

ARTICLE 5 – ADMINISTRATION

5.1. Purpose

The purpose of this Article is to establish the overall administrative framework necessary for the effective implementation, interpretation, and enforcement of the Zoning Ordinance. This Article defines the roles, responsibilities, and authority of the City's governing and administrative bodies, officials, and staff as they relate to zoning administration.

This Article is intended to ensure consistent application of zoning regulations, provide clear lines of authority and accountability, and support orderly development that is consistent with the City's General Plan and adopted policies.

5.2. Zoning Administrator

1. The office of Zoning Administrator is hereafter established and such Zoning Administrator shall have the responsibility for enforcement and interpretation of the Zoning Ordinance and the authority to approve, conditionally approve, or deny site plan and design review applications, pursuant to the processes set forth in this Ordinance and the Engineering Standards. The Development Services Department Director of the City shall serve as the Zoning Administrator.
2. In interpretation and application, provisions of this Ordinance shall be considered the minimum requirements for the promotion of public health, safety, and general welfare.
3. Provisions of this Ordinance are not intended to interfere with, abrogate, or annul any ordinance, rule, regulation or permit not in conflict with this Ordinance. This Ordinance is not intended to interfere with, abrogate or annul any easement, covenant or other agreement between parties.
4. Alternative Compliance. The Zoning Administrator may approve alternative design solutions or modifications to specific development standards of this Ordinance in conjunction with Site Plan approval, provided that the alternative achieves equal or greater compliance with the purpose and intent of the applicable provision and does not result in an increase in permitted density, intensity, height, or a change in permitted use. This authority shall not authorize a variance as defined by state law, nor waive any requirement expressly reserved to the Board of Adjustment or City Council.
5. Where property zoned for residential use is substantially encumbered by existing or planned public roadways, access limitations, or other physical constraints such that it cannot reasonably develop for residential purposes in compliance with this Ordinance, the Zoning Administrator may grant an administrative exemption from specific development standards or buffering requirements, provided that:
 - A. The exemption is the minimum necessary to address the encumbrance;
 - B. The exemption does not authorize a use not otherwise permitted in the zoning district;
 - C. The exemption does not increase permitted density or intensity; and

ARTICLE 5 - ADMINISTRATION

- D. The Zoning Administrator makes written findings that the property cannot reasonably develop for residential purposes due to the identified constraints.
- 6. A property owner and/or occupant shall allow the Zoning Administrator, or authorized agents, access to private property for such inspections as are necessary to ensure that requirements of this Ordinance are met.

5.3. Injunction

- 1. If any building or structure is constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used, in violation of this Ordinance, or of a condition upon which approval of any amendment, Use Permit or Site Plan is based, any owner or tenant of real property in the same zoning district or the Zoning Administrator or any duly authorized representative thereof may institute an appropriate action:
 - A. To prevent unlawful construction, reconstruction, alteration, repair, conversion, maintenance, or use of the land, whether improved or otherwise;
 - B. To prevent occupancy of the building, structure or land whether improved or otherwise;
 - C. To prevent any illegal act, conduct, business or use in or about the premises; or,
 - D. To restrain, correct or abate the violation.
- 2. When any action is instituted pursuant to this Section 5.3, notice shall be served upon the City Attorney when suit is begun, and by serving a copy of the complaint to the owner and/or tenant.
- 3. In any such action under this Section 5.3, the court with jurisdiction, in its discretion, may issue a temporary restraining order, a preliminary injunction, or a permanent injunction upon such terms and conditions as will do justice and enforce this Ordinance.

5.4. Planning and Zoning Commission

5.4.1. Purpose.

The Planning and Zoning Commission (hereinafter "Commission") is created to provide analysis and recommendation of the City's General Plan, proposed developments, rezonings, and Ordinance amendments to the City Council. Its purpose is to review all aspects of a proposed and future development including, but not limited to, present and projected growth of the City, site planning and the relationship of the development to the surrounding environment and community. The Commission recognizes the interdependence of land values, aesthetics, and good site planning by promoting harmonious, attractive and compatible development that is therefore considered to be in furtherance of the public health, safety, and general welfare.

5.4.2. Organization.

There is created a Planning and Zoning Commission to consist of seven (7) members, each of whom shall be a resident of the City, to be appointed by the Mayor with the approval of the City Council. Four members shall constitute a quorum, or as otherwise specified in the Commission's By-Laws. The members of the City Planning and Zoning

ARTICLE 5 - ADMINISTRATION

Commission shall serve for three (3) year terms unless sooner removed by the Council, provided nothing herein shall affect the expiration of the current terms of said City Planning and Zoning Commission. All members shall hold office until their successors are appointed and qualified. Any member of the Commission may be removed by the Mayor with the consent of a majority vote of the City Council for inefficiency, neglect of duty, malfeasance in any office, or other good and sufficient cause. Any vacancy shall be filled within a reasonable time and by appointment by the Mayor with approval of the City Council for the unexpired term.

- A. The members of the Commission may be compensated for the time spent in performance of official duties at such rates and schedules as the Council may establish. Individuals may not serve more than three (3) consecutive terms subsequent to the effective date of this Ordinance.
 - 1. The Commission shall elect a Chairman and Vice Chairman from among its own members.
 - 2. Meetings of the Commission shall be open to the public. The minutes of its proceedings, showing the vote of each member and records of its examinations and other official actions shall be kept and filed in the office of the City Clerk as a public record.
 - 3. The Commission shall adopt rules of procedure not inconsistent with the provisions of this Ordinance for the conduct of its business and procedure.
 - 4. The concurring vote of a simple majority of those members present of the Commission shall be necessary to recommend approval of any application. Any other motion shall be governed by Robert's Rules of Order.
 - 5. The Zoning Administrator or their designee shall serve ex-officio as Secretary of the Commission, but shall have no vote.
 - 6. The Commission may hold closed executive sessions or like sessions for the purposes and the manner provided by law.
 - 7. When any Commission member has direct pecuniary or proprietary interest in any matter before the Commission, said member shall declare same, be excused, and refrain from participating in voting on any matters over which the conflict occurs while being considered by the Commission.

5.4.3. Powers.

The Planning and Zoning Commission shall have the following powers:

- A. Hear requests for amendments, which include Planned Area Developments of the text of this Ordinance or the Zoning Map of the City, and recommend approval, denial, or approval with revisions of such requests to the City Council.
- B. Hear requests for the granting of Special Use or Use Permits required and stipulated by this Ordinance and recommend approval, denial, or approval with revisions of such requests to the City Council.
- C. Hear requests for planned area developments and recommend approval, denial, or approval with revisions of such requests to the City Council.

ARTICLE 5 - ADMINISTRATION

- D. To promulgate rules of procedure and to supervise the enforcement of rules so promulgated by the Commission.
- E. To advise the City Council in all such matters that may pertain to planning and zoning.
- F. To oversee, and conduct requisite public hearings for the adoption, updating and processing of amendments to the General Plan.

5.5. Development Review Committee

5.5.1. Creation, Composition, and Meetings.

- A. A Development Review Committee (hereinafter "Committee") is created which shall include the Zoning Administrator, City Engineer, Chief Building Official, Police Chief, Fire Chief, and City Utilities Managers, or their respective designees, and any other City staff as deemed appropriate by the Zoning Administrator.
- B. When any Committee member has direct pecuniary or proprietary interest in any matter before the Committee, said member shall be excused and refrain from participating in the review of any matters over which the conflict occurs while being considered by the Committee.
- C. Meetings shall be at the call of the Zoning Administrator or on an as-needed basis.
- D. The Zoning Administrator shall be responsible for coordinating and directing the meetings of the Committee and issuing all written decisions.

5.5.2. Purpose.

The primary purpose of the Development Review Committee is to review development plans and proposals and provide technical review, guidance and direction to the Zoning Administrator in making a decision to approve, conditionally approve, or deny an application for site plan review or design review. The Development Review Committee may also provide a prospective developer or builder with advice or direction for the purpose of achieving site development that conforms with Goodyear's General Plan, City Code and regulations, and the City's goals for quality development in the community.

5.5.3. Powers, Duties, Jurisdiction.

- A. The Committee shall advise the Zoning Administrator whether to approve, conditionally approve, or disapprove any application for Site Plan review or design review. The applicant shall be responsible for proving that the intent and purpose of this Ordinance and other applicable provisions of the Goodyear City Code will be satisfied.
- B. The Committee, upon reviewing an application for site plan review or design review, may recommend to the Zoning Administrator reasonable conditions to carry out the intent of this Ordinance.
- C. The Committee shall also provide technical review and recommendations to the Zoning Administrator for transmittal to the Planning and Zoning Commission and City Council on zoning amendments, Use Permits, Special Use Permits, General Plan amendments, and all other land use and development

ARTICLE 5 - ADMINISTRATION

applications that require Planning and Zoning Commission and/or City Council review and action.

5.6. Board of Adjustment

5.6.1. Creation, Composition.

- A. The Board of Adjustment is created to provide for relief from the terms of this Ordinance through the grant of variances, and to hear and decide appeals from decisions of the Zoning Administrator.
- B. The Planning and Zoning Commission shall sit as the Board of Adjustment (and is referred to as the "Board" when it is acting in that capacity).
- C. The Chairman of the Commission shall serve as the Chairman of the Board and shall have power to administer oaths and to take evidence. The Vice-Chairman of the Commission shall serve as the Vice-Chairman of the Board and shall act as the Chairman of the Board in the absence of the Chairman.
- D. Meetings of the Board shall be open to the public. The minutes of its proceedings, showing the vote of each member and records of its examinations and other official actions shall be kept and filed in the office of the City Clerk as a public record.
- E. The Board shall adopt rules of procedure not inconsistent with the provisions of this Ordinance for the conduct of its business and procedure.
- F. The Goodyear City Clerk or his/her designee shall serve ex-officio as the Secretary of the Board, but shall have no vote.
- G. In the event a conflict of interest prevents the City Attorney or his/her designee from representing the Board on an appeal of a decision of a Zoning Administrator, the City shall appoint outside counsel to represent the Board in such appeals.

5.6.2. Powers.

- A. Except as otherwise expressly provided in this Ordinance or the Goodyear City Code, the Board shall hear and decide appeals in which it is alleged there is an error in an order, requirement or decision made by the Zoning Administrator in the enforcement of this Ordinance.
- B. Upon determination by the Board that there is an error in an order, requirement or decision by the Zoning Administrator in the enforcement of this Ordinance, the Board may reverse or affirm, wholly or partly, or modify the order, requirement or decision of the Zoning Administrator being appealed and may impose conditions as the Board deems necessary to fully carry out the provisions and intent of this Ordinance. The violation of any conditions of approval or other condition imposed by the Board shall be a violation of this Ordinance.
- C. The Board shall hear and decide requests for variances as more fully provided in this Ordinance.
- D. The Board of Adjustment may not make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the Zoning Ordinance, provided the restriction in this paragraph shall not affect the authority of the Board to grant variances as provided in this Ordinance.

5.6.3. Appeals of Decision of Zoning Administrator.

Unless otherwise provided in this Ordinance or the Goodyear City Code, any person who is directly affected by or aggrieved by a decision of the Zoning Administrator may appeal such decision by filing a written notice of appeal within fifteen (15) calendar days of the date the decision was issued. The appeal shall be filed with the Zoning Administrator and shall be processed in accordance with the procedures set forth in this Ordinance.

- A. The notice of appeal shall be filed on a form(s) provided by the Development Services Department and shall include all of the information identified in such form(s) and the additional information below. The appeal shall be signed by the aggrieved person and all applicable fees shall be paid when the appeal form is submitted.
- B. The appeal form(s) shall be accompanied by: a statement describing the decision of the Zoning Administrator that is the subject of the appeal; citations to any applicable laws, ordinances, codes, policies or regulations the appellant alleges have been improperly interpreted, applied, or violated and appellant's interpretation of such laws, ordinances, codes, policies or regulations; documentation and evidence supporting appellant's interpretation and/or position that the Zoning Administrator's decision improperly applied or violated applicable laws, ordinances, codes, policies or regulations; and any other documentation the appellant would like the Board to consider.
- C. The party filing the appeal bears the burden of proof.
- D. The party challenging the interpretation(s) of the Zoning Administrator of the Ordinance and/or provisions of the Goodyear Code of Ordinances bears the burden of proving that the Zoning Administrator's interpretation is clearly contrary to legislative intent or that it is without rational basis.
- E. The party challenging factual determinations by the Zoning Administrator bears the burden of proving that no reasonable person could have made such factual determination.
- F. The filing of an appeal to the Board shall stay all proceedings in the matter appealed from unless the Zoning Administrator certifies in writing to the Board that in the Zoning Administrator's opinion, based on the facts presented in the Zoning Administrator's certification, the stay would cause imminent peril to life or property. Upon such certification, the proceedings shall not be stayed except by a restraining order granted by the Board or court of record upon application and notice to the Zoning Administrator.
- G. The Board shall hold a hearing, at which time all interested persons shall be given the opportunity to be heard.
- H. The concurring vote of a simple majority of those members present of the Board shall be necessary to reverse or modify any decision of the Zoning Administrator.

5.6.4. Special Action in Superior Court.

A person aggrieved by a decision of the Board, a taxpayer who owns or leases the adjacent property, or a property within three hundred (300) feet of the boundary of the immediately adjacent property, and/or an officer or a department of the

ARTICLE 5 - ADMINISTRATION

municipality affected by a decision of the Board may, at any time within thirty (30) days after a decision has been rendered, file a complaint for special action in the superior court of Maricopa County to review the Board's decision. Filing the complaint does not stay proceedings on the decision sought to be reviewed, but the court may, on application, grant a stay and on final hearing may affirm or reverse, in whole or in part, or modify the decision reviewed.