PLANNING COMMISSION

Planning & Development Services Department • 201 N. Stone Ave. • Tucson, AZ 85701

DATE: **February 19, 2014**

TO: **Planning Commission**

FROM: **Ernie Duarte**
Executive Secretary

SUBJECT: **Unified Development Code and Tucson Code Text Amendments: Corrections, Edits, & Clarifications – Study Session**

Issue

This item is scheduled for a study session.

Since the October 9, 2013 adoption of the Unified Development Code (UDC), staff has continued to review the documents and has found that there are corrections and clarifications needed.

The proposed amendments are corrections of scrivener's errors, corrections to section references and permitted use designations, clarifications of vague or confusing requirements, and updates to the Tucson Code to reflect changes adopted as part of the UDC when it was originally adopted.

None of these proposed text amendments will result in a significant change to how the requirements are implemented or enforced. A summary and a full description of the proposed corrections are provided in Attachments A and B, respectively.

The proposed changes have been sent to the Land Use Code Committee and other stakeholders for review and comment. To date, staff is unaware of any issues with the proposed amendments.

Recommendation – Staff recommends that the Planning Commission schedule this item for a public hearing in April.

Attachment

A – Summary of the Proposed Text Amendments to the Unified Development Code and Tucson Code

B – Proposed Text Amendments to the Unified Development Code and Tucson Code

ATTACHMENT A: SUMMARY OF THE PROPOSED TEXT AMENDMENTS TO THE UNIFIED DEVELOPMENT CODE AND TUCSON CODE

The following is a summary of the proposed text amendments to the Unified Development Code (UDC). The full text of each proposed text amendment is provided on Attachment B (see page reference in the "Number" column below).

Number	Summary of Proposed Amendment	Rationale
	UNIFIED DEVELOPMENT CODE	
1 *Attachment B, Page 1*	**Sec. 3.2.3.A.2: Application Requirements, Application Required** "…However, if an incomplete submittal isbe accepted for review, the applicant…".	The proposal corrects a scrivener's error.
2 *Attachment B, Page 2*	**Sec. 4.8.7, Table 4.8-5: Permitted Uses – Industrial Zones** 1. Correct the Commercial Services Land Use Group header 2. Revises the Industrial Zone permitted use table to correctly indicate that the additional permitted accessory uses to any permitted Storage Use Group use apply to the P-1 zone and not the P-2 zone.	1. The proposal corrects a scrivener's error. 2. The proposal corrects a mistake in the Industrial Zone permitted use zone. The correction will make the UDC consistent with the standards that have been in effect for years per the Land Use Code (LUC).
3 *Attachment B, page 3*	**Sec. 4.8.8, Table 4.8-5: Permitted Uses – Special Use Zones (1) – OS, IR, P, & RV** Revises the Special Use Zone permitted use table to correct the use-specific standard references and to clarify the types of Food and Beverage Sales and Personal Services permitted as accessory uses to campsites over 200 spaces.	1. The proposal corrects a mistake to the use-specific standard reference. The correction will make the UDC consistent with the standards that have been in effect for years per the Land Use Code (LUC). 2. The proposal clarifies the types of uses permitted up front, thus making them more visible to the user, rather than including them solely in the use-specific standards where they are more easily overlooked.

Number	Summary of Proposed Amendment	Rationale
4 *Attachment B, page 4*	**Sec. 4.9.7, Use-Specific Standards Pertaining to Permitted Accessory Uses in Mobile Home Parks** Corrects the use-specific standards.	The proposal corrects a mistake to the use-specific standards. The correction will make the UDC consistent with the standards that have been in effect for years per the Land Use Code (LUC).
5 *Attachment B, page 5*	**Sec. 5.4.6, MS&R Street Perimeter and Parking Adjustment, Calculation Adjustment Factor** Corrects the caption to Figure 5.4-C and Example 3 to add the missing division symbols.	The proposal adds the division symbols in two places that were inadvertently omitted when the UDC was prepared.
6 *Attachment B, page 6*	**Sec. 5.13.4.A Urban Overlay District, Development Standards** Corrects the reference to the UDC to read the "Unified Development Code."	The proposal corrects a scrivener's error.
7 *Attachment B, page 7*	**Sec. 6.4.7, Residential Density** Adds residential density calculations.	The residential density calculations from the LUC were not initially transferred into the UDC because, at the time, it was thought that it was superfluous. However, now that the UDC has been in effect for over 1 year
8 *Attachment B, page 10*	**Sec. 6.6.2.J, Accessory Buildings and Structures** Revises the section to apply more generally to any perimeter yard and not just to the side and rear yard as currently stated.	The correction will make the UDC consistent with the standards that have been in effect for years per the Land Use Code (LUC).
TUCSON CODE		
TC-1 *Attachment B, page 11*	**Sec. 29-17, Watercourse Amenities, Safety and Habitat (WASH), Review and Approval** Revises the review and approval procedures to clarify that plant, habitat and preservation and hydrology/ hydraulic reviews with the WASH are in accordance with the PDSD Director Approval Procedure for those that opt to use the UDC and the 300' Notice Procedure for those that opt to use the	One of the significant regulatory differences between the UDC and LUC that was adopted as part of establishing the UDC is that projects in several different overlay zones, including the WASH, would now be reviewed and considered for approval in accordance with the PDSD Director Approval Procedure and not the 300' Notice Procedure as required by the LUC. While the necessary changes

Number	Summary of Proposed Amendment	Rationale
	LUC.	were made to the UDC and Technical Standards Manual to reflect this change, the standard in the Tucson Code was overlooked. The proposal corrects this oversight.
TC-2 *Attachment B, page 12*	**Sec. 29-18, Watercourse Amenities, Safety and Habitat (WASH), Violation Declared a Civil Infraction** Updates the affected department's name to the "Planning and Development Services Department."	The department's name was changed several years ago and this section of the Tucson Code was not updated.
TC-3 *Attachment B, page 12*	**Sec. 29-19, Watercourse Amenities, Safety and Habitat (WASH), Appeals and Variances** Updates this section to include references to the applicable appeals and variance procedures in the UDC.	The proposal updates the section to include the applicable sections in the UDC.

ATTACHMENT B: PROPOSED TEXT AMENDMENTS TO THE UNIFIED DEVELOPMENT CODE AND TUCSON CODE

UNIFIED DEVELOPMENT CODE

#1. Tucson Code Chapter 23B, Article 3, General Procedures, Section 3.2 General Requirements, Subsection 3.2.3, Application Requirements is amended to read as follows:

3.2.3 APPLICATION REQUIREMENTS

A. Application Required

* * *

2. If an application is determined to be incomplete, the PDSD Director shall provide notice to the applicant with an explanation of the application's deficiencies. Incomplete submittals are generally not accepted for review. However, if an incomplete submittal is~~be~~ accepted for review, the applicant should be aware that, because of a lack of information, the review will take longer since comments cannot be finalized until after the re-submittal when the required information is provided.

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#2. Tucson Code Chapter 23B, Article 4, Zones, Section 4.8 Use Tables, Subsection 4.8.7, Permitted Uses: Industrial Zones, Table 4.8-5, Permitted Uses – Industrial Zones is amended to read as follows:

4.8.7 PERMITTED USES: INDUSTRIAL ZONES

* * *

TABLE 4.8-5: PERMITTED USES – INDUSTRIAL ZONES*
P = Permitted Use S = Permitted as Special Exception Use
[1] Mayor and Council Special Exception Procedure, Section 3.4.4
[2] Zoning Examiner Special Exception Procedure, Section 3.4.3
[3] PDSD Special Exception Procedure, Section 3.4.2

*Any Land Use Class not permitted or a Special Exception Use in any other zone, or permitted in the I-2 zone, may be permitted in the I-2 zone and shall comply with the dimensional standards determined to be most similar to the proposed use.

LAND USE	P-I	I-1	I-2	USE SPECIFIC STANDARDS
		***		
Civic Land Use Group with Land Use Class/Type:				
		***		
Religious Use		P		**I-1:** 4.9.13.Q
With Salvaging and Recycling as an accessory use		P		**I-1:** 4.9.5.G.1 & .3
~~Commercial Services Land Use Group With Land Use Class/Type:~~			~~*~~	
Commercial Services Land Use Group With Land Use Class/Type:			*	
		***		
Storage Land Use Group With Land Use Class/Type:			*	
Commercial Storage	P	P	P	**P-I:** 4.9.10.A, 4.9.5.C.8, and 4.9.13.Q **I-1, I-2:** 4.9.10.A and 4.9.13.Q
Hazardous Material Storage			S [1]	**I-2:** 4.9.13.Q
Personal Storage		P	P	**I-1, I-2:** 4.9.10.C.3 & .6 and 4.9.13.Q
Additional Permitted Accessory Uses				
The following uses are permitted as an accessory use to any permitted use in the Storage Use Group: ▪ Construction Material Sales; ▪ Food and Beverage Sales; ▪ Heavy Equipment Sales; or, ▪ General Merchandise Sales	P	~~P~~		**P-1:** 4.9.5.C.8 & .10
		***		

#3. Tucson Code Chapter 23B, Article 4, Zones, Section 4.8 Use Tables, Subsection 4.8.8, Permitted Uses: Special Use Zones (1) – OS,IR, P. & RV Table 4.8-6, Permitted Uses – Special Use Zones (1) – OS,IR, P. & RV is amended to read as follows:

* * *

4.8.8 PERMITTED USES: SPECIAL USE ZONES (1) – OS, IR, P, & RV

TABLE 4.8-6: PERMITTED USES – SPECIAL USE ZONES (1): OS, IR, P, & RV ZONES
P = Permitted Use S = Permitted as Special Exception Use
[1] Mayor and Council Special Exception Procedure, Section 3.4.4
[2] Zoning Examiner Special Exception Procedure, Section 3.4.3
[3] PDSD Special Exception Procedure, Section 3.4.2

LAND USE	OS	IR	P	RV	USE SPECIFIC STANDARDS
***					
Commercial Services Land Use Group With Land Use Class/Type:					
***					
Travelers' Accommodation: Campsite				P	**RV:** 4.9.13.L
Campsite of over 200 spaces with the following uses as an accessory use: ▪ Adult Care Services; ▪ Day Care; ▪ Family Dwelling; ▪ Food and Beverage Sales (limited to a delicatessen, snack bar, or food store only); ▪ General Merchandise Sales; ▪ Mobile Home Dwelling; ▪ Park and Recreation; or, ▪ Personal Services (limited to a coin-operated laundry or pick-up station for dry cleaning only)				P	**RV:** 4.9.7.I.3~~1 & .2~~ and 4.9.13.L
Lodging		S [1]			
The following as accessory uses to a Travelers' Accommodation, Lodging use: ▪ Alcoholic Beverage Service; ▪ Civic Assembly; ▪ Commercial Recreation; or ▪ Food Service.		S [1]			**IR:** 4.9.4.AA.1-.5, .6.b, & .7 and the following: ▪ For Alcoholic Beverage Service, 4.9.4.C.3; ▪ For Food Service, 4.9.4.M.3.
* * *					

#4. Tucson Code Chapter 23B, Article 4, Zones, Section 4.9 Use Specific Standards, Subsection 4.9.7, Residential Use Group is amended to read as follows:

* * *

4.9.7 RESIDENTIAL USE GROUP

* * *

A. Accessory Uses in Mobile Home Parks ~~with 100 Spaces or More~~

1. Day Care, Child uses are subject to Sections 4.9.4.H.1, .2, .3, .4, and .5;
2. Travelers' Accommodation, Campsite uses are subject to Section 4.9.7.Z;
3. The listed secondary uses, except for mobile home unit sales and Travelers' Accommodation, Campsite, are permitted only if all of the following apply: ~~Food and Beverage Sales (limited to a delicatessen or snack bar), General Merchandise Sales, and Personal Services (limited to a coin-operated laundry or pick-up station for dry cleaning) are permitted as accessory uses in accordance with the following:~~

   a. The use is located in the social or recreation center of the park;

   b. The social or recreation center is located 50 feet or more from any interior lot line of the mobile home park and 100 feet or more from any street lot line bounding the mobile home park;

   c. The accessory use does not occupy more than 25 percent of the floor area of the social or recreation center;

   d. No merchandise or supplies shall be stored or displayed outside the building; and,

   e. Exterior signs or public advertising are prohibited.

   f. Food and Beverage Sales is limited to a delicatessen, snack bar, or food store only. Personal Services is limited to a coin-operated laundry or pick-up station for dry cleaning only.

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#5. Tucson Code Chapter 23B, Article 5, Overlay Zones, Section 5.4 Major Streets and Routes Setback Zone (MS&R), Subsection 5.4.6 MS&R Street Perimeter Yard and Parking Adjustment is amended to read as follows:

* * *

5.4.6 MS&R STREET PERIMETER YARD AND PARKING ADJUSTMENT

* * *

D. Calculation of Adjustment Factor

1. The adjustment on each project is based on the amount (by percentage) of site area that is within the MS&R right-of-way area (A). This adjustment factor is calculated by dividing that area (A) by the gross site area that includes area A. The adjustment factor is calculated to the nearest thousandth as shown below. (See Figure 5.4-C.)

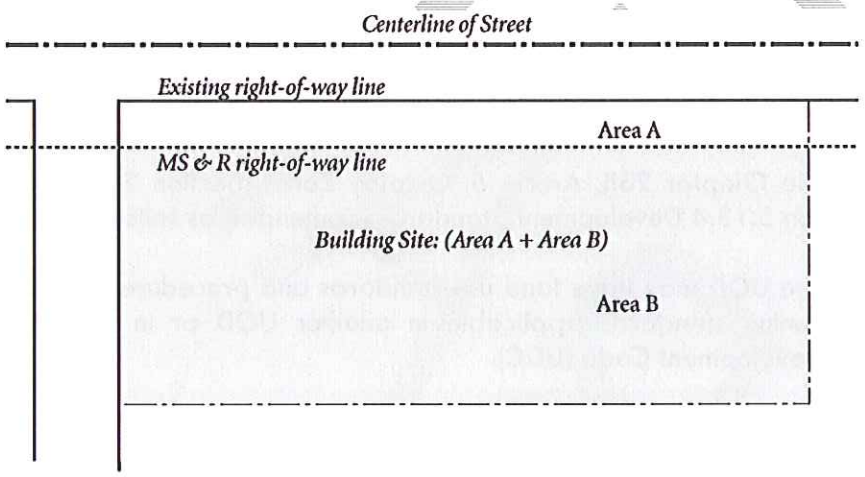

Figure 5.4-C: Adjustment of Off-street Parking Requirements

Formula: A ÷ (A + B) = Adjustment factor
Where:
A = Site area within MS&R right-of-way
B = Site area outside the MS&R right-of-way
A + B = Site area or gross site area

EXAMPLE 2: Utilization of Formula

A = 15,000 square feet
B = 75,000 square feet
A ÷ (A + B) = Adjustment factor (percentage)
15,000 ÷ (15,000 + 75,000) = Adjustment factor
15,000 ÷90,000 = Adjustment factor
.167 = 16.7% = Adjustment factor

EXAMPLE 3. Adjustment Utilizing Section 5.4.5.H.1.d.

If area A were dedicated to the City, then area A would be allowed to count at one and one-fourth its size in the adjustment calculation as provided in Section 5.4.5.D.1.d. For example, utilizing the site conditions in Example 1, where A is equal to 15,000 square feet utilizing the provision of Section 5.4.5.D.1.d, area A would now be equal to 18,750 square feet (15,000 multiplied by 1.25). The calculation would be as follows with B = 75,000 square feet:

A ÷ (A + B) = Adjustment factor
18,750 ÷ (18,750 + 75,000) = Adjustment factor
18,750 ÷ 93,750 = Adjustment factor
0.20 = 20% = Adjustment factor

* * *

#6. Tucson Code Chapter 23B, Article 5, Overlay Zones, Section 5.13 Urban Overlay District, Subsection 5.13.4 Development Standards is amended as follows:

A. The UOD may have land use standards and procedures different from the zoning standards applicable in another UOD or in the ~~Uniform~~Unified Development Code (UDC).

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#7. Tucson Code Chapter 23B, Article 6, Dimensional Standards and Measurements, Section 6.4 Rules of Measurement and Exceptions to Dimensional Standards, Subsection 6.4.7 Residential Density is amended as follows:

* * *

6.4.7 RESIDENTIAL DENSITY

A. Purpose

This Section provides uniform methods for determining residential densities on individual sites.

B. Applicability

Residential density for all residential projects is calculated as follows.

1. Residential density in residential projects is based on one (1) dwelling unit per minimum size parcel by area, exclusive of any street and drainageway dedications or exclusive use easements. Because the acreage of a parcel used for street and drainageway purposes differs for each development project, it is difficult to provide a simple calculation that would give an exact density figure.

   The following provide two (2) methods of calculating approximate density for a project. The number of units obtained through these calculations is an estimate and can only be verified by the actual design of the project. Should there be a need to express a density ratio per acre, for comparison purposes only, such ratio will be calculated using the second method assuming thirty (30) percent of the site would be used for streets, drainageways, or other uses whose acreage is not included to calculate allowable density.

   a. The first method of calculation gives the highest possible density that can be achieved on a parcel. However, to achieve this density, the following two (2) design criteria must be present. (See Figure 6.4.7-A Residential Density, Method 1)

      i. The property can be developed without additional dedications for streets, drainageways, or exclusive use easements.

      ii. Each lot is the minimum size permitted by the underlying zone.

      The site area, expressed in square feet, is divided by the minimum lot size permitted by the underlying zone.

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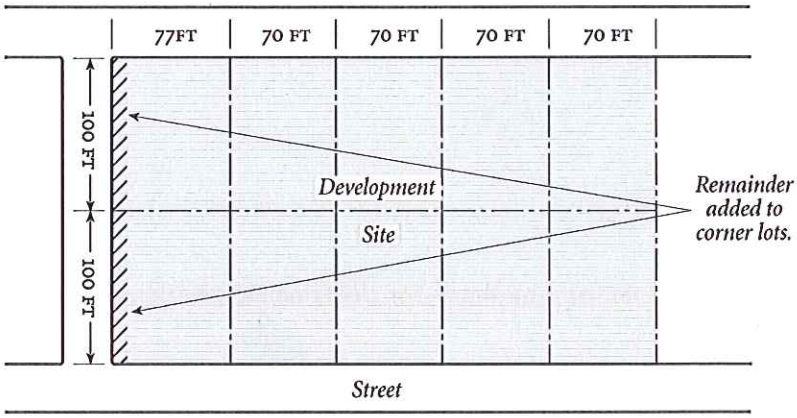


Site Area: 71,400 square feet (sf) or 1.64 acres
Minimum lot size: 7,000 sf

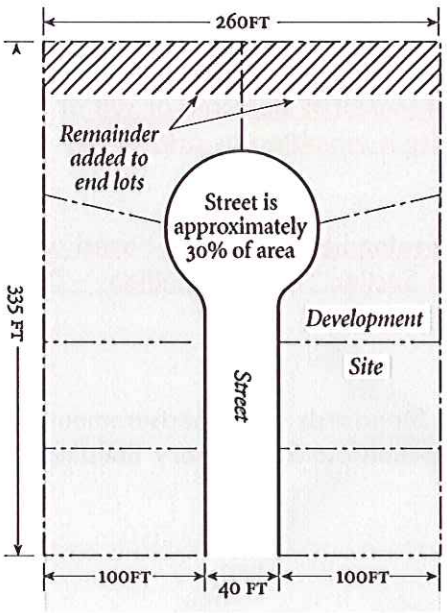
Approximate No. of Units = Site Area ÷ Minimum Lot Size
= 71,400 sf ÷ 7,000 sf
= 10.2 units
= 10 units + .2 remainder

Approximate Density = Units ÷ Site Area
= 10.2 units ÷ 1.64 acres
= 6.22 dwelling units/acres

Figure 6.4.7-A Residential Density, Method 1

b. The second method assumes that the project design requires dedication of either streets, drainageways, or exclusive use easements or will have other site conditions that do not allow every square foot of the property to be included in an individual lot. Also, due to varying widths of street and drainageway rights-of-way and lot configurations, it is impossible to project an exact number of units or lots that can be achieved. Since the amount of site area used for streets, drainageways, etc., varies from project to project, it is necessary to approximate the amount of site area by percentage that will be needed for those purposes. It will be assumed, to illustrate the calculations, that thirty (30) percent of the site area will be utilized for such purposes. (See Figure 6.4.7-B Residential Density, Method 2)

The calculation is the site area, expressed in square feet, minus thirty (30) percent of the site area, divided by the minimum lot size permitted by the underlying zone.



Site Area: 87,120 square feet (sf) or 2 acres
Minimum lot size: 7,000 sf
Site area for streets, etc.: 26,136 sf (approximately 30%)

Approx. No. of Units = (Site Area – 30% of Site Area) ÷ Minimum Lot Size
= (87,120 sf – 26,136 sf) ÷ 7,000 sf
= 8.71 units
= 8 units + .71 remainder

Approx. Density = Units ÷ Site Area
= 8 units ÷ 2 acres
= 4 dwelling units/acres

Figure 6.4.7-B Residential Density, Method 2

2. Residential density in multifamily projects developed is calculated in the following manner.

a. Multiply the area of the site, in acreage, by the density (units per acre ratio) permitted by the underlying zoning.

Example:

Units Per Acre Ratio: 15.0
Project Site Area: 6 acres

Calculation:

Units per acre x site area = no. of units
15 x 6 = 90 units

b. Exception. Any site area dedicated or sold at nominal cost to the City for public purposes is included as part of the site area for calculation of density, provided:

i. The additional density is less than ten (10) percent of the density permissible for the rest of the site area;

ii. Such dedication was not a condition of approval for applications, such as, but not limited to, rezonings or variance requests;

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iii. Such dedication does not include right-of-way dedicated as part of a subdivision plat; and

iv. A legally binding agreement to dedicate or sell at nominal cost to the City is submitted as part of the application.

3. Residential density in Flexible Lot Development projects is based on the developable area (as defined in Section 11.4.5 Definitions – D) of the site.

#8. Tucson Code Chapter 23B, Article 6, Dimensional Standards and Measurements, Section 6.6 Accessory uses, buildings, and Structures, Subsection 6.6.2 Accessory Buildings and Structures is amended as follows:

* * *

6.6.2 ACCESSORY BUILDINGS AND STRUCTURES

* * *

J. In nonresidential zones, walls or fences, as permitted in Section 6.6.2.I above, may exceed the heights standards, provided the wall or fence complies with the perimeter~~side and rear~~ yard standards applicable to buildings on the site.

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TUCSON CODE

#TC-1. Tucson Code Chapter 23, Chapter 29, Energy and Environment, Article VIII, Watercourse Amenities, Safety and Habitat, Section 29-17, Review and Approval is amended as follows:

(a) *Plant, habitat and preservation review.* The PDSD director shall review the plant/habitat inventory and the preservation/revegetation plan in accordance with Unified Development Code (UDC) Section 3.3.3, PDSD Director Approval Procedure, or, when the applicant who was the landowner of record prior to the effective date of the UDC (i.e. January 2, 2013) chooses to be governed by the provisions of the Land Use Code, Development Compliance Code, Chapter 23A, section 23A-50 and section 23A-51. Applications under this subsection shall be reviewed by the stormwater advisory commission (SAC), which shall make recommendations on the application to the PDSD director.

In making a decision, the PDSD director will consider the preservation/revegetation plan as it relates to the following:

1. The existing condition of the site.

2. The existing character of vegetation upstream and downstream in the channel, on the banks, and fifty (50) feet from the banks of any parcels immediately adjacent to the site.

3. The amount, type, and characteristics of the vegetation upstream and downstream of the site, any proposed open space linkages or facilities recommended by parks, recreation, open space, and trails plan, and any applicable findings of the critical and sensitive wildlife habitat map and study.

4. The density, diversity, location, and selection of plan materials.

5. Other landscaping required by Chapter 23 of the Tucson Code.

(b) *Hydrology/hydraulic review.* The PDSD director shall review the hydrology/hydraulic study and the preservation/mitigation plan showing the proposed treatment of the resource area in accordance with Unified Development Code (UDC) Section 3.3.3, PDSD Director Approval Procedure, or, when the applicant who was the landowner of record prior to the effective date of the UDC (i.e. January 2, 2013) chooses to be governed by the provisions of the Land Use Code, Development Compliance Review, Chapter 23A, sections 23A-50 and 23A-51.

In making decisions on the type and manner in which drainage improvements or other uses may be located in the resource area, the PDSD director shall consider the following:

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1. Whether drainage improvements are necessary to prevent erosion or flooding hazards.

2. Whether reasonable alternative locations for utility lines and roadway improvements are available.

3. Whether erosion setbacks greater than the resource area are required by Chapter 26, (Floodplain and Erosion Regulations), if the resource area is left unimproved.

4. Whether the development proposed within the resource area is compatible with the purpose and intent of these regulations.

5. Whether the resource area is restored as closely as possible to its predisturbance condition.

#TC-2. Tucson Code Chapter 23, Chapter 29, Energy and Environment, Article VIII, Watercourse Amenities, Safety and Habitat, Section 29-18, Violation Declared a Civil Infraction is amended as follows:

It shall be a civil infraction for any person, firm or corporation to violate, disobey, omit, neglect or refuse to comply with, or to resist the enforcement of any of the provisions of this article.

If any property or improvement thereon is used in violation of the provisions of this article, the city attorney, in addition to other remedies, may institute any appropriate action or proceeding to restrain, correct or abate such violation.

The Planning and Delevelopment Sservices Delepartment Delirector shall either proceed to issue a citation for violation of this article pursuant to Chapter 28 of the Tucson Code, or report such violations to the city attorney. Violations for which citations are issued shall be heard under the procedures set forth in Chapter 28 of the Tucson Code.

#TC-3. Tucson Code Chapter 23, Chapter 29, Energy and Environment, Article VIII, Watercourse Amenities, Safety and Habitat, Section 29-19, Appeals and Variances is amended as follows:

(a) *Appeals.* The decision of the director may be appealed to the mayor and council in accordance with Unified Development Code (UDC) Section 3.9.2, Mayor and Council Appeal Procedure, or, when the applicant who was the landowner of record prior to the effective date of the UDC (i.e. January 2, 2013) chooses to be governed by the provisions of the Land Use Code, Development Compliance Review, Chapter 23A, section 23A-62. Appeals must be filed ~~by filing the appeal~~ with the city clerk no later than fourteen

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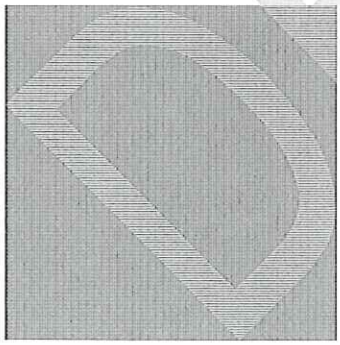
(14) days after the date of the decision. A copy of the appeal shall be filed with the director.

(b) *Variances.* A request for a variance from the provisions of this Article shall be reviewed through the board of adjustment procedures, Unified Development Code (UDC) Section 3.10.1 and 3.10.3, Board of Adjustment Variance Procedure, or, when the applicant who was the landowner of record prior to the effective date of the UDC (i.e. January 2, 2013) chooses to be governed by the provisions of the Land Use Code, Development Compliance Review, Chapter 23A, section 23A-62 and shall satisfy the findings for granting a zoning variance set forth in LUC section 5.1.7.3.B.

(c) *Stormwater technical advisory committee (STAC).* STAC may make recommendations to the director of the department of transportation to be forwarded to the mayor and council on technical issues and questions raised by appeals and variance requests and proposed amendments to these regulations.

(d) *Stormwater advisory committee (SAC).* The SAC may review all proposed amendments to the Tucson Code, Chapter 29, Article VIII, and may provide written conclusions and recommendations to the director of the department of transportation to be forwarded to the mayor and council and, as applicable, to the planning commission, prior to a public hearing on the proposed amendments.



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