

CITY OF TUCSON
UNIFIED DEVELOPMENT CODE
(Reorganization and Reformat of the Land Use Code)

PUBLIC REVIEW DRAFT – JULY 2009

CONTENTS

ARTICLE 1: GENERAL PROVISIONS

1.1. TITLE AND EFFECTIVE DATE	1
1.2. AUTHORITY	1
1.3. PURPOSE OF THIS CODE	1
1.4. APPLICABILITY AND JURISDICTION	1
1.4.1. General Applicability and Compliance	1
1.4.2. Application to Governmental Agencies	2
1.5. INTERPRETATIONS OF THE UNIFIED DEVELOPMENT CODE (UDC)	2
1.5.1. Interpretation by Zoning Administrator	2
1.5.2. Interpretation of Procedures for Rezoning.....	2
1.5.3. Interpretations of Graphics and Captions	2
1.5.4. References to other Codes and Laws	2
1.6. CONFLICTING PROVISIONS.....	3
1.6.1. Conflict with Ordinances, Regulations, or Permits.....	3
1.6.2. Effect on other Provisions	3
1.6.3. No Relief from other Provisions.....	3
1.7. TRANSITIONAL REGULATIONS	3
1.7.1. Purpose.....	3
1.7.2. Violations Continue	3
1.7.3. Uses, Structures, and Lots Rendered Nonconforming.....	3
1.7.4. Applications Commenced or Approved Under Previous Ordinances.....	4
A. Pending Applications	4
B. Tentative Plat Approvals.....	4
C. Approved Projects.....	4
D. Choice of Code	4
E. Waiver of Potential Claims	5
1.8. ENUMERATION	5
1.9. SEVERABILITY	5
2.1. PURPOSE OF ARTICLE	6
2.2. REVIEW AND DECISION-MAKING BODIES	6
2.2.1. Mayor and Council	6
A. General Plan	6
B. Specific Plans and Regulations	6
C. Redevelopment Plans.....	6
D. Unified Development Code (UDC).....	6
E. Establishment of Original City Zoning	6
F. Changes in Zoning District Boundaries (Rezoning).....	7
G. Appeals of Zoning Examiner (Examiner) Decisions, Special Exception Land Uses...7	7

H.	Plats.....	7
I.	Special Exception Land Uses.....	7
J.	Enforcement.....	7
K.	Appointments.....	7
L.	Appeals of Director’s Full Notice Procedure Decision.....	7
M.	Protected Development Right Plan Approvals.....	7
2.2.2.	City Manager	7
A.	Enforcement.....	7
B.	Capital Improvement Program	8
C.	Establishment of Fees.....	8
2.2.3.	Planning Commission.....	8
A.	Composition	8
B.	Administrative Functions.....	8
C.	Powers and Duties	9
2.2.4.	Zoning Examiner	10
A.	Position.....	10
B.	Administrative Functions.....	10
C.	Powers and Duties	10
2.2.5.	Board of Adjustment.....	11
A.	Composition	11
B.	Administrative Functions.....	12
C.	Powers and Duties	12
D.	Appeals of City Zoning Map Interpretation	13
E.	Appeals of Minor Modification Decision.....	13
F.	Appeals of Administrative Design Review Decision.....	13
G.	Appeals of Design Review Board (DRB) Decision on Neighborhood Preservation Zone (NPZ) Permit.....	13
H.	Other Responsibilities.....	13
2.2.6.	Design Review Board	14
A.	Composition	14
B.	Administrative Functions.....	14
C.	Powers and Duties	15
2.2.7.	Tucson-Pima County Historical Commission	18
A.	Establishment.....	18
B.	Administrative Functions.....	18
C.	Powers and Duties within the Unified Development Code	18
2.2.8.	Historic Preservation Zone Advisory Boards	19
A.	Composition	19
B.	Administrative Functions.....	20
C.	Powers and Duties	20
2.2.9.	Designated Planning Agencies	21
A.	Planning and Development Services Department (PDSD)	21
B.	Housing and Community Development Department (HCDD)	24
2.2.10.	Design Professional	26
A.	Appointment and Qualifications	26
B.	Powers and Duties	26
2.2.11.	Community Design Review Committee	28
A.	Organization	28
B.	Coordination	28
C.	Functions.....	28

ARTICLE 1: GENERAL PROVISIONS¹

1.1. TITLE AND EFFECTIVE DATE

This ordinance is enacted as Chapter 23 of the Tucson Code and may be cited as the "Unified Development Code" or "UDC" of the City of Tucson.

1.2. AUTHORITY

This UDC is adopted pursuant to the powers granted by the Urban Environment Management Act, ARS 9-461 to 9-467.²

1.3. PURPOSE OF THIS CODE

The provisions of the UDC are established to protect and promote the general health, safety, and welfare of all present and future residents of Tucson and more specifically:

- 1.3.1. To implement the General Plan;
- 1.3.2. To guide new growth and redevelopment of the community in accordance with the policies of the General Plan;
- 1.3.3. To encourage the most efficient use of land through site sensitive design;
- 1.3.4. To reduce potential hazards to individuals and neighborhoods (public) that result from incompatible land uses or from the development of environmentally hazardous or sensitive lands;
- 1.3.5. To protect and enhance the City's natural, cultural, historical, and scenic resources; and
- 1.3.6. To promote the economic stability of the community.

COMMENTARY

Throughout the draft UDC, text highlighted in yellow represents proposed new or modified text, while uncolored text is existing City language. However, newly reorganized material, such as new section headings or consolidated provisions from the current Development Standards and LUC, are not highlighted. Grammatical corrections and minor word changes are also not highlighted. For a more detailed account of where the current LUC and Development Standards have been relocated in the draft UDC, please refer to the separate Disposition Report that provides a section-by-section list of where each existing major section has been moved.

1.4. APPLICABILITY AND JURISDICTION

1.4.1. GENERAL APPLICABILITY AND COMPLIANCE

- A. The provisions of the UDC apply to all development and uses of land within the City.
- B. No land shall be divided into two or more parcels or be used or occupied, no site modification or construction started, and no existing use or structure expanded, reconstructed, changed, or otherwise altered until compliance with the provisions of the UDC have been certified.
- C. No City agency shall issue approvals or permits for, nor shall any person commence, excavation, grubbing, grading, paving, demolition, or construction of any sort before compliance with UDC regulations has been certified.

¹ This brief article is based generally on current Article 1 in Chapter 23 (Art. I. Div. 1; Sec. 1.2.1 to 1.2.4; Sec. 2.1.9; and Sec. 3.1.3) and Article 1 in Chapter 23A (Sec.23A-1 to 23A-5; and Sec. 23A-8 to 23A-10), each with a number of proposed changes. While not read frequently, this article serves as an important legal foundation for the entire document.

² We recommend that the City add a section that describes the legal authority for adopting and implementing the LUC.

- D. All provisions of the UDC shall be consistent with the General Plan and other related plans and policies adopted by the Mayor and Council.
- E. The certification of zoning compliance as provided in Section 3.3.1.D [Chapter 23A], *Zoning Compliance Review*, shall consist of the certification that proposed development and construction are in conformance with the nondiscretionary, technical, and objective requirements of the UDC prior to final development approval.

CROSS-REFERENCES

Where possible, we have included references to both the new UDC and the current regulations (in brackets) for review purposes. Both references will be maintained until the UDC references are finalized, then the current references will be deleted.

1.4.2. APPLICATION TO GOVERNMENTAL AGENCIES

Where the provisions of this UDC do not legally control land, buildings, structures, and uses owned by government agencies, such agencies are encouraged to meet the provisions of this UDC.

1.5. INTERPRETATIONS OF THE UNIFIED DEVELOPMENT CODE (UDC)

1.5.1. INTERPRETATION BY ZONING ADMINISTRATOR

Where questions occur concerning the content or application of the Unified Development Code (UDC), the Zoning Administrator shall render a final decision and interpretation on the matter in accordance with the Zoning Compliance Review Procedure, Section 3.3.1.D [23A-31]. In making a determination, the Zoning Administrator shall rely on the purpose of the section in question. Zoning Administrator interpretations can be appealed through a Board of Adjustment Appeal Procedure, Section 3.3.7.A.1 [Sec. 23A-61]. Appeals must be filed within 30 days of the date of decision. The Board of Adjustment, under extenuating circumstances, may extend the 30-day appeal period.

1.5.2. INTERPRETATION OF PROCEDURES FOR REZONINGS³

The April 10, 2000, amendments to the prior Land Use Code do not place the UDC in conflict with established law. Further, such amendments should be considered non-substantive changes to the provisions that were amended. The amendments should be understood as continuing the City's practice of first approving a non-binding authorization, followed by a final adoption of the rezoning ordinance by Mayor and Council.

1.5.3. INTERPRETATIONS OF GRAPHICS AND CAPTIONS

All graphics and captions included in the UDC are for illustrative purposes and do not have legal status.

1.5.4. REFERENCES TO OTHER CODES AND LAWS

Section references to codes and laws other than in the UDC, such as the Arizona Revised Statutes (ARS) or other chapters in the Tucson Code, are generally provided for the reader's convenience. Since these codes and laws are adopted separately from the UDC, the references are administratively amended as needed to assure that correct references are

³ The text for this subsection is a proposed simplification of existing LUC language.

maintained. These administrative amendments do not affect the substantive application of the UDC.

1.6. CONFLICTING PROVISIONS

1.6.1. CONFLICT WITH ORDINANCES, REGULATIONS, OR PERMITS

If any provisions within the UDC conflict, the most restrictive as determined by the Zoning Administrator shall apply, unless otherwise stipulated.

1.6.2. EFFECT ON OTHER PROVISIONS

The provisions of the UDC do not abrogate any other ordinance, statute, regulation, private covenant, agreement, or contract that is more restrictive or that requires greater performance in the regulation of any land use or development within the City. In no case shall the City be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

1.6.3. NO RELIEF FROM OTHER PROVISIONS

Except as otherwise specifically provided, no provision of the UDC shall be construed as relieving any party, to whom UDC compliance approval is issued, from any other provision of county, state, or federal law or from any provision, ordinance, or regulation of the City of Tucson requiring approval, license, or permit to accomplish, engage in, carry on, or maintain a particular business, enterprise, occupation, transaction, or use.

1.7. TRANSITIONAL REGULATIONS

1.7.1. PURPOSE

The purpose of transitional regulations is to clarify the status of properties with pending applications or recent approvals, as those terms are used below, and properties with outstanding violations, at the time of the adoption of this UDC.

COMMENTARY

This section was added to provide greater clarity on the status of development applications that are pending when the new UDC is adopted.

1.7.2. VIOLATIONS CONTINUE

Any violation of the previous LUC shall continue to be a violation under this UDC and shall be subject to the penalties and enforcement in Section XX, *Enforcement*; provided, however, that a use, structure, or lot not lawfully existing at the time of the adoption of this UDC is deemed lawful and conforming as of the effective date of this UDC if it conforms to all of the requirements of this UDC. Payment shall be required for any civil penalty assessed under the previous code, even if the original violation is no longer considered a violation under this UDC.

1.7.3. USES, STRUCTURES, AND LOTS RENDERED NONCONFORMING

A. When a building, structure, or lot is used for a purpose that was a lawful use before the effective date of this UDC, and this UDC no longer classifies such use as an allowed use in the zoning district in which it is located, such use shall be considered nonconforming and shall be controlled by Article XX, *Nonconformities*.

1.7.4 Applications Commenced or Approved Under Previous Ordinances

- B.** Where any building, structure, or lot that legally existed on the effective date of this Code does not meet all standards set forth in this Code, such building, structure, or lot shall be considered nonconforming and shall be controlled by Article XX, *Nonconformities*.

1.7.4. APPLICATIONS COMMENCED OR APPROVED UNDER PREVIOUS ORDINANCES

A. Pending Applications

- 1.** Any complete application that has been submitted for approval, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this UDC, shall be reviewed in accordance with the ordinance in effect on the date the application was deemed complete. If the applicant fails to comply with any applicable required period for submittal or other procedural requirements, the application shall expire and subsequent applications shall be subject to the requirements of this UDC. Any re-application for an expired project approval shall meet the standards in effect at the time of re-application.
- 2.** An applicant with a complete application that has been submitted for approval, but upon which no final action has been taken prior to the effective date of this UDC, may request review under this UDC by a written letter to the Designated Planning Agency (See Sec. 2.2.9.).

B. Tentative Plat Approvals

An application for which a tentative plat was granted prior to the effective date of this UDC may be processed for a final decision in accordance with the tentative plat approval and applicable terms of the ordinance in place at the time of tentative plat approval, even if the application does not comply with one or more requirements set forth in this UDC. Tentative plat approvals granted prior to the effective date of this UDC may be extended no more than once, and for no longer than six months.

C. Approved Projects

- 1.** Approvals and permits that are valid on [--- insert effective date] shall remain valid until their expiration date. Projects with valid approvals or permits may be completed in conformance to the development requirements in effect at the time of approval.
- 2.** Any building or development for which a building permit was granted prior to the effective date of this UDC may be permitted to proceed to construction. If the development for which the building permit is issued prior to the effective date of this UDC fails to comply with the time frames for development established for the building permit, the building permit shall expire and future development shall comply with the requirements of this UDC.

D. Choice of Code⁴

For a period of [two] years after the adoption of this UDC [insert date of adoption], a landowner may choose to be governed by the provisions of this UDC or those of the previous Land Use Code (LUC) adopted on [insert date]. During this two-year transition period, ending [insert date], the landowner shall comply, without exception, with all provisions of either the UDC or LUC selected by that landowner. The selection

⁴ This is a new proposed section that addresses staff's desire to allow (temporary) flexibility for landowners to choose to continue to be governed by the current LUC (to address Prop. 207 issues) or by the new UDC.

1.7.4 Applications Commenced or Approved Under Previous Ordinances

shall be made and communicated to the City on a form provided by the City prior to acceptance of any development applications on the subject property. The landowner shall not be permitted to alternate compliance between the previous LUC and current UDC during the two-year transition period. At the expiration of the two-year transition period, all landowners in the City shall be subject to the UDC only.

E. Waiver of Potential Claims⁵

In exchange for the processing of [entitlements], the City requires that a property owner shall execute a waiver of any right of any potential claims under Proposition 207, the Private Property Rights Protection Act (A.R.S. Sec. 12-1134), arising from his or her development of the property as permitted by A.R.S. Sec. 12-1134 (I), in the form approved by the City Attorney. The waiver applies only to the action requested and does not diminish any other landowner rights that may exist prior to the request.

1.8. ENUMERATION

- 1.8.1. The Tucson Code establishes an outline of organization in descending order of chapter, article, division, section, subsection, paragraph, sentence, clause, and words. The UDC is arranged in the same organizational format with minor modification. Chapter 23, the UDC's assigned chapter within the Tucson Code, is implied but not used when referencing within the UDC.
- 1.8.2. The hierarchy used in the UDC is a combination of numerical digits and alphabetical letters separated by a period to denote the descending order of article, section, subsection, and so on. For example, Section 6.2.1.B references Article VI, section 2, subsection 1, sub-subsection B.

1.9. SEVERABILITY

- 1.9.1. If any section, subsection, sentence, clause, or phrase of this ordinance is held to be invalid or unconstitutional, such findings do not affect the validity or constitutionality of the remaining portions of these regulations.
- 1.9.2. If any court of competent jurisdiction invalidates the application of any provision of this UDC, then such judgment shall not affect the application of that provision to any other building, structure, or use not specifically included in that judgment.
- 1.9.3. If any court of competent jurisdiction invalidates any condition attached to the approval of an application for development approval, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.

⁵ Proposed new text; further discussion needed.

ARTICLE 2: REVIEW AUTHORITIES AND POWERS⁶

2.1. PURPOSE OF ARTICLE

This Article describes the powers and responsibilities of the legislative and administrative bodies, appointive officers, municipal agencies, and boards and commissions involved in the planning, zoning, and division of land within the City.

2.2. REVIEW AND DECISION-MAKING BODIES

2.2.1. MAYOR AND COUNCIL

The Mayor and Council perform the following functions related to the adoption, implementation, and enforcement of the UDC:

A. General Plan

The Mayor and Council shall adopt a comprehensive, long-range general plan for the development of the City known as the General Plan and any of its elements as provided in Section XXX [5.2.2] and elements mandated by the Arizona Revised Statutes (ARS), Sec. 9-461.05 and 9-461.06. The General Plan is equivalent to the state-mandated general plan.

B. Specific Plans and Regulations

The Mayor and Council shall adopt specific plans, regulations, programs, and legislation as described in Section XXX [5.2.3] and as may be needed for the systematic implementation of the General Plan and provided for in the Arizona Revised Statutes (ARS), Sec. 9-461.08.

C. Redevelopment Plans

The Mayor and Council shall adopt redevelopment plans, which are policy plans addressing slum and blighted areas, from the standpoint of providing economic incentives to stimulate development/redevelopment.

D. Unified Development Code (UDC)

The Mayor and Council shall adopt and amend the UDC.

E. Establishment of Original City Zoning

The Mayor and Council shall establish original zoning for land annexed into the City.

COMMENTARY

In the current LUC, these lists of application types contain references to the applicable procedures. For example, the General Plan section for the Mayor and Council states that the Planning Commission Legislative Procedure is required. However, these references have now been removed; they are unnecessary in this new UDC because all procedure types are now summarized in the new table at the start of Article 3.

⁶ This section is taken primarily from Art. V. Div. I; Sec. 5.2.2.3 and 5.2.3.3; Sec. 4.14; Sec. 23A-6; and DS 1-03.1.0, 1-03.5.0, 1-07.5.0, 1-08.0, 1-09.0, 1-05.5.0, 9-08.2.2/5 and 11-01.17.0. See disposition report for a more detailed account of where these sections have been relocated.

- F. Changes in Zoning District Boundaries (Rezoning)**
The Mayor and Council shall consider amendments to zoning district boundaries as provided on the City Zoning Maps.
- G. Appeals of Zoning Examiner (Examiner) Decisions, Special Exception Land Uses**
The Mayor and Council shall consider appeals from Zoning Examiner decisions on Special Exception Land Use applications.
- H. Plats**
The Mayor and Council shall consider final plats. Authority to approve a tentative plat is delegated to the Director of the Designated Planning Agency.
- I. Special Exception Land Uses**
The Mayor and Council shall consider Special Exception Land Use requests requiring legislative consideration.
- J. Enforcement**
The Mayor and Council shall adopt policies for establishing rules and procedures deemed necessary for the enforcement of the UDC.
- K. Appointments**
The Mayor and Council appoint the following individuals and members of boards and commissions.

 - 1. Planning Commission in accordance with Section 2.2.3 [Sec. 5.1.5].
 - 2. Board of Adjustment in accordance with Section 2.2.5 [Sec. 5.1.7].
 - 3. Design Review Board in accordance with Section 2.2.6 [Sec. 5.1.8].
 - 4. Design Professional in accordance with Section 2.2.10.
- L. Appeals of Director's Full Notice Procedure Decision**
The Mayor and Council shall consider appeals of the Designated Planning Agency Director's decisions on applications.
- M. Protected Development Right Plan Approvals**
The Mayor and Council shall consider for approval protected development right plans submitted in accordance with Arizona Revised Statutes (ARS), Sec. 9-1201 through 9-1205 inclusive.

2.2.2. CITY MANAGER

The City Manager provides general supervision of and direction to the Designated Planning Agencies in the administration of the UDC, subject to the control of the Mayor and Council, and is given the authority to perform the following duties:

- A. Enforcement**
The City Manager assures that the UDC is enforced and that City agencies and employees provide assistance to the Designated Planning Agencies and other responsible boards and commissions in the planning, zoning, and division of land.

B. Capital Improvement Program

The City Manager, with the assistance of the Directors of the Designated Planning Agencies and other City agencies, prepares a coordinated program of proposed public works for the City on an annual basis.

C. Establishment of Fees⁷

The City Manager recommends fees to be imposed in connection with reviews necessitated through the application of the UDC.

2.2.3. PLANNING COMMISSION⁸

The Planning Commission is established to advise the Mayor and Council and the Designated Planning Agencies on the adoption of long-range plans, policies, specific plans, and regulations that affect land use and development. The Planning Commission serves in the capacity of a planning commission as provided in the Arizona Revised Statutes.

A. Composition

The Planning Commission consists of 13 members as provided below.

1. Appointment

Each member of the City Council appoints two members, both of whom must be residents of the City and at least one of whom must be a resident of the Council Member's ward. The Mayor appoints one member who must be a resident of the City. Should an appointment not be made within 30 days of when the position becomes available, the appointment can be made by a majority vote of the Mayor and Council. All members of the Commission serve without compensation.

2. Qualifications

Members of the Planning Commission are appointed on the basis of their interest in the City and its future development, particularly as demonstrated by active participation in community affairs directly related to planning issues. No member shall hold any City, county, or state elective office or be a permanent employee of the City while appointed to the Commission.

3. Terms and Removal from Office

The term of appointment and the removal of a member of the Planning Commission shall be in accordance with Tucson Code, Chapter 10A, Article XIII.

4. Vacancies

All vacant positions on the Planning Commission shall be filled by appointment as described in Section 2.2.3.A.1 [Sec. 5.1.5.1.A]. An appointment to fill an unexpired term shall be for the unexpired portion of the term.

B. Administrative Functions

The Planning Commission's administrative functions shall be accomplished as follows.

⁷ The fee schedule, along with other information such as submittal requirements, will be relocated outside the UDC in an administrative manual.

⁸ Text based on current 21.3.5.

- 1. Election of Officers**

The Planning Commission shall elect a Chair and Vice Chair from among its members. The terms of the Chair and Vice Chair are one year which shall commence in February of each year.
 - 2. Meetings**

The Planning Commission shall hold at least one meeting per month, except when there are no agenda items that require action, but may hold as many meetings as necessary to conduct its business in a timely manner. All meetings shall be open to the public.
 - 3. Quorum and Voting**

Seven members of the Planning Commission present at a meeting constitute a quorum. A concurring vote of seven members is necessary to make a recommendation to the Mayor and Council. A simple majority of those members present is required to approve or deny any other matter before the Planning Commission. If a concurring vote cannot be attained within the specified time allotted by the procedure on matters requiring Mayor and Council decision, the matter shall be forwarded to the Mayor and Council without recommendation.
 - 4. Records**

The Designated Planning Agencies shall keep public records of the Planning Commission's public hearings, findings, and recommendations.
 - 5. Rules of Procedure**

The Planning Commission shall adopt rules of procedure necessary to carry out its functions. Copies of such rules shall be available to the public through the Designated Planning Agencies.
 - 6. Subcommittees**

The Planning Commission may create such special subcommittees as it may deem necessary or desirable as provided under Chapter 10A of the Tucson Code. The members of such subcommittees shall be selected from among the members of the Planning Commission and may include other persons qualified to contribute to the work of the special subcommittee.
- C. Powers and Duties**
The Planning Commission performs the following duties.
- 1. General Plan**

The Planning Commission conducts public hearings and makes recommendations to the Mayor and Council on the adoption of, and amendment to, the General Plan.
 - 2. Specific Plan**

The Planning Commission conducts public hearings and makes recommendations to the Mayor and Council on adoption of, and amendment to, specific plans and on regulations for the implementation of the General Plan.

3. **Unified Development Code (UDC)**
The Planning Commission conducts public hearings and makes recommendations to the Mayor and Council on adoption of, and amendment to, the text of the UDC.
4. **Other Matters**
The Planning Commission shall review such other issues as may be required by the Mayor and Council, and upon agreement by seven of its members, the Planning Commission may consider any other matter that pertains or is reasonably related to its duties as described above.

2.2.4. ZONING EXAMINER

The position of the Zoning Examiner is established to conduct public hearings on rezoning requests on behalf of the Mayor and Council and to consider other land use applications as provided in the Unified Development Code (UDC).

A. Position

The Zoning Examiner serves in accordance with the following provisions.

1. Appointment

The Zoning Examiner is appointed by the City Manager in accordance with Chapter V, Sections 2 and 13, of the City Charter.

2. Qualifications

The Zoning Examiner is appointed on the basis of a demonstrated ability to perform the duties of the office, such as training and experience relevant to the conduct of administrative and adjudicative hearings and knowledge of the principles and practices of land use planning. The Zoning Examiner may not hold a City elective office concurrently with this position.

3. Term

The Zoning Examiner serves at the pleasure of the City Manager. The City Manager may designate a qualified person as a temporary Zoning Examiner whenever the Zoning Examiner is unable to perform the duties of the office due to illness, potential conflict of interest, or similar reason.

B. Administrative Functions

The administrative functions necessary to discharge the duties and responsibilities of the Zoning Examiner are assigned to the Zoning Examiner, the City Clerk, and the Designated Planning Agencies, as provided in the Zoning Examiner's Rules and Procedures. Copies of such rules and procedures shall be available to the public through the Designated Planning Agencies.

C. Powers and Duties

The Zoning Examiner performs the following duties:

1. Rezoning

The Zoning Examiner conducts public hearings on applications to rezone property and makes recommendations to the Mayor and Council.

- 2. Special Exception Land Use**
The Zoning Examiner conducts public hearings on certain Special Exception Land Uses and, depending upon the applicable procedure, makes decisions, or provides recommendations to the Mayor and Council.
- 3. Expansion of Nonconforming Use**
The Zoning Examiner hears and decides requests to exceed the amount of expansion allowed for structures and land area devoted to a nonconforming use.
- 4. Substitution of Nonconforming Use**
The Zoning Examiner hears and decides requests to substitute a land use for an existing nonconforming use, when the proposed substitution is from a Land Use Class that is different from the one to which the existing nonconforming use belongs.
- 5. Other Responsibilities**
The Zoning Examiner shall perform such other functions as may be required by the City Manager or the UDC.

2.2.5. BOARD OF ADJUSTMENT

The Board of Adjustment (B/A) is established to hear and decide requests for variances from Unified Development Code (UDC) regulations, appeals of Zoning Administrator's interpretations, appeals by the applicant from Administrative Design Review decisions, appeals from Limited Notice Procedure decisions and other land use issues as provided by the UDC. The B/A serves in the capacity of a "Board of Adjustment" as provided by the Arizona Revised Statutes (ARS).

A. Composition

The B/A consists of seven members as provided below.

- 1. Appointment**
Each member of the City Council appoints one B/A member who must be a resident of the appointing Council Member's ward. The Mayor appoints one B/A member who must be a resident of the City. Should an appointment not be made within 30 days of the date the position becomes vacant, the appointment can be made by a majority vote of the Mayor and Council. All members of the B/A serve without compensation.
- 2. Qualifications**
No member of the B/A is to hold any City, county, or state elective office or be a permanent employee of the City while a member of the B/A.
- 3. Terms and Removal from Office**
The term of appointment and the removal of a member of the B/A shall be in accordance with Tucson Code, Chapter 10A, Article XIII.

4. Vacancies

Any position on the B/A that is vacated shall be filled by appointment as described in Section 2.2.5.A [Sec. 5.1.7.1.A]. An appointment to fill an unexpired term shall be for the unexpired portion of the term.

B. Administrative Functions

The B/A's administrative functions shall be accomplished as follows.

1. Election of Officers

The B/A shall elect a Chair and Vice Chair from among its members. The terms of the Chair and Vice Chair are one year which shall commence in February of each year.

2. Meetings

The B/A shall hold at least one meeting per month, except when there are no agenda items that require action, but shall hold as many meetings as necessary to conduct its business in a timely manner. All meetings shall be open to the public.

3. Quorum and Voting

Four members of the B/A present at a meeting constitute a quorum. A concurring vote of four members is necessary to decide any matter within its powers and duties as provided in Section 2.2.5.C [Sec. 5.1.7.3], except that, on a motion to approve, if four votes cannot be achieved, the item is considered denied. On all other matters before the B/A, a simple majority of those members present is sufficient to approve a motion.

4. Records

The Designated Planning Agencies shall keep public records of the B/A's hearings, findings, and decisions.

5. Rules of Procedure

The B/A shall adopt rules of procedure necessary to carry out its functions. Copies of such rules shall be available to the public through the Designated Planning Agencies.

C. Powers and Duties

The B/A performs the following duties.

1. Appeals of UDC Interpretations

The B/A hears and decides appeals from interpretations made by the Zoning Administrator in the application or enforcement of the UDC as provided in Section 1.5.1 [Sec. 1.2.1] or in the determination of a zone boundary location as provided in Section XXX [Sec.1.3.6].

2. Variances from UDC Provisions

a. Variance Powers granted to Board of Adjustment

The B/A hears and decides requests for variances from the provisions of the UDC.

b. Variance Powers not granted the Board of Adjustment

The B/A may not:

- (i) Delete or vary any performance criteria⁹ applicable to a Special Exception Land Use as required by the UDC, unless specifically allowed by the UDC, or as established as a condition by the decision-making body in granting the use.
- (ii) Make any changes in the uses permitted in any zoning classification.
- (iii) Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.
- (iv) Grant a variance to any administrative requirement of the UDC or to any requirement which is not a specific development regulation or performance criteria required of a land use.
- (v) Grant a variance to the performance criteria required of Educational Uses as provided in Section XXX [Sec. 3.5.3.7].

D. Appeals of City Zoning Map Interpretation

The B/A hears and decides appeals of Zoning Administrator's interpretations of the official City Zoning Maps in determining exact locations of zone boundary lines as shown on the City Zoning Maps.

E. Appeals of Minor Modification Decision

The B/A hears and decides appeals of decisions by the Directors of the Designated Planning Agencies on minor modification applications.

F. Appeals of Administrative Design Review Decision

The B/A hears and decides appeals of decisions by the Designated Planning Agency Director on Administrative Design Review applications. In considering the appeal, the B/A shall apply the same findings required of the Designated Planning Agency Director.

G. Appeals of Design Review Board (DRB) Decision on Neighborhood Preservation Zone (NPZ) Permit

If an application for appeal of an NPZ permit is denied by the DRB, the B/A hears and decides the appeal of the DRB decision in accordance with Section 3.3.7.A.1 [23A-61] by filing an appeal within five days of the notice of the DRB's decision.¹⁰

H. Other Responsibilities

The B/A shall perform such other functions as may be required by the UDC.

⁹ While the term "performance criteria" is associated with the current Development Designator System that is scheduled to be replaced by a simpler system in the next phase of the reformatting project, we have retained the term for this draft because the performance criteria should be largely unaffected by the replacement system for the DDS. Perhaps the term "use-specific standards" would be a better name for the performance criteria. This matter will be discussed further in the next phase of the reformatting project.

¹⁰ Text from Sec. 23A-32.1.2.g

2.2.6. DESIGN REVIEW BOARD

The Design Review Board (DRB) is established to review proposed buildings, structures, landscaping, architectural features, development plans, and site plans.

A. Composition

The DRB consists of seven members, of whom five are regular members and two are alternates, as provided below.

1. Appointment

Any member of the Mayor and Council may make a recommendation for appointment of a DRB member. Such appointments are made by a majority vote of the Mayor and Council. The DRB members must be City residents. All members of the DRB serve without compensation.

2. Qualifications

Of the seven members, there shall be at least one registered architect, one contractor, and two registered landscape architects. No member of the DRB is to hold any City, county, or state elective office or be a permanent employee of the City while a member of the DRB.

3. Terms

The term of each member is four years, beginning with the date of appointment. Members are eligible for reappointment but shall not serve more than eight continuous years. After the eight continuous years of service, a member becomes eligible for reappointment after a break in service of one year.

4. Vacancies

An appointment to fill an unexpired term shall be considered a new appointment in accordance with Section 2.2.6.A.1 [Sec. 5.1.8.1.C]. Any position on the DRB that is vacated shall be filled by appointment as described in Section 2.2.6.A.1 [Sec. 5.1.8.1.A].

5. Removal

A member of the DRB may be removed with or without cause by a majority vote of the Mayor and Council. A member who misses four consecutive meetings for any reason or fails to attend for any reason at least 40 percent of the DRB meetings held in one calendar year is automatically and immediately removed as a member of the DRB.

B. Administrative Functions

The DRB's administrative functions shall be accomplished as follows:

1. Election of Officers

The DRB shall elect a Chair and Vice Chair from among its regular members. The terms of the Chair and Vice Chair are one year which shall commence in February of each year. Should both the Chair and Vice Chair be absent from a meeting, an interim Chair shall be voted upon by those members attending.

- 2. Meetings**

The DRB shall hold meetings as necessary to conduct its business in a timely manner. All meetings shall be open to the public.
 - 3. Quorum and Voting**

Three regular members or alternates constitute a quorum. A concurring vote of a majority of the members present and voting is necessary to make a decision.
 - 4. Records**

The Designated Planning Agencies shall maintain public records of the DRB's actions, findings, and recommendations.
 - 5. Rules of Procedure**

The DRB shall adopt rules of procedure necessary to carry out its functions. Copies of such rules shall be available to the public through the Designated Planning Agencies.
 - 6. Required Action**

Applications reviewed for the purpose of providing a recommendation to another board, committee, official, or the Mayor and Council for a decision shall be forwarded without a recommendation should the DRB fail to act within 21 days of the date a plan is accepted for review by the DRB. Action by the DRB to continue deliberation to another meeting shall stay the 21 day requirement.
- C. Powers and Duties**
The DRB performs the following duties:
- 1. Scenic Corridor Zone (SCZ), Development Review**

The DRB reviews development applications for projects located within a Scenic Corridor Zone, when requested by the Designated Planning Agency Director or applicant, as provided in Section XXX [2.8.2.11.A],. In formulating its recommendation, the DRB shall utilize the same criteria, as provided in Section XXX [2.8.2.11.B], required of the Designated Planning Agency Director in making the decision.
 - 2. Scenic Corridor Zone (SCZ), Variances**

The DRB reviews, for recommendation, all requests for variances from Scenic Corridor Zone provisions and shall forward its recommendations in accordance with Section 2.2.6.B.6. In formulating its recommendation, the DRB shall utilize the same findings required in Section 3.8.1.A [5.3.3] for granting a variance. In addition, the DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.
 - 3. Minor Modification, Appeals**

The DRB reviews, for recommendation, appeals of decisions by the Director of the Designated Planning Agency on minor modification applications. In formulating its recommendation, the DRB shall utilize the same criteria, as

provided in Section 3.8.2 [Sec. 5.3.4], required of the Designated Planning Agency Director in making the decision.

4. Environmental Resource Zone (ERZ) Mitigation Plan, Appeals

The DRB reviews, for recommendation, appeals of the Designated Planning Agency Director's decisions on Environmental Resource Zone (ERZ) mitigation plans. In formulating its recommendation, the DRB shall utilize the same criteria required of the Designated Planning Agency Director in making the decision.

5. Environmental Resource Zone (ERZ), Variances

a. The DRB reviews, for recommendation, all requests for variances from ERZ regulations, as provided in Section XXX [Sec. 2.8.6.8.A] and in accordance with the Board of Adjustment Full Notice Procedure, Section 3.3.5.E. [Sec 23A-50 and Sec. 23A-52]. In formulating its recommendation, the DRB shall utilize the same findings required in Section 3.8.1.A [Sec. 5.3.3] for granting a variance. In addition, the DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.

b. If the City Engineer or designee, a notified property owner, or the applicant for the variance requests consideration of stormwater management issues related to the variance, the Stormwater Technical Advisory Committee may review the variance request concurrently with the DRB and may provide written or oral testimony at the public hearing for the variance request. Any such testimony must address the required findings.

6. Landscaping and Screening Regulations, Variances

The DRB reviews, for recommendation, all requests for variances from Section XXX [Sec. 3.7.0], Landscaping and Screening Regulations, as provided in Section XXX [Sec. 3.7.7.5]. In formulating its recommendation, the DRB shall utilize the same findings required in Section 3.8.1.A [Sec. 5.3.3] for granting a variance. In addition, the DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.

7. Gateway Corridor Zone, Variances¹¹

The DRB reviews, for recommendation, all requests for variances from Gateway Corridor Zone regulations,. In formulating its recommendation, the DRB shall utilize the same findings required in Section 3.8.1.A [Sec. 5.3.3] for granting a variance. In addition, the DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.

8. Native Plant Preservation, Variances

The DRB reviews, for recommendation, all requests for variances from Native Plant Preservation regulations, as provided in Sec. 3.8.8.3. In formulating its

¹¹ Staff has recommended that this provision be deleted because this process is rarely, if ever, used. The matter, however, is still under discussion.

recommendation, the DRB shall utilize the same findings required in Section 3.8.1.A [Sec. 5.3.3] for granting a variance. In addition, the DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.

- 9. Neighborhood Commercial (NC) Zone, Development Review**
The DRB reviews all proposed nonresidential development, including exterior remodeling, for approval of architectural and site design compatibility with the surrounding residential area, as provided in Section XXX [Sec. 2.5.2.6.D].
- 10. Office (O-1) Zone, Development Review**
The DRB reviews all new office development in the O-1 zone, including Medical Service - Outpatient, as provided in Section XXX [Sec. 3.5.4.1 1.G].
- 11. Communications Land Use, Development Review**
The DRB reviews, for recommendation when requested by the Designated Planning Agency Director (Sec. 2.2.9), Communications land uses in all zones that require approval as a Special Exception Land Use through a Zoning Compliance Review, Section 3.3.1.D. [Sec. 23A-31.
- 12. Communications Land Use, Development Review**
The DRB reviews, for recommendation, Communications land uses in all zones that require approval as a Special Exception Land Use through a Limited Notice Procedure, Section 3.3.4 [Sec. 23A-40].
- 13. Communications Land Use, Development Review**
The DRB reviews, for recommendation when requested by the Zoning Examiner, Communications land uses in all zones that require approval as a Special Exception Land Use through a Zoning Examiner Legislative Procedure, Section 3.3.6.A., B., and D. [Sec. 5.4.1 and Sec. 5.4.3].
- 14. Communications Land Use, Development Review**
The DRB reviews, for recommendation when requested by the Mayor and Council, Communications land uses in all zones that require approval as a Special Exception Land Use through a Zoning Examiner Legislative Procedure, Section 3.3.6.A., B., and D. [Sec. 5.4.1 and Sec. 5.4.3].
- 15. Home Occupation: Travelers' Accommodation, Lodging, Development Review**
The DRB reviews all Home Occupation: Travelers' Accommodation, Lodging, land uses in the various zones in which the use is permitted, as provided in Section XXX [Sec. 3.5.7.4.F].
- 16. Historic Preservation Zone (HPZ), Appeals**
The DRB reviews, for recommendation, any appeal of a Designated Planning Agency Director (Sec. 2.2.9) decision that was made in compliance with the procedural requirements of the PDSD Full Notice Procedure, Section 3.3.5.D. [Sec. 23A-50 and Sec. 23A-51]. The DRB recommendation shall be based on the purpose of the HPZ and the specific criteria for development listed in Section XXX [Sec. 2.8.8.6].

- 17. Rio Nuevo and Downtown (RND) Zone, Development Review**
The DRB reviews, for recommendation, all proposed development in the Rio Nuevo and Downtown (RND) Zone.. In formulating its recommendation, the DRB shall utilize the design criteria found in Section XXX [Sec. 2.8.10.5 and Development Standard 9-10.0].
- 18. Neighborhood Preservation Zone (NPZ), Appeals**
The DRB hears and decides appeals from decisions of the Director of the Designated Planning Agencies on NPZ permits. Applicants may appeal the DRB decision to the Board of Adjustment. Appeals shall be scheduled within 30 days of acceptance of the application for appeal. The DRB, in formulating its preliminary findings and recommendations, shall apply the same standards that the design professional applies.¹²
- 19. Other Responsibilities**
The DRB shall perform such other functions as may be required by the UDC.

2.2.7. TUCSON-PIMA COUNTY HISTORICAL COMMISSION

The Tucson-Pima County Historical Commission is established to advise the Mayor and Council, the Designated Planning Agencies, the Board of Supervisors, and the applicable county officials on issues concerning historic sites, historic structures, and new construction and demolition within Historic Preservation Zones or Historic Landmarks within the community. The functions and duties of the Tucson-Pima County Historical Commission as provided herein shall be performed by the Tucson-Pima County Historical Commission Plans Review Subcommittee

- A. Establishment**
The Tucson-Pima County Historical Commission is established and constituted as provided in Chapter 10A, Boards and Commissions, of the Tucson Code.
- B. Administrative Functions**
The Tucson-Pima County Historical Commission Plans Review Subcommittee's administrative functions are as provided in Chapter 10A, Boards and Commissions, of the Tucson Code.
- C. Powers and Duties within the Unified Development Code**
In addition to the powers and duties provided in Chapter 10A, Boards and Commissions, of the Tucson Code, the Tucson-Pima County Historical Commission Plans Review Subcommittee shall be responsible for the following.
 - 1. Establishment of an Historic Preservation Zone or Historic Landmark**
The Tucson-Pima County Historical Commission Plans Review Subcommittee shall review all requests to establish an historic zone or historic landmark in accordance with Section XXX [Sec. 2.8.8.3].

¹² Text from Sec. 23A-32.1.2.f.

2. Amendments to an Existing Historic Preservation Zone or Historic Landmark

The Tucson-Pima County Historical Commission Plans Review Subcommittee shall review any request to amend an existing historic zone or historic landmark in accordance with Section XXX [Sec. 2.8.8.3].

3. Development Review

The Tucson-Pima County Historical Commission Plans Review Subcommittee shall review any development proposal within a historic zone for compliance with design and construction requirements and standards in accordance with Section XXX [Sec. 2.8.8.6].

4. Demolition Review

The Tucson-Pima County Historical Commission Plans Review Subcommittee shall review all proposals to demolish any structure within a historic zone or a historic landmark.

2.2.8. HISTORIC PRESERVATION ZONE ADVISORY BOARDS

For each historic preservation zone proposed or established, an historic preservation zone advisory board (advisory board) is appointed to assist the Mayor and Council and the Designated Planning Agencies in evaluating establishment of, or amendment to, an historic zone and in evaluating proposed development within an adopted historic zone.

A. Composition

Each historic preservation zone advisory board shall consist of at least six, but not more than 15, members. Members may be either voting or non-voting advisory members.

1. Appointment

Members of each advisory board are appointed by the Mayor and Council.

2. Qualifications

For each advisory board, approximately one-third of the voting members must be residents within the historic zone; approximately one-third of the voting members must be property owners within the historic zone; and approximately one-third of the voting members must have special qualifications in such areas as archaeology, architecture, architectural history, local history, historic preservation law, landscape architecture, planning, construction, or other related field. The application information for all prospective members must be accompanied by a statement of interest, including the category in which they would serve. The information for members having special qualifications shall also reference the individuals' educational and professional experience. The Designated Planning Agency Director, the Historic Preservation Officer, and a member of the Tucson-Pima County Historical Commission Plans Review Subcommittee shall review the information for applicants in the special qualifications category and make recommendations prior to the nomination being forwarded to the Mayor and Council for consideration. Members serve without compensation.

3. Terms

The term of each member of an advisory board is for a maximum of four years, expiring on December 31 of the fourth year. Terms may be staggered to assure continuity. Members are eligible for reappointment.

4. Removal

A member of an advisory board may be removed by a two-thirds vote of the Mayor and Council.

B. Administrative Functions

Each advisory board is responsible for the following administrative functions.

1. Election of Officers

Each advisory board elects a Chair and Vice Chair from among its members. The terms of the Chair and Vice Chair are one year.

2. Meetings

Each advisory board holds as many regular meetings as necessary to conduct its business in a timely manner. All meetings shall be open to the public.

3. Quorum and Voting

A majority of the voting members constitutes a quorum of an advisory board. The concurring vote of the majority of members present and voting is necessary to make any recommendation to the Designated Planning Agency Director or to the Mayor and Council. If a concurring vote cannot be attained within the specified time allotted by the review procedure, the matter will be forwarded without recommendation.

4. Records

Each advisory board shall keep a public record of its actions, findings, and recommendations.

5. Rules of Procedure

Each advisory board may adopt rules of procedure necessary to carry out its functions. Copies of such rules will be filed with the City Clerk and made available to the public through the Designated Planning Agencies.

6. Training

Advisory boards shall schedule not less than one meeting per year for the purposes of training related to their design review responsibilities. The training shall be coordinated with the City's Historic Preservation Officer.

C. Powers and Duties

Each advisory board performs the following duties.

1. Establishment of Historic Preservation Zone

Upon receipt of a request to establish an historic preservation zone, the Mayor and Council may establish a historic preservation zone advisory board for the proposed historic zone to evaluate and make recommendations on the proposed establishment of the historic zone in accordance with Section XXX

[Sec. 2.8.8.3]. As part of the review, the advisory board makes recommendations on the boundaries of the historic zone and which sites or structures are to be designated “Contributing Properties” and “Noncontributing Properties.”

2. Historic District Amendments

Each advisory board shall make written recommendations to the Designated Planning Agency Director and to the Mayor and Council concerning amendments to the boundaries of its historic zone and the addition or deletion of designated sites and structures in accordance with Section XXX [Sec. 2.8.8.3].

3. Historic Preservation

Each advisory board shall review and make written recommendations to the Designated Planning Agency Director on applications involving new construction, additions, alterations, and moving or demolition of existing structures located within its historic zone for compliance with the purpose and intent of the historic zone and all applicable provisions and criteria.

4. Permitted Uses

The applicable advisory board shall review applications for resident artisan uses and make recommendations to the Designated Planning Agency Director.

2.2.9. DESIGNATED PLANNING AGENCIES

For purposes of this UDC, the Planning and Development Services Department (PDSD) and the Housing and Community Development Department (HCDD) are the “Designated Planning Agencies” of the City. All references to a “Designated Planning Agency” in the UDC refer to one of these departments. The functions and duties of the departments are listed below.

A. Planning and Development Services Department (PDSD)

1. Functions and Duties

The PDSD, as established by the Mayor and Council, shall generally administer and enforce the UDC, and in addition shall have the following specific responsibilities:

a. Implementation of the UDC

The PDSD shall be responsible for the implementation of applicable provisions of the UDC on all projects being developed under the existing zoning of the property.

b. City Zoning Maps

The PDSD shall be responsible for maintaining the official City Zoning Maps and for the coordination and review of any request to amend the zoning boundaries as provided on the maps.

COMMENTARY

Section 2.2.9 is a proposed new section that combines the functions and duties of the former DSD (now PDSD) and CSD (now HCDD) into one section. In this reorganization, the PDSD and HCDD are both considered **Designated Planning Agencies** and specific references in the text to these departments have been replaced with the more general reference to a “Designated Planning Agency” in Sec. 2.2.9.

c. Board of Adjustment (B/A)

The PDSO shall be responsible for scheduling meetings, providing agendas and public notice of meetings, and maintaining public records of the B/A's findings and decisions.

d. DRB

The PDSO shall be responsible for scheduling meetings, providing agendas and public notice of meetings, and maintaining public records of the DRB's decisions.

e. Historic Preservation Program

The PDSO shall perform the duties and responsibilities of the Historic Preservation Program as described below. The PDSO Director may delegate such duties and responsibilities, provided the person to whom they are delegated acts under the general supervision and on behalf of the PDSO Director.

(i) Performs those administrative functions as required by Section XXX [Sec. 2.8.8], Historic Preservation Zone (HPZ).

(ii) Coordinates review of all alterations, new development, and demolitions within the HPZ.

(iii) Creates and maintains programs to encourage the recognition, restoration, and maintenance of the historic, archaeological, and cultural resources of the City.

(iv) Works with and assists departments of the City and the Tucson-Pima County Historical Commission in matters affecting historic preservation, including enforcement of the HPZ regulations.

(v) Assumes other responsibilities as needed to accomplish the intent of the HPZ.

f. Subdivision, Minor Subdivision, and Land Split

The PDSO shall be responsible for the review of all development proposals for compliance with the subdivision, minor subdivision, and land split regulations in the UDC.

g. Rezoning, Planned Area Development, Planned Community Development District, and Neighborhood Preservation Zone

The PDSO shall review and provide recommendations for all PAD, PCD, and NPZ applications and any rezoning initiated by the Mayor and Council.¹³

h. Special Land Use Exception

The PDSO shall be responsible for review and recommendation for an application in accordance with the UDC.¹⁴

¹³ This duty, with new text, was transferred from the current Planning Department to the PDSO.

¹⁴ Duty added per staff comment.

i. Amendment of UDC

The PDSO shall be responsible for review of and provide recommendations on amendments to the UDC.

j. Planning Commission

The PDSO shall provide technical assistance to and be responsible for scheduling meetings, providing agendas and public notice of meetings, and maintaining public records of the Planning Commission's findings and decisions.¹⁵

k. Airport Regulations¹⁶

The PDSO shall administer and enforce airport zoning regulations in accordance with ARS, Title 2, Article 2, Airport Zoning and Zoning Regulations.

l. Non-conforming Uses, Temporary Uses and Structures

The PDSO shall evaluate and make decisions on non-conforming uses and temporary uses and structures in accordance with the UDC.¹⁷

m. Full and Limited Notice Procedures

The PDSO shall evaluate and make decisions on an application reviewed under full or limited notice procedures in accordance with the UDC. Full notice review includes but is not limited to the following items: Flexible Lot Development; Hillside Development Zone; Scenic Corridor Zone; Environmental Resource Zone; Historic Preservation Zone; and Watercourse Amenities, Safety, and Habitat regulations.¹⁸

n. Modifications to the UDC

The PDSO shall evaluate and make decisions on an application to modify requirements such as setbacks, parking, screening and landscaping in accordance with the UDC.¹⁹

o. Administrative Design Review

The PDSO shall evaluate and make decision on an application under the Administrative Review Procedure in accordance with the UDC.²⁰

p. Other Responsibilities

The PDSO shall perform such other functions as may be required by the Mayor and Council, City Manager, or the UDC.

¹⁵ This duty was transferred from the current Planning Department to the PDSO.

¹⁶ This duty was relocated from the purpose statement to the list where it better fits.

¹⁷ Duty added per staff comment.

¹⁸ Duty added per staff comment.

¹⁹ Duty added per staff comment.

²⁰ Duty added per staff comment.

2. Director of the Planning and Development Services Department (PDSD)²¹
The PDSD Director shall be the chief executive officer of PDSD. The PDSD Director, or designee, shall be responsible for administering the functions and duties of the PDSD listed in Sec. 2.2.9.A.1. The PDSD Director or designee may perform other functions and duties, including assisting the Zoning Administrator in enforcing the UDC, as may be required for the administration of the department or as provided by the City Manager or the UDC.

3. Zoning Administrator
The Zoning Administrator, who is appointed by the PDSD Director, shall perform the duties and responsibilities as described below. The PDSD Director shall designate a temporary Zoning Administrator whenever the Zoning Administrator is unable to perform the duties of the office due to illness, potential conflict of interest, or similar reason.

a. Unified Development Code Interpretation
The Zoning Administrator shall interpret the City Zoning Maps and the provisions of the UDC in accordance with Section 3.3.1.D.7 [Sec. 23A-31(5)].

b. Unified Development Code Enforcement
The Zoning Administrator shall enforce the UDC with assistance from the PDSD and from other City departments as may be provided by the City Manager and Mayor and Council.

c. Other Responsibilities
The Zoning Administrator shall perform such other functions as may be required by the PDSD Director or the UDC.

B. Housing and Community Development Department (HCDD)²²
The Housing and Community Development Department (HCDD), as established by the Mayor and Council, shall serve in the capacity of a planning agency as provided in the ARS, Title 9, Article 6.

1. Functions and Duties
The HCDD shall be responsible for the preparation, maintenance, and administration of the General Plan and specific plans, the preparation and maintenance of land use regulations, redevelopment plans, and other functions as deemed necessary or desirable for the City.

a. Administration of General Plan
(i) Preparation and Adoption
The HCDD prepares the General Plan, and amendments thereto, for consideration by the Mayor and Council. The General Plan is a comprehensive, long-range plan declaring purposes, policies, and

²¹ In response to staff comment, the list of specific Director duties was deleted and replaced with a more inclusive purpose statement.

²² As mentioned before, we have retained the provisions related to the Dept. of Urban Planning and Design until a final decision is made regarding its potential merging with DSD.

programs for the growth and development of the City and its environs as provided in Section XXX [Sec. 5.2.2] and is equivalent to the state-mandated general plan.

(ii) Implementation

The HCDD shall undertake the following actions to encourage implementation of the General Plan.²³

- (1) Investigate and make recommendations to the Mayor and Council concerning reasonable and practical means for putting the General Plan, or parts thereof, into effect in order that it will serve as a pattern and guide for the orderly growth and development of the City and as a basis for the efficient expenditure of its funds relating to the subjects of the General Plan. The measures recommended may include plans, regulations, financial reports, and capital budgets.
- (2) Submit an annual report to the Mayor and Council on the status of the plan and the progress of its application.
- (3) Endeavor to promote public interest in, and understanding of, the General Plan and regulations relating to it.
- (4) Consult with and advise public officials and agencies; public utility companies; civic, educational, professional, and other organizations; and citizens, generally, with relation to carrying out the General Plan.

b. Specific Plans (Including Sub-area Plans and Creation or Revision of Area and Neighborhood Plans)

(i) Preparation and Adoption

The HCDD shall prepare specific plans for consideration of adoption or amendment by the Mayor and Council. Specific plans include such elements as, but are not limited to, neighborhood and area plans, plans for major streets or parks, and land use regulations and policy documents for the implementation of the General Plan.

(ii) Implementation

The HCDD shall provide for the maintenance and administration of specific plans as provided in Section XXX [Sec. 5.2.3]. The Mayor and Council, with a recommendation from the designated planning agency, may adopt administrative rules and procedures for the implementation of specific plans.

c. Capital Improvement Program

The HCDD shall assist the City Manager and other City departments in coordinating the major public works of the Capital Improvement Program, monitors its implementation, and advises the Mayor and Council on its conformance with the General Plan and specific plans.

²³ This section is taken from Sec. 5.2.2.3

d. Historic Preservation

The HCDD shall be responsible for oversight of historic preservation policy in reference to the General Plan and the establishment of local National Register Historic Districts

e. Other Responsibilities

The HCDD shall perform such other functions as may be required by the Mayor and Council, City Manager, or the UDC.

2. Director of the Housing and Community Development Department

The Director of HCDD is the chief executive officer of the HCDD and shall be responsible for administering the functions and duties of the HCDD. The Director, or designee, performs other such functions as may be required for the administration of the HCDD or as provided by the Mayor and Council, City Manager, or the UDC.

2.2.10. DESIGN PROFESSIONAL²⁴

The position of Design Professional (DP) is established 1) to review building permits for projects located in the Neighborhood Preservation Zone (NPZ) overlays for compliance with applicable design manuals, and 2) to review proposed buildings, structures, landscaping, architectural features, of proposed subdivisions, development plans, and site plans, as set forth in the Unified Development Code (UDC), Sec. 23 of the Tucson Code.

A. Appointment and Qualifications

1. Appointment

The Designated Planning Agency Director (Sec. 2.2.9) shall recommend a candidate(s) for the position of DP. The Mayor and Council shall appoint the DP.

2. Qualifications

a. HPZ Review

The DP shall be a registered architect, preferably with historic preservation experience.

b. Subdivision Review

The DP shall be a registered architect or landscape architect.

B. Powers and Duties

1. NPZ Compatibility Review within Neighborhood Preservation Zones

The DP shall review applications for building permits for projects located within adopted NPZ Overlays for compliance with the applicable Design Manual and Section XXX [Section 2.8.11.9] (Compatibility Review for Applications for Proposed Development). The DP will forward a written report with findings and recommendation to the Designated Planning Agency

²⁴ Per staff comment, we have consolidated the Design Professional (NPZ) and Design Examiner (FLD) positions but have retained the same qualifications and requirements when performing the respective duties.

Director. The Director shall take into account the recommendations of the DP when considering approval of the application.

2. Flexible Lot Development (FLD) Project Review

The DP shall review FLD projects for compliance with, but not limited to:

- a. Section XXX [Section 3.6.1.4.D] (Functional Open Space);
- b. Section XXX [Section 3.6.1.5.A.1] (Transition Edge Treatment);
- c. Section XXX [Section [3.6.1.5.A.2] (Privacy Mitigation);
- d. Section XXX [Section 3.6.1.5.D.2] (Modifications to Street Perimeter Yard Setbacks); and,
- e. Section XXX [Section 3.6.1.6.B] (Architectural Variation).

f. Recommendation on FLD Review

The DP shall forward a written recommendation with findings to the Designated Planning Agency Director. The Director shall consider the DP's recommendation and render a decision on the FLD.

g. Findings for FLD Privacy Mitigation Plan

The DP may recommend a project if it meets the following findings:

- (i) Will not be detrimental to public health and safety; and
- (ii) Will not impair an adequate supply of light and air to adjoining properties; and
- (iii) Will not create a nuisance to surrounding properties.

3. Conditions

a. HPZ Review

The DP may recommend conditions on the approval of a building permit to ensure that the design of the project mitigates the impact of the project on the subject development zone.

b. FLD Review

The DP may recommend conditions on the approval of an FLD to ensure that the design of the FLD mitigates the impact of the FLD and provides suitable transitions to the adjoining existing residential developments.

4. Conflict of Interest

The DP shall not render professional services if the DP's judgment could be affected by responsibilities to another project or person or by the DP's own interests. The DP shall comply with City of Tucson Administrative Directive 2.02-14 and Policy 282, Ethics and Conflict of Interest for City Officers and Employees.

5. Other Responsibilities

The DP shall perform such other functions as may be required by the UDC.

2.2.11. COMMUNITY DESIGN REVIEW COMMITTEE²⁵

The purpose of the Community Design Review Committee (CRDC) is to provide centralized plan review intake, to direct plans to agencies representing governments and utilities for regulatory compliance review, and to provide development review applicants with information on review, resubmittal, and approval procedures.²⁶

A. Organization

The CDRC is composed of those City departments, utility companies, and other agencies that have responsibilities for the regulation of land use within the City limits, as determined by the Directors of the Designated Planning Agencies. Only those departments, utility companies, and other agencies potentially affected by or with expertise related to an application are included in the CDRC review.²⁷

B. Coordination

The Director of the Designated Planning Agency, or designated representative, shall chair the CDRC and shall be responsible for coordinating, compiling, and maintaining a record of all the responses generated by the CDRC members. CDRC recommendations are transmitted to the Designated Planning Agencies, the Zoning Examiner, the City Manager, and the applicant as applicable.²⁸

C. Functions

1. General

- a. The CDRC shall serve in a technical advisory capacity for the City Manager, the Zoning Examiner, the Designated Planning Agencies and the Mayor and Council.
- b. The CDRC primary functions are to facilitate and expedite the review and approval of subdivision plats, development plans, and land development regulations, and to ensure compliance with adopted codes and regulations applicable to a project.
- c. CDRC members possess the necessary administrative authority and expertise to properly evaluate matters before the CDRC and are obligated to respond expeditiously and in a timely and courteous manner.
- d. CDRC members are also expected to objectively enforce requirements established by an adopted code or ordinance and to assist to the best of their ability in finding solutions to technical and procedural problems.

2. Development Regulations Information

CDRC members shall provide information to individuals regarding development of specific sites within the City of Tucson. Such information may include explanations of regulations and design standards applicable to the proposed development and any other land use related information including projected capital improvements.

²⁵ This is a new purpose statement and replaces text from DS 1-03.0.

²⁶ This purpose statement is a slightly modified version of the policy statement of DS 1-03.1.3.

²⁷ Staff and Clarion recommend that Section 2.2.12.A.2 be deleted from the UDC and placed in an Administrative Manual.

²⁸ Staff and Clarion recommend that Sec. 2.2.12.A.3.b and c be deleted from the UDC and only subsection a. be kept. These two provisions are best located in the Administrative Manual.

- 3. Technical Review**²⁹
 - a.** The CDRC shall perform formal technical review of all tentative and final plats, development plans, and design standards, in accordance with applicable codes and ordinances.
 - b.** Informal preliminary reviews can be done by the CDRC by scheduling a presubmittal conference with the Designated Planning Agency.
 - c.** The Designated Planning Agency has the discretion to ask the CDRC for advice regarding any other matter related to land development.

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²⁹ Staff notes that further discussion is necessary on this section.