

Deletions are shown in ~~red strikethrough~~. Additions are shown in **BLUE CAPS (new language)** and **PURPLE CAPS (required by State Law)**.

Section 22.1 General Provisions

A. *Form of Application and Application Filing Fees*

Applications required under this Chapter shall be submitted in a form and in such numbers as required by the official responsible for accepting the application. Applications shall be accompanied by the fee that has been established by the Town Council. Fees are not required with applications submitted by the Town Council, Planning and Zoning Commission, or Town agencies. Application fees are nonrefundable, unless otherwise expressly stated.

B. ~~Application Completeness~~ **SUBMITTAL REQUIREMENTS**

1. **THE PLANNING AND ZONING ADMINISTRATOR SHALL PUBLISH PROCESS GUIDES LISTING ALL SUBMITTAL REQUIREMENTS FOR ALL APPLICATIONS.** An application will **ONLY** be ~~considered complete if it is submitted~~ **PROCESSED FOR REVIEW WHEN ALL SUBMITTAL REQUIREMENTS, STUDIES AND** ~~in the required form, includes all mandatory information, including all~~ exhibits specified by the Planning and Zoning Administrator **ARE PROVIDED.** ~~and is accompanied by the applicable fee.~~

2. A ~~determination of application completeness~~ **CONFIRMATION THAT ALL REQUIRED SUBMITTALS HAVE BEEN PROVIDED** shall be made by the Planning and Zoning Administrator within 10 days of application filing. If an application is determined to ~~be incomplete~~ **NOT HAVE PROVIDED ALL REQUIRED SUBMITTALS**, the Planning and Zoning Administrator shall provide written notice to the applicant along with an explanation of the application's deficiencies.

3. No further processing of the application shall occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within 30 days, the application shall be considered withdrawn and the **INCOMPLETE** application shall be returned to the applicant.

C. **ADMINISTRATIVE COMPLETENESS**

1. **ALL APPLICATIONS REQUIRED UNDER THIS CHAPTER SHALL BE DETERMINED TO BE ADMINISTRATIVELY COMPLETE PRIOR TO BEING CONSIDERED BY THE PLANNING AND ZONING COMMISSION, BOARD OF ADJUSTMENT OR TOWN COUNCIL.**

2. **RESIDENTIAL REZONING APPLICATIONS SHALL ALSO BE SUBJECT TO THE REQUIREMENTS OF SECTION 22.3.G.**

3. **IF AN APPLICATION IS DETERMINED TO NOT BE ADMINISTRATIVELY COMPLETE, THE PLANNING AND ZONING ADMINISTRATOR SHALL PROVIDE WRITTEN NOTICE TO THE APPLICANT ALONG WITH AN EXPLANATION OF THE APPLICATIONS DEFICIENCIES.**

4. **NO FURTHER PROCESSING OF THE APPLICATION SHALL OCCUR UNTIL THE DEFICIENCIES ARE CORRECTED.**

D. **EXPIRATION OF APPLICATIONS**

1. **ALL APPLICATIONS WILL EXPIRE AND BE DEEMED WITHDRAWN IF MORE THAN TWELVE (12) MONTHS OF INACTIVITY PASS WITHOUT SUBSTANTIVE PROGRESS.**

Commented [MS1]: Revised to clearly differentiate from "Administrative Completeness" for rezonings

Commented [MS2]: Section added to distinguish "administrative completeness" for all other applications from "administrative completeness" for residential rezoning applications.

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2. PRIOR TO THE DATE OF EXPIRATION, THE APPLICANT MAY FILE A REQUEST FOR EXTENSION. THE PLANNING AND ZONING ADMINISTRATOR MAY AUTHORIZE A ONE-TIME, SIX (6) MONTH EXTENSION IF THERE HAS BEEN SUBSTANTIVE PROGRESS.

3. IF DEEMED WITHDRAWN, NO FURTHER PROCESSING SHALL OCCUR UNLESS A FULL RE-SUBMITTAL OF CASE MATERIALS AND FEES ARE PROVIDED.

Commented [MS3]: Section added to address concerns staff have received regarding inactive development applications.

Section 22.3 Amendments and Rezoning

A. Code May Be Amended

The provisions of this Code may be amended, supplemented, modified or repealed. Such amendments may apply to the zoning map or to the regulations as set forth in this Code.

B. Initiation of Application to Amend, Filing

1. Amendments to the zoning map (rezonings) may be initiated by the Planning and Zoning Commission or the Town Council or a real property owner in the area included in the proposed amendment. A pre-application conference with the Planning and Zoning Administrator is required.

2. Amendments to general requirements and uses may be submitted by members of the Planning and Zoning Commission or members of the Town Council. The Planning and Zoning Commission shall order such amendments to public hearing, duly noticed as hereinafter provided.

3. Real property owners, residents, and Town personnel may request amendments to the general requirements and uses, in writing, to the Planning and Zoning Commission. The Planning and Zoning Commission or the Town Council shall consider such amendments and may: (1) order such amendments to public hearing, duly noticed as hereinafter provided; or (2) deny the request. A denial of public hearing by the Planning and Zoning Commission may be appealed to the Town Council.

C. Neighborhood Meetings

Neighborhood meetings shall be conducted in accordance with Section 22.15.

D. Requirements for Rezoning Application

1. It is the burden of the applicant that all requirements of the application shall be in the form and in such numbers as specified by the Planning and Zoning Administrator. A

2. A detailed written analysis from the applicant describing how the proposed rezoning complies with the goals, policies, and applicable elements of the plan, as well as the Land Use Element and Map, is required as part of the submittal.

An application for rezoning, or any change in land use, not in compliance with the adopted General Plan will require an amendment to the General Plan or the application for rezoning. Amendments to the General Plan may be pursued through the Planning and Zoning Commission and Town Council hearings concurrent with the request to rezone. Approval of

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the General Plan amendment must precede Town Council action on the rezoning application.

E. Site Analysis and Tentative Development Plan with Application

1. Site Analysis

a. Purpose

The site analysis is to serve as a tool that will enable the public, elected officials, the Planning and Zoning Commission, staff and developers to comprehensively evaluate the suitability of the physical and man-made resources of a site for rezoning and development. This tool will have two parts: Part I - Inventory and Analysis and Part II - Land Use Proposal.

b. General Requirements

- i. The form, content and number of copies of the site analysis will be specified by the Planning and Zoning Administrator with concurrence by the Planning and Zoning Commission and Town Council.
- ii. A site analysis and rezoning application may be submitted prior to the Tentative Development Plan.

c. Determination of Compliance with the General Plan

- i. Applications to change the zoning map shall conform to the General Plan. The rezoning ordinance shall further the implementation of, and not be contrary to, the goals, policies, and applicable elements of the Plan.
- ii. Conformance is determined as follows:
 - a) Proposals shall be evaluated in relation to all of the policies in the General Plan (not just the map and those in the Land Use Element).
 - b) The proposed land uses, densities or intensities are within the range for the subject property's land use designation as stated in the General Plan.
 - c) Upon public hearing review by the Planning and Zoning Commission and Town Council, any rezoning proposal which does not comply with the General Plan will be subject to denial by the Town Council.

d. Determination of Adequacy

- i. A site analysis shall be determined inadequate if it is in gross non-compliance with existing ordinances or policies such that the development proposed cannot proceed to hearing without significant changes to achieve compliance.

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ii. For those site analyses determined to be inadequate, the petitioner will receive a written list of the additional information and/or materials necessary to bring the site analysis into compliance. The petitioner has two options:

- a) Correct any deficiencies in the site analysis, or
- b) Allow the development proposal to proceed directly to public hearing before the Planning and Zoning Commission at the earliest possible date with a negative recommendation from Town staff.

iii. A determination of adequacy does not constitute project approval by the Town staff.

2. Tentative Development Plan

a. All applications for rezoning shall be accompanied by a tentative overall development plan, which shall be prepared to specifications set by the Planning and Zoning Administrator.

b. Any proposed changes to a Tentative Development Plan approved in conjunction with a rezoning shall be submitted to the Planning and Zoning Administrator, who shall review the item and shall ascertain whether or not the change is significant. A significant change shall be determined by, but not be limited to, the following criteria:

i. Any change to the permitted use or uses. Permitted uses shall mean the primary and alternative uses as set forth in the Tentative Development Plan and conditions attached to the approved rezoning.

ii. Any change to the development standards or zoning conditions relating to building heights, perimeter setbacks, open space requirements, any reduction in open space, parking, floor area ratios and density.

iii. Any change to the Tentative Development Plan associated with this rezoning which would vary any material terms or conditions of the rezoning, which would modify any proposed density standards, any kinds of street or land improvements proposed affecting the standards and layout for vehicular circulation, signs and nuisance controls intended for the development.

iv. Nothing in this section shall be deemed to authorize the Planning and Zoning Administrator to modify or approve any aspects of development reserved to the Planning and Zoning Commission pursuant to Section 22.5.

v. Changes approved as flexible design options as permitted by Section 27.10.F.2.c shall be exempt.

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If a change is determined to be significant, revised plans shall be submitted for reconsideration by both the Planning and Zoning Commission and Town Council.

F. Amendments to General Requirements and Uses

In the event that requests for amendments to the general requirements and uses are made, no application, posting or mailing shall be required, but all other requirements of this Chapter shall be adhered to. When amendments include substantive matters of administration, they shall be referred to the person who is charged with that administration. Such person shall have an opportunity to present his comments, suggestions and objections, if any, prior to passage of the amendments.

G. RESIDENTIAL REZONING PROCESSING

1. A FORMAL DETERMINATION MUST BE MADE WITHIN THIRTY DAYS OF RECEIVING AN ADMINISTRATIVELY COMPLETE RESIDENTIAL REZONING APPLICATION. ~~IF THE APPLICATION IS DEEMED INCOMPLETE, THE DETERMINATION NOTICE SHALL INCLUDE A COMPREHENSIVE LIST OF ALL DEFICIENCIES.~~

Commented [MS4]: Required to meet state law

2. THE PLANNING AND ZONING ADMINISTRATOR SHALL MAKE A DETERMINATION OF COMPLETENESS ON ALL APPLICATIONS PREVIOUSLY DEEMED INCOMPLETE NO LATER THAN FIFTEEN DAYS AFTER RECEIVING THE RESUBMITTED APPLICATION.

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3. THE PLANNING AND ZONING COMMISSION SHALL MAKE A RECOMMENDATION TO TOWN COUNCIL WITHIN NINETY DAYS OF AN ADMINISTRATIVELY COMPLETE DETERMINATION. IF A RECOMMENDATION IS NOT MADE WITHIN NINETY DAYS, THE APPLICATION SHALL PROCEED TO TOWN COUNCIL WITHOUT A PLANNING AND ZONING COMMISSION RECOMMENDATION.

Commented [MS6]: Added to address a comment from Town Council

4. TOWN COUNCIL SHALL APPROVE OR DENY APPLICATIONS WITHIN ONE HUNDRED AND EIGHTY DAYS OF AN ADMINISTRATIVELY COMPLETE DETERMINATION.

A. THE TIME PERIOD TO APPROVE OR DENY AN ADMINISTRATIVELY COMPLETE APPLICATION MAY BE EXTENDED BY THE PLANNING AND ZONING ADMINISTRATOR BEYOND ONE HUNDRED AND EIGHTY DAYS FOR EITHER OF THE FOLLOWING REASONS:

i. FOR EXTENUATING CIRCUMSTANCES, A ONE-TIME EXTENSION OF NOT MORE THAN THIRTY DAYS MAY BE GRANTED. **EXTENUATING CIRCUMSTANCES MAY INCLUDE:**

Commented [MS7]: Required to meet state law

- a. **ISSUE RESOLUTION**
- b. **FULFILLMENT OF NOTIFICATION REQUIREMENTS**
- c. **SCHEDULING CONFLICT**
- d. **OTHER SIMILAR CIRCUMSTANCES AS DETERMINED BY THE PLANNING AND ZONING ADMINISTRATOR.**

Commented [MS8]: Added to clearly define "Extenuating circumstances"

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ii. IF THE APPLICANT REQUESTS AN EXTENSION, THE TOWN MAY GRANT EXTENSIONS OF THIRTY DAYS PER EXTENSION, ~~NOT TO EXCEED 12~~ EXTENSIONS OR 12 MONTHS FOR ANY OF THE FOLLOWING:

- a. **TOWN COUNCIL REQUEST FOR MORE INFORMATION**
- b. **NEW INFORMATION REQUESTED BEYOND STANDARD SUBMITTAL REQUIREMENTS**
- c. **ADDITIONAL TIME TO WORK WITH NEIGHBORS**
- d. **AN OUTSIDE AGENCY REVIEW DELAY**
- e. **OTHER SIMILAR CIRCUMSTANCES AS DETERMINED BY THE PLANNING AND ZONING ADMINISTRATOR.**

B: IF THE APPLICATION IS SUBSTANTIALLY CHANGED AFTER AN ADMINISTRATIVELY COMPLETE DETERMINATION, THE ONE HUNDRED AND EIGHTY DAYS WILL RESTART WHEN THE REVISED APPLICATION IS NEWLY DEEMED ADMINISTRATIVELY COMPLETE BY THE PLANNING AND ZONING ADMINISTRATOR.

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Commented [MS10]: Added to clearly define when and how many extensions may be permitted

Commented [MS11]: Added to address a comment from Town Council

H. Administrative Review - Rezoning

When an application has been filed, the Planning and Zoning Administrator shall make a report based on a review of the application with regard to the requirements of this Code, the General Plan and other considerations. He shall transmit, as appropriate, pertinent information on the requested zone change to the Town Engineer, County Engineer, County Wastewater, and appropriate school district, the County and State Health Departments, and Arizona Department of Transportation, and Rural Metro Fire Department or any other interested public agency for review and recommendation. and the report shall include the recommendations of the above-mentioned agencies. The report shall be made available to the Planning and Zoning Commission, the applicant and other interested parties at least five (5) days prior to the public hearing.

H I. Notice of Planning and Zoning Commission Hearing

1. With the filing of a complete application, the Planning and Zoning Administrator shall set a date for public hearing before the Planning and Zoning Commission, which date shall not be more than fifty (50) days from the date of said filing. The date, time and place of such public hearing and the nature of the amendment requested shall be published in a newspaper of general circulation in the Town of Oro Valley and the notice of said hearing shall be posted on the subject property. Both the publication and posting shall give fifteen (15) days' notice of such Planning and Zoning Commission meeting. It shall be the responsibility of the applicant to maintain the posting.

2. When the Planning and Zoning Commission or the Town Council initiates an amendment that proposes a change in any zoning district on the zoning map, the notice required to be published and posted shall also be mailed by certified mail to the last known address of all owners of property which is proposed to be rezoned by said amendment, said owners to be determined by a current list of ownership. The list of owners will be obtained not more than forty-five (45) days prior to the date of hearing before the Planning and Zoning Commission

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with said notices to be mailed not less than thirty (30) days prior to the date of the first public hearing.

3. Not less than fifteen (15) days before the first public hearing, copies of the notice as published and posted shall be sent by regular mail to the owners of property within the Town which is within six hundred (600) feet of the property or premises on which the proposed change would take effect if approved. Failure of such property owners to receive such notice shall not invalidate any amendment as may be approved.

a. The applicant shall submit to the Planning and Zoning Administrator a list obtained from the office of the tax assessor of Pima County giving the names and addresses of all owners of property within the Town, any part of which is within six hundred (600) feet of the property or premises on which the proposed change would take effect if approved. Such list shall be made not less than sixty (60) days prior to the date of hearing before the Town Council.

b. The Planning and Zoning Administrator shall have the responsibility to secure the list of owners of property within six hundred (600) feet when the proposed change has been initiated by the Planning and Zoning Commission or Town Council.

† J. Action of Planning and Zoning Commission

Upon completion of the public hearing, the Planning and Zoning Commission shall forthwith transmit copies of its findings and recommendations to the applicant and the Town Council. The report of the Planning and Zoning Commission shall become a permanent record in the office of the Town Clerk.

† K. Failure of the Planning and Zoning Commission to Report on Amendment

If the Planning and Zoning Commission fails to report on any Code or zoning map amendment within ninety (90) days after the filing of the complete application, such failure shall be deemed to constitute no recommendation by the Planning and Zoning Commission and the matter is referred to the Town Council.

✂ L. Hearing by Town Council

The Town Clerk shall schedule a public hearing before the Town Council at which residents shall have an opportunity to be heard. The date, time and place of such public hearing and the nature of the amendment requested shall be published in a newspaper of general circulation in the Town of Oro Valley and notice of said hearing shall be posted on the subject property. Both such publication and notice of such Town Council meeting shall give fifteen (15) days' notice of such Town Council meeting. It shall be the responsibility of the applicant to maintain the posting.

✂ M. Written Protest by Property Owners

If the owners of twenty percent (20%) or more of the property by area and number of lots, tracts and condominium units within the zoning area of the affected property, **NOT INCLUDING GOVERNMENT OWNED PROPERTY**, file a protest in writing against a proposed amendment, the change shall not become effective except by a favorable vote of three-fourths (3/4) of all members of the Town

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Council. If any members of the Town Council are unable to vote on such question because of conflict of interest, then the required number of votes for passage of the question shall be three-fourths (3/4) of the remaining membership of the Town Council; provided, that such required number of votes shall in no event be less than a majority of the full membership of the Town Council. For the purpose of this section, the vote shall be rounded to the nearest whole number. In determining the ratio of twenty percent (20%), the “zoning area” means both of the following:

1. The area within one hundred fifty (150) feet, including all rights-of-way, of the affected property subject to the proposed amendment or change.
2. The area of the proposed amendment or change.

A protest filed pursuant to this subsection shall be signed by the property owners opposing the proposed amendment and filed in the office of the Town Clerk no later than 12:00 noon, five (5) business days before the date on which the Town Council will vote on the proposed amendment or on an earlier time and date established by the Town Council.

N. Conditional Zoning

The Town Council may approve a change of zoning conditioned upon specific development requirements and/or a schedule for development of the specific use or uses for which zoning is requested. If, at the expiration of the period specified by Town Council, the property has not been developed according to said schedule and requirements, it shall revert to its former zoning classification without legislative action. Any request for an extension of, or amendment to, the conditions granted shall be considered a new application.

O. Another Application After Denial or Withdrawal

If the event that an application for amendment is denied by the Town Council or that the application is withdrawn after the Planning and Zoning Commission hearing, the Planning and Zoning Commission shall have the authority to refuse to accept another application for the same amendment within a year of the date of the original hearing.

P. Annexations

Whenever land previously zoned by Pima County is annexed by the Town of Oro Valley, such zoning shall continue in effect until Town of Oro Valley zoning is applied, but, in no event, for longer than 6 months after the annexation. The zoning applied shall comply with this Code unless specific exceptions or modifications are made by the Town Council upon annexation and translation of the zoning.

Q. Rezoning to Planned Residential Development or Planned Area Development

Rezoning to PRD or PAD shall follow the requirements in these sections and the additional requirements and review procedures in their respective sections of the Code (Section 24.3, PRD, and Section 24.4, PAD).

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Chapter 31 Definitions

ADMINISTRATIVE COMPLETENESS

AN APPLICATION THAT MEETS ALL OF THE FOLLOWING:

1. **ALL REQUIRED DOCUMENTS, STUDIES AND EXHIBITS HAVE BEEN FORMALLY SUBMITTED AND MEET THE FORM AND CONTENT REQUIREMENTS DETERMINED BY THE PLANNING AND ZONING ADMINISTRATOR AND TOWN ENGINEER.**
2. **THE PROJECT IS CODE COMPLIANT.**
3. **ALL NEIGHBORHOOD MEETING REQUIREMENTS HAVE BEEN COMPLETED.**

SUBSTANTIVE PROGRESS

ACTIONS TAKEN BY AN APPLICANT TO PROGRESS THE DEVELOPMENT REVIEW PROCESS, WHICH MAY INCLUDE:

1. **ISSUE RESOLUTION WITH ADJACENT PROPERTY OWNERS**
2. **PRODUCTIVE MEETINGS WITH THE TOWN TO ADDRESS UNRESOLVED REQUIREMENTS**
3. **RESUBMITTAL OF REVISED PLANS OR STUDIES TO ADDRESS STAFF COMMENTS**
4. **AWAITING OUTSIDE AGENCY REVIEW OR COMMENTS**
5. **PROCEEDING TO PUBLIC MEETINGS OR PUBLIC HEARINGS**
6. **OTHER SIMILAR PROGRESS AS DETERMINED BY THE PLANNING AND ZONING ADMINISTRATOR.**

Commented [MS13]: Added to clearly define "administrative completeness"

Commented [MS14]: Added to clearly define "substantive progress"