

Second Draft 6-15-19

Article 2 | Review Authority

Sections:

- Sec. 2.1 Purpose**
- Sec. 2.2 Mayor and Council**
- Sec. 2.3 City Manager**
- Sec. 2.4 Planning and Zoning Commission**
- Sec. 2.5 Board of Adjustment**
- Sec. 2.6 Planning Director**
- Sec. 2.7 Building Official**
- Sec. 2.8 Internal Review Panel**
- Sec. 2.9 Summary of Review Authority**

Sec. 2.1 Purpose

This Section describes the responsibilities, powers and duties exercised by the legislative and administrative bodies, municipal agencies, and boards and commissions involved in the planning, zoning and subdivision of land within the City.

Sec. 2.2 Mayor and Council

The Mayor and Council shall perform the following functions:

- A. Adoption and amendments to the General Plan, as mandated by A.R.S. § 9-461.06 and in accordance with the procedures in this Ordinance, Sec. 3.3, General Plan Adoption/Amendment;
- B. Adoption and amendments to the text of this Ordinance in accordance with Sec. 3.4, Nogales Development Code Text Amendment;
- C. Establishment of original zoning for land annexed into the City in accordance with A.R.S. § 9-471 and this Ordinance, Sec. 3.5, Zoning Map Change;
- D. Approve changes to zoning map (“Rezoning”), in accordance with A.R.S. §§ 9-462.01, -.03, -.04, and this Ordinance, Sec. 3.5, Zoning Map Change;
- E. Approve Final Plats in accordance with A.R.S. § 9-463.01 and this Ordinance, Article 13, Subdivision and Land Split Regulations; and
- F. Appointments of individuals to serve on the following boards and commissions:

1. Planning and Zoning Commission in accordance with A.R.S. § 9-461.02 and this Ordinance, Sec. 2.3; and
2. Board of Adjustment in accordance with A.R.S. § 9-462.06 and this Ordinance, Sec. 2.4.

Sec. 2.3 City Manager

Paragraphs:

- 2.3.1 Powers and Duties**
- 2.3.2 Fees**

2.3.1 Powers and Duties

The City Manager ensures the enforcement of the Ordinance and that City agencies and employees assist PZD, the Board, the Commission, and any other related body in the planning, zoning, and division of land.

2.3.2 Fees

The City Manager recommends to the Mayor and Council the fee amounts to be imposed for reviews and processes associated with this Ordinance.

Sec. 2.4 Planning and Zoning Commission

Paragraphs:

- 2.4.1 Establishment**
- 2.4.2 Membership, Terms and Compensation**
- 2.4.3 Officers, Meetings and Quorum**
- 2.4.4 Powers and Duties**

2.4.1 Establishment

The Planning and Zoning Commission (“Commission”) is established in accordance with A.R.S. § 9-461.02 and this Ordinance.

2.4.2 Membership, Terms and Compensation

- A. The Commission shall consist of five members and two alternates appointed by the Mayor and Council. The members of the Commission shall be residents of the City.
- B. The terms of the Commission members shall be three years from the date of appointment. Commission members may serve multiple terms except that no member shall serve more than three consecutive terms. No members shall hold any other City office except that two members may serve on the Board of Adjustment.

- C. All Commission members shall serve without compensation.

2.4.3 Officers, Meetings and Quorum

- A. The Commission shall adopt Rules of Procedure for the conduct of its business, consistent with State law and this Ordinance. The Rules of Procedure shall establish the Commission officers, meeting rules, quorum requirements, and other procedural requirements as necessary.

2.4.4 Powers and Duties

The Commission shall have the following powers and duties.

- A. The Commission shall be responsible for reviewing and making recommendations to Mayor and Council regarding the following:
 - 1. Adoption of or amendments to the *General Plan* and related plans;
 - 2. Amendments to the text of this Ordinance;
 - 3. Applications for a Zoning Map Change and Planned Area Developments; and
 - 4. The Planning and Zoning Department (“PZD”) Annual Work Plan.
- B. All decisions and recommendations of the Commission shall require an affirmative vote of the majority of members present at a meeting. Tie votes shall be considered decisions or recommendations for denial.
- C. The Commission shall serve as the advisory body to the Mayor and Council on all City planning and development matters and perform related duties as directed by the Mayor and Council.
- D. The Commission may exercise additional powers as may be described elsewhere in this Ordinance.

Sec. 2.5 Board of Adjustment

Paragraphs:

- 2.5.1 Establishment**
- 2.5.2 Membership, Terms and Compensation**
- 2.5.3 Officers, Meetings and Quorum**
- 2.5.4 Powers and Duties**
- 2.5.5 Decisions**
- 2.5.6 Reconsideration**

2.5.1 Establishment

The Board of Adjustment (“Board”) is established in accordance with A.R.S. § 9-462.06 and this Ordinance.

2.5.2 Membership, Terms and Compensation

- A. The Board shall consist of five members and two alternates appointed by the Mayor and Council. All Board members shall be residents of the City.
- B. The terms of the Board members shall be three years from the date of appointment. Board members may serve multiple terms except that no member shall serve more than three consecutive terms. No Board members shall hold any other City office except that two members may serve on the Planning and Zoning Commission.
- C. All decisions and recommendations of the Board shall require an affirmative vote of the majority of members present at a meeting. Tie votes shall be considered decisions or recommendations for denial.
- D. All Board members shall serve without compensation.

2.5.3 Officers, Meetings and Quorum

The Board shall adopt Rules of Procedure for the conduct of its business, consistent with State law and this Ordinance. The Rules of Procedure shall establish the Board officers, meeting rules, quorum requirements, and other procedural requirements as necessary.

2.5.4 Powers and Duties

The Board shall have the following powers and duties.

- A. The Board shall be responsible in its capacity as a quasi-judicial body, for final action regarding the following:
 - 1. Applications for variances to the Ordinance in accordance with Sec. 3.6, Variance; and
 - 2. Appeals of decisions made by administrative officials interpreting the provisions of this Ordinance, in accordance with Sec. 3.7, Appeal of Administrative Decision.
- B. The Board shall be responsible for action regarding applications for Special Use Permits in accordance with Sec. 3.10, Special Use Permits. The Board does not act as a quasi-judicial body in deciding Special Use Permits and therefore it has no restrictions on *ex parte* communications with an Applicant prior to the hearing.
- C. The Board shall perform related duties as directed by the Mayor and Council.

2.5.5 Decisions

- A. All Board decisions shall be issued in writing within five (5) business days of the Board meeting at which the decision occurred. A written decision shall be considered filed with the clerk of the Board, and thus effective, on the date that the decision is fully executed and ready for distribution.
- B. Any person desiring a copy of the decision of the Board shall file a written request with PZD at any time. After the written decision becomes effective, it shall be delivered by PZD via electronic mail or by first class mail, or may be available for pick-up at the PZD offices upon request.
- C. A person aggrieved by a decision of the Board may file a petition for review in the Superior Court to review the Board decision, pursuant to A.R.S. § 9-462.06, as applicable. Any petition for review shall be filed with the clerk of Superior Court within 30 days after the decision of the Board is effective.

2.5.6 Reconsideration

The Board may reconsider a decision once if a request for reconsideration is made by the Applicant or a Party of Record, in accordance with this Ordinance, Sec. 3.2.5.

Sec. 2.6 Planning and Zoning Department and Director

Paragraphs:

- 2.6.1 Establishment**
- 2.6.2 Duties**
- 2.6.3 Delegation of Authority**
- 2.6.4 Powers and Duties**

2.6.1 Establishment of Planning and Zoning Department

The Planning and Zoning Department (“PZD”) is established in accordance with A.R.S. § 9-461.01 and A.R.S. § 9-461.03 and serves as the planning agency and the community development agency for the City of Nogales. The PZD administers this Ordinance for the City.

2.6.2 Duties

The Planning and Zoning Director (“Director”) is designated as head of the PZD and shall be responsible for administering the provisions of this Ordinance as set forth in this section.

2.6.3 Delegation of Authority

The Director may designate any PZD staff member to represent the Director in any function assigned by this Ordinance. The Director shall remain responsible for any final action.

2.6.4 Powers and Duties

The Director or designee shall have the following powers and duties.

- A. The Director or designee is designated to perform the following:
 - 1. Shall serve as the Zoning Administrator responsible for enforcement and interpretation of the Ordinance and other related land use regulations;
 - 2. Exercise any functions in the administration and enforcement of various means for carrying out plans that the Mayor and Council may direct;
 - 3. Develop, approve, and implement administrative procedures and guidelines to execute the provisions of this Ordinance;
 - 4. As directed by Mayor and Council or the City Manager, develop land use studies to address specific issues within the City's planning area and other areas as needed, develop objectives based on these studies, and prepare plans for achieving these objectives;
 - 5. Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out the purpose and objectives of this Ordinance and the General Plan;
 - 6. Advise the Mayor and Council concerning means for carrying out or amending the purpose, objectives, policies and regulations of this Ordinance and the General Plan;
 - 7. Accept, receive and disburse funds, grants, and services made available by the Federal government or the State government used in the furtherance of departmental functions; and
 - 8. Perform any other related duties as directed by Mayor and Council.
- B. The Director or designee shall be responsible for reviewing and making recommendations regarding the following:
 - 1. Applications for Tentative Plat review;
 - 2. Applications for Special Use Permits;
 - 3. Amendments to the *General Plan* and adopted land use plans;
 - 4. Amendments to the text of this Ordinance;
 - 5. Applications for Zoning Map Change; and
 - 6. Applications for historic district/landmark designation.
- C. The Director or designee shall be responsible for final action regarding the following:
 - 1. Interpretation of this Ordinance;

2. Applications for Sign Permits;
3. Applications for subdivision review pursuant to Article 13, Subdivision and Land Split regulations;
4. Applications for Site Plans pursuant to Sec.3.9, Site Plan Review;
5. Applications for Home Occupation Permits; and
6. Applications for Temporary Use Permits.

Sec. 2.7 Building Inspector

Paragraphs:

- 2.7.1 Establishment**
- 2.7.2 Duties**
- 2.7.3 Delegation of Authority**
- 2.7.4 Power and Duties**

2.7.1 Establishment

The Building Inspector is authorized by this Ordinance to enforce certain State statutes, State regulations, and local ordinances including this Ordinance and any other ordinances related to City zoning and development.

2.7.2 Duties

The Building Inspector is designated as the head of the City Building Department and shall be responsible for administering the provisions of this Ordinance as set forth in this section.

2.7.3 Delegation of Authority

The Building Inspector may designate any staff member to represent the Building Inspector in any function assigned by this Ordinance. The Building Inspector shall remain responsible for any final action.

2.7.4 Power and Duties

The Building Inspector or designee shall enforce provisions of this Ordinance which pertain to new construction and the issuance of building permits and shall be responsible for final action regarding interpretations of matters related to the City-adopted building code(s).

Sec. 2.8 Internal Review Panel

Paragraphs:

- 2.8.1 Establishment**

2.8.2 Internal Review Panel Members

2.8.3 Powers and Duties

2.8.4 Technical Review

2.8.1 Establishment

The Internal Review Panel (“IRP”) is established by the adoption of this Ordinance.

2.8.2 Internal Review Panel Members

Members of the IRP are determined by the Director and may include representatives of City departments, utility companies, other government agencies and other agencies that regulate land use within the City limits. The Director may tailor members of the IRP based on specific projects, as he/she sees fit.

2.8.3 Powers and Duties

The IRP serves in a technical advisory capacity to the Director. The IRP’s primary functions are to facilitate and expedite the review and approval of subdivision plats, development packages, and land development standards and to ensure compliance with adopted codes and regulations applicable to a project. IRP members possess the necessary expertise to properly evaluate matters before the IRP and are obligated to respond expeditiously and in a courteous manner. They are also expected to objectively enforce requirements established by this Ordinance and to assist to the best of their ability in finding solutions to technical and procedural problems.

2.8.4 Technical Review

The IRP performs a formal technical review of all tentative and final plats and development packages in accordance with applicable codes, ordinances and legal requirements. The review shall minimally include compliance with codes regulating streets, sidewalks and public transportation access, zoning, floodplain and drainage, fire, water, environmental services, wastewater, and utility company regulations.

The IRP review process is as follows:

- A. The Director or his/her designee shall review submittals for completeness in accordance with 3.2.3.D, Applications Sufficient for Processing.
- B. Once a complete application is accepted, the submitted documents are distributed to the IRP members for review and comment on all applicable codes, ordinances, department-specific administrative guidelines and all other applicable regulations. The IRP will meet to discuss applications on an as-needed basis.
- C. Once the review is complete, the IRP shall prepare a letter that details the status of the plan review. If the plan has been approved, the letter will detail the items that must be submitted to the IRP for final approval. If the plans have been denied, the letter

will detail the resubmittal requirements and the issues that need to be addressed and remedied. The resubmittal requirements will include the number of copies of the plans required along with all other documents needed to complete the review. The letter will also indicate which agencies must continue to review the plans after the required changes have been made.

- D. When a resubmittal is required, the applicant must, in addition to any corrected or modified tentative plat, final plat and/or development package, and required additional documentation, include a letter with the resubmittal package. The letter must respond to each comment in the IRP response letter and explain in detail any revisions made by the applicant to the plans and/or documents addressing those comments.
- E. Upon receipt of a resubmittal, the PZD shall distribute the revised plan, documents and resubmittal letter to the IRP for review and comment. If the resubmitted plans and documents do not resolve all comments and demonstrate compliance with applicable requirements, then the IRP shall again issue a letter detailing the resubmittal requirements.
- F. Once the IRP office issues an approval letter, and the applicant submits all the items detailed in the approval letter, the plans shall be forwarded to the Director with a recommendation for approval. The Director shall approve the plans within five working days of receipt of the plans and required documents if all other processes associated with the plan have already been approved. Once approved, the applicant will receive a signed copy of the plan for use for additional reviews and permits. The IRP approval letter will include the expiration date of the plan.
- G. The approval date of the plan is the date of the IRP approval letter unless the plan involves a rezoning. The approval date of the plan with a rezoning is the date the Mayor and Council approve the rezoning ordinance.
- H. The Director has the discretion to ask the IRP for advice regarding any other matter related to land development.

Sec. 2.9 Summary of Review Authority

The following table summarizes review authority under this Ordinance.

Application or Permit	PZD Director	IRP	Building Official/ City Engineer	Board of Adjustment	Planning & Zoning Commission	Mayor & Council	Section
Zoning Interpretation	D			<A>			Sec. 3.1
General Plan Amendment	R	R			<R>	<D>	Sec. 3.3
Ordinance Text Amendment	R	R			<R>	<D>	Sec. 3.4
Rezoning/Zoning Map Change	R	R			<R>	<D>	Sec. 3.5
Variance		R		<D>			Sec. 3.6
Appeal of Administrative Decision				<A>			Sec. 3.7
Site Plan Review	D	R					Sec. 3.8
Dev. Standards Modification	D	R					Sec. 3.9
Special Use Permit	R	R		<D>			Sec. 3.10
Temporary Use Permit	D	R		<A>			Sec. 3.11
Home Occupation Permit	D			<A>			Sec. 3.12
Demolition Permit	R		D				[add]
Sign Permit	D			<A>			[add]
Tentative Plat	D	R	R				Sec. 13.4
Final Plat	R					<D>	Sec. 13.5
Minor Subdivision (Block Plat)	R	R				<D>	Sec. 13.6
Land Split	D						Sec. 13.7

Application or Permit	PZD Director	IRP	Building Official/ City Engineer	Board of Adjustment	Planning & Zoning Commission	Mayor & Council	Section
Historic District Designation	R	R			<R>	<D>	[add]
Landmark Designation	R	R				<D>	[add]

R = Review or Recommendation

D = Decision

A = Appeal

<> = Public Meeting/Hearing Required