

## DEVELOPMENT CODE

### ARTICLE 151.03 ADMINISTRATION AND ENFORCEMENT

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#### Section 151.03.001 Administrative Officials

The provisions of this Code shall be administered and enforced by the Director of Community Development, the City Engineer and the Director of Public Works or their designees, and such other officers or employees of the City as the Council or City Manager may approve or direct.

#### Section 151.03.002 Limitations on the Administrative Officials

Under no circumstances shall any Administrative Official:

1. Grant exceptions to the actual meaning of any clause, order or regulation contained in this Code.
2. Make changes in or vary the terms of this Code.
3. Refuse to issue a Zoning Compliance Certificate, Building Permit, or Occupancy Permit when the applicant has complied with all provisions of this and other applicable ordinances or codes, despite any violations of contracts, covenants or private agreements which may result therefrom.

#### Section 151.03.003 Zoning Compliance Certificate Required.

- A. Zoning Compliance Certificate Required. No land or building shall be occupied or used, and no building shall be constructed, reconstructed, altered, repaired, used or changed in use, except as provided herein, until a Zoning Compliance Certificate shall have been issued by the Director of Community Development. The Director of Community Development shall not issue a building permit for excavation for a foundation, nor construction of any sort, before a Zoning Compliance Certificate shall have been issued. The issuance of an approved site plan constitutes zoning compliance for the structure and uses described and stated on the plan.
- B. Exceptions. A Zoning Compliance Certificate shall not be required for the following:
  1. The renewal of a business license by the original holder of the license for the same use at the same location.
  2. The issuance of a new business license for a use permitted within a commercial building or shopping center developed and constructed in conformance with a site

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plan approved by the City.

- C. Zoning Compliance Certificate for Existing Premises. Upon written request from the owner or tenant, the Director of Community Development shall issue a Zoning Compliance Certificate for any building or premises existing at the time of enactment of this Code, certifying after inspection the extent and kind of use of the building or premises and whether such use of the buildings or premises conforms to the provisions of this Code.
- D. Applications for Zoning Compliance Certificates. All applications for Zoning Compliance Certificates shall be filed on standard forms provided for that purpose and shall be accompanied by such information as the Director of Community Development may require to ensure conformity of the proposed building, structure, or use with the provisions of this Code. If the Director of Community Development determines that a plan is required, such plan shall be provided in duplicate, drawn to a readable scale, showing the following:
1. Dimensions, area and shape of the property to be built upon and the boundaries of all lots or parcels under separate ownership contained therein;
  2. Dimensions, size, height and use of any buildings or structures already existing on the property and their exact location thereon;
  3. Width and alignment of all streets, alleys and easements for public access, in or abutting the property;
  4. Size and height of all buildings and structures proposed to be erected or altered and their exact position on the property;
  5. Proposed uses of buildings, structures and land, including the number of families or dwelling units, if any, the building is designed to accommodate. If applicant is not owner of the property, written permission from the owner must be supplied.
- E. Issuance of Zoning Compliance Certificate. Within 10 calendar days after the filing of an application for Zoning Compliance Certificate, according to the provisions of this Code, the Director of Community Development shall either issue or deny the certificate. When such certificate is denied, the Director of Community Development shall state in writing his reasons for such denial, so informing the applicant of same and retaining a file copy of the action. One copy of the application and plans shall be returned to the applicant marked applicant marked either "APPROVED" or "DISAPPROVED" by the Director of Community Development and attested to by his signature. The second copy of the application and plans, similarly marked and signed, shall be retained in files of the Director of Community Development.
- F. Revocation of Zoning Compliance Certificate. The Director of Community Development may revoke a Zoning Compliance Certificate for any use if the use is found:
1. to generate excessive noise, or
  2. generate excessive traffic, or
  3. create a nuisance in the area immediately surrounding the use, or

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4. create a situation which endangers public health or safety.

Revocation is appealable to the Hearing Officer as provided in Section 151.30 of this Code.

### Section 151.03.004 Building Permits

- A. Improvements and Repairs to Property. All owners of property falling within the purview of this Code are required to obtain a building permit from the Director to Community Development prior to commencing any improvement upon, or repair to, such property unless specifically excluded below. Any person renting, leasing or holding an option on property within City will be required to submit the owner's approval for any improvements upon, or repairs to, such property when applying for a building permit. Applications for building permits shall be made on the forms provided by the City.
- B. Building Permits Not Required. Building permits are not required where the total material cost of the improvement or repair of an existing conforming structure does not exceed \$600.00 and such improvement or repair does not involve any installation, movement, extension or curtailment of any electric, plumbing or gas work and does not violate other provisions of this Code.
- C. Permit Required for Repair of Non-Conforming Use. In no case will any improvements be placed upon property that is in violation of any section of this Code nor will any repairs be made to property held to be in non-conformance with this Code unless a building permit is obtained from the Director of Community Development.
- D. Permit Required for Temporary Contractor's Construction Yard. A temporary contractor's construction yard in the immediate vicinity of the construction will be permitted, provided that it is enclosed on all sides by a fence or wall not less than six feet in height above grade. The yard and fence must be removed following the completion of the contractor's construction of the subdivision in which it is located. The permit is revocable if the yard or fence is maintained in an unsanitary, unsightly or dangerous manner.
- E. Fees. Before any certificate or permit will be issued, all applicable fees must be paid to the City Clerk. All fees are established by separate City resolutions which will be periodically re-evaluated by the Council.

### Section 151.03.005 Occupancy Permits

It shall be unlawful to use or occupy, or permit the use or occupancy of, any building or structure, or any change or extension of a use of land for which a occupancy permit has not been issued therefore by the Director of Community Development.

- A. Issuance of Occupancy Permits. Within 10 days after having received notice that the building, structure or premises, or part thereof, has been completed and is ready for use or occupancy, the Director of Community Development shall make a final inspection thereof to determine whether construction has been completed in conformity with the provisions of this Code. If he finds construction in conformity, he shall issue an occupancy permit.
- B. Temporary Occupancy Permits. The Director of Community Development may issue a

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Temporary Occupancy Permit for a part of a building, structure or use prior to completion of the entire building, structure or use, provided that such part has been completed in conformity with all provisions of this Code and is considered safe and suitable for use or occupancy. A Temporary Occupancy Permit shall remain in force until the entire building, structure or use and off-site improvements have been completed and inspected and an occupancy permit has been issued.

### Section 151.03.006 Development Review Committee

- A. Creation. The Development Review Committee of the City of Sierra Vista shall review site plans and subdivision plats.
- B. Meetings. The Development Review Committee shall meet, when necessary, at a specified time and place. All meetings shall be open to the public. Minutes of the Committee's proceedings shall be kept in the Department of Community Development as a public record. The Department of Community Development shall forward a brief status report of the Committee's actions to the Council and the Commission once a month.
- C. Powers and Duties.
  - 1. The Development Review Committee shall have the power to approve or disapprove all site plans submitted under the requirements of Article 151.18.003.
  - 2. The Development Review Committee shall review and recommend to the Commission and Council the master plan and subdivision plats required by Article 151.19.003.
- D. Approvals. All approvals of submittals before the Committee shall be by a majority vote of the members present at the meeting.
- E. Applications. Applications for review by the Committee shall be filed with the Department of Community Development.
- F. Review Criteria. In considering any application for review and approval, the Committee shall be guided by the following general criteria, as well as the specific considerations of Article 151.18.003 and the findings required by Article 151.19.003.

The committee shall examine the application to ensure that:

- 1. The proposed development complies to all applicable provisions of this Code and other ordinances, plans, and standards of the City;
  - 2. The proposed development promotes the City's natural beauty and visual character by ensuring that structures, signs and other improvements are properly related to their sites, and to surrounding sites and structures;
  - 3. The proposed development promotes and protects the peace, health and welfare of the City.
- G. Appeals to Commission and Council. Any person or officer of the City or member of the Commission affected or aggrieved by a decision of the Development Review Committee

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may appeal to the Commission. Such appeals shall be filed within seven calendar days of the action with the Executive Secretary of the Commission and shall specify the grounds thereof. The Executive Secretary shall forthwith transmit the appeal and all paper constituting the record upon which the action appealed was taken to the Commission for consideration. The Commission shall reach its decision on approval or disapproval of the site plan within a reasonable time.

Appeals to the City Council Concerning the approval or disapproval of any development site plan by the Planning and Zoning Commission may be taken by any person aggrieved or by any officer of the City affected by the decision of the Commission. Such appeals shall be filed within seven calendar days with the City Clerk and shall specify the grounds thereof. The City Clerk shall forthwith transmit the appeal and all papers constituting the record upon which the action was taken to the City Council consideration. The City Council shall reach its decision on approval or disapproval of the site plan within a reasonable time.

### Section 151.03.007 Appeals of Dedications or Exactions

Title 9, A.R.S. §9-500.12 specifies the terms under which a property owner is entitled to appeal from dedications or exactions required as a condition of the use, improvement or development of property.

If a property owner requests, and an administrative agency or official of the City makes a final determination that grants an approval for the use, improvement or development of real property subject to the requirement of a dedication or exaction as a condition of granting approval, the property owner may appeal the required dedication or exaction to the hearing officer. The City shall notify the property owner that the property owner has the right to appeal the dedication or exaction pursuant to this section and shall provide a description of the appeal procedure. The City shall not request the property owner to waive the right of appeal or trial de novo at anytime during the consideration of the property owner's request.

This section does not apply to a dedication or exaction required in a legislative act of the City that does not give discretion to an administrative agency or official to determine the nature or extent of the dedication or exaction.

- A. Procedure. The following procedures apply to appeals:
  - 1. The appeal shall be in writing and filed with or mailed to the Hearing Officer within 30 days of the administrative decision requiring dedication or exaction.
- B. Hearings. Hearings shall be scheduled within 30 days of receipt by the Hearing Officer. Ten days notice shall be given to the aggrieved party unless the aggrieved party indicates to the Hearing Officer that shorter notice is acceptable. The Hearing Officer shall render a decision within five working days after the appeal is heard. The Hearing Officer may affirm the dedication or exaction, modify it, or delete the requirements.

At the hearing any party may appear in person or by agent or attorney. Parties to an appeal shall have the right to present their case by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross examination of witnesses as may be required for full, true disclosure of the facts; provided that:

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1. The submission of documentary evidence shall not, by reason of its written form, prejudice the interest of any party; and
2. The Hearing Officer shall, as a matter of policy, provide for exclusion of irrelevant, immaterial or unduly repetitious evidence and, in furtherance of this policy, may limit cross examination.

The burden of proof shall rest with the city that the following conditions apply:

1. The dedication or exaction must bear an essential nexus between the requirement and a legitimate governmental interest; and
2. The proposed dedication or exaction is roughly proportional to the impact or use, improvement or development.

C. Stay of Proceedings. Any appeal stays all proceedings in furtherance of action appealed from, unless the Director of Community Development certifies to the Hearing Officer after the notice of appeal is filed with him that, by reason of facts stated in this certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order, which may be granted by the Hearing Officer or by a court of record in application or notice to the Director of Community Development and due cause shown.

### Section 151.03.008 Appeals from the Hearing Officer

Any person aggrieved by a decision of the Hearing Officer may, at any time within 30 days after the Hearing Officer has rendered a decision, file a complaint for special action in the superior court to review the Hearing Officer's decision. Filing of the complaint does not stay proceedings on the decision sought to be reviewed, but the court may, on application, grant a stay and, on final hearing, may affirm or reverse or modify, in whole or in part, the decision reviewed.

### Section 151.03.009 Fees

No fees will be charged for filing an appeal to the Hearing Officer on Dedications or exaction requirements.