrator ~~Planning Manager~~ has received a Waiver of Claim for Diminution in Value ~~Proposition 207~~ from the Owner or Owners of the property that is the subject of the Special Use Permit, or has determined that the absence of such a Waiver of Claim for Diminution in Value ~~Proposition 207~~ is consistent with the City's General Plan and zoning goals and regulations.

### **Sec. 21-159.859. Permit Limitations.**

- A. *Effective Date.* A Special Use Permit shall be in effect upon amendment to the City Zoning Map adopted by the City Council designating the approved use.
- B. *Expiration.* The expiration or termination of the Special Use Permit shall be in effect upon amendment to the City Zoning Map adopted by the City Council designating the approved use.
- C. *Modification.*
1. The applicant to whom the Special Use Permit was granted may request a modification of the Permit in writing to the City of Peoria Community Development Planning Department along with appropriate documents and fee.
  2. The Zoning Administrator ~~Community Development Director~~ or designee(s) shall determine whether or not the requested change(s) is a substantial modification or within the scope of the original Special Use Permit and whether or not the requested change(s) is consistent with the requirements set forth in this Ordinance.
  3. The Zoning Administrator ~~Community Development Director~~ or designee(s) may approve the modification if the change(s) is insubstantial, is within the general purview of the original Special

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Use Permit, and is consistent with the requirements set forth in this Ordinance.

4. If the requested change is substantial and is not within the general purview of the original Special Use Permit, or is not consistent with the requirements set forth in this Ordinance, then the matter shall be decided at a public hearing before both the Planning Commission and City Council. All public noticing procedures shall be given in the manner specified in Section 21-~~146~~318.

### D. Termination and Revocation.

1. There has been material noncompliance with any conditions prescribed in the Special Use Permit or the approved site plan.
2. The use covered by the permit or the manner of conducting the operation is a safety hazard to nearby residents or anyone working in the vicinity, detrimental to adjacent properties, to the neighborhood, or to the general public welfare.
3. The use is being conducted in violation of any provision of this ordinance, or any Federal, State, City, County and other applicable regulations.

a. The Zoning Administrator shall provide notice of the revocation hearing to the special use permit holder via certified mail no later than thirty (30) days prior to the hearing.

b. Notice and a public hearing shall be provided in the same manner as for Special Use Permit applications.

c. All notification of the revocation hearing shall be completed at the city's expense.

d. The decision of the City Council shall be final.

e. If a special use permit has been denied or revoked, no application shall be accepted by the Zoning Administrator or designee for a special use permit that is:

1. For the same or substantially similar use;

2. Located on the same site; and

3. Submitted within one (1) year from the date of the final termination or revocation.

### Sec. 21-~~160~~322. Temporary Use Permits.

#### A. *Purpose and Applicability.*

1. In addition to regulating uses which are permanent in nature. it is the intent of Section 21-~~160~~322 of the Zoning Ordinance, otherwise referred to as the Temporary Uses Section, or Section herein, to accommodate reasonable requests for interim or temporary uses for a limited period of time when such activities are appropriate.
2. The Temporary Use Section authorizes the City to allow short-term land uses if the use does not interfere with surrounding uses, or pose a threat to public health, safety, and welfare. Allowing temporary uses, as provided for herein is not intended to permanently establish or authorize uses otherwise prohibited by the Zoning Ordinance.
3. These regulations are intended to ensure that the temporary use is conducted in a manner to maintain compatibility between the temporary use and surrounding area. Any review or approval by the City is solely intended to address City ordinances and regulations, and is not intended to supersede applicable state or federal regulations.

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

### B. *Temporary Use Permit:*

1. *Temporary Uses Allowed, Permit Required.* The Temporary Uses identified below shall obtain a Temporary Use Permit pursuant to the procedures set forth in this Section. Temporary Uses shall mean events such as, but not limited to:
  - a. Carnivals, circuses, craft shows, exhibitions, fairs, festivals, home and garden shows, temporary outdoor sales events, or similar special events not otherwise excluded within this Section.
  - b. Donation/Recycling Drop-Off Boxes.
  - c. Outdoor concerts, and paid admission events.
  - d. Events held on unimproved surfaces or lots.
  - e. Such other uses as the City may deem to be within the Purpose and Applicability of this Section.
2. *Temporary Use Permit Exemptions, No Permit Required.* All temporary uses identified below are not required to submit an application for a Temporary Use Permit, but are required to comply with Subsection 21-~~160322~~.C ("General Requirements for All Temporary Uses"). Those events which do not comply with the exemptions provided herein shall obtain a Temporary Use Permit as provided within this Section.
  - a. Events utilizing City property, public streets or public right-of-way, provided that the applicant shall coordinate the event with the City as part of the Special Event application process.
  - b. Ancillary activities on residential properties, including but not limited to, residential garage or yard sales, open houses, etc.
  - c. HOA events or activities, intended for residents only, located on HOA property.
  - d. On-site school events.
  - e. Other intermittent activities deemed by the Department to be ancillary to the customary use of the property.
  - f. Other uses not defined in Subsection 21-~~160322~~.B.1 which meet all of the following criteria:
    - i. Limited activity area;
      1. An activity area, which is limited to the following size requirements and summarized within the Table below:
        - a. Four thousand (4,000) square feet or less on a site or center that is greater than one (1) acre, but less than five (5) acres in size, or
        - b. Ten thousand (10,000) square feet or less on a site or center that is greater than or equal to five (5) acres in size.

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

2. For the purposes of this Section, an activity area means the area housing the proposed use and any associated storage. The activity area does not take in to account patron parking for the purposes of tabulating the square foot allowances identified above.
  3. An improved surface without blocking primary drive aisles or site and building general or emergency access.
    - a. For the purposes of this Section, an improved site means a site with paved access to the grounds, including curb-cuts as necessary to access public rights-of-way, and paved or dust-proof surfaces for the area occupied by the subject temporary use and associated parking.
    - ii. Uses which do not operate between the hours of 10:00 p.m. and 7:00 a.m. and do not occur for more than two (2) days within a thirty (30) day period, per site.
    - iii. Uses which are located at least two hundred (200) feet away from a residential structure.
    - iv. Uses which provide for all necessary pedestrian and vehicular queuing to occur outside of the right-of-way and outside of any primary or emergency drive aisles.
    - v. Events occurring within a designated Entertainment District. Such Entertainment Districts may be adopted by resolution from time to time by the City Council in accordance with A.R.S § 4-207.
      1. All boundaries of the temporary use must remain at least 200 feet away from Grand Avenue right-of-way.
      2. There is no limit on activity area size to qualify as an exempt temporary use when the use is located within a designated Entertainment District.
- C. *General Requirements for all Temporary Uses.* All temporary uses shall meet the following general requirements, unless otherwise specified in the Temporary Uses Section:
1. Structures utilized for the Temporary Uses of outdoor sales and/or displays that exceed seven (7) days in duration shall be limited only to the following: Tents, canopies, and/or membrane structures.
  2. Permanent alterations to the site are prohibited.
  3. All temporary signs associated with the temporary use shall comply with Section 21-~~836~~**827** of the City Code, and all associated signs shall be removed upon completion of the activity.

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4. The temporary use standards of this Section do not exempt the applicant or operator from any other required permits, such as health department permits.
5. If the property is undeveloped, it shall contain sufficient land area to support the temporary use, including but not limited to, adequate parking and traffic movement to support the event.
6. Tent and/or generator permits shall be required for all uses in accordance with the applicable Fire or Building code, regardless of any Temporary Use Permit Exemptions identified within Subsection 21-~~160322~~.B.
7. All uses shall comply with adopted City noise ordinances contained within the City Code.
8. All Temporary Uses shall prevent activity across improved landscape areas that would negatively impact the landscaped areas.

D. *Application Requirements.* An application for a Temporary Use Permit:

1. Must be submitted at least thirty (30) calendar days prior to the proposed commencement of the temporary use. Application made within 30 days of the start date of the event will not be accepted:
2. Must include all information required in the official process guide and application packet for Temporary Uses made available by the Department. The [Zoning Administrator](#)-~~Planning Manager~~ or designee may require additional information as necessary, based on the nature of the proposed temporary use.
3. Each occurrence of a non-exempt Temporary Use as defined within Section 21-~~160322~~.B shall require a separate submittal and approval of a Temporary Use Permit Application.

E. *Appeal of Decision.* Upon receiving notification of the Department's decision to approve or deny the application for a Temporary Use Permit, the applicant or any party of interest aggrieved by the decision may file an appeal to the Board of Adjustment pursuant to Section 21-~~16323-1~~.

### Sec 21-161.Variance.

- A. *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.
- B. *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.
- C. *Evidence Required.* At the public hearing the applicant shall present a statement and adequate documentation to demonstrate the following:
  1. Special circumstances or conditions exist on the subject property that does not exist on other property in that zoning district.

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2. 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.
3. 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.
4. 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.
5. Granting the variance will not interfere with or substantially or permanently injure the appropriate use of adjacent conforming properties in the same zoning district.

### D. Board of Adjustment Action.

1. *Approval.* In the event the Board of Adjustment determines that the applicant demonstrates compliance with conditions set forth above in Subsection G.3, of this Section 21-~~161323~~ 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.
  2. *Findings.* In approving or conditionally approving the variance, the Board shall find that:
    - a. 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
    - b. 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.
  3. *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.
  4. *Considerations.* The Board shall not consider the following when considering grounds for granting a variance:
    - a. Violations related to uses or structures in the same zoning district
    - b. Permitted uses or structures in other zoning districts
  5. *Denied Application.* In the event the Board of Adjustment denies an application for a variance, no permits shall be issued.
- E. *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.
- F. *Guarantees.* The Board of Adjustment may require guarantees in such form as it deems suitable to ensure compliance with any conditions of approval
- G. *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.

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### Sec 21-162. Appeal of a Zoning Interpretation.

- A. *General.* The Board of Adjustment (BOA) shall hear and decide any appeal in which it is alleged there is an error in an order, requirement, or decision made by the Zoning Administrator ~~Department~~ in the administration or enforcement of the Peoria Zoning Ordinance.
- B. *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.
- C. *Board of Adjustment Action.* Pursuant to A.R.S § 9-462.06, the Board shall reverse or affirm, wholly or partly, or modify the order, requirement or decision of the Department being appealed, and make such order, requirement, decision, or determination as necessary.

### Sec 21-163. Appeal of a Temporary Use Permit.

- A. *General.* The Board of Adjustment (BOA) 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.
- B. *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.
- C. *Board of Adjustment Action.*
  - 1. Pursuant to A.R.S. § 9-462.06, the Board shall reverse or affirm, wholly or partly, or modify the order, requirement, or decision of the Department being appealed, and make such order, requirement, decision, or determination as necessary.
  - 2. As part of the terms of any temporary use permit, the Board may stipulate certain restrictions and limitations in accordance with Section 21-322 of this Ordinance.

### Sec. 21-~~164.324.~~ Administrative Relief.

- A. *Applicability.* This Section pertains to minor deviations from single-family residential property development standards as described in Section 21-405, Section 21-412, and Section 21-420.
- B. *General.*
  - 1. Requests for Administrative Relief shall be limited to a modification from the front, rear, or side yard setbacks or from the maximum percentage of lot coverage, in an amount that is not greater than ten percent (10%) of the setback, or five percent (5%) of the maximum lot coverage permitted by the underlying zoning.

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

- ◆ 10-foot front setback for side-entry garage
  - ◆◆ 20-foot front setback for front-facing garage
2. Requests for Administrative Relief shall be acted upon by the [Zoning Administrator](#)-**Planning Manager** and shall adhere to the procedures in this Section.
  3. A property owner may seek Administrative Relief for both setback and lot coverage, to be evaluated by the [Zoning Administrator](#)-**Planning Manager**.
  4. Requests to deviate from the development standards of the zoning district that do not meet the above criteria shall not be considered a minor deviation available for Administrative Relief, but to be considered a Variance as outlined in Section 21-~~161~~**325**.
- C. *Conditions of Approval.* The [Zoning Administrator](#)-**Planning Manager** may authorize Administrative Relief when all of the following conditions are fulfilled:
1. The requested modification is the minimum modification for the reasonable use and enjoyment of the land and/or structure;
  2. The relief shall not be contrary to the purpose and intent of this Ordinance;
  3. Any proposed improvement is for the accommodation of a use designated as a permitted principal, conditional, or accessory use within the zoning district in which the property is located;
  4. The request is filed for the use and enjoyment of the current property owner, and is not part of multiple applications from an individual homebuilder for a specific subdivision or planned community;
  5. The requested modification will not unduly impact the peace and enjoyment of abutting properties; and
  6. Appropriate and specific conditions as may be deemed necessary in order to fully carry out the intent of this Section have been stipulated by the [Zoning Administrator](#)-**Planning Manager**.
- D. Application for Administrative Relief.
1. A request for Administrative Relief may be filed by any property owner within the City of Peoria.
  2. An applicant shall submit an application for Administrative Relief to the Department on an official form provided by the Department, together with the applicable fee(s). The application shall specify the modifications from the zoning code that are being requested, the reason for the request, and the desired decision.

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- E. *Notification.* The noticing requirements for Administrative Relief are outlined below:
1. The Department shall send a Notice of Application to each owner of real property that abuts the property requesting an Administrative Relief.
  2. The Department shall send a Notice of Decision regarding the [Zoning Administrator-Planning Manager](#)'s decision to each owner of real property that abuts the subject property requesting an Administrative Relief.
- F. *Appeal Criteria and Procedure.*
1. The purpose of the appeal criteria provided herein is to accommodate appeal rights of persons aggrieved by City decisions, while also ensuring that appeals are conducted in a manner that protects the rights of all parties and ensures finality in land use decisions.
  2. An appeal of the [Zoning Administrator-Planning Manager](#)'s decision is limited to instances where the aggrieved party alleges there was an error in a decision in the enforcement of the Zoning Ordinance or applicable regulatory requirements.
  3. An appeal of the [Zoning Administrator-Planning Manager](#)'s decision shall be appealed to the Board of Adjustment in accordance with procedures set forth in Section 21-~~162323~~.
  4. If the nature of the appeal goes beyond the conditions of approval outlined in Section 21-~~164324~~.C, the [Zoning Administrator-Planning Director](#) shall determine the validity of the appeal to go before the Board of Adjustment.
  5. To initiate an appeal of the [Zoning Administrator-Planning Manager](#)'s decision regarding an Administrative Relief application:
    - a. A written notice of appeal shall be submitted on a form prescribed by the Department and includes specific citations from the Zoning Ordinance or other regulatory documents which the applicant or appellant contends has been incorrectly applied; and
    - b. The appeal must be received by the Department within fifteen (15) calendar days after the date of the decision. The deadline shall be extended to the end of the next business day when the deadline occurs on a non-business day.
    - c. If an appeal is received by the Department within fifteen (15) days of the mailing date of notice, the matter shall be heard by the Board of Adjustment.
- G. Allowance. The granted Administrative Relief shall run with the land.

### Sec. 21-~~165326~~. Design Review. ~~Appeals.~~

- A. [Purpose and Applicability. New development and existing developments which are proposing qualifying new buildings, building additions, alterations and/or improvements shall be subject to the Design Review process as outlined within the Peoria Community Design Guidelines and allowed under State Law.](#)
- B. [Application Requirements. An application for Design Review, or Design Review Waiver, must include all information required in the official process guide and application packet for Design Review applications made available by the Department, in addition to other information required by the Zoning Administrator or designee based on the nature of the proposed development.](#)

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C. *Public Notice.* No public notice or citizen outreach process is required for a Design Review or Design Review Waiver application.

D. *Review and Approval Criteria.*

1. The Zoning Administrator or designee shall review Design Review or Waiver applications in accordance with applicable Zoning Ordinance regulations, Peoria Community Design Guidelines, applicable City Code provisions, and other regulatory requirements.
2. Approval of a Design Review or Waiver application shall be given only when in the judgement of the Zoning Administrator or designee, such an approval is in conformance with application regulations and standards within the Zoning Ordinance and consistent with the intent the Peoria Community Design Guidelines.

E. *Appeal.* **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 fifteen (15) ~~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.

F.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.

Sec. 21-166 through 21-199 Reserved