

Article 1.1: Title and Purpose

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1.101 Title and Authority

Chapter I of the Land Development Code shall be known and cited as the “Gilbert Zoning Code” or “Zoning Code”.

The authority for the Gilbert Zoning Code is Arizona Revised Statutes (ARS) § 9-462 et seq., which provides for the regulation of land and land use by municipalities in Arizona.

1.102 Purposes

The broad purpose of the Zoning Code is to implement the General Plan, to promote and protect the public health, safety, comfort, and general welfare of the residents of the Town of Gilbert. Generally, the Zoning Code is intended to:

- A. Direct growth with priority to those areas where infrastructure and urban services can be economically provided;
- B. Ensure consistency and conformity among the General Plan, zoning districts, and zoning ordinances;
- C. Maintain and enhance the appearance and function of both new and existing development;
- D. Promote an efficient use of land resources;
- E. Ensure compatibility among land uses;
- F. Ensure the provision of adequate open space for light, air, and fire safety;

- G. Ensure that service demands of new development will not exceed the capacities of existing or planned streets, utilities, or public services;
- H. Conserve the natural environment, protect environmentally sensitive areas, and enhance the quality of the built environment;
- I. Promote energy and water conservation through project design;
- J. Establish consistent standards regulating the use and physical development of land; and
- K. Preserve and enhance property values.

1.103 Organization of Zoning Code

- A. ***Structure of Zoning Code.*** The Zoning Code consists of the following six divisions, a glossary of general terms, and the Official Zoning Map:

Division 1: General Provisions

Division 2: Land Use Designations

Division 3: Overlay District Regulations

Division 4: General Regulations

Division 5: Administration

Division 6: Use Definitions

Glossary of General Terms

- B. ***Graphic Illustrations.*** Illustrations are included for the purposes of example, explanation, and clarification. Where a graphic is in conflict with the text of the Zoning Code, the text shall govern.

1.104 Applicability

All uses and development of land shall comply with the zoning regulations of the Zoning Code.

- A. ***Applicability to Property.*** Zoning regulations shall apply to all land within the Town of Gilbert, including land owned by the Town of Gilbert and other local, State, or Federal agencies to the extent allowed by law.

- B. ***Applicability to Streets and Rights-of-Way.*** Streets, easements, and rights-of-way shall be in the same zoning district as contiguous property. Where contiguous properties are in different zoning districts, the centerline of the street shall be the district boundary unless otherwise depicted on the Official Zoning Map.
- C. ***Compliance with Regulations.*** No land shall be used and no structure shall be constructed, occupied, enlarged, or altered in any zoning district except in compliance with the Zoning Code.
- D. ***Substandard Lot.*** As permitted in Section 4.603D: Non-Conforming or Substandard Lot or Parcel, an existing, legally created lot as of the effective date of the Zoning Code having a width or area less than that required for the base district in which it is located may be occupied by a permitted use or use requiring approval of a Use Permit. However, no substandard lot may be further reduced in area or width and no substandard lot will be exempt from the setback requirements of the district. A substandard lot shall be considered a non-conforming lot in accordance with Section 4.602B: Non-Conforming Lot or Parcel.
- E. ***Lots or Parcels Divided by District Boundaries.*** The regulations applicable to each district shall be applied to the entire area within that district, and no use other than parking serving a principal use on the lot or parcel may be located in a district in which it is not a permitted use or use approved by a Use Permit.
- F. ***Public Nuisance.*** Neither the provisions of the Zoning Code nor the approval of any permit authorized by the Zoning Code shall authorize the maintenance of any public nuisance.
- G. ***Conflict with Other Regulations.*** Where there is a conflict between the provisions of the Zoning Code, or between the provisions of the Zoning Code and any other Town code, the more restrictive provision shall control unless otherwise set forth in the Zoning Code. The modifications to base district zoning regulations contained in an approved Planned Area Development Overlay district are not amended by amendments to the Zoning Code.
- H. ***Relation to Prior Zoning Code.*** No provision of the Zoning Code shall validate any use or structure established, constructed, or maintained in violation of any prior zoning code, except as may be specifically authorized by the Zoning Code.
- I. ***Extension of Time for Holidays and Weekends.*** If a deadline for an act required by the Zoning Code falls on a weekend or a Town holiday, the time for performing such an act shall be extended to the next working day.

1.105 General Rules for Applicability of Land Use and Development Regulations

A. **Establishment of Base Zoning Districts.** The Town is divided into the following base zoning districts:

Table 1.105: Establishment of Zoning Districts

<i>Base Districts and Article Reference</i>	<i>District Name</i>
Article 2.1: Single Family Residential Districts	Single Family-43 (SF-43) Single Family-35 (SF-35) Single Family-15 (SF-15) Single Family-10 (SF-10) Single Family-8 (SF-8) Single Family-7 (SF-7) Single Family-6 (SF-6) Single Family Detached (SF-D) Single Family Attached (SF-A)
Article 2.2: Multi-Family Residential Districts	Multi-Family/Low Density (MF/L) Multi-Family/Medium Density (MF/M)
Article 2.3 - Commercial Districts	Neighborhood Commercial (NC) Community Commercial (CC) Shopping Center (SC) General Commercial (GC) Regional Commercial (RC)
Article 2.4: Heritage Village Center Zoning District	Heritage Village Center District (HVC)
Article 2.5: Office Districts	Neighborhood Office (NO) General Office (GO)
Article 2.6: Employment Districts	Business Park (BP) Light Industrial (LI) General Industrial (GI)
Article 2.7: Public Facility/Institutional District	Public Facility/Institutional (PF/I)
Article 2.8: Gateway Districts	Gateway Village Center (GVC) Gateway Business Center (GBC)

B. **Establishment of Overlay Zoning Districts.** Overlay zoning districts, one or more of which shall overlay a base district, are designated as follows:

Planned Area Development Overlay Zoning District (PAD)

Phoenix-Mesa Gateway Airport Overlay Zoning District

Santan Freeway Corridor Overlay Zoning District

Heritage District Overlay Zoning District

Vertical Development Overlay Zoning District

1.106 Official Zoning Map

- A. **Adoption.** The Town is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of the Zoning Code.
- B. **District Boundary or Classification Changes.** If, in accordance with the provisions of the Zoning Code, changes are made in district boundaries, district classifications, or other matter set forth on the Official Zoning Map, such changes shall be entered on the Official Zoning Map within 15 days following the effective date of the Ordinance adopting the change.
- C. **Maintenance of Official Zoning Map.** The Official Zoning Map shall be maintained in electronic format by the Technology Services department, as authorized by the Director of Planning.
- D. **Copies of the Official Zoning Map.** Paper copies of the Official Zoning Map shall be certified as true and correct by the director of the Technology Services department authorized by the Director of Planning. Electronic copies of the Official Zoning Map shall not be certified as true and correct.

1.107 Rules for Construction of Language

In addition to the general provisions of the Zoning Code, the following rules of construction shall apply:

- A. The particular controls the general.
- B. Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:
 - 1. "And" indicates that all connected words or provisions shall apply.
 - 2. "Or" indicates that the connected words or provisions may apply singly or in any combination.

3. "Either . . . or" indicates that the connected words or provisions shall apply singly but not in combination.
- C. References to departments, commissions, boards, or other offices are to those of the Town of Gilbert unless otherwise indicated.
- D. References to a public official in the Town are to that person who performs the function referred to and includes a designee of such official.
- E. All references to days are to calendar days unless otherwise indicated.
- F. All references to measurements are in feet unless otherwise indicated.
- G. The words "activities" and "facilities" include any part thereof.

1.108 Rules of Transition

The following rules shall apply to all properties in the Town on the effective date of the Zoning Code:

- A. ***Violations Continue.*** Any violation of the Zoning Code previously in effect (Unified Land Development Code) will continue to be a violation under the Zoning Code and shall be subject to penalties and enforcement under Article 5.12: Enforcement, unless the use, development, construction or other activity complies with the provisions of the Zoning Code.
- B. ***Projects with Approvals or Permits.***
 1. ***Building Permit Issued Prior to Effective Date of the Zoning Code.*** Any building, structure, or sign for which a lawful building permit is issued prior to the effective date of the Zoning Code may be completed in conformance with the permit and other applicable permits and conditions, even if such building, structure or sign does not fully comply with the Zoning Code. If construction is not commenced in compliance with the applicable permit terms, the Building Official may grant an extension pursuant to the provisions of the building code. If the building, structure, or sign is not completed in conformance with the building permit and any extension thereof, then the building, structure, or sign shall be constructed, completed or occupied only in compliance with the Zoning Code.
 2. ***Building Permit Application Filed Prior to Effective Date of the Zoning Code.*** Any building, structure, or sign for which a completed building permit application is filed prior to the effective date of the Zoning Code may be issued a building permit and may be constructed in compliance with the building permit and other applicable approvals, permits and

conditions, even if such building, structure or sign does not fully comply with the Zoning Code. If construction is not commenced in compliance with the applicable permit terms, the Building Official may grant an extension pursuant to the provisions of the building code. If the building, structure, or sign is not completed pursuant to the building permit and any extension thereof, then the building, structure, or sign shall be constructed, completed or occupied only in compliance with the Zoning Code.

3. *Final Design Review Approved Prior to Effective Date of the Zoning Code.* A project which has received Final Design Review approval prior to the effective date of the Zoning Code may file an application for a building permit in compliance with the Final Design Review plan and conditions of approval, even if the project does not comply with the provisions of the Zoning Code. Upon approval of the construction plans, a building permit may be issued. The Final Design Review approval for projects approved prior to the effective date of the Zoning Code shall be valid for 1 year from the date of approval by the Design Review Board. No time extensions shall be permitted.
4. *Preliminary Subdivision Plat Approved Prior to Effective Date of the Zoning Code.* A project which has a preliminary plat approved prior to the effective date of the Zoning Code may file an application for a final subdivision plat and improvement plan approval, even if the subdivision does not fully comply with the provision of the Zoning Code. If a final plat application is not filed within 1 year of the date of preliminary plat approval, the preliminary plat shall expire. No time extensions shall be permitted. Subsequent preliminary plat applications shall comply with the Zoning Code.
5. *Use Permit Approved Prior to Effective Date of the Zoning Code, No Design Review Required.* A project which has received a use permit prior to the effective date of the Zoning Code may file an application for a building permit, even if the project does not fully comply with the provision of the Zoning Code. If a building permit application is not filed within 1 year of the date of use permit approval, the use permit shall expire. No time extensions shall be permitted.
6. *Use Permit Approved Prior to Effective Date of the Zoning Code, Design Review Required.* A project which has an approved use permit may file an application for design review even if the use does not fully comply with the provisions of the Zoning Code. If a design review application is not filed within 1 year of the date of use permit approval, the use permit shall expire. No time extensions shall be permitted. Subsequent applications for design review shall comply with the Zoning Code.

C. ***Planning Applications Filed Prior to the Effective Date of the Zoning Code.***

1. *Applications for Design Review, Use Permits, and Preliminary Plats Submitted Prior to the Effective Date of the Zoning Code.* Complete applications filed prior to the effective date of the Zoning Code may be approved under the provisions of the Unified Land Development Code (ULDC). Applicants may elect to develop under the provisions of the Zoning Code, but in that case shall comply with all provisions of the Zoning Code. If a building permit application is not filed within 1 year of the date of approval of the design review, use permit, or preliminary plat, the approval shall expire. No time extensions shall be permitted.
2. *Applications for Rezoning Filed Prior to the Effective Date of the Zoning Code.* Rezoning applications filed prior to the effective date of the Zoning Code shall be governed by the provisions of the ULDC unless the applicant elects to comply with the Zoning Code.

D. ***Development of Projects with an Existing Planned Area Development Overlay Zoning District.*** A lot or parcel zoned with a Planned Area Development (PAD) overlay zoning district subject to a preliminary development plan, standards, and conditions of approval prior to the effective date of the Zoning Code shall be developed in accordance with the approved preliminary development plan, standards, and conditions of approval. The development standards and requirements of the Zoning Code shall apply if not specifically modified by the PAD ordinance.

E. ***Planning Applications Filed After the Effective Date of the Zoning Code.*** All applications for rezoning, design review, use permits, and preliminary subdivision plats filed after the effective date of the Zoning Code, including modifications and amendments, shall conform to the provisions of the Zoning Code.

1.109 Rules for Interpretation

- A. ***Zoning Land Use Regulations.*** Where uncertainty exists regarding the interpretation of any provision of the Zoning Code or its application to a specific site, the Zoning Administrator shall determine the intent of the provision. The determination of the Zoning Administrator may be appealed in accordance with the provisions of Section 5.2011: Procedures for Appeals.
- B. ***Official Zoning Map.*** Where uncertainty exists regarding the boundary of a zoning district, the following rules shall apply:
1. District boundaries shown as approximately following the property line of a lot or parcel shall be construed to follow such property line.

2. Where a district boundary divides a lot or parcel, the location of the district boundary shall be determined by the Zoning Administrator using the scale appearing on the Official Zoning Map.
 3. District boundaries shown as approximately following right-of-way lines of freeways, streets, railroads, or other identifiable boundary lines shall be construed to follow such right-of-way or boundary lines.
 4. District boundaries shown as lying within right-of-way lines of freeways, streets, railroads, or other identifiable boundary lines shall be construed to follow the centerline of such right-of-way or boundary lines.
 5. District boundaries shown as lying at the edge of a canal or drainage channel shall be construed to follow the centerline of the canal or drainage channel.
 6. If any uncertainty remains as to the location of a district boundary or other feature shown on the Official Zoning Map, the location shall be determined by the Zoning Administrator.
- C. **Record of Interpretation.** The Zoning Administrator shall keep a record of interpretations made pursuant to this section. The record of interpretations shall be available to the public.