



**PUBLIC NOTICE
THE ELOY CITY COUNCIL**

Meets

MONDAY, JUNE 3, 2024

5:30 PM

ELOY CITY COUNCIL CHAMBERS

595 NORTH C STREET

ELOY, ARIZONA 85131

**For a
WORK SESSION**

AGENDA

I. Call to Order

II. Roll Call

III. Pledge of Allegiance

IV. Unscheduled Public Appearances

V. Discussion Items

- | | |
|--|-----------------|
| A. Boards and Commissions City Code Text Amendment | Dan Symer, AICP |
| B. Planning and Zoning Commission and Board of Adjustment Responsibilities Zoning Text Amendment | Dan Symer, AICP |
| C. Historic Preservation Overlay Zoning Text Amendment | Dan Symer, AICP |

VI. Adjournment

POSTED BY 5:30 P.M. ON THURSDAY, MAY 30, 2024, AT ELOY CITY HALL, ELOY POST OFFICE, AND CITY WEBSITE: www.elayaz.gov

THE FACILITY WILL BE OPEN TO THE PUBLIC 30 MINUTES PRIOR TO THE START OF THE MEETING AND SEATING WILL BE AVAILABLE FOR "REASONABLY ANTICIPATED ATTENDANCE."

A handwritten signature in black ink, reading "Mary Myers", is written over a horizontal line.

Mary Myers, MMC, CPM
City Clerk

INDIVIDUALS WITH SPECIAL ACCESSIBILITY NEEDS MAY CONTACT LORENA LaSALDE-RIOS, ADA COORDINATOR FOR THE CITY OF ELOY AT 520-466-9201 OR 520-466-7455 (TDD). IF POSSIBLE, SUCH REQUESTS SHOULD BE MADE 72 HOURS IN ADVANCE. ONE OR MORE MEMBERS OF THE COUNCIL AND/OR STAFF MAY PARTICIPATE BY TELEPHONIC OR VIDEO MEANS.

CITY OF ELOY

REQUEST FOR COUNCIL ACTION

Agenda Item: V.A.

Date: 6/3/2024

Date submitted:
05/16/2024

Action: Other

Subject: Boards and Commissions
City Code Text Amendment

Date requested:
6/3/2024

TO: Mayor and City Council

FROM: Dan Symer, Community Development Director

RECOMMENDATION:

Staff recommends that the City Council discuss and provide direction on the proposed City Code Text Amendment.

DISCUSSION:

This is a discussion item for a potential amendment to the Eloy Code. The proposed amendment aims to consolidate the roles of the Airport Advisory Board, Board of Adjustment, and Revitalization Commission under the jurisdiction of the Planning and Zoning Commission. The main goal is to enhance efficiency by having one commission focus on various planning, development, land use, and operational activities related to the city's objectives. Some of the key efficiency improvements resulting from this consolidation include:

- Enhanced public participation: The public is able to participate and provide comments on a broader variety of topics to one commission that typically meets several times throughout the year, compared to the other board/commissions that may meet once a year – and often less than once a year.
- Streamlined administration: Consolidation allows the Community Development department and City Manager's office to manage one commission instead of four, saving time and resources.
- Simplified recruitment: The City Clerk's Office can focus on recruiting volunteers for one commission rather than four.
- Cost savings: The consolidation requires less staff, reduces publication and notification costs, and eliminates overlap between boards/commissions.
- Efficient use of commissioner time: Commissioners can contribute more productively across a complete spectrum of planning, development, land use, zoning, and related activities and responsibilities.

Often, boards/commissions are created to address specific tasks and/or objectives when an existing commission, a one-time task force or City Council or commission subcommittee, could more efficiently address such situations. The Airport Advisory

Board, Revitalization Commission, and the discontinued Historic Preservation Commission are boards/commissions that appear to have been created for such situations. While these boards/commissions were created for valid reasons, their stand-alone nature isn't sustainable due to limited scope, volunteer interest, and topics and items that necessitate the need for regular meetings.

The Planning and Zoning Commission was established in accordance with the provisions of §9-461.02 of the Arizona Revised Statutes, and consists of residents of the City of Eloy who have a broad range of primary responsibilities to advise and provide recommendations to the City Council. These responsibilities include the General Plan, Specific Area Plans, master planning, current and future land use planning, development, land use and operation characteristics, and zoning ordinance provisions and requirements. Furthermore, the Planning and Zoning Commission typically is the primary adviser to the City Council pertaining to matters related to the development of the city, including design guidelines, infrastructure needs, housing, historic preservation, development in the airport influence zone, and other matters assigned by the City Councils.

As it pertains to the Board of Adjustment, its existence is a requirement of Section §9-462.06 of the Arizona Revised Statutes. Therefore, the Board would remain, but the members of the Planning and Zoning Commission would perform the Board's functions. Due to the close and direct association and crossover of responsibilities with those of the Planning and Zoning Commission, staff opines that the consolidation of the Airport Advisory Board, Board of Adjustment, and Revitalization Commission responsibilities under the purview of the Planning and Zoning Commission is rational and appropriate. With the consolidation of the responsibilities under the Planning and Zoning Commission, the Airport Advisory Board and Revitalization Commission would be discontinued.

The recommended revised scope and purpose of the Planning and Zoning Commission is to act as an advisory board to the City Council on airport and airpark planning and development, architectural, site plan and subdivision guidelines, policies and requirements, code enforcement, design and development review of public and private development, downtown improvements, historic preservation and placement of markers, infrastructure guidelines, needs and policies, land use, redevelopment, revitalization, public art and its placement, and zoning matters. The aforementioned revised scope would include performing the duties of the Board of Adjustment and other matters assigned to the Planning and Zoning Commission by the City Council and any other matter within the scope of the planning and zoning powers available to cities in Arizona.

To accommodate the additional responsibilities and to allow for a broader perspective of varying considerations, staff recommends enlarging the Planning and Zoning Commission from five (5) voting members to seven (7) voting members. Therefore, the Planning and Zoning Commission would consist of seven (7) voting members, one (1) alternate non-voting member, and one (1) ex-officio non-voting member. All members

would be required to have an interest in the planned growth and development of the City. At least three members voting shall also have interests in representing any one of the following focuses: airport and airpark planning and development; redevelopment/revitalization and historic preservation; and economic development and housing. All focus areas are to be represented on the commission so that the additional responsibilities acquired from the Airport Advisory Board and Revitalization Commission are not overshadowed and still have community representation.

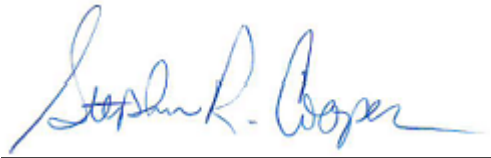
To assist with the Commission's responsibilities, it is recommended to allow the Planning and Zoning Commission to form temporary subcommittees so that members may focus on specific tasks, such as the updates to the General Plan, Historic Preservation, Downtown Planning and Improvements, design guidelines, etc. The subcommittees would be required to report to the Planning and Zoning Commission as a whole, and any subcommittee recommendation would require the review and vote of the Commission to forward a recommendation to the City Council.

It should be noted that to accommodate the recommended modifications, separate amendments to the Zoning Ordinance are necessary to align and remove redundancies and conflicts between Chapter 2 Article IV. Commissions and Chapter 21 Zoning as it pertains to the responsibilities and duties of the Airport Advisory Board, Board of Adjustment, Revitalization Commission, and the Planning and Zoning Commission. If the City Council chooses not to initiate the amendment, it should be noted that modifications to Chapter 2 Article IV. Commissions, Boards and Bureaus, and Chapter 21 Zoning are still necessary to align and remove redundancies and conflicts between the chapters of the Eloy Code.

FISCAL IMPACT:

The consolidation of the responsibilities of the board and commission to be within the purview of the Planning and Zoning Commission has the potential to reduce the need for staff and publication and posting costs.

Approved as to Form:



Stephen R. Cooper, City Attorney

Modification to Chapter 2 Administration of the Eloy Code

How to read this document.

- *Sections and italic text are instructions* to the City Clerk and the City's codifier for amending the Eloy Code.
- Double Underlined blue text are additions to the Eloy Code.
- ~~Crossed out red text are deletions~~ to the Eloy Code.

Section 1.: Amend Chapter 2 Administration, Article IV. Commissions, Boards and Bureaus, as follows:

ARTICLE IV. COMMISSIONS, BOARDS AND BUREAUS

Division 1. Planning ~~And~~ and Zoning Commission

2-69: Established

2-70: Appointment ~~Of~~ of Members; Filling ~~Of~~ of ~~Vacancies~~ Vacancies; and Removal of Members

2-71: Meetings; Organization; Procedures of the Planning and Zoning Commission

2-72: Duties ~~And~~ and Functions of the Planning and Zoning Commission

2-73: Establishing a Subcommittee of the Planning and Zoning Commission and its Duties

2-74: Appointment of Members; Filling of Vacancies; and Removal of Members of a Subcommittee

2-75: Meetings; Organization; Procedures of the Subcommittee:

~~2-73~~ 2-76 - 2-79: Reserved

Division 2. Board ~~Of~~ of Adjustment

2-80: Established

2-81: ~~Membership; Terms; Vacancies~~ Board of Adjustment Members

2-82: Meetings; Organization; Procedures of the Board of Adjustment

2-83: Duties and Functions of the Board of Adjustment

~~2-83~~ 2-84: Appeals of the Board of Adjustment

~~2-84~~ 2-85 - 2-88: Reserved

Division 3. Parks, Recreation ~~And~~ and Library Advisory Board

2-89: Established; Membership; Terms; Vacancies

2-90: Meetings; Organization; Procedures

2-91: Duties ~~And~~ and Responsibilities

2-92 - 2-95: Reserved

Division 4. ~~Airport Advisory Board~~ Reserved

~~2-99: Established~~

~~2-100: Appointment; Vacancies~~

~~2-100.1: Meetings; Quorum~~

~~2-100.2: Organization; Procedures~~

~~2-100.3: Actions, Recommendations Advisory In Nature~~

~~2-100.4: Powers And Duties~~

Division 5. Pension Board

2-101: Established ~~For~~ for Public Safety Retirement System

2-102: Membership; Terms; Powers; Procedures

2-102.1: Meetings; Quorum

2-102.2: Organization; Conduct ~~Of~~ of Meetings

2-103 - 2-104: Reserved

~~Division 6. Revitalization Commission~~

~~2-105: Established~~

~~2-105.1: Membership; Terms; Vacancies~~

~~2-105.2: Meetings; Organization; Procedures; Decisions~~

~~2-105.3: Actions, Recommendations Advisory In Nature~~

~~2-105.4: Powers And and Duties~~

~~2-105.5: Responsibilities~~

- ~~2-105.6: Designation Of Landmarks Or Historic Districts~~
- ~~2-105.7: Certificate Of Appropriateness Required~~
- ~~2-105.8: Criteria For Approval Of Certificate Of Appropriateness~~
- ~~2-105.9: Certificate Of Appropriateness Application Procedure~~
- ~~2-105.10: Hardship Criteria~~
- ~~2-105.11: Hardship Application Procedure~~
- ~~2-105.12: Maintenance And and Repair Required~~
- ~~2-105.13: Violation; Penalty~~
- ~~2-105.14: Appeals~~
- ~~2-105.15: Fees~~

Section 2.: Amend Chapter 2 Administration, Article IV. Commissions, Boards and Bureaus, Division 1. Planning and Zoning Commission, as follows:

DIVISION 1. PLANNING AND ZONING COMMISSION¹

Notes

1. See also section 21-5-3 of this Code.

2-69: ESTABLISHED:

A. There is established a Planning and Zoning Commission for the City.

2-70: APPOINTMENT OF MEMBERS; FILLING OF ~~VACANCIES~~ VACANCIES; AND REMOVAL OF MEMBERS:

- A. The Planning and Zoning Commission shall be composed ~~of six (6) members (five (5) voting members and one (1) ex officio nonvoting member). One (1) alternate member shall also serve, substituting as necessary, as a voting member when any of the five (5) voting members are not present at any Planning and Zoning Commission meeting. of:~~
 1. Seven (7) voting members;
 2. One (1) ex officio non-voting City Council member; and
 3. One (1) alternate member, which shall substitute, as necessary, a voting member when any of the seven (7) voting members are not present at any Planning and Zoning Commission meeting.

- ~~B. All five (5) voting members and one (1) alternate member of the Planning and Zoning Commission shall be appointed by a majority vote of the City Council to a term of three (3) years.~~
- B. All seven (7) voting members and the one (1) alternate member shall have an interest in the planned growth and development of the City. At least one (1) of the voting member shall also have an interest in airport and airpark planning and development; at least one (1) of the voting member shall also have interests in redevelopment/revitalization and historic preservation; and, at least one (1) of the voting member shall also have interests in economic development and housing.
- C. All Planning and Zoning Commission's seven (7) voting members and one (1) alternate member shall be appointed for a term of three (3) years by a majority vote of the City Council members present.
- ~~C. D. All full-time~~ Any current or previous voting ~~Members~~ member of the Commission that is, or has, ~~serving~~ served on the Planning and Zoning Commission, as of the effective date of Ordinance No. 21-908, shall serve no more than three (3) terms ~~from the starting date of the members' initial term~~, except members currently serving on the Planning and Zoning Commission who have completed more than three (3) terms ~~at on~~ the effective date of Ordinance No. 21-908. Currently serving members of the Planning and Zoning Commission who have completed more than three (3) terms may be appointed to one (1) additional three (3) year term ~~retroactive to January 31, 2021.~~
- ~~D. A City Council member shall be appointed by a majority vote of the members of the City Council to serve as an ex officio member of the Commission without a vote. This appointment shall be made at the first regular meeting of the City Council subsequent to the Mayor and City Council elections.~~
- E. The City Council shall appoint one of its members by a majority vote of those present to serve as an ex officio member of the Planning and Zoning Commission. This appointment shall be made at the first regularly scheduled City Council meeting after the start of a new calendar year. Each term of the ex officio member of the Planning and Zoning Commission shall be for one (1) year.
- F. In order to be eligible for appointment to the Planning and Zoning Commission, a person shall reside in the City for at least six (6) months. Furthermore, a member shall maintain residency for the duration of the term to which he or she has been appointed.
- ~~E. G.~~ Absence from two (2) consecutive meetings without formal consent of the ~~Commission~~ Planning and Zoning Commission shall be deemed to constitute the retirement of such member and the position shall thereupon be declared vacant. ~~Minutes of the Commission shall be filed with the City Clerk, City Manager and City Council.~~
- H. Any voting or alternate member of the Planning and Zoning Commission may resign from the Commission by providing written notice to the City Clerk. The ex officio member of the Planning and Zoning Commission may resign from the Planning and Zoning Commission by providing written notice the City Clerk and the Mayor.
- ~~F. I.~~ Vacancies on the ~~Commission~~ Planning and Zoning Commission occurring otherwise than by expiration of the term shall be filled in the manner herein ~~set forth for the unexpired term of the member leaving the Commission.~~ to a new three (3) year term, not include a vacancy of the ex officio member of the Planning and Zoning Commission.
- J. Upon the vacancy of the ex officio member of the Planning and Zoning Commission, the City Council shall appoint a new ex officio member of the Planning and Zoning Commission to complete the remainder of vacated term in the manner set forth herein.

~~G. In order to be eligible for appointment to the Planning and Zoning Commission, a person must have resided in the City for six (6) months. Furthermore, a member must maintain residency for the duration of the term to which he or she has been appointed.~~

K. The City Council may remove a member of the Commission prior to the expiration of the member's term by a majority vote of all members of the City Council, regardless of the number of City Council members present at the time of the vote.

2-71: MEETINGS; ORGANIZATION; PROCEDURES OF THE PLANNING AND ZONING COMMISSION:

A. The Planning and Zoning Commission shall ~~prepare~~ approve its schedule of regular monthly meetings at the start of each calendar year. However, the meetings shall be held on an as needed basis as determined by the Community Development Director. ~~All meetings shall at all times be open to the; the time and place of said meetings shall be posted in accordance with any currently applicable Arizona State Statutes regulating public meetings and proceedings (Open Meeting Laws). Special meetings may be called by the Chairperson on twenty four (24) hours' notice. Three (3) members of the Commission shall constitute a quorum for the exercise of the powers and authority conferred upon it.~~

B. Special meetings of the Planning and Zoning Commission may be called by the Chairperson on a minimum twenty-four (24) hours' notice.

C. All Planning and Zoning Commission meetings and hearings shall be open to the public, except closed executive sessions that are allowed for the applicable purposes specified in the Arizona Revised Statutes.

D. The time and place of Planning and Zoning Commission meetings and hearings shall be posted in accordance with the currently applicable Arizona State Statutes regulating public meetings and proceedings (Open Meeting Laws).

E. Four (4) members of the Planning and Zoning Commission shall constitute a quorum for the exercise of the powers and authority conferred upon it.

~~B. F.~~ At the first meeting after appointment, and at the first meeting held in any calendar year ~~thereafter~~, the members of the Commission shall elect a Chairperson and Vice Chairperson. ~~"Robert's Rules of Order" shall govern the conduct of meetings in the event of a procedural dispute.~~ The term of the elected Chairperson and Vice Chairperson shall begin at the second meeting held in the calendar year. If the Chairperson or Vice Chairperson position becomes vacant, the members of the Commission shall elect a new Chairperson or Vice Chairperson to fulfill the remainder of that vacated term.

G. "Robert's Rules of Order" shall govern the conduct of Planning and Zoning Commission meetings in the event of a procedural dispute.

H. The Community Development Director or his/her designee shall serve as staff liaison and secretary to the Planning and Zoning Commission.

I. The minutes of the Planning and Zoning Commission shall be filed with the City Clerk as a public record.

2-72: DUTIES AND FUNCTIONS OF THE PLANNING AND ZONING COMMISSION:

~~A. It shall be the duty of the Commission to make a survey of the City and prepare and present to the Council a general plan to guide development and a zoning ordinance and official zoning map of all incorporated land within the City. The Commission shall further perform such other duties in connection with the planning and zoning of the City as are consistent with the Constitution and the laws of the State.~~

A. The Planning and Zoning Commission acts as an advisory board to the City Council on, airport and airpark planning and development, architectural, site plan and subdivision guidelines, policies and requirements, code enforcement, design and development review of public and private development, downtown improvements, historic preservation, infrastructure guidelines, needs and policies, land use, redevelopment, revitalization, public art and its placement, zoning matters, matters assigned to the Commission by the City Council, and any other matter within the scope of the planning and zoning powers available to cities in Arizona.

B. The Planning and Zoning Commission shall hold a public hearing(s) or public meeting(s) as required by law and make recommendations to the City Council on all matters concerning or related to the Commission's Powers and Duties specified in subsection A of this section, and Chapters 21 of the Eloy Code. Planning and Zoning Commission may continue any matter to a later date.

C. The Planning and Zoning Commission shall hold a public hearing(s) as required by law and make decisions on Historic Preservation, Preliminary Plat(s), and Site Plan(s) applications as set forth in the Commission's Powers and Duties specified in Chapters 16 and 21 of the Eloy Code.

D. The Planning and Zoning Commission may make recommendations to the City Council for the placement of Historic Markers and plaques at locations of significant events that occurred at least fifty (50) years ago and comply with the National Register Criteria for Evaluation.

E. The voting and alternate members of the Planning and Zoning Commission shall perform all powers and duties that are assigned to the Board of Adjustment specified in Chapter 21 of the Eloy Code, including holding public hearings related thereto.

1. In such matters assign to the Board of Adjustment:

a. The voting and alternate members of the Planning and Zoning Commission shall separately convene as the Board of Adjustment.

b. The Chairperson and Vice Chairperson of the Planning and Zoning Commission shall serve as the Chairperson and Vice Chairperson of the Board of Adjustment.

2. The ex officio non-voting City Council member on the Planning and Zoning Commission shall not participate as part of the Board of Adjustment when the voting and alternate members of the Planning and Zoning Commission convene to preforming the powers and duties of the Board.

~~B. F. The Commission, prior to submitting any planning or zoning recommendations to the Council, shall hold public meetings at City Hall at which time citizens may appear and be heard, either for or against said proposed planning or zoning recommendations. Notice of such public meetings or and hearings shall be provided in accordance with State laws Arizona Revised Statutes.~~

2-73: ESTABLISHING A SUBCOMMITTEE OF THE PLANNING AND ZONING COMMISSION AND ITS DUTIES:

A. By a majority vote of all voting members of the Planning and Zoning Commission, the Commission may adopt a Resolution forming a subcommittee(s) to review, discuss and study information, receive public comments, and provide comments and recommendations to the City Staff and the Planning and Zoning Commission for a specific task(s) related to:

1. The General Plan;
2. Specific Area Plans;
3. The Zoning Ordinance;
4. Design and Development guidelines and requirements;
5. Airport and Airpark planning and development;
6. Historic Preservation;
7. Downtown Planning and Improvements;
8. Redevelopment and Revitalization;
9. Infrastructure Improvements;
10. Master Plans; or
11. Subject(s) assigned by the City Council.

B. In the adoption of a Resolution to form a subcommittee(s), the Planning and Zoning Commission shall specify the task(s) assigned and the maximum length of time that the subcommittee is to exist to perform the task(s). The maximum timeframe without being extended that a subcommittee can be created for:

1. The purposes of the creation, adoption or readoption of a General Plan: three (3) years.
2. The purposes of the creation, adoption or readoption of a Specific Plan or Master Plan: two (2) years.
3. Any other purpose that a subcommittee maybe created, or when a timeframe is not specified in the Resolution that created the subcommittee: 1 year from the date of the Resolution's adoption.

C. By majority vote of all Planning and Zoning Commission members, the Commission may adopt a Resolution to: 1) set a date to disband a subcommittee prior to the date specified by the Resolution that created, or extended, the subcommittee, if stated, or in accordance with subsection B.3.; or, 2) extend the subcommittee to a new date.

1. Maximum number of times that a subcommittee may be extended: two (2) times.
2. Maximum timeframe of subcommittee created for the purpose of the creating, adopting or readopting the General Plan, Specific Plan or Master Plan first extension: one (1) year.

- 3. Maximum timeframe of the first extension of subcommittee create for any other purpose: 182 days
- 4. Maximum timeframe of the second extension of subcommittee create for any other purpose: 63 days
- D. Without further action by the Planning and Zoning Commission, a subcommittee shall automatically disband upon the date specified to have completed the assigned task in the Resolution adopted by the Commission, or in accordance with subsection B. of this section.

2-74: APPOINTMENT OF MEMBERS; FILLING OF VACANCIES; AND REMOVAL OF MEMBERS OF A SUBCOMMITTEE:

- A. A subcommittee shall consist of any three (3) of the eight (8) members (voting and alternate) of the Planning and Zoning Commission. Only current members of the Planning and Zoning Commission may serve on a Planning and Zoning Commission subcommittee(s).
- B. A member of a subcommittee who's term has expired and has not have been reappointed, has been removed, resigns, or retires from the Planning and Zoning Commission shall no-longer be a member of a subcommittee without further action by the Planning and Zoning Commission.
- C. The Chairperson of the Planning and Zoning Commission shall appoint the Chairperson and Vice Chairperson.
- D. By a majority vote of the members present, Planning and Zoning Commission shall replace a vacancy on a subcommittee, or remove a member of a subcommittee.

2-75: MEETINGS; ORGANIZATION; PROCEDURES OF THE SUBCOMMITTEE:

- A. The subcommittee shall adopt its schedule of regular meetings at its first meeting. However, the meetings shall be held on an as-needed basis as determined by the Community Development Director.
- B. Special meetings of subcommittee may be called by the Chairperson on a minimum twenty-four (24) hours' notice.
- C. All subcommittee meetings shall be open to the public, except closed executive sessions that are allowed for the applicable purposes specified in the Arizona Revised Statutes.
- D. The time and place of a subcommittee meeting shall be posted in accordance with any currently applicable Arizona State Statutes regulating public meetings and proceedings (Open Meeting Laws).
- E. Two (2) members of the subcommittee shall constitute a quorum for the exercise of the powers and authority conferred upon it.
- F. "Robert's Rules of Order" shall govern the conduct of Planning and Zoning Commission meetings in the event of a procedural dispute.
- G. The Community Development Director or his/her designee shall serve as staff liaison and secretary to the subcommittee.

H. The minutes of the subcommittee shall be filed with the City Clerk and to the Planning and Zoning Commission.

2-73 2-76 - 2-79: RESERVED:

Section 3.: Amend Chapter 2 Administration, Article IV. Commissions, Boards and Bureaus, Division 2. Board of Adjustment, as follows:

DIVISION 2. BOARD OF ADJUSTMENT ¹

Notes

1. See also section 21-5-4 of this Code

2-80: ESTABLISHED:

A. There is hereby established a Board of Adjustment ~~composed of six (6) members (5 voting members and 1 ex officio nonvoting member).~~ The Board shall carry out its duties pursuant to Arizona Revised Statutes, Section §9-462.06 and any amendments thereto.

2-81: ~~MEMBERSHIP; TERMS; VACANCIES:~~ BOARD OF ADJUSTMENT MEMBERS

~~A. All voting members of the Board of Adjustment shall be appointed by a majority vote of the members of the City Council to a term of three (3) years.~~

A. All voting and alternate members of the Planning and Zoning Commission shall serve as the members of the Board of Adjustment.

~~B. All Members serving on the Board of Adjustment, as of the effective date of Ordinance No. 21-908, shall serve no more than three (3) terms from the starting date of the members' initial term, except members who have completed more than three (3) terms at the effective date of Ordinance No. 21-908 may be appointed to one (1) additional three (3) year term retroactive to January 31, 2021.~~

~~C. A City Council member shall be appointed by a majority vote of the members of the City Council to serve as an ex officio member of the Board but shall have no vote on any matter before the Board. This appointment shall be made at the first regular meeting of the City Council subsequent to the Mayor and City Council elections.~~

~~D. Absence from two (2) consecutive meetings without formal consent of the Board shall be deemed to constitute the retirement of such member and the position shall thereupon be declared vacant. Minutes of the Board shall be filed with the City Clerk, City Manager and the City Council.~~

~~E. Vacancies on the Board, occurring otherwise than by expiration of the term, shall be filled in the manner herein set forth for the unexpired term of the member leaving the Board.~~

~~F. In order to be eligible for appointment to the Board of Adjustment, a person must have resided in the City for six (6) months. Furthermore, a member must maintain residency for the duration of the term to which he or she has been appointed.~~

2-82: MEETINGS; ORGANIZATION; PROCEDURES OF THE BOARD OF ADJUSTMENT:

A. The Board of Adjustment shall approve its schedule of regular monthly meetings at the start of each calendar year. Meetings of the Board of Adjustment shall be held on an ~~as-needed~~ as-needed basis as determined by the Community Development Director. ~~All meetings shall at all times be open to the public. The time and place of said meetings shall be posted in accordance with any currently applicable Arizona State Statutes regulating public meetings and proceedings (Open Meeting Laws). Special meetings may be called by the Chairperson on twenty four (24) hours' notice. Three (3) members of the Board shall constitute a quorum for the exercise of the powers and authority conferred upon it.~~

~~B. At the first meeting after appointment and at the first meeting held in any calendar year thereafter, the members of the Board shall elect a chairperson and vice chairperson. "Robert's Rules of Order" shall govern the conduct of meetings in the event of a procedural dispute.~~

B. Special meetings of the Board of Adjustment may be called by the Chairperson on a minimum twenty-four (24) hours' notice.

C. The Board of Adjustment meetings shall be open to the public, except closed executive sessions that are allowed for the applicable purposes specified in the Arizona Revised Statutes.

D. The time and place of a Board of Adjustment meeting shall be posted in accordance with any currently applicable Arizona State Statutes regulating public meetings and proceedings (Open Meeting Laws).

E. Four (4) members of the Board of Adjustment shall constitute a quorum for the exercise of the powers and authority conferred upon it.

F. The Chairperson and Vice Chairperson of the Planning and Zoning Commission shall serve as the Chairperson and Vice Chairperson of the Board of Adjustment.

G. "Robert's Rules of Order" shall govern the conduct of Board of Adjustment meetings in the event of a procedural dispute.

~~C. H.~~ The Chairperson and Vice Chairperson shall have the power to administer oaths and take evidence. ~~Minutes of the Board's proceedings showing the vote of each member and records of its examinations and other official actions shall be filed in the office of the Board as a public record.~~

I. The Community Development Director or his/her designee shall serve as staff liaison and secretary to the Board of Adjustment.

J. The minutes of the Board of Adjustment shall be filed with the City Clerk as a public record.

2-83: DUTIES AND FUNCTIONS OF THE BOARD OF ADJUSTMENT:

A. The Board of Adjustment shall hold a public hearing(s) as required by law and to carry out its duties pursuant to Arizona Revised Statutes, Section §9-462.06, any amendments thereto, and those assigned to the Board of Adjustment specified in Chapter 21 of the Eloy Code.

~~2-83: APPEALS:~~

~~Appeals from decisions of the Board of Adjustment shall be governed by Arizona Revised Statutes, Section 9-462.06 and any amendments thereto.~~

~~2-84~~ 2-83 - 2-88: RESERVED:

Section 4.: Amend Chapter 2 Administration, Article IV. Commissions, Boards and Bureaus, Division 4. Airport Advisory Board, to amend the division, as follows:

DIVISION 4. ~~AIRPORT ADVISORY BOARD~~ RESERVED

~~2-99: ESTABLISHED:~~

~~There is hereby established an airport advisory board consisting of six (6) members (5 voting members and 1 ex officio nonvoting member) appointed by the city council, who shall meet as hereinafter provided, to consider and deliberate upon matters of concern to the city council and citizens that affect the operation and efficiency of the airport toward the end of providing an optimum level of services within available resources, using the airport master plan as a basic guide.~~

~~2-100: APPOINTMENT; VACANCIES:~~

- ~~A. The airport advisory board shall be composed of six (6) members (5 voting members and 1 ex officio nonvoting member).~~
- ~~B. All Members of the Airport Advisory Board shall be appointed by a majority vote of the members of the City Council to a term of three (3) years. Members serving on the Airport Advisory Board, as of the effective date of this Ordinance No. 21-908, shall serve no more than three (3) terms.~~
- ~~C. A city council member shall be appointed by a majority vote of the members of the city council to serve as an ex officio member of the board without a vote. This appointment shall be made at the first regular meeting of the city council subsequent to the mayor and city council elections.~~
- ~~D. Absence from two (2) consecutive meetings without formal consent of the board shall be deemed to constitute the retirement of such member and the position shall thereupon be declared vacant. Minutes of the board shall be filed with the city clerk, city manager and the city council.~~
- ~~E. Vacancies on the board occurring otherwise than by expiration by term shall be filled in the manner herein set forth for the unexpired term of the member leaving the board.~~

~~F. In order to be eligible for appointment to the airport advisory board, a person must have resided in the city for six (6) months. Furthermore, a member must maintain residency for the duration of the term to which the member has been appointed.~~

~~2-100.1: MEETINGS; QUORUM:~~

~~The board shall hold regular quarterly meetings, which shall at all times be open to the public. The time and place of said meetings shall be posted in accordance with any currently applicable Arizona state statutes regulating public meetings and proceedings (open meeting laws). Special meetings may be called by the chairperson on twenty four (24) hours' notice. Three (3) members of the board shall constitute a quorum for the exercise of the powers and authority conferred upon it.~~

~~2-100.2: ORGANIZATION; PROCEDURES:~~

~~At the first meeting after appointment and at the first meeting held in any calendar year thereafter, the members of the board shall elect a chairperson and vice chairperson. "Robert's Rules Of Order" shall govern the conduct of meetings in the event of a procedural dispute.~~

~~2-100.3: ACTIONS, RECOMMENDATIONS ADVISORY IN NATURE:~~

~~All discussion, deliberation, actions and recommendations of the board shall be advisory to the council, and such advisories as the board may from time to time make, shall be forwarded to the city council through the city manager.~~

~~2-100.4: POWERS AND DUTIES:~~

- ~~A. It shall be the duty of the airport advisory board to prepare and submit to the city council recommendations for the improvement, equipping, maintenance and operation of the Eloy municipal airport.~~
- ~~B. The airport advisory board, subject to the approval of the city council, may recommend regulations and establish fees and charges for the operation of the municipal airport.~~
- ~~C. The airport advisory board shall have periodic inventories made of airport services that exist or may be needed and interpret the needs of the public to the city council and to the city manager.~~
- ~~D. The airport advisory board shall aid in coordinating airport services with the programs of other governmental agencies and voluntary organizations.~~
- ~~E. The airport advisory board shall review the effectiveness of airport programs with the city manager and the city council.~~

Section 5.: Amend Chapter 2 Administration, Article IV. Commissions, Boards and Bureaus, Division 6. Revitalization Commission, to delete the division, as follows:

DIVISION 6. REVITALIZATION COMMISSION

2-105: ESTABLISHED:

~~There is hereby established a Revitalization Commission (formerly Downtown Advisory Commission) for the City. The Commission shall provide recommendations upon matters of concern that implement the City's strategic objectives for both potentially historic structures and the revitalization/redevelopment of buildings and structures within the City. These objectives shall be achieved using adopted plans, standards, ordinances, guidelines and other supportive directives previously adopted by the City Council.~~

2-105.1: MEMBERSHIP; TERMS; VACANCIES:

- ~~A. The Commission shall consist of eight (8) members (7 voting members and 1 nonvoting members) who may be, but are not required to be, qualified by experience and training to consider matters pertaining, but not limited to, architecture, historic architecture, landscape architecture, engineering, economic development, marketing, real estate, law, finance, banking, historian, contractor, etc., and/or who own commercial or industrial land within the City. Commission members may not be currently employed by the City during any portion of their term.~~
- ~~B. All voting Members serving on the Revitalization Commission (formerly Downtown Advisory Commission), as of the effective date of Ordinance No. 21-908, shall serve no more than three (3) terms.~~
- ~~C. A City Council member shall serve as an ex-officio member, but shall have no vote on any matter before the Commission. The City Council member shall be appointed by a majority vote of the members of the City Council. This appointment shall be made at the first regularly scheduled meeting of the City Council subsequent to the Mayor and City Council elections.~~
- ~~D. All voting members of the Revitalization Commission shall be appointed to serve staggered and overlapping terms by a majority vote of the members of the City Council.~~
- ~~E. Absence from two (2) consecutive Commission Meetings without formal consent of the Commission shall be deemed to constitute the retirement of such member and the position shall thereupon be declared vacant.~~
- ~~F. Vacancies on the Commission, occurring otherwise than by expiration of the departing member's term, shall be filled in the manner set forth herein for that remaining portion of their unexpired term.~~
- ~~G. In order to be eligible for appointment to the Revitalization Commission, a person may reside in the City and/or work in the City or may be involved in a profession or with an entity that would be advantageous for representation on the Commission.~~

2-105.2: MEETINGS; ORGANIZATION; PROCEDURES; DECISIONS:

- A. ~~Meetings shall be held on an as needed basis as determined by the Community Development Director. The time and place of said meetings shall be posted in accordance with any currently applicable Arizona State Statutes regulating public meetings and proceedings (open meeting laws). Special meetings may be called by the chairperson on twenty four (24) hours' notice. Four (4) members of the Commission shall constitute a quorum for the exercise of the powers and authority conferred upon it.~~
- B. ~~The time and place of said Commission meetings shall be posted in accordance with any currently applicable Arizona state statutes regulating public meetings and proceedings (open meeting laws). Special meetings may be called by the Chairperson on twenty four (24) hours' notice.~~
- C. ~~At the first meeting held in any calendar year, the members of the Commission shall elect a Chairperson and Vice Chairperson to serve for that calendar year. "Robert's Rules of Order" shall govern the conduct of meetings in the event of a procedural dispute.~~
- D. ~~The City's Community Development Director shall designate a staff person to assist in recording the proceedings of the Commission meetings. The Community Development Department shall transcribe the proceedings and transmit them to Commission members prior to the next scheduled meeting to be reviewed and approved.~~
- E. ~~The Chairperson shall provide notice of a meeting to the members of the Commission a minimum of four (4) calendar days preceding the meeting.~~

2-105.3: ACTIONS, RECOMMENDATIONS ADVISORY IN NATURE:

~~All discussion, deliberation, actions and recommendations of the Commission shall be advisory to the City Council, and such advisories as the Commission may from time to time make, shall be forwarded to the City Council through the City Manager.~~

2-105.4: POWERS AND DUTIES:

~~It shall be the duty of the Commission to prepare and submit to the City Council recommendations for the revitalization/redevelopment of buildings and structures within the City, and serve as the Historic Preservation Commission.~~

2-105.5: RESPONSIBILITIES:

~~The responsibilities of the Commission shall include:~~

- A. ~~Promulgation of rules and regulations as necessary for the conduct of its business.~~
- B. ~~Review of criteria for the identification of significant historic, architectural, and cultural landmarks and for the delineation of historic districts.~~

- C.— Review existing surveys of significant historic, architectural and cultural landmarks and historic districts within the City and periodically update the survey.
- D.— Recommending to the City Council the designation of identified structures or resources as landmarks and historic districts.
- E.— Acceptance on behalf of the City of the donation of facade easements and development rights; the making of recommendations to the City Council concerning the acquisition of facade easements or other interests in real property as necessary to carry out the purposes of this chapter.
- F.— Increasing public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs.
- G.— Making recommendations to the City Council concerning the utilization of state, federal or private funds to promote the preservation of landmarks and historic districts within the City, and recommending programs and projects for the revitalization/redevelopment of buildings within the City to improve the aesthetics of buildings to further enhance the economic base of the community.
- H.— Recommending acquisition of a landmark structure by the City where its preservation is essential to the purposes of this chapter and where private preservation is not feasible.
- I.— Approval or disapproval of applications for certificates of appropriateness pursuant to this chapter. (Ord. 21-908, 5-24-2021)

2-105.6: DESIGNATION OF LANDMARKS OR HISTORIC DISTRICTS:

- A.— Individual Property: The Revitalization Commission may recommend to the City Council that an individual property be designated as a landmark if it:
 - 1.— Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation; or
 - 2.— Is identified with historic personages; or
 - 3.— Embodies the distinguishing characteristics of an architectural style; or
 - 4.— Is the work of a designer whose work has significantly influenced an age; or
 - 5.— Because of a unique location or singular physical characteristic, represents an established and familiar visual feature of the community.
- B.— Group of Properties:
 - 1.— The Revitalization Commission may recommend to the City Council that a group of properties be designated as an historic district if it:
 - a.— Contains several properties which meet one or more of the criteria for designation of a landmark; and
 - b.— By reason of possessing such qualities, it constitutes a district section of the City; and
 - c.— The majority of owner(s) of the properties concur with the designation.

~~2. The boundaries of each historic district designated henceforth shall be specified in detail and shall be filed, in writing, in the City Clerk's office for public inspection.~~

~~C. Notice of Proposed Designation: Notice of a proposed designation shall be sent by registered mail to the owner(s) of the property proposed for designation, either by the Commission or by the owner, describing the property proposed and announcing a public hearing by the Commission to consider the designation. Where the proposed designation involves so many owners that individual notice is infeasible, notice may instead be published at least once in a newspaper of general circulation at least fifteen (15) calendar days prior to the date of public hearing. Once the Commission has issued notice of a proposed designation, no building permits shall be issued by the City's Chief Building Official until the Commission has made its decision.~~

~~D. Public Hearing: The Commission shall hold a public hearing prior to designation of any landmark or historic district. The testimony or documentary evidence at the hearing will become part of a record regarding the historic, architectural, or cultural importance of the proposed landmark or historic district. The record may also contain staff reports, public comments or other evidence offered outside of the hearing.~~

~~E. Notify City Council and County Recorder: The Commission shall forward notice of each proposed property designated as a landmark and of the boundaries of each designated historic district to the City Council for final designation, and subsequently to the office of the Pinal County Recorder for recordation, as appropriate. (Ord. 21-908, 5-24-2021)~~

2-105.7: CERTIFICATE OF APPROPRIATENESS REQUIRED:

~~No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark, or property within a historic district, nor shall any person make any material change in the appearance of such a property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley which affect the appearance and cohesiveness of the historic landmark or historic district, without first obtaining a certificate of appropriateness from the Revitalization Commission.~~

2-105.8: CRITERIA FOR APPROVAL OF CERTIFICATE OF APPROPRIATENESS:

~~A. Principles for Consideration:~~

~~1. In passing upon an application for a certificate of appropriateness, the Revitalization Commission shall not consider changes to interior spaces, unless they are open to the public, or to architectural features that are not visible from a public street or alley.~~

~~2. The Commission's decision shall be based upon the following principles:~~

~~a. Properties, which contribute to the character of the historic district, shall be retained, with their historic features altered as little as possible;~~

~~b. Any alteration of existing historic landmark properties shall be compatible with its historic character. Any alteration of existing properties within a historic district shall be compatible with its historic character as well as with the surrounding district; and~~

- ~~c. New construction shall be compatible with the district in which it is located.~~
- ~~B. Compatibility Factors: In applying the principle of compatibility, the Commission shall consider the following factors:~~
 - ~~1. The general design character and appropriateness to the property of the proposed alteration or new construction.~~
 - ~~2. The scale of proposed alteration or new construction in relation to the property itself, surrounding properties and the neighborhood.~~
 - ~~3. Texture, materials, color and their relation to similar features of other properties in the neighborhood.~~
 - ~~4. Visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings with the facade, roof shape, and the rhythm of spacing of properties on streets, including setback.~~
 - ~~5. The importance of historic, architectural or other features to the significance of the property.~~
- ~~C. Guide to Rehabilitation Work: As a guide to rehabilitation work, the Commission shall utilize the latest published edition of the Secretary of the Interior's Standards for Rehabilitation.~~

2-105.9: CERTIFICATE OF APPROPRIATENESS APPLICATION PROCEDURE:

- ~~A. Contents of Application: Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such a certificate with the Revitalization Commission. The application shall contain:~~
 - ~~1. Name, address and telephone number of applicant.~~
 - ~~2. Location and photographs of property.~~
 - ~~3. Elevation drawings of proposed changes, if available.~~
 - ~~4. Perspective drawings, including relationship to adjacent properties, if available.~~
 - ~~5. Where the proposal includes signs with lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination and a plan showing the sign's location on the property.~~
 - ~~6. Any other information, which the Commission may deem necessary in order to visualize the proposed work.~~
- ~~B. Building Permit: No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the Revitalization Commission. The certificate of appropriateness required by this chapter shall be in addition to, and not in lieu of, any building permit that may be required by any other ordinance of the City.~~
- ~~C. Commission Action; Hearing: The Commission shall approve, deny or approve the permit with modifications/stipulations within twenty-one (21) calendar days from receipt of the completed application. The Community Development Director, at his/her discretion, may direct the~~

~~Commission to hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views.~~

- ~~D. Commission Decisions: All decisions of the Commission shall be in writing. A copy shall be transmitted to the applicant by registered mail and a copy filed with the City Clerk's office for public inspection. The Commission's decision shall state the reasons for denying or modifying any application.~~

2-105.10: ~~HARDSHIP CRITERIA:~~

- ~~A. Proposed Demolition: An applicant whose certificate of appropriateness for a proposed demolition has been denied may apply for relief on the grounds of hardship. In order to prove the existence of hardship, the applicant shall establish that:~~

- ~~—1. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;~~
- ~~—2. The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which could result in a reasonable return; and~~
- ~~—3. Efforts to find a purchaser interested in acquiring the property and preserving it have failed.~~

- ~~B. Proposed Alteration: An applicant whose certificate of appropriateness for a proposed alteration has been denied may apply for relief on the grounds of hardship. In order to prove the existence of hardship, the applicant shall establish that the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.~~

2-105.11: ~~HARDSHIP APPLICATION PROCEDURE:~~

- ~~A. Right to Commence Hardship Process: After receiving written notification from the Commission of the denial of a certificate of appropriateness, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Commission makes a finding that a hardship exists.~~
- ~~B. Hearing: The Commission may hold a public hearing on the hardship application at which an opportunity will be provided for proponents and opponents of the application to present their views.~~
- ~~C. Seeking Alternative: The applicant shall consult in good faith with the Commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.~~
- ~~D. Commission Decision: All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the City Clerk's office for public inspection. The Commission's decision shall state the reasons for granting or denying the hardship application.~~

2-105.12: ~~MAINTENANCE AND REPAIR REQUIRED:~~

- A. ~~Ordinary Maintenance and Repair Allowed: Nothing in this chapter shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district, which does not involve a change in design, material, color or outward appearance.~~
- B. ~~Deterioration of Exterior Architectural Features: No owner or person with an interest in real property designated as a landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Revitalization Commission, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself.~~
- C. ~~Examples of Deterioration: Examples of such deterioration include:~~
- ~~1. Deterioration of exterior walls or other vertical supports.~~
 - ~~2. Deterioration of roofs or other horizontal members.~~
 - ~~3. Deterioration of exterior chimneys.~~
 - ~~4. Deterioration or crumbling of exterior stucco or mortar.~~
 - ~~5. Ineffective waterproofing of exterior walls, roofs or foundation, including broken windows or doors.~~
 - ~~6. Deterioration of any feature so as to create a hazardous condition, which could lead to the claim that demolition, is necessary for the public safety.~~

2-105.13: VIOLATION; PENALTY:

- A. ~~Any person found guilty of violating any provision of this chapter shall be guilty of a misdemeanor and shall be punished in accordance with Section 1-8 of this Code.~~
- B. ~~Any person who demolishes, alters, constructs or permits a designated property to fall into a serious state of disrepair in violation of this chapter shall be required to restore the property and its site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the City Attorney. This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution and penalty.~~

2-105.14: APPEALS:

~~Any person aggrieved by a decision of the Revitalization Commission relating to hardship or a certificate of appropriateness may, within fifteen (15) calendar days of the decision, file a written application with the City Council for review of the decision.~~

2-105.15: FEES:

~~No fees required.~~

CITY OF ELOY

REQUEST FOR COUNCIL ACTION

Agenda Item: **V.B.**

Date: **6/3/2024**

Date submitted:
05/16/2024

Action: Other

**Subject: Planning and Zoning
Commission and Board of Adjustment
Responsibilities Zoning Text
Amendment**

Date requested:
6/3/2024

TO: Mayor and City Council

FROM: Dan Symer, Community Development Director

RECOMMENDATION:

Staff recommends that the City Council discuss and provide direction on the proposed Zoning Text Amendment.

DISCUSSION:

This is a discussion item for a potential Zoning Text Amendment to the City of Eloy Zoning Ordinance. The proposed amendment has three primary objectives. These objectives include:

1. Consolidation of responsibilities: Modify the City of Eloy Zoning Ordinance, Chapter 21, to consolidate the duties and responsibilities of the Airport Advisory Board, Board of Adjustment, and Revitalization Commission within the purview of the Planning and Zoning Commission. Remove all references to the Revitalization Commission from the chapter.
2. Align and simplify: Align and remove conflicts and redundant provisions between Chapter 2, Article IV: Commissions, Boards, and Bureaus, and City of Eloy Zoning Ordinance, Chapter 21.
3. Incorporate process for reasonable accommodation: Incorporate a methodology for the Board of Adjustment to hear and decide on requests for modifications to the Zoning Ordinance provisions to provide accommodations for persons with disabilities pursuant to federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. §41-1491 et seq.).

Furthermore:

- Allow the Board of Adjustment to impose reasonable conditions in a decision to approve a variance and reasonable accommodation.
- Enable the Board of Adjustment to hear and decide on appeals alleging errors in orders, requirements, or decisions made by the Zoning Administrator in the

enforcement of the subdivision ordinance (Chapter 15 Subdivisions) of the Eloy Code.

This proposed amendment to the Zoning Ordinance is necessary to align and remove redundancies and conflicts between Chapter 2, Article IV: Commissions, and Chapter 21 Zoning. It complements a separate amendment to the Eloy Code's Chapter 2, Article IV: Commissions, to consolidate the duties and responsibilities of the Airport Advisory Board, Board of Adjustment, and Revitalization Commission within the purview of the Planning and Zoning Commission.

For reference purposes, the recommended revised scope and purpose of the Planning and Zoning Commission is to act as an advisory board to the City Council on various matters including airport and airpark planning and development, architectural and site plan guidelines, code enforcement, public and private development review, downtown improvements, historic preservation, infrastructure guidelines, land use, redevelopment, public art, and zoning matters. This scope includes the duties of the Board of Adjustment and other matters assigned by the City Council within the realm of planning and zoning powers available to cities in Arizona.

Regardless of whether the City Council chooses to initiate the consolidation of the duties and responsibilities of the aforementioned boards/commissions into the purview of the Planning and Zoning Commission, modifications to Chapter 2, Article IV: Commissions, Boards, and Bureaus, and Chapter 21 Zoning are still necessary to remove redundancies and conflicts within the Eloy Code.

Additionally, new duties and responsibilities are proposed to be added to the Board of Adjustment. In accordance with both Arizona and Federal Fair Housing Acts, methods to request reasonable accommodations for dwellings are necessary. The U.S. Housing and Urban Development Department generally describes a reasonable accommodation as "a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with disabilities to have an equal opportunity to use and enjoy a dwelling." Currently, the Zoning Ordinance does not contain provisions to allow for reasonable accommodation requests; furthermore, Section §9-462.04 of the Arizona Revised Statutes requires that any modification to a property development standard of ten (10) percent or greater requires a public hearing.

The proposed modifications would enable individuals with disabilities to submit requests for reasonable accommodations that would modify the property development standards of the Zoning Ordinance for a lot or parcel. In addition, the revised provisions would empower the Board of Adjustment to hear and decide on these requests for reasonable accommodations. Furthermore, the proposed modifications would allow the Board of Adjustment to impose reasonable conditions in a decision to approve a variance and reasonable accommodation.

Another recommended modification involves allowing the Board of Adjustment to hear

and decide appeals concerning the Zoning Administrator's interpretation and enforcement of Chapter 15 Subdivisions. Currently, the Subdivision and Zoning Ordinances lack a mechanism for property owners, developers, and applicants to have the Zoning Administrator's decisions reviewed, other than through an action in the Superior Court. Therefore, the proposed modification would authorize the Board of Adjustment to review such appeals. Additionally, the modification includes provisions to "stay" all proceedings related to any appeal of the Zoning Administrator's decision, enforcement, interpretation, or order until the final decision on the appeal has been rendered.

FISCAL IMPACT:

The consolidation of the responsibilities of the board and commission to be within the purview of the Planning and Zoning Commission has the potential to reduce the need for staff and publication and posting costs.

Approved as to Form:

A handwritten signature in blue ink, appearing to read "Stephen R. Cooper", is written over a solid black horizontal line.

Stephen R. Cooper, City Attorney

Modification to Chapter 21 Zoning of the Eloy Code

How to read this document.

- *Sections and italic text are instructions* to the City Clerk and the City's codifier for amending the Eloy Code.
- Double Underlined blue text are additions to the Eloy Code.
- ~~Crossed-out red text are deletions~~ to the Eloy Code.
- Table format modifications are implemented as shown in the revised table.

Section 1.: Amend Chapter 21 Zoning, Article V. Administration, Section 21-5-3 Planning and Zoning Commission; subsections, et al therein, as follows:

21-5-3: PLANNING AND ZONING COMMISSION:

~~See City Code Chapter 2, Article IV, Sections 2-69 through 2-79.~~

A. The Planning and Zoning Commission and its' construct and authority are established in accordance with provisions of Chapter 2 Administration, Article IV. Commissions, Boards and Bureaus, Division 1. Planning and Zoning Commission of the Eloy Code.

21-5-3.1: POWERS AND DUTIES:

A. The Planning and Zoning Commission shall have the following powers and duties set forth in Chapter 2 Administration, Article IV. Commissions, Boards and Bureaus, Division 1. Planning and Zoning Commission, Division 2. Board of Adjustment, and as follows:

- ~~A.~~ 1. Initiate, conduct hearings, and make recommendations to the City Council on a proposed adoption or amendments amendment to the General Plan ~~map and text~~, pursuant to section 21-6-4 of this chapter;
- ~~B.~~ 2. Initiate, conduct hearings, and make recommendations to the City Council on a proposed ~~amendments to the~~ Zoning Map Amendment and ~~to the text~~ Zoning Ordinance Text Amendment to of this chapter, pursuant to sections 21-6-5 and 21-6-6 of this chapter;
- ~~C.~~ 3. Initiate, conduct hearings, and make recommendations to the City Council on a proposed adoption or amendments amendment to a specific plans or specific area plans Specific Plan, pursuant to sections 21-6-4 and 21-6-6 of this chapter;
- ~~D.~~ 4. Initiate, conduct hearings, and make recommendations to the City Council on a proposed ~~conditional use permits~~ Conditional Use Permits, pursuant to section 21-6-7 of this chapter;

- ~~E.~~ 5. Initiate, conduct hearings, and make recommendations to the City Council on proposed ~~modifications~~ modifications, including revocations, to approved ~~conditional use permits~~ Conditional Use Permits;
- ~~F.~~ 6. Initiate, conduct hearings, and make recommendations to the City Council on proposed preliminary plats, pursuant to chapter 15, "Subdivisions", of ~~this~~ the Eloy Code;
- ~~G.~~ 7. Initiate, conduct hearings, and ~~make recommendations to the City Council on proposed final plats, pursuant to chapter 15, "Subdivisions", of this Code~~ approve, approve with conditions, or deny an application for a Certificate of Appropriateness or Certificate of Economic Hardship, pursuant to section 21-6-13 of this chapter;
- ~~H.~~ 8. Conduct hearings ~~Hear~~ and decide ~~site-plan-review~~ Site Plan Application decisions, including imposing reasonable Condition(s)-of-Approval on an application ~~decisions~~ brought forth by the Community Development Director due to special circumstances of the application, pursuant to section 21-6-11 of this chapter;
- 9. Conduct hearings and decide on appeals of the Community Development Director's, or his/her designee's, decision, or Condition(s)-of-Approval for a Certificate of No Effect or a Site Plan Application brought forth by the property owner, or their authorized agent, pursuant to section 21-6-13 of this chapter;
- ~~I.~~ 10. On an annual ~~basis~~ basis, review and make recommendations to the Mayor and City Council concerning the General Plan as well as plans for the development of any land outside the City's planning area, which in the opinion of the commission, is substantially related to the planning of the City;
- ~~J.~~ 11. To conduct a public meeting as the required "~~citizen-review~~ Citizen Review" session prior to a public hearing on any application for ~~a~~ the adoption or amendment of the General Plan, rezoning of property, adoption or amendment of a ~~specific plan~~ Specific Plan, ~~or~~ a Zoning Ordinance ~~text~~ Text Amendment, and/or ~~map amendment~~ a Zoning Map Amendment initiated by the City. ~~The purpose of the citizen review process is to provide an opportunity for citizen involvement and public awareness~~;
- ~~K.~~ 12. To confer and advise with other City, County, regional, or State planning agencies, boards and commissions;
- ~~L.~~ 13. Exercise such other powers and perform such other duties as are provided by law and directed by the City Council.

~~21-5-3.2: MEMBERSHIP:~~

~~See city Code Chapter 2-70.~~

~~21-5-3.3: TERM OF OFFICE:~~

~~See city Code Chapter 2-70.~~

~~21-5-3.4: NONATTENDANCE:~~

~~See city Code Chapter 2-70.~~

~~21-5-3.5: REMOVAL:~~

See city Code Chapter 2-70.

21-5-3.6: PLANNING AND ZONING COMMISSION ORGANIZATION:

~~—A.— The Planning and Zoning Commission shall consist of five (5) members, two (2) alternate members and one ex officio non-voting City Council member. Alternate members shall only take part in those hearings where a regular member is absent and when appointed to do so by the chair. There shall never be more than five (5) members at any one time participating in a hearing of the Planning and Zoning Commission.~~

~~—B.— Officers: The Planning and Zoning Commission shall elect a Chairperson and Vice Chairperson from among its own members at its first meeting in January each year. The Chairperson shall preside at all meetings and shall take such actions as necessary to preserve order and the integrity of all proceedings before the Planning and Zoning Commission. The Vice Chairperson shall perform the duties of the Chairperson in the latter's absence or disability.~~

~~—C.— Meetings: Meetings of the Planning and Zoning Commission shall be open to the public. Public input shall be permitted in public meetings on matters before the commission. The minutes of the proceedings, showing the vote of each member and records of its examinations and other official actions, shall be kept and filed with the Office of the City Clerk as a public record.~~

~~—D.— Quorum: Three (3) members of the Planning and Zoning Commission shall constitute a quorum for the transaction of business. No matter may be considered by the commission unless there are three (3) or more members present who are eligible/qualified to vote on the matter. The affirmative vote of at least the majority of the quorum present and voting shall be required to pass a motion. If a member has been present for the entire presentation of an issue that member may abstain from voting only because they have a conflict of interest. If a member has a conflict of interest, he/she shall declare said conflict of interest prior to the presentation and/or shall abstain from all discussion and deliberation on the matter in question. One or more members of the Planning and Zoning Commission may attend by telephonic means.~~

~~—E.— Rules And Regulations: The Planning and Zoning Commission shall follow "Robert's Rules of Order" for the conduct of its meetings in the event of a procedural dispute. The Planning and Zoning Commission may make and publish bylaws to govern its proceedings and to provide for its meetings. The bylaws are to be reviewed by the City Attorney and approved by the City Council.~~

Section 2.: Amend Chapter 21 Zoning, Article V. Administration, 21-5-4: Board of Adjustment, subsections, et al. therein, as follows:

21-5-4: BOARD OF ADJUSTMENT:

~~See City Code Chapter 2, Article IV, Sections 2-80 through 2-88.~~

A. The Board of Adjustment and its' construct and authority are established in accordance with provisions of Chapter 2 Administration, Article IV. Commissions, Boards and Bureaus, Division 2. Board of Adjustment of the Eloy Code.

21-5-4.1: POWERS AND DUTIES:

A. The Board of Adjustment shall have the following powers and duties set forth in Chapter 2 Administration, Article IV. Commissions, Boards and Bureaus, Division 2. Board of Adjustment, and as follows:

~~In addition to any authority granted to the Board of Adjustment by Arizona State law, the Board shall have the following powers and duties:~~

- ~~A. 1.~~ 1. Appeal ~~Of~~ of Zoning Administrator Decision: To hear and decide appeals in which it is alleged that there is an error in an order, requirement or decision made by the Zoning Administrator in the enforcement of this chapter and Chapter 15 Subdivisions. This power shall include the power to reverse, affirm, or modify, wholly or partly, any order, requirement or decision of the Zoning Administrator properly appealed to the Board, and make such order, requirement, decision or determination as is necessary.
- a. An appeal shall stay all proceedings in the matter appealed from, unless the person from whom the appeal is taken certifies in writing to the Board that the stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed, except by a restraining order granted by the Board or by a court of record on application and notice to the person from whom the appeal is taken. The Board shall fix a reasonable time for hearing the appeal and give notice thereof.
- ~~B. 2.~~ 2. Request ~~For~~ for Variances: To hear and decide requests for variances from the terms of this chapter. The Board of Adjustment may impose reasonable conditions in a decision to approve a variance. ~~chapter, only if, because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of this chapter will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. Any variance granted is subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the same zoning district in which such property is located.~~
- ~~C. —~~ a. Justification ~~For~~ for Variance: A variance from the terms of this chapter may only be granted upon the presentation of evidence demonstrating that the specific requirements established by State Statutes have been satisfied:
- ~~1. i.~~ i. There exist special circumstances or conditions regarding the land or building for which the variance or adjustment is sought, which do not apply generally to other land or buildings in the same zoning district; and
 - ~~2. ii.~~ ii. The above special circumstances or conditions are preexisting and are not created or self-imposed; and
 - ~~3. iii.~~ iii. The variance is necessary for the preservation of substantial property rights. Without a variance, the property cannot be used for purposes otherwise allowed in

the same zoning district and the variance or adjustment, as granted, is the minimum adjustment that will accomplish this purpose; and

- ~~4.~~ iv. The granting of the adjustment will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, or to the neighborhood or the public welfare.

~~D.~~ b. Prohibited Actions: The Board of Adjustment may not:

- ~~1.~~ i. Make any changes in the uses ~~permitted~~ allowed in any zoning classification or zoning district; or
- ~~2.~~ ii. Make any changes in the terms of this chapter, provided the restrictions in this paragraph shall not affect the authority to grant variances pursuant to State Statutes.

3. Reasonable Accommodation for a Disability.

a. A Reasonable accommodation from a development standard of this Chapter for a disability shall not be authorized unless the Board shall find upon sufficient evidence all of the following:

- i. The requested accommodation has been made by or on behalf of one (1) or more individuals with a disability protected under federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.);
- ii. The requested accommodation is necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling;
- iii. The standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the City of Eloy;
- iv. The requested accommodation does not fundamentally alter the nature and purpose of the City of Eloy Zoning Ordinance of the City of Eloy;
- v. The requested accommodation will not impose an undue financial or administrative burden on the City, as "undue financial or administrative burden" is defined in federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.) interpretive case law;
- vi. The profitability or financial hardship of the owner/service provider of a facility shall not be considered in determining whether to grant a reasonable accommodation for a disability;
- vii. The requested accommodation shall not, under the specific facts of the application, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others; and
- viii. The requested accommodation shall comply with all applicable building and fire codes.

b. The Board of Adjustment may impose reasonable conditions in a decision to approve a reasonable accommodation for a disability.

~~E.—Membership: See City Code Chapter 2-81.~~

~~F.—Term Of Office: See City Code Chapter 2-81.~~

~~G.—Nonattendance: See City Code Chapter 2-81.~~

~~H.—Removal: See City Code Chapter 2-81.~~

~~I.—Organization Of Board Of Adjustment:~~

- ~~1.—Chairpersons: The Board shall elect a Chairperson and a Vice Chairperson from the members of the Board at the first meeting held in each calendar year. The Chairperson shall preside at all meetings, administer oaths and take evidence. The Vice Chairperson shall perform the duties of the Chairperson in the latter's absence or disability.~~
- ~~2.—Meetings: Meetings of the Board of Adjustment will be called as needed by the Chair of the Board. Meetings of the Board shall be open to the public, and public input shall be taken at the discretion of the Chairman. The minutes of the proceedings, showing the votes of each member and records of its examinations and other official actions, shall be kept and filed with the City Manager, City Council, and with the Office of the City Clerk as a public record.~~
- ~~3.—Quorum: Three (3) members of the Board shall constitute a quorum for the transaction of business. No matter may be considered by the Board unless there are three (3) or more members present who are eligible/qualified to vote on the matter. The affirmative vote of at least the majority of the quorum present and voting shall be required to pass a motion. If a member has been present for the entire presentation of an issue that member may abstain from voting only because they have a conflict of interest. If a member has a conflict of interest he/she shall declare said conflict of interest prior to the presentation and shall abstain from all discussion and deliberation on the matter in question. One or more members of the Board of Adjustment may attend by telephonic means.~~
- ~~4.—Rules And Regulations: The Board shall follow "Robert's Rules of Order" for the conduct of its meetings in the event of a procedural dispute. The Board may make and publish bylaws to govern its proceedings and to provide for its meetings. The bylaws are to be reviewed by the City Attorney and approved by the City Council.~~

21-5-4.2: APPEALS OF A BOARD OF ADJUSTMENT DECISION

~~J. A. Appeals Of Board Of Adjustment Decision: A person aggrieved by a decision of the Board of Adjustment or an officer or department of the City of Eloy affected by a decision of the Board may, at any time within thirty (30) days after the Board has rendered its decision, file a complaint for special action in Superior Court to review the Board's decision.~~

- ~~1. An appeal shall stay all proceedings in the matter appealed from unless the person from whom the appeal is taken obtains relief from the Superior Court, which it has upon finding that such a stay would cause imminent peril to life or property. If relief is provided, the proceedings shall not be stayed, unless by a restraining order granted by the Arizona Appellate Court of record.~~

Section 3.: Amend Chapter 21 Zoning, Article V. Administration, 21-5-7: Revitalization Commission, to delete the section, subsection, et al., as follows:

21-5-7: REVITALIZATION COMMISSION:

There is hereby established a City of Eloy Revitalization Commission that is intended to strengthen Eloy as a social, cultural and economic center of Pinal County. See City Code Chapter 2, Article IV, Sections 2-105 through 2-105.5.

21-5-7.1: POWERS AND DUTIES:

The Downtown Advisory Commission shall have the following powers and duties:

~~—A.— Input And Guidance: Providing input and guidance to City staff, Planning and Zoning Commission and City Council on matters that pertain and are specific to downtown Eloy. These may include, but not be limited to; the Main Street and Frontier Street Facade Improvement Program, landscape designs in the rights-of-way, public artwork, infrastructure needs, parking options/requirements, architectural standards/designs, special projects, special events/festivals and community gatherings, design and construction of public improvements and/or buildings, and adopt-a-street campaigns.~~

~~—B.— Input From Community: Soliciting, accepting and reporting input from the community to the City Council.~~

~~—C.— Funding And Budgets: Funding and budgets for special projects conducted by the City or other government or utility agency in the Downtown Core, including any infrastructure earmarked in the Eloy Capital Improvement Program.~~

~~—D.— Revisions: Reviewing, interpreting and modifying revisions to the downtown streetscape standards.~~

~~—E.— Membership: See City Code Chapter 2-105.1~~

~~—F.— Term Of Office: See City Code Chapter 2-105.1~~

~~—G.— Nonattendance: See City Code Chapter 2-105.1~~

~~—H.— Removal: See City Code Chapter 2-105.1~~

~~—I.— Organization Of The Downtown Advisory Commission:~~

~~—1.— Chairpersons: The commission shall elect a Chairperson and a Vice Chairperson from the members of the commission at the first meeting held in each calendar year. The Chairperson shall preside at all meetings, administer oaths and take evidence. The Vice Chairperson shall perform the duties of the Chairperson in the latter's absence or disability.~~

~~—2.— Meetings: Meetings of the Downtown Advisory Commission will be held on the second Wednesday of each month and shall be open to the public, and public input shall be taken at the discretion of the Chairman. The minutes of the proceedings, showing the votes of each member and records of it examinations and other official actions, shall be kept and filed with the City Manager, City Council, and with the Office of the City Clerk as a public record.~~

~~—3.— Quorum: Five (5) members of the commission shall constitute a quorum for the transaction of business. No matter may be considered by the commission unless there are five (5) or more members present who are eligible/qualified to vote on the matter. The affirmative vote of at least the majority of the quorum present and voting shall be required to pass a motion. If a member has been present for the entire presentation of an issue that member may abstain from voting only because they have a conflict of interest. If a member has a conflict of interest he/she shall declare said conflict of interest prior to the presentation and shall abstain from all discussion and deliberation on the matter in question.~~

~~—4.— Rules And Regulations: The Downtown Advisory Commission shall follow "Robert's Rules of Order" for the conduct of its meetings in the event of a procedural dispute. The commission may make and publish bylaws to govern its proceedings and to provide for its meetings. The bylaws are to be reviewed by the City Attorney and approved by the City Council.~~

CITY OF ELOY

REQUEST FOR COUNCIL ACTION

Agenda Item: **V.C.**

Date: **6/3/2024**

Date submitted:
05/16/2024

Action: Other

Subject: Historic Preservation Overlay
Zoning Text Amendment

Date requested:
6/3/2024

TO: Mayor and City Council

FROM: Dan Symer, Community Development Director

RECOMMENDATION:

Staff recommends that the City Council discuss and provide direction on the proposed Zoning Text Amendment.

DISCUSSION:

This is a discussion item for a potential Zoning Text Amendment to the City of Eloy Zoning Ordinance. The proposed amendment is to create a new overlay zone called the Historic Preservation Overlay (HP). The purpose of this overlay zone is to implement the General Plan through the recognition, preservation, and enhancement of landscape features, objects, structures, and sites that represent distinctive events, and cultural, political, architectural, and archaeological elements (hereafter "Resources") that have historic and heritage significance within the Eloy. Furthermore, the HP zone is intended to encourage the economic reuse of resources when appropriate, to promote cultural awareness through the recognition and preservation of the Resources, and to provide for the education and general welfare of the public.

Many of the existing historic preservation provisions are located in Eloy Code's Chapter 2, Article IV: Commissions, Board and Bureaus under the Revitalization Commission duties. Upon review of the provisions, it was found that the existing regulations need to be updated. Some of the recommend updates include:

- Providing a clear method for property owners to obtain a Landmark or Historic District designation;
- Aligning the regulations with the provisions, guidelines, and publications of the Arizona State Historic Preservation Office and U.S. Department of the Interior's National Park Service's National Register Criteria for Evaluation;
- Incorporate regulations to accommodate zoning provisions that may be necessary to ensure the property is able to maintain compliance with the Zoning Ordinance property development standards and to allow uses that are vital to the Landmark's preservation; and

- A method to identify and track properties that have received a Landmark or Historic District designation.

In accordance with the enabling zoning provisions of Section §9.462.01 of the Arizona Revised Statutes that address historic preservation zoning, the proposed Historic Preservation Overlay (HP) would be created with updated regulations that are consistent with the State and National guidelines and criteria. Furthermore, the method to apply for designation would be incorporated, and would follow the existing rezoning process. In addition, the application process for designation, modifications, and economic hardship determinations would be incorporated in the zoning procedures section of the Zoning Ordinance that houses the process for all other applications. Also, provisions would be incorporated into the Historic Preservation Overlay (HP) to allow for modification to the land use and property development standards to assist in zoning compliance and preservation. The overlay also allows staff and the public to track Landmarks and Historic Districts since they will be mapped on the Zoning map.

It should be noted that this proposed amendment to the Zoning Ordinance is also necessary to align and remove redundancies and conflicts between Chapter 2, Article IV: Commissions, and Chapter 21 Zoning. Also, it complements a separate amendment to the Eloy Code's Chapter 2, Article IV: Commissions, to consolidate the duties and responsibilities of the Airport Advisory Board, Board of Adjustment, and Revitalization Commission within the purview of the Planning and Zoning Commission.

FISCAL IMPACT:

There are no anticipated fiscal impacts.

Approved as to Form:



Stephen R. Cooper, City Attorney

Modification to Chapter 21 Zoning of the Eloy Code

How to read this document.

- *Sections and italic text are instructions* to the City Clerk and the City's codifier for amending the Eloy Code.
- Double Underlined blue text are additions to the Eloy Code.
- ~~Crossed-out red text are deletions~~ to the Eloy Code.
- Table format modifications are implemented as shown in the revised table, including shading of cells.

Section 1.: Amend Chapter 21 Zoning, Article II. ZONING DISTRICTS, Section 21-2-1.1: ZONING DISTRICTS ESTABLISHED; including modifications to the table format and shading, as follows:

21-2-1.1: ZONING DISTRICTS ESTABLISHED:

All lands located within the incorporated limits of the City of Eloy are hereby zoned and organized into a coordinated set of Residential and Non-Residential Zoning Districts and Overlay Districts. These districts are established to implement the goals, objectives and policies of the Eloy General Plan and to conserve and promote the public health, safety and general welfare. Residential Zoning Districts are primarily intended to create, maintain and promote a variety of neighborhoods that allow a range of compatible densities to accommodate the desired physical character of the City. Nonresidential Districts uses are also allowed to improve the overall quality of life by providing a convenience of services and goods for Eloy residents and provide public facilities necessary to create a healthy and safe environment in which to live. Overlay Districts are intended to address specific unique land use and development regulation situations and alternative.

~~—TABLE 2.1-1~~

~~ZONING DISTRICTS ESTABLISHED~~

<u>TABLE 21-2-1.1: ZONING DISTRICTS ESTABLISHED</u>		
Abbreviation	Zoning District	Previous Zoning
Residential Districts:		
(RR-20)	Rural Residential; minimum 20 acres per du	Rural Residential
(RR-5)	Rural Residential; minimum 5 acres per du	Rural Residential
(RR-2.5)	Rural Residential; minimum 2.5 acres per du	New

(R1-54)	Estate Residential; minimum 54,450 sq. ft. per du	New
(R1-43)	Estate Residential; minimum 43,560 sq. ft. per du	Estate Residential
(R1-12)	Single-Family Residential; minimum 12,000 sq. ft. per du	Low Density Residential
(R1-6)	Single-Family Residential; minimum 6,000 sq. ft. per du	Medium Density Residential
(R-2)	Small Lot Residential; 6 - 10 dus per acre	Medium High Density Residential
(R-3)	Multiple-Family Residential; 10 - 24 dus per acre	High Density Residential
Commercial and Mixed- Use Districts:		
(C-1)	Neighborhood Commercial District	Neighborhood Commercial
(C-2)	General Commercial District	Community Commercial
(MU)	Mixed-Use	New
Business and Industrial Districts:		
(BP)	Business Park	New
(I-1)	Light Industrial	Light Industrial
(I-2)	General Industrial	General Industrial
Open Space Districts:		
(OSC)	Open Space Conservation District	Open Space Conservation
(OSR)	Open Space Recreation District	Open Space Recreation
Overlay Zoning Districts:		
(PAD)	Planned Area Development Overlay	Planned Area Development
(MHS)	Manufactured Home Overlay Subdivision	Manufactured Home
(MHP)	Manufactured Home Park	Manufactured Home
(RVP)	Recreational Vehicle Park	New
(AO)	Aviation Overlay	Airport
(DCO)	Downtown Core Overlay	Community Core
(PF)	Public Facilities District	New
(HP)	Historic Preservation Overlay	New

Section 2.: Amend Chapter 21 Zoning, Article II. Zoning Districts, Section 21-2-7.1: PLANNED AREA DEVELOPMENT (PAD);, as follows:

21-2-7.1: PLANNED AREA DEVELOPMENT [OVERLAY](#) (PAD):

Section 3.: Amend Chapter 21 Zoning, Article II. Zoning Districts, to add Sections 21-2-7.23 through 21-2-7.36 and subsection therein in numerical order, as follows:

21-2-7.23: HISTORIC PRESERVATION OVERLAY (HP):

21-2-7.24: GENERAL PURPOSE:

A. The purpose of the Historic Preservation Overlay (HP) zone is to assist in implementing the General Plan through for the recognition, preservation, and enhancement of landscape features, objects, structures, and sites that represent distinctive events, and elements of cultural, political, architectural, and archaeological significance (hereafter "Resources") that have historic and heritage significance within the City. Furthermore, HP zone is intended to encourage economic reuse of resources when appropriate, and to promote cultural awareness through the recognition and preservation of the Resources, and provide for the education and general welfare of the public.

21-2-7.25: CRITERIA TO REZONE TO THE HISTORIC PRESERVATION OVERLAY (HP):

A. In addition to the Issues for Consideration criteria for a Zoning Map Amendment of Article VI of this Chapter, to be eligible to be zoned with the Historic Preservation Overlay:

1. The City Council shall first find that the property(ies) identified in the application meets the criteria to be designated a Landmark or Historic District as specified in this Chapter; and
2. The Resources on the property occurred at least fifty (50) years ago; younger properties may be eligible when a significant event or improvement has occurred on the property that complies with the National Register Criteria for Evaluation.

21-2-7.26: CRITERIA FOR LANDMARKS OR HISTORIC DISTRICTS:

A. Landmarks.

1. The City Council may designate a Resource(s) as a Landmark that complies with the following criteria:
 - a. The Resource possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation;
 - b. The Resource is identified with historic personages or events;
 - c. The Resource embodies the distinguishing characteristics of an architectural style;
 - d. The Resource is the work of a designer whose work has significantly influenced an age; or
 - e. Because of a Resources unique location or singular physical characteristic, represents an established and familiar visual feature of the community.

B. Historic District.

1. The City Council may designate several properties as a Historic District that complies with the following criteria:
 - a. Contains several properties which meet one or more of the criteria for designation of a landmark;
 - b. By reason of possessing such qualities, it constitutes a district section of the City; and
 - c. The majority of owner(s) of the properties concur with the designation.

21-2-7.27: NOTIFICATION REQUIREMENTS FOR CITY INITIATED APPLICATIONS

- A. The Community Development Director shall notify the property owner(s) by registered mail of an application initiated by the City Council, Planning and Zoning Commission, or the Zoning Administrator within 15 days of the application submittal to zone the property with the HP overlay.

21-2-7.28: STAY OF BUILDING PERMITS

- A. The Building Official shall not issue any building permits, and no construction or demolition activity shall occur unless allowed by the Building Official for emergency purposes, that the City Council or Planning and Zoning Commission has initiated an application, or that application has been submitted to rezone the property to the HP overlay. The stay of the building permit and construction or demolition activity shall remain in place until the City Council has made a decision on the application, the application has been withdrawn, or one (1) year has passed since the City Council or Planning and Zoning Commission initiated the application.
- B. By a majority vote of those present, the City Council may extend the stay of the building permits, and construction and demolition activity on the property of an application for a period not to exceed four (4) months from the stay's expiration date. The stay of the building permits, and construction and demolition activity for an application on a property may be extended no more than twice.

21-2-7.29: USE STANDARDS

- A. The applicable underlying zoning district's use regulations shall apply to the HP Overlay, except that the City Council may approve additional land uses included as part of the Landmark's Historic Preservation Plan. To approve additional land uses, the City Council shall find that the proposed land use(s) are necessary to:
 1. Maintain the integrity of the Landmark's purpose for which it received its designation;
 2. Maintain the economic vitality of the Landmark; and
 3. Promote the general welfare of the public.
- B. The City Council may impose requirements on additional land uses.

21-2-7.30: DEVELOPMENT STANDARDS AND MODIFICATIONS

- A. The applicable underlying zoning district's development standards shall apply to the HP Overlay, except that the City Council may approve modifications to the development standards as part of the Landmark's or Historic District's Preservation Plan. To approve modifications to the development standards, the City Council shall find that the proposed modifications are necessary to:
1. Maintain the integrity of the Landmark on the property for which it received its designation;
 2. Maintain the integrity of the properties of the Historic District for which it received its designation;
 3. Maintain the economic vitality of the Landmark or Historic District; and
 4. Allow the Landmark or Historic District to maintain conformance with the Historic Preservation Plan.
- B. If there is a conflict between the development standards of the Historic Preservation Plan and the development standards of the underlying district, the development standards of the Preservation Plan shall control.

21-2-7.31: HISTORIC PRESERVATION PLAN

- A. All Zoning Map Amendment applications to zone property with the HP Overlay zone shall include a Historic Preservation Plan that is to be approved by the City Council as part of the application to zone property to the HP Overlay. The Historic Preservation Plan is to include a comprehensive set of documents for the proposed Landmark or Historic District that involves compiling information about the Resource(s), which may include information about the archaeological assets, building(s), historical events, improvement, sites, structures, etc. The Historic Preservation Plan typically includes such information as Historic Structure Reports, Conditions Assessment Reports, archaeological surveys, and technical analyses. Furthermore, the Plan is essential for addressing present conditions, providing an action plan for the future use and preservation of the Resource(s) and implementing plan recommendations. All Historic Preservation Plan shall include a set of guidelines for additions, modifications, repairs, rehabilitation, and restoration of the resource. In addition, the Historic Preservation Plan shall include modifications to the land use and development standards that are necessary to maintain and preserve the integrity and economic vitality of the Resource(s). For additional information and submittal requirements, refer to the Historic Preservation Plan Submittal Guide and Zoning Map Amendment Application checklist available from the Community Development Department.
- B. Modification to a Historic Preservation Plan. A modification to the land use, development standards, and design standards of a Historic Preservation Plan shall be processed with a Zoning Map Amendment and receive the approval of the City Council.

21-2-7.32: RECORDATION OF ORDINANCE

- A. The City Clerk shall cause the Ordinance adopted by the City Council to rezone the property with HP Overlay to be recorded in the Office of the Pinal County Recorder. The Ordinance shall include a map of the boundaries of the HP overlay.

21-2-7.33: CERTIFICATE OF APPROPRIATENESS OR CERTIFICATE OF NO EFFECT, WHEN REQUIRED:

- A. Ordinary maintenance or repair of any structure or site improvement zoned with the HP Overlay that does not alter or modify the historic character of the structure or property does not require the approval Certificate of No Effect or a Certificate of Appropriateness.
- B. No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction, move of a Landmark or structures in a Historic District, or make modifications any material change to the appearance of property, including its light fixtures, signs, sidewalks, fences, steps, paving, roof, or other exterior elements visible from a public street or alley which affect the appearance and cohesiveness of the Landmark or Historic District, without first obtaining a Certificate of No Effect from the Community Development Director or Certificate of Appropriateness from the Planning and Zoning Commission.
- C. An application for a Certificate of Appropriateness or Certificate of No Effect shall be submitted and decided upon in accordance with the provisions and procedures of Article VI. Zoning Procedures of this Chapter.

21-2-7.34: CERTIFICATE FOR ECONOMIC HARDSHIP:

- A. A property owner may submit a Certificate of Economic Hardship when:
 - 1. Certificate of Appropriateness for a proposed alteration has been denied.
 - 2. The Landmark or contributing property in a Historic District is damaged or destroyed by fire, flood, or similar abnormal and identifiable event.
- B. An application for a Certificate for Economic Hardship shall be submitted and decided upon in accordance with the provisions and procedures of Article VI. Zoning Procedures of this Chapter.

21-2-7.35: MAINTENANCE AND REPAIR REQUIRED:

- A. Maintenance and upkeep of Resources and properties of a Historic District is required.
- B. Nothing in this chapter shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a Landmark or property within a Historic District, which does not involve a change in design, material, color or outward appearance.
- C. No owner or person with an interest in real property designated as a Landmark or included within a Historic District shall allow the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Planning and

Zoning Commission, produce a detrimental effect upon the character of the Landmark or Historic District as a whole or the life and character of the property itself.

C. Examples of such deterioration include:

1. Deterioration of exterior walls or other vertical supports.
2. Deterioration of roofs or other horizontal members.
3. Deterioration of exterior chimneys.
4. Deterioration or crumbling of exterior stucco or mortar.
5. Ineffective waterproofing of exterior walls, roofs or foundation, including broken windows or doors.
6. Deterioration of any feature so as to create a hazardous condition, which could lead to the claim that demolition, is necessary for the public safety.

21-2-7.36: FEES:

- A. There shall be no fees for a Zoning Map Amendment application to zone property to the HP Overlay, a Certificate of No Effect, a Certificate of Appropriateness, or a Certificate for Economic Hardship.

21-2-7.36: VIOLATION; PENALTY:

- A. Any person found guilty of violating any provision of this chapter shall be guilty of a misdemeanor and shall be punished in accordance with Section 1-8 of the Eloy Code.
- B. Any person who demolishes, alters, constructs, or permits a designated property to fall into a serious state of disrepair in violation of this chapter shall be required to restore the property and its site to their appearance prior to the violation. The City Attorney shall bring any action to enforce HP Overlay. This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution and penalty.

Section 4.: Amend Chapter 21 Zoning, Article VI. ZONING PROCEDURES, to add Section 21-6-13 HISTORIC PRESERVATION, and subsections therein in numerical order, as follows:

21-6-13: HISTORIC PRESERVATION:

21-6-13.1: PURPOSE:

- A. The purpose of this section 21-6-13 is to provide procedures for the review of a Certificate of No Effect, Certificate of Appropriateness, and Certificate for Economic Hardship for property zoned with the Historic Preservation Overlay.

21-6-13.1: APPLICATION PROCESS:

(insert process flow chart)

- A. Pre-Application Conference: Prior to the submission of an application for Certificate of No Effect, Certificate of Appropriateness, or Certificate for Economic Hardship, all applicants are required to schedule a meeting with the Zoning Administrator, as set forth in section 21-6-2.1, "Pre-Application Meeting", of this article.
- B. Application Submittal: A complete application for Certificate of No Effect, Certificate of Appropriateness, and Certificate for Economic Hardship approval shall be submitted to the Zoning Administrator as required by Section 21-6-2.2 Application Submittal (Administrative Completeness Review) of this Article, and Section 21-6-13.2 Required Application Information.

21-6-13.2: REQUIRED APPLICATION INFORMATION

- A. Application Information for a Certificate of No Effect, Certificate of Appropriateness, Certificate of Hardship:
 - 1. Contents of Application: Prior to the commencement of any work for modifications, the owner shall file an application for a Certificate of No Effect, Certificate of Appropriateness, Certificate of hardship to the Zoning Administrator. The application shall contain:
 - a. Name, address and telephone number of applicant.
 - b. Location and photographs of property.
 - c. Site Plan drawings of proposed changes, if available.
 - d. Elevation drawings of proposed changes, if available.
 - e. Perspective drawings, including relationship to adjacent properties, if available.
 - f. Where the proposal includes signs with lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination and a plan showing the sign's location on the property.
 - g. Any other information, which the Community Development Director may deem necessary in order to visualize the proposed work, or justify the proposed hardship.

21-6-13.3: BUILDING AND DEMOLITION PERMITS

- A. No building or demolition permit shall be issued for any proposed work until the associated Certificate of No Effect, Certificate of Appropriateness, or Certificate of Hardship has been issued. The Certificate of No Effect, Certificate of Appropriateness, and Certificate of Economic Hardship is in addition to, and not in lieu of, any building or demolition permit that may be required by Chapter 5 Buildings of the Eloy Code.

21-6-13.4: CRITERIA AND DECISION FOR CERTIFICATE OF NO EFFECT:

- A. The Community Development Director may approve an application and issue a Certificate of No Effect if:

1. It is determined the proposed modification is minor and clearly within the context of the adopted Historic Preservation Plan, and
 2. The property owner, or the owner authorized agent, agrees to modifications to the proposed work that are necessary for compliance with the Historic Preservation Plan, and
 3. The proposed modification will not diminish, eliminate, or adversely affect the Landmark or District of the subject property; or,
 4. The proposed modification is in an area of the proposed property that not covered by the Historic Preservation Plan, and the Community Development Director determines the proposed work will not diminish, eliminate, or adversely affect the Landmark or the District.
- B. An application that does not comply with the criteria for a Certificate of No Effect shall be sent to the Planning and Zoning Commission for a decision on a Certificate of Appropriateness for the proposed modifications. The Community Development Director may require additional information to be provided for the Planning and Zoning Commission to review the request as a Certificate of Appropriateness.

21-6-13.5: CRITERIA AND DECISION FOR CERTIFICATE OF APPROPRIATENESS:

- A. The Planning and Zoning Commission may approve an application and issue a Certificate of Appropriateness for modifications to a Landmark or Historic District upon finding that the criteria have been met.
- B. Criteria for a Certificate of Appropriateness to make modifications to a Landmark or a property within a Historic District:
1. The proposed alterations are consistent with the applicable Historic Preservation Plan;
 2. The proposed alterations to a Landmark or contributing property of a Historic District shall be compatible with its historic character, and the historic features altered as little as possible;
 3. The proposed alterations or additions are consistent with the applicable Standards and Guidelines of Section 21-6-13.7.
- C. Addition Criteria for property within a Historic District.
1. Alterations of non-contributing properties within a historic district shall be compatible with the Historic District.

21-6-13.6: COMPATIBILITY CONSIDERATION.

- A. In applying the principle of compatibility, the Planning and Zoning Commission shall consider the following:
1. The general design character and appropriateness to the property of the proposed alteration or new construction;
 2. The scale of proposed alteration or new construction in relation to the property itself, surrounding properties and the neighborhood;

3. Texture, materials, color and their relation to similar features of other properties in the neighborhood;
4. Visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings with the facade, roof shape, and the rhythm of spacing of properties on streets, including setback; and
5. The importance of historic, architectural or other features to the significance of the property.

21-6-13.7: STANDARDS AND GUIDELINES.

- A. The following standards and guidelines shall be used in the review and decisions pertaining to cultural resource studies and Certificate of Appropriateness:
 1. Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines as currently amended and annotated by the National Park Service.
 2. The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings.
 3. Guidelines and preservation briefs and other similar best practice documents published by the National Park Service.

21-6-13.8: EXPIRATION OF A CERTIFICATE OF NO EFFECT AND CERTIFICATE OF APPROPRIATENESS

- A. The approval of a Certificate of Appropriateness and a Certificate of No Effect shall expire two (2) years from the date of issuance, unless the related construction work has begun. If work has begun and it has been over two years, the Certificate of No Effect shall expire when the Building Permit(s) has expired, or if a Building Permit is not required, there has not been any documented construction activity within 182 days and the work has not been completed.

21-6-13.9: CRITERIA AND DECISION FOR CERTIFICATE FOR ECONOMIC HARDSHIP:

- A. Proposed Alteration: An applicant whose Certificate of Appropriateness for a proposed alteration has been denied may apply for relief on the grounds of economic hardship. In order to prove the existence of economic hardship, the applicant shall establish that the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.
- B. Proposed Demolition.
 1. An applicant whose Certificate of Appropriateness for a proposed alteration has been denied:
 - a. Shall consult in good faith with the Planning and Zoning Commission, local preservation groups, and interested parties in a diligent effort to seek an alternative that will result in the preservation of the property. Evidence of the applicant's good faith effort shall be submitted with the application for a Certificate for Economic Hardship.
 - b. May apply for relief on the grounds of economic hardship to demolish a Landmark or improvement within a Historic District on the grounds of hardship. In order to prove the existence of an economic hardship, the applicant shall establish that:

- i. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
 - ii. The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which could result in a reasonable return; and
 - iii. Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- 2. The Community Development Director may approve or refer an Certificate of Economic Hardship to demolish a Landmark, or a structure or improvements in a Historic District to the Planning and Zoning Commission upon consultation with the Building Official and Fire Marshal, finds that it has been damaged or destroyed by fire, flood, or similar abnormal and identifiable event, and more than fifty percent (50%) of the current assessed value.

21-6-13.10: APPEALS:

- A. Any person aggrieved by a decision of the Planning and Zoning Commission on an application for a Certificate of Appropriateness or Certificate of Economic Hardship may, within fourteen (14) calendar days submit to the City Clerk a request for the City Council for review of the Commission's decision. The City Council shall review the application de novo, and may uphold, reverse, or the decision.