

ORDINANCE NO. (O)21-08

AN ORDINANCE OF THE TOWN OF ORO VALLEY, ARIZONA, AMENDING ORO VALLEY ZONING CODE CHAPTERS 21, REVIEW AND DECISION MAKING-BODIES, AND 22, REVIEW AND APPROVAL PROCEDURES, SECTIONS 21.3, PLANNING AND ZONING COMMISSION, 21.4, PLANNING AND ZONING DEPARTMENT, 21.9, HISTORIC PRESERVATION COMMISSION AND 22.4, ZONING IN CONFORMANCE WITH THE GENERAL PLAN, TO UPDATE THE ADOPTION PROCESS FOR THE PLANNING DIVISION WORK PLAN

WHEREAS, on March 31, 1981, the Mayor and Council approved Ordinance (O) 81-58, which adopted that certain document entitled “Oro Valley Zoning Code Revised (OVZCR); and

WHEREAS, it is necessary to update OVZCR Chapters 21, Review and Decision-Making Bodies, and 22, Review and Approval Procedures, Sections 21.3, Planning and Zoning Commission, 21.4, Planning and Zoning Department, 21.9, Historic Preservation Commission and 22.4, Zoning in Conformance with the General Plan, to bring the work plan adoption process for the Planning Division in line with the work plan development process of other departments; and

WHEREAS, the Planning and Zoning Commission held a meeting on June 1, 2021 and voted to recommend approval of amending OVZCR Chapters 21, Review and Decision-Making Bodies, and 22, Review and Approval Procedures, Sections 21.3, Planning and Zoning Commission, 21.4, Planning and Zoning Department, 21.9, Historic Preservation Commission and 22.4, Zoning in Conformance with the General Plan; and

WHEREAS, the Mayor and Council have considered the proposed amendments and the Planning and Zoning Commission’s recommendation regarding the changes to OVZCR Chapters 21, Review and Decision-Making Bodies, and 22, Review and Approval Procedures, Sections 21.3, Planning and Zoning Commission, 21.4, Planning and Zoning Department, 21.9, Historic Preservation Commission and 22.4, Zoning in Conformance with the General Plan, and finds that they are in the best interest of the Town.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Oro Valley, Arizona that:

SECTION 1. The certain document known as the “Amended Oro Valley Zoning Code Chapters 21, Review and Decision-Making Bodies, and 22, Review and Approval Procedures, Sections 21.3, Planning and Zoning Commission, 21.4, Planning and Zoning Department, 21.9, Historic Preservation Commission and 22.4, Zoning in Conformance with the General Plan”, declared a public record by Resolution No. (R)21-31 and incorporated herein by reference, is hereby amended.

SECTION 2. All Oro Valley Ordinances, Resolutions, or Motions and part of Ordinances, Resolutions or Motions of the Council in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance 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.

PASSED AND ADOPTED by Mayor and Town Council of the Town of Oro Valley, Arizona, this 16th day of June, 2021.

TOWN OF ORO VALLEY

Joseph C. Winfield, Mayor

ATTEST:

APPROVED AS TO FORM:

Michael Standish, Town Clerk

Tobin Sidles, Legal Services Director

PUBLISH: DAILY TERRITORIAL
JANUARY 21, 22, 23, 24, 2021

POSTED: 6/21/21 - 7/21/21

EXHIBIT “A”

Amendments to Section 21.3, Section 21.4, Section 21.9 and Section 22.4 of the Zoning Code. Deletions shown with strikethrough and ADDITIONS shown in CAPS.

Section 21.3 Planning and Zoning Commission

A. *Scope*

The Planning and Zoning Commission (PZC) primarily advises the Town Council on planning and zoning policies, land use, development plans, amendments and regulations as authorized by A.R.S. Title [9](#), Chapter 4. The Planning and Zoning Commission is the planning agency for the Town of Oro Valley, and has the powers necessary to enable it to fulfill its planning function, in accordance with A.R.S. [9-461.01\(A\)](#) and [B](#), as described in subsection [B](#) of this section.

((O)17-05, 06/07/17)

B. *Powers and Duties*

The Planning and Zoning Commission performs the following duties:

1. ~~*Planning and Zoning Work Plan*~~

~~The Planning and Zoning Commission may initiate and shall provide recommendations to the Town Council on the Planning Division Work, which outlines primary work objectives of the Planning Division.~~

1.2. *General Plan*

The Planning and Zoning Commission may initiate and shall provide recommendations to the Town Council on the General Plan and amendments thereto which establishes the goals of Oro Valley regarding future development of the Town.

2.3. *Land Use Plans*

The Planning and Zoning Commission may initiate and shall provide recommendations to the Town Council on special land use plans or studies.

3.4. *Zoning Code Amendments*

The Planning and Zoning Commission may initiate and shall provide recommendations to the Town Council on amendments to this Code in accordance with Section [22.3](#), Amendments.

4.5. *Conditional Use Permits*

The Planning and Zoning Commission provides recommendations to the Town Council on conditional use permits.

5.6. *Rezoning*

- a. The Planning and Zoning Commission may initiate and shall provide recommendations to the Town Council on rezoning of property in accordance with Section [22.3](#).

6.7. *Design Review and Other Authorities*

- a. The Planning and Zoning Commission makes decisions or provides recommendations to the Town Council regarding conceptual design submittals and other applications as provided in Table 22-9.

7.8. *Other Matters*

The Planning and Zoning Commission may initiate or, at the request of the Town Council, shall conduct special studies or perform other functions relating to planning and zoning matters.

((O)17-05, 06/07/17; 6/11 supplement, 06/11)

C. *Transaction of Business*

1. The Planning and Zoning Commission shall conduct its business in accordance with the Arizona Revised Statutes, applicable Town regulations, and its rules and procedures as approved by the Town Council.
2. The Planning and Zoning Administrator shall be the Executive Secretary of the Planning and Zoning Commission.

3. The Planning and Zoning Commission Chair, or his/her designee, has the right to appear before the Town Council on items of interest to the Planning and Zoning Commission.

4. Recommendations and/or decisions of the Planning and Zoning Commission should be based exclusively on the merits of the application, validity of the testimony presented at hearings and conformance with the General Plan and Town Codes.

((O)17-05, 06/07/17)

D. *Effect of Decisions*

All Planning and Zoning Commission recommendations, final actions, and findings of decisions shall be transmitted to the Town Council regardless of vote.

Section 21.4 Planning and Zoning Department

A. *Scope*

The Planning and Zoning Department is the lead agency for the administration of this Code and serves as the professional staff of the Planning and Zoning Commission.

B. *Powers and Duties of the Planning and Zoning Administrator*

The Planning and Zoning Administrator, with the applicable staff, performs the following duties in accordance with the A.R.S.:

1. *Supervision*

The Planning and Zoning Administrator supervises the various operations of the department.

~~2. *Annual Planning Program*~~

~~The Planning and Zoning Administrator develops the annual plan program after initiation by the Planning and Zoning Commission.~~

2. ~~3.~~ *Plans and Regulations*

The Planning and Zoning Administrator maintains the General Plan and the land use plans, policies, and regulations for their implementation. THE PLANNING AND ZONING

ADMINISTRATOR PROVIDES ANNUAL OR PERIODIC PROGRESS REPORTS ABOUT THE IMPLEMENTATION OF THE GENERAL PLAN AND ELEMENTS OF OTHER RELATED PLANS TO THE PLANNING AND ZONING COMMISSION AND TOWN COUNCIL.

~~3.4.~~ *Specific Plans*

The Planning and Zoning Administrator provides recommendations to the Planning and Zoning Commission and Town Council on specific plans and administers adopted specific plans.

~~4.5.~~ *Rezoning*

The Planning and Zoning Administrator provides recommendations to the Planning and Zoning Commission and Town Council on the rezoning of property and administers approved rezonings.

~~5.6.~~ *Subdivision Plats and Development Plans*

The Planning and Zoning Administrator reviews, coordinates, and administers the processing of subdivision plats and development plans in accordance with Chapter [26](#), Subdivision and Site Plans.

~~6.7.~~ *Boards, Commissions and Committees*

The Planning and Zoning Administrator provides administrative assistance to the planning and zoning boards, commissions, and committees appointed by the Town Council.

~~7.8.~~ *Compliance Review*

The Planning and Zoning Administrator reviews all permits for use or improvement of property prior to issuance by the Town in order to determine if the proposed activity will be in compliance with this Code.

~~8.9.~~ *Interpretation*

- a. The Planning and Zoning Administrator shall be responsible for interpretation of the zoning code. Interpretations may be considered if there is a question of clarity of any provision of the zoning code, or a determination of analogous use is required within the permitted uses of a specified zoning district.

- b. An interpretation is a formal explanation of a provision of the zoning code issued in writing by the Planning and Zoning Administrator based on a request, as differentiated from an administrative decision pursuant to Section [22.12](#) which is the routine application of the zoning code.
- c. Requests for interpretation shall be filed with the Planning and Zoning Administrator with the required fee. The Planning and Zoning Administrator may also initiate an interpretation. The Planning and Zoning Administrator shall issue a written interpretation within ten (10) days following receipt of the request.
- d. Planning and Zoning Administrator interpretations may be appealed to the Board of Adjustment in accordance with Section [21.6.G](#).
- e. Interpretations issued pursuant to this section shall be published on the Town's website. Additionally, a record of interpretations shall be maintained and available for public review and inspection at the office of the Town Clerk.

~~9.40~~ *Enforcement*

The Planning and Zoning Administrator enforces the provisions of this Code and acts as the Planning and Zoning Administrator, in accordance with A.R.S. [9-462.05](#), by all means prescribed by law.

~~10.44~~ *Other Duties*¹

The Planning and Zoning Administrator acts as the Executive Secretary of the Planning and Zoning Commission. The Planning and Zoning Administrator is responsible for accurate and complete transmittal and recordation of Commission actions. When functioning as Executive Secretary of the Planning and Zoning Commission before the Town Council, the Planning and Zoning Administrator shall represent the Planning and Zoning Commission actions to the Town Council. The Planning and Zoning Administrator performs such other functions as may be necessary in the administration of the department or as provided by the Town Council and Town Manager.

Section 21.9 Historic Preservation Commission

A. *Scope*

In accordance with the General Plan: Archaeological and Historic Resources Element, the Historic Preservation Commission facilitates the conservation of cultural resources in the Oro Valley community.

((O)11-01, 02/16/11)

B. *Powers and Duties*

In addition to other powers and duties of the Historic Preservation Commission specified in Article [6-10](#) of the Oro Valley Town Code, the Historic Preservation Commission performs the following:

~~1. *Planning and Zoning Work Plan*~~

~~The Historic Preservation Commission provides recommendations to the Town Council on the annual work plan, which is a formal list of the Planning Department's annual land use policy and zoning work projects.~~

~~1.2. *General Plan*~~

The Historic Preservation Commission reviews and recommends cultural resource conservation policies for inclusion in the General Plan.

~~2.3. *Zoning Code Amendments*~~

The Historic Preservation Commission reviews and recommends zoning requirements, historic districts, and design guidelines pertaining to conservation of cultural resources.

~~3.4. *Development Review*~~

The Historic Preservation Commission considers evidence and recommends action upon appeal or review of the Planning and Zoning Administrator's determination of cultural resource significance and/or action specified within a formal treatment plan.

~~4.5. *Special Inventories or Plans*~~

The Historic Preservation Commission shall maintain a list of known significant cultural resources for consideration in planning of current and future development.

((O)11-01, 02/16/11)

C. *Transaction of Business*

The Planning and Zoning Administrator shall apprise the Historic Preservation Commission of all determinations of significance, treatment plan approvals, and zoning enforcement actions that involve a cultural resource.

Section 22.4 Zoning in Conformance with the General Plan

In order to ensure the orderly implementation of the Town's adopted General Plan, the following procedures shall be observed:

A. *Zoning Conformance Analysis*

The Planning and Zoning Commission shall initiate a yearly analysis of zoning conformance with the adopted Oro Valley General Plan. ~~The analysis may include all or part of the Town boundaries, as established by the Commission's work plan (as adopted by Town Council).~~ The Commission shall forward the Zoning Conformance Analysis to the Town Council no later than December 1st of each year. The analysis shall include the following components:

1. *Parcel Inventory*

An inventory of individual parcels with zoning not in conformance with the adopted General Plan.

2. *Zoning Status*

The current zoning status of the parcels not in conformance with the adopted General Plan. Zoning status will be accorded one of the following designations:

a. *Conditional Zoning*

Zoning which has been granted subject to conditions that have not yet been satisfied.

b. *"Hard" Zoning*

Zoning for which the property owner has satisfied all conditions of the Town.

c. *Vested Zoning*

Zoning that has been established by the issuance of a building permit and the property owner's substantial expenditures in reliance on the building permit.

3. *Problem Statement*

For each parcel with zoning not in conformance with the adopted General Plan, a Problem Statement shall be prepared, by the designated Town Staff, stating the threats that the existing zoning poses to orderly development of the community. The problem statement shall address the following issues, as pertinent:

a. *Environmental/Service System Issues*

- i. Environmental impacts (noise, air quality, riparian impacts, sensitive landforms, adverse soils) - Town Engineer and Planning and Zoning Administrator
- ii. Impacts to groundwater supplies - Town Engineer
- iii. Effects on surface water - Town Engineer
- iv. Traffic impacts relative to existing roadway systems - Town Engineer
- v. Adequacy of wastewater facilities - Town Engineer and Pima County Wastewater
- vi. Impacts public safety/police and fire protection - Police Chief
- vii. Adequacy of potable water - Town Engineer

b. *Design Issues*

- i. Compatibility with adjacent uses
- ii. Building height and viewshed considerations
- iii. Density and lot coverage issues
- iv. Parking and lighting concerns

B. *Conflict Priority List*

Along with the yearly Zoning Conformance Analysis, the Planning and Zoning Commission shall forward a prioritized list of specific parcels, having zoning not in conformance with the

adopted General Plan, that pose the most significant threats to the orderly development of the Town. The most significant threats will be those judged to present significant environmental and service system issues, as outlined in subsection T.1.c.i. The prioritized list of conflicts shall form the basis for an Action Plan.

C. *Action Plan*

The Action Plan shall include recommendations to the Town Council to resolve zoning conflicts with the General Plan. The Action Plan shall specify one or more possible recommended actions from the following list:

1. *Additional Performance Standards*

For conflicts consisting primarily of design issues (subsection T.1.c.ii.) on parcels with hard zoning or vested zoning, the Planning and Zoning Commission may recommend enhanced performance standards for the appropriate district or to the individual rezoning application.

Additional performance standards may include, but are not limited to, setback requirements, height limitations, buffer requirements, cluster incentives, or any other standard with a direct relationship to the design issues at hand.

2. *Transfer of Development Rights*

For conflicts based on significant environmental and service system issues, the Planning and Zoning Commission may recommend, and the Town Council may adopt provisions enabling the transfer of development rights to a parcel or parcels that have demonstrated service capacity and appropriate natural characteristics with agreement of the property owner(s).

3. *Change in Zoning Designation*

In the case of parcels with conditional zoning, or parcels that pose an extreme danger to public health and/or safety due to environmental or service system issues, the Planning and Zoning Commission may initiate, and the Town Council may approve, a change in zoning designation to a category compatible with the General Plan Land Use Element.

Any recommendation by the Planning and Zoning Commission for a change in the zoning designation of a parcel must be accompanied by the following documentation:

a. *Legal Analysis*

A legal analysis, prepared by the Town's attorney, analyzing the defensibility of the Problem Statement prepared for the parcel and verifying the zoning status of the property.

b. *Supporting Documentation*

The designated Town Staff is responsible to provide the supporting documentation, as specified by the Problem Statement.

4. *Town Acquisition of Property*

In the case of parcels with conditional zoning, or hard zoned and vested parcels that pose an extreme danger to public health and/or safety due to environmental or service system issues, but in which the Town of Oro Valley has limited ability to effect a zoning change, the Planning and Zoning Commission may recommend, and the Town Council may approve, the purchase of the property.

Any recommendation by the Planning and Zoning Commission for the purchase of a property must be accompanied by the following documentation:

a. *Legal Analysis*

A legal analysis, prepared by the Town's attorney, analyzing the defensibility of the Problem Statement prepared for the parcel and verifying the zoning status of the property.

b. *Supporting Documentation*

The designated Town Staff is responsible to provide the supporting documentation, as specified by the Problem Statement.