



PLANNING COMMISSION

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

DATE: July 18, 2012

TO: Planning Commission

FROM: Ernie Duarte 
Executive Secretary

SUBJECT: Land Use Code Simplification Project: Articles 1 (General Provisions); 2 (Review Authorities); 5 (Overlay Zones); 7 (Development Standards); 8 (Land Division and Subdivision Standards); 9 (Nonconformities); 10 (Enforcement and Penalties); and 11 (Definitions and Rules of Construction) of the Unified Development Code

Issue – This item is scheduled as an action item.

Due to regulatory time limits established in the Land Use Code, the Planning Commission closed the public hearing on the abovementioned articles at the June 2012 meeting and must make a recommendation at the July 18, 2012 meeting or these articles will be forwarded to the Mayor and Council without a recommendation from the Planning Commission.

At its June 2012 meeting, the Planning Commission recommended that staff reconvene the Land Use Code Committee to discuss the latest proposed changes and to gather input and feedback on any other remaining issues. As recommended, staff met with the committee twice (June 21st and July 5th). Also in attendance were two Planning Commissioners, additional neighborhood representatives, and other interested parties whom staff had invited to participate.

Issues of particular significance discussed at the meetings that affect several of the documents under consideration were:

- 1) The Zoning Administrator interpretation notification and posting requirements (UDC Section 1.5.1). The committee stated that the notification and posting requirements are unclear and do not require the level of transparency necessary for public review. In response to these comments and upon further review of current local and state regulations pertaining to zoning interpretations, staff is proposing revisions to this section that clarifies that: a) any person can request a zoning interpretation; b) the applicant and parties of record only are required to receive notice; and, c) interpretations will be posted online.
- 2) Those landscaping standards currently in the Development Standards that are proposed for incorporation into the UDC. The committee and staff agreed to maintain the status quo, whereby those standards currently unique to the Development Standards will be relocated from Article 7 of the UDC to the Technical Standards Manual.
- 3) Various issues with Article 8, including assurances, replatting an abandoned plat, and the permitted improvements in natural open space and natural undisturbed open space. Staff

has revised, when permitted within the scope of this project, Article 8 in response to the issues raised as provided in Attachment C.

Other revisions were made to the draft documents in response to comments from neighborhood representatives and developers, which are shown in July 2012 drafts as tracked changes. A summary of the changes to the June 2012 drafts is provided in Attachment A.

A summary of each article, the significant differences between the proposal and current code, changes, if any, made to the June 2012 drafts, and any outstanding issues with the articles are provided below.

Because drafts of each article was provided in previous months and only minor revisions have been made since then, replacement pages only are attached except as noted below. Complete drafts of the articles are available online here:

http://cms3.tucsonaz.gov/planning/prog_proj/projects/lucsimplication/

Recommendation – Staff recommends that the Planning Commission forward this item to the Mayor and Council with a recommendation to approve these articles with the proposed revisions as shown in the July 2012 drafts.

Background

Land Use Code Simplification and Reformat Project. The Unified Development Code (UDC) is a simplification and reformat of the City's Land Use Code (LUC). The project's goals are to:

- Consolidate procedures;
- Clarify vagueness;
- Emphasize simplicity;
- Reduce need for cross-referencing (i.e. reduce page flipping) and redundancy;
- Use a simplified numbering system;
- Replace the development designator system with simpler dimensions by zone;
- Provide new language necessary for the transition from LUC to UDC; and,
- Acknowledge that other items may require revision during the project.

The project has resulted in the development of three separate, but interrelated documents: the Unified Development Code (UDC), Administrative Manual, and Technical Standards Manual. A draft of each document has been completed. A more detailed summary of the project is provided below.

Summary of Key Documents. The Land Use Code Simplification and Reformat Project consists of the following three documents:

1. *Unified Development Code (UDC)*. The UDC establishes, among other requirements, the zoning regulations and review and approval procedures applicable to development and uses of land within the City of Tucson. See Attachment A for a summary of the UDC's eleven articles).
2. *Administrative Manual*. The Administrative Manual includes application submittal requirements, development review fees, and the City Development Review Committee procedure. The contents of the Administrative Manual are primarily from the City's Development Standards. The draft Administrative Manual was discussed by the Planning Commission in a study session at their meeting in December. No significant issues were raised.
3. *Technical Manual*. The Technical Manual includes Historic Preservation Zone design standards and engineering-related site standards, such as solid waste collection, street design, and detention/retention standards. It may also include various design guidelines in the future.

The UDC, Administrative Manual, and Technical Manual will eventually replace the codes currently in effect, i.e. the Land Use Code, Development Standards, and Chapter 23A, as the governing zoning regulations within the City of Tucson.

Article 1: General Provisions (Attachment B)

Summary. Article 1 establishes:

- The UDC as the governing zoning code for the City of Tucson as granted by the Arizona Revised Statutes;
- That the provisions of the UDC apply to all development and uses of land within the City (except as provided for by Section 1.7: Transitional Regulations;
- A set of maps depicting all land use zoning boundaries within the City of Tucson;
- That the Zoning Administrator shall render decisions and interpretations of the UDC when questions occur concerning its content or application; and,
- Transitional regulations that clarify the applicability of the Land Use Code and UDC.

Significant Differences Between the LUC and the Proposed UDC. There are no significant changes to current code being proposed, with the following exceptions:

1. LUC Sections 1.1.4 (Violations) and 1.1.6 (Enumeration) are proposed for deletion because they are no longer required;
2. Section 1.4.1 (General Applicability and Compliance) – proposes a new subsection “E”, which was added to establish and clarify the role and connection of the Administrative and Technical Standards Manuals with the UDC;

3. Section 1.5.1.B.3 (Zoning Interpretations and Zoning Certifications) – the Zoning Administrator’s time frame for making a determination has been relocated to the SB 1598 policy in Section 3-02 of the Administrative Manual;
4. The notification of zoning determinations provision is proposed for revision to require notice to neighborhood associations registered with the City of zoning determinations that have citywide application; and,
5. The transitional regulations are included to establish when the LUC and UDC apply.

Significant Changes Made to the June 2012 Draft: At the recent LUC Committee meetings, stakeholders’ commented stating that the zoning interpretation notification and posting requirements are unclear and do not require the level of transparency necessary for public review. In response to these comments and upon further review of current local and state regulations pertaining to zoning interpretations, staff is proposing revisions to this section to clarify that: a) any person can request a zoning interpretation; b) the applicant and parties of record only are required to receive notice; and, c) interpretations will be posted online. See Attachment B for the proposed revisions to Section 1.5.1.

Issues: To be determined. At this time, staff does not yet know what the stakeholder reaction to the proposed revisions to Section 1.5.1 will be. Staff will report any feedback on this issue they receive to the Planning Commission at the July 18th meeting.

Article 2: Review Authorities and Powers (Available Online)

Summary. Article 2 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.

Significant Differences Between the LUC and the Proposed UDC.

1. UDC Sections 2.2.9 and 2.2.10 reflect the recent reorganization and renaming of the Development Services Department (DSD) to the Planning and Development Services Department (PDS) and the Department of Urban Planning and Design to the Housing and Community Development Department (HCDD);
2. Article 2 clarifies the HCDD and PDS’s responsibilities concerning specific plans (i.e. area and neighborhood plans) such that HCDD is responsible for developing and processing the adoption of specific plans and PDS is responsible for processing amendments to and maintaining adopted specific plans;
3. The Design Review Board’s quorum and voting requirements (Section 2.2.6.B.3) is proposed for revision to clarify when alternate members may vote and to stipulate that a majority vote of the DRB, not just those present, is required when making a decision on an appeal to the PDS Director’s decision on NPZ design review applications;

4. The provision requiring a recommendation from the Design Review Board on variances to the Gateway Corridor Zone requirements is proposed for deletion because this type of variance request is rarely, if ever, used;
5. Section 2.2.6.C.4, Environmental Resource Zone (ERZ) Mitigation Plan, Appeals – this section is proposed for deletion because it no longer applies given that projects within the ERZ and several other overlay zones would no longer be reviewed in accordance with the 300' Notice as proposed.
6. The Design Professional and the Design Examiner positions have been combined since the powers and duties of each are so similar; and,
7. The powers and duties of the City Development Review Committee (CDRC; formerly the Community Design Review Committee) section is proposed for relocation to the Administrative Manual primarily because the CDRC is not a decision-making body.

Significant Changes Made to the May 2012 Draft: The requirement that the Design Review Board make a recommendation on variance requests to the Gateway Corridor Zone has been re-inserted in Section 2.2.6.C.

Issues. To the best of staff's knowledge, there are no issues with Article 2.

Article 5: Overlays (Available Online)

Summary. Article 5 establishes overlays that impose standards and procedures that are in addition to those required under base zoning standards. Where there is a conflict between the standards of a base district and an overlay district, the standards of the overlay district shall apply, except for the Urban Overlay District (UOD) and the Downtown Area Infill Incentive District (IID), which provide flexible development options to landowners rather than mandatory requirements.

Significant Differences Between the LUC and the Proposed UDC. There are no significant changes to current code being proposed, with the following exceptions:

1. *Hillside Development Zone (Section 5.2), Scenic Corridor Zone (Section 5.3), Environmental Resource Zone (Section 5.7), & the Historic Preservation Zone (Section 5.8; Full HPZ Review)* – Staff proposes amending the procedure from the 300' Notice to the PDSD Director Approval Procedure for the following reasons: 1) the current process requires notice which the public often misperceives as an opportunity to influence whether the project gets approved or denied, when in fact, the plans are reviewed for compliance with specific code requirements. This invariably leads to a frustrated constituent who questions why notice was mailed at all; 2) the current process unnecessarily adds time (e.g. a neighborhood meeting is required prior to submittal) and money to the preparation and review of proposals; and, 3) sending out multiple notices for each project is a strain on staff resources.

2. *Hillside Development Zone:– Table 5.2-1: Development Standards Based on Average Cross Slope (Section 5.2.5)* – The minimum site area requirement for development between 16% and 16.9% slope is proposed for revision from 1 acre to 1.12 acres to be consistent with Pima County’s hillside standards.
3. *Appeals of the PDSO Director’s Decision on Environmental Resource Zone (ERZ) applications* – this section is proposed for deletion because it no longer applies given that projects within the ERZ and several other overlay zones would no longer be reviewed in accordance with the 300’ Notice as proposed;
4. *Historic Preservation Zone (Section 5.8)* – Staff recommends relocating the San Xavier Environs Historic District standards to the Technical Manual. This provision reads more like a design guideline. Other historic overlay guidelines are in the Technical Manual;
5. *Neighborhood Preservation Zone, Applicability (Section 5.10.3.A)* – Currently, the Design Professional makes this determination. To date, most of the projects within the two adopted NPZs have been very minor and would have been unnecessarily delayed awaiting the Design Professional’s determination whether a project met the applicability requirements of the NPZ. This delay is due to the fact the Design Professional is an outside consultant who does not work in the PDSO office. Staff is capable of making these initial determinations. In addition, the proposal would improve customer service without compromising the intent and applicability of the NPZs;
6. *Neighborhood Preservation Zone, NPZ Design Review – Submittal (Sec. 5.10.3.B.1)* – The current 2-day completeness deadline has been changed to seven days to make it consistent with the general procedures in UDC Article 3;
7. *Rio Nuevo District (Section 5.11)*: 1) Staff proposes revising the Minor Project Design Review procedure from a 50’ Notice to PDSO Director Approval Procedure; 2) The Full Project Design Review procedure is proposed for consolidation into the Major Project Design Review Procedure to remove the fine distinctions between the two procedures; and, 3) A revision to the Modification of Development Requirements (MDR) is proposed that allows modifications to the vehicular circulation and parking requirements to be processed as a Minor MDR, rather than a Major MDR as currently required.

Significant Changes Made to the June 2012 Draft:

1. *Gateway Corridor Zone, Variance (Section 5.5)* – The ability to request variances to the GCZ has been re-inserted into this section;
2. *Demolitions in the Rio Nuevo District (Section 5.11.7)* – This section has been revised to clarify that Mayor and Council approval is required for all demolitions in the RND, except for those structures that are 40 years old or less and not eligible for the National Register of Historic Places.

Issues. To the best of staff’s knowledge, there are no issues with Article 5.

Article 7: Development Standards (Attachment C: Proposed Revisions to Section 7.4.3.D, Changes of Use, and Section 7.15, Natural Open Space and Natural Undisturbed Open Space; the entire article is available online)

Summary. Article 7 sets forth the general development standards that apply to principal and accessory structures and uses in the City. The standards are intended to encourage high-quality development to enhance the safety, aesthetics, character, and environmental quality of the community and to minimize negative impacts between developments.

Significant Differences Between the LUC and the Proposed UDC.

1. *Motor Vehicle and Bicycle Parking: Exceptions to the Minimum Number of Bicycle Parking Spaces [Section 7.4.8.B.1.a(4)] & Location of Short-Term Bicycle Parking [Section 7.4.9.C.2.a(1)]* – The proposed revision to these sections allows a designee of the City’s Bicycle Coordinator to also approve the stated modification and exception. The proposal would allow additional people to assist customers in the event the Bicycle Coordinator is unavailable;
2. *Landscaping and Screening, Protected Riparian Areas (UDC Sec. 7.6.4.A.3.c)* – Staff recommends adding this provision;
3. *Landscaping and Screening, Use of Reclaimed Water (UDC Sec. 7.6.6.B)* – The following provision is proposed for deletion because it currently does not occur: “Prior to development plan approval or the issuance of a building permit, the Tucson Water Department shall review the landscape plan for compliance with adopted City water policies;
4. Section 7.8, Access – This section has been significantly revised from the April 2012 draft to include the missing provisions from LUC Section 3.2.8. The access requirements provided in this section is an amalgam of LUC Sections 3.2.8 (Access Provisions) and 4.1.8 (Subdivision Design Standards). The requirements have been consolidated and located here in order to clarify that these development standards apply to all application types; and,
5. Section 7.8.4.C, Width of Access - The proposed deletion of “two duplexes” is consistent with the City’s policy that 3 or more units require compliance with commercial access standards.

Significant Changes Made to the June 2012 Draft:

1. Section 7.4.3.D, Changes of Use (formerly titled “Replacing Existing Uses”), has been revised to clarify when and to what extent parking is required of proposed changes of use. The proposed revisions are based on zoning interpretations.
2. The Parking Design Modification Request procedure has been placed back into its original section, Section 7.4.10;
3. The LUC Committee and staff agreed to maintain the status quo of the landscaping and screening standards, whereby those standards currently unique to the Development

Standards will be relocated from Article 7 of the UDC to the Technical Standards Manual; and,

4. Section 7.15 [Natural Undisturbed Open Space (NUOS)] is proposed for deletion. NUOS and other similar areas (e.g. natural open space, undisturbed natural desert, and Protected Riparian Area) are regulated through other sections of the code and does not need to be included here.

Issues. Staff believes that the proposed revisions as provided in the July 2012 draft address the issues that have been raised.

Article 8: Land Division and Subdivision Standards (Attachment D)

Summary. Article 8 establishes criteria for land division and subdivision standards.

Significant Differences Between the LUC and the Proposed UDC. There are no significant changes to current code being proposed, with the following exceptions:

1. *Various provisions have been revised to be in sync with the Arizona Revised Statutes (ARS)* – For example, the definitions of lot splits and minor subdivisions have been simplified, the minor subdivision criteria have been expanded, and the Record of Survey process has been deleted.
2. *Block Plats (UDC Sec. 8.4.1) and Residential and Non-Residential Condominium and Condominium Conversions (UDC Sec. 8.4.2)* – These are two processes that have been clarified and revised to be consistent with State statutes.
3. *General Requirements for Subdivisions and Minor Subdivisions, Acceptable Forms of Assurances (UDC Sec. 8.6.2.B)* – Assurances will no longer go to the Mayor and Council as long as the applicant uses the forms in the Technical Manual.
4. *Subdivision Design Standards – Streets, Access, Alleys, Easements Required, and Hydrology (UDC Sec. N/A)* – These design standards are being relocated to Article 7 (Development Standards). These standards apply to more types of development applications than just land divisions and subdivisions, and therefore, should be located where they will have more general applicability.
5. *Subdivision Design Standards, Flexible Lot Development – Project Amenities and Site Improvements (UDC Sec. N/A)* – The Project Amenities and Site Improvements section (LUC Section 3.6.1.4.C) is proposed for deletion because the section is redundant, and in some ways, conflicts with the Assurance requirements. Deletion of this section does not reduce or negate a developer's responsibility to construct or provide a certain amount of a project's amenities prior to the sale or release of any residences.
6. *Subdivision Design Standards, Flexible Lot Development (FLD) Submittal, Review, and Decision – Tentative Plat (UDC Sec. 8.7.3.P.1)* – Staff is proposing to revise the FLD tentative plat review process to maintain the neighborhood meeting and notice of application, but to no longer require a notice of decision.

7. In accordance with staff's response to SB 1598, the tentative plat review timeframes have been relocated to the Compliance Review Timeframes Policy in the Administrative Manual.

Significant Changes Made to the June 2012 Draft: The draft has been revised in various ways in response to feedback from the development community and staff. See Attachment A for a detailed account of the issues raised and the proposed revisions made to the Article in response.

Issues. To be determined. At this time, staff has revised the draft in response to stakeholder feedback, but does not yet know whether the stakeholders agree with proposed changes. Staff will report any feedback on this issue they receive to the Planning Commission at the July 18th meeting.

Article 9: Nonconforming Uses, Buildings, and Structures (Available Online)

Summary. Article 9 establishes requirements for nonconforming uses and structures.

Significant Differences Between the LUC and the Proposed UDC: There are no significant differences being proposed.

Significant Changes Made to the June 2012 Draft: None.

Issues. To the best of staff's knowledge, there are no unresolved issues with Article 9.

Article 10: Enforcement and Penalties (Available Online)

Summary: Article 10 establishes a clear division of authority in the enforcement of the UDC and to establish procedures to enforce compliance with the UDC. Enforcement is the responsibility of the Zoning Administrator with assistance from PDSO, Housing and Community Development Department (HCDD), and other City departments.

Significant Differences Between the LUC and the Proposed UDC: Staff proposes to delete Sec. 10.5 (Conditional Uses, Suspension or Termination) because it is covered in Section 10.3.

Significant Changes Made to the June 2012 Draft: The substantive regulations pertaining to the penalties for the unauthorized demolition of historic structures has been deleted since they are already provided in Section 5.8.9.I.

Issues. To the best of staff's knowledge, there are no unresolved issues with Article 10.

Article 11: Definitions and Rules of Construction (Available Online)

Summary: Article 11 establishes the general rules for construction of language and the definitions of land use groups, classes, types and other terms.

Significant Differences Between the LUC and the Proposed UDC:

1. *Proposed new definitions:* adjudicated delinquent, change of use, compatibility, cooking facility, design professional, natural undisturbed open space, site area, yard.
2. *Definitions proposed for deletion:* display lot, enclosed area of a dwelling unit
3. *Civic Use Group, Jail or Prison (Sec. 11.3.3.C.3)* – The following phrase from the end of the definition is proposed for deletion because it not required: “These facilities may employ one or more of the following measures to ensure accountability of offenders: fences, walls, outside patrols and/or towers with armed staff, inside recreation yards, and secure control centers.”
4. *Family Dwelling (Sec. 11.3.7.A)* – The different subtypes of the Family Dwelling use have been consolidated into a single place. The types are: duplex, manufactured housing, multifamily development, single-family attached, and single-family detached,
5. *Shelter Care (Sec. 11.3.7.D.4)* – Phrase limiting care to “typically for less than 30 days” is proposed for deletion.
6. The definitions of Assurable Items and Assurable Infrastructure have been consolidated into one term and revised to ensure they are consistent with Arizona Revised Statutes and Third Party Assurance forms.

Significant Changes Made to the June 2012 Draft:

1. The term “new use” has been deleted and its definition has been incorporated into the definition of “change of use”;
2. The term “cross slope” has been renamed to “average cross slope”. The definition of “average natural cross slope” has been deleted since it is redundant with “average cross slope”; and,
3. The definitions of “natural open space” and “natural undisturbed open space” have been revised to clarify the distinction between the two and identify the types of improvements permitted in each.

Issues. To the best of staff’s knowledge, staff has addressed all of the outstanding issues.

Stakeholder Involvement and Feedback

Staff has had multiple meetings since early 2011 on the LUC Simplification Project with the LUC Committee. Additionally, staff has sought input and feedback on this project from the Planning Commission, an ad hoc group of neighborhood representatives, and the Metropolitan Pima Alliance. Staff recently met twice (June 21st and July 5th) with the LUC Committee and other stakeholders to discuss the latest proposed changes and to gather input and feedback on any other remaining issues and provided a project update to a group of neighborhood advocates on July 9th and to the a subcommittee of the Chamber of Commerce on July 13th. See Attachment D for an accounting of the meetings with the various stakeholder groups.

Attachments:

- Attachment A – LUC Simplification Project: Staff Response to Comments/Questions/Proposed Revisions from Neighborhood Representatives, Development Community, and Staff
- Attachment B – Article 1: General Provisions
- Attachment C – Article 7: Proposed Revisions to Section 7.4.3.D, Changes of Use
- Attachment D – Article 8: Land Division and Subdivision Standards

**LUC Simplification Project: Staff Response to
Comments/Questions/Proposed Revisions from Neighborhood
Representatives, Development Community, & Staff**

July 11, 2012

Key: Shaded cells indicate where a change to the June 2012 draft is proposed

Article 1: General Provisions

UDC Sec	Comments/Questions	Comment From	Staff Response
1.4.1.B: General Applicability and Compliance	The UDC language appears broader than LUC. What are some implications, if there are any?	Development Community	Section 1.4.1.B is taken verbatim from LUC Sec. 1.1.3. Staff does not see implications of carrying this same language forward to the UDC.
1.5.1: Interpretation by Zoning Administrator	Definition of Complex?	Development Community	Staff conducted a word search of Article 1 and could not find the word "complex" used.

UDC Sec	Comments/Questions	Comment From	Staff Response
1.5.1.B.1 & .2: Interpretation by Zoning Administrator	The notice to other property owners & neighborhood associations is not in the LUC (even though such notification may have been made in some cases). I'm curious about whether this new language will trigger such notification in more cases than is currently the case. I also concerned about the vagueness of this language. It says "The applicant or Zoning Administrator may place other parties on notice..." but there is no criteria for determining when such other parties should be notified. If one adjoining property owner is deserving of notification, should all properties within 100 feet also be notified.	Development Community	Staff recommends maintaining the current notification requirements for zoning interpretations, with the exception that, under the proposal, the City will be required to post interpretations online. The proposed draft also clarifies who may request an interpretation and who receives notice.
1.7: Transitional Regulations	Can see this having implications/complications	Development Community	Please specify the implications/complications so that staff can more adequately respond.
1.7.4.B & C: Transitional Regulations	Why limit the Tentative Plat extension to once at only 6 months? There may be projects on hold due to the economy that shouldn't have to start all over again from the beginning if they just can't complete the project right away.	Development Community	Staff is agreeable to increasing the extension to 1 year. A corresponding change will be to Article 8.

UDC Sec	Comments/Questions	Comment From	Staff Response
1.7.4.D: Transitional Regulations	If one elects to use the LUC he/she can't seek a modification of identified Code sections. In practice this may be harsh. I can't give any examples, but I think there very well will be cases where the LUC works just fine except for one of these Code sections and allowing the use of that Code section would not be a problem or controversy.	Development Community	Noted; however, an applicants ability to request modifications via the FLD, DDO, and PDMR procedures will not be lost since these modification procedures will be preserved in the UDC.

Article 2: Review Authorities and Powers

Key: Shaded cells indicate where a change to the June 2012 draft is proposed

UDC Sec.	Comments/Questions	Comment From	Staff Response
2.2.6.B.3: Administrative Functions - Quorum and Voting	Appeals & Variances are an important right of the applicant	Development Community	Noted.
2.2.6.C.7: Gateway Corridor Zone, Variances & Historic Preservation Zone, Appeals	Is volume of use a criteria for importance? And/or deletion?	Development Community	Generally, no, but in this instance staff early on in the UDC drafting process decided to recommend that variances to the GCZ should not have to go to the DRB for a recommendation because they these types of variances so rarely occur.
2.2.6: Gateway Corridor Zone, Variances & Historic Preservation Zone, Appeals	Several sections address variances and appeals, including deleting the option because it is not used or changing the process (Gateway Corridor Zone variance right deleted and ERZ appeal). Has any specific review been done to make sure that if an applicant does not get the decision or outcome they want, there is a path forward for the industry under the new UDC, Administrative and Technical Manuals?	Development Community	1) The variance procedure for the Gateway Corridor Zone will be put back in the UDC; 2) Re: ERZ appeal - due to the proposed change of procedure (i.e. no longer requiring a 300' notice), applications for projects within the ERZ would be processed via the PDS Director Approval Procedure. Appeals to the Director's decision on site plans is not provided because site plans are reviewed for compliance with objective standards. Appealing the decision would essentially be an appeal to the standards in the code, which is processed as a variance; 3) Re: Appeals to the HPZ standards - the only change being proposed is to no longer require a recommendation from the DRB on HPZ appeals. HPZ appeals would still have to go to the applicable advisory board and subcommittee of the Historic Commission for recommendation. The DRB recommendation is proposed for deletion because review by the two historic bodies is sufficient and going to the DRB on this type of appeal has led to confusion (e.g. procedurally of which advisory body should review first, conflicting recommendations, etc.) in the past

UDC Sec.	Comments/Questions	Comment From	Staff Response
2.2.9.16: Planning and Development Services Department (PDSD)	<p>Specific Plan Adoption will be the responsibility of Planning and Development Services Department (PDSD) and that Specific Plan Amendments and ongoing Specific Plan Maintenance will be the responsibility of Housing and Community Development Department (HCDD). What are the implications to the industry of having a project entitled in one department and implemented in another?</p>	Development Community	<p>Clarification - HCDD develops the specific plans (e.g. neighborhood and area plans) with community input and processes them through the adoption process. PSDS manages amendments, maintenance, and administration of adopted specific plans. This is how the division of labor exists today. Staff does not see any negative implications of continuing this way because developers typically request amendments to the plans only (not to create a specific plan), and therefore, are only having to work with PSDS regarding the processing of the application.</p>

Article 5: Overlay Zones

Key: Shaded cells indicate where a change to the June 2012 draft is proposed

UDC Sec.	Comments/Questions	Comment From	Staff Response
5.5 Gateway Corridor Zone - Variance	The draft has been revised to re-insert the provision allowing variances.	Staff	The proposal ensures that the same level of flexibility is maintained.
5.10: Neighborhood Preservation Zone	With the process of determinations shifting to staff instead of outside consultants, will this improve the time frame?	Development Community	Yes, the proposed change will greatly reduce the time to make a determination whether a proposed project is subject to the NPZ. Staff can make these determinations the same day whereas it might take several days if it had to be sent to an outside consultant.
5.11.5: Rio Nuevo District	Modifications will allow for waiving parking requirements to be processed by the Director Approval Procedure. While a hot potato with some neighborhood associations who have welded a lot of political power, it should make the development process quicker (but political).	Development Community	The revision to this section is a clarification of the current procedure and policies. Currently through the RND MDR procedure, parking waivers and projects proposed removal of existing parking require Board of Adjustment approval on the grounds that not providing any parking would significantly affect surrounding properties. Again, currently, new project requesting a parking reduction is processed via a Director approval procedure. The UDC proposes continuing with current procedures and policies.
5.11.5: Rio Nuevo District	Are variances going to be allowed to overlays? Where are they now located in the UDC	Development Community	Yes, in general, variances to the overlays require approval from the Board of Adjustment. For some overlays, such as the RND and IID, "variances" are processed as Modification of Development Regulations in accordance with the overlay's respective standards.

UDC Sec.	Comments/Questions	Comment From	Staff Response
5.11.7.B & .D	What are the differences/similarities of these two demolition types?	Development Community	The proposed revisions to Sec. 5.11.7 clarify the RND demolition requirement in place today. The section has been clarified and simplified by stating that there are two demolition procedures: 1) demolition of nonhistoric structures (i.e. 40 years old or less and structures determined not to be eligible for the National Register of Historic Places) are not subject to any further review; and 2) demolition of historic structures and structures eligible for historic status (i.e. structures that are 40+ years and eligible for historic designation) are required to obtain approval from the Mayor and Council. Review and recommendation by the Historic Commission is also required prior to M&C consideration.
5.3.4.C.1: Scenic Corridor Zone	Provision is confusing. How is the width of the buffer area calculated when the driveway or access lane exceed 20%?	Development Community	<p>The standard has been revised to read as follows: "The following improvements are permitted in the Scenic Routes Buffer Area:</p> <p>Driveways or access lanes, if their area does not exceed 20 percent of the Scenic Routes Buffer Area (Buffer Area). In this instance, the width of the Buffer Area is 30 feet in accordance with Section 5.3.4.A.1. For the purposes here, the Buffer Area is calculated as follows: Distance of the property's frontage along the Scenic Route measured at the MS&R right-of-way line x 30 feet. If, due to topographical or engineering constraints, the area of the driveway or access lane exceeds 20 percent of the Buffer Area, the width of the Buffer Area shall be increased to accommodate the square footage resulting from the following calculation: (Distance of the frontage along the Scenic Route measured at the MS&R right-of-way line – total width of driveways or access lanes) x 24 feet = Required buffer area in square feet;"</p>

UDC Sec.	Comments/Questions	Comment From	Staff Response
5.8.7 (HPZ Demolition Standards)	The <i>Demolition Review Required</i> and <i>Demolition of Historic Properties, Landmarks, and Structures</i> sections have been consolidated.	Staff	Consistent with the project's goals of consolidating standards.
5.11.7 (Demolition of Rio Nuevo District Structures)	1) Clarify the demolition procedures within the RND for structures 40 years or older that are eligible for historic designation; and, 2) Evaluate whether the RND demolition procedures can be consolidated.	Staff	The standard as written is confusing and requires clarification.
Hillside Development Zone, Scenic Corridor Zone, Major Streets & Routes, Envir. Resource Zone	City Engineering staff is recommending several "clean-ups" and clarifications in these sections.	Staff	

Article 7: Development Standards

Key: Shaded cells indicate where a change to the June 2012 draft is proposed

UDC Sec.	Comments/Questions	Comment From	Staff Response
Section 7.4.3.D, Parking - Changes of Use (formerly titled "Replacing Existing Uses")	Section has been revised to clarify when and to what extent parking is required of proposed changes of use. The proposed revisions are based on zoning interpretations and PDSD policies.	Staff	
7.6.4.B.1.c: Exemptions (Landscaping in Vehicle Use Area)	Move the parking garage exemption from the canopy trees in the parking lot standard to the recently created exemptions section.	Staff	Removes any doubt/confusion that canopy trees are not required in/on parking garages.
7.15: Natural Undisturbed Open Space	Proposed for deletion because the NUOS standards are covered elsewhere in the code. The FLD has been revised to allow trails in the NUOS and natural open spaces to count toward meeting the functional open space requirement. See Article 8 for corresponding changes to the Flexible Lot Development.	Staff	

Article 8: Land Division and Subdivision Standards

Key: Shaded cells indicate where a change to the June 2012 draft is proposed

UDC Sec.	Comments/Questions	Comment From	Staff Response
8.4.4.I: Tentative Plat	Developers should be given at least a year to extend the tentative plats, particularly in this market. Please revise to 1 year	Development Community	Change has been made as requested in this Section and the corresponding one in Article 1.
8.6.2.C: Subdivision Improvements and Financial Assurances	Not to exceed 1.5 times the estimated costs is okay, but the normal amount (Industry standard) should not exceed 1.2 times the costs. Who determines the amount over the estimated costs that is required? Can there be a standard cost, plus 20%?	Development Community	The draft has been changed to 1.2 as recommended so that the City standards are consistent with industry standards.
8.6.2.D.4: Subdivision Improvements and Financial Assurances	Tucson Water is not the only water district that serves the customers within Tucson City Limits. Please revise to state 'statements from the water company serving the property...'	Development Community	Change will be made as requested.
8.6.2.H.1: Subdivision Improvements and Financial Assurances	This really gives to much authority to the Director. Can there be some criteria established that the Director utilizes to make this determination? Can this be appealed without having to post the additional financial assurances so the project can continue until the appeal is heard?	Development Community	Under consideration
8.6.6: Plat Abandonment	Does this include Lot Combos or Lot Splits?	Development Community	No, it does not.

UDC Sec.	Comments/Questions	Comment From	Staff Response
8.6.3: Survey Monuments Required	Revise the section to be consistent with State standards.	Development Community	The section has been revised as follows: "...A. For subdivisions with tentative plats, the survey monuments shall be installed after the tentative plat approval and before final plat recordation, unless the subdivider has posted assurances with the City to assure the installation of all monuments after recordation. B. Prior to recordation, the minor subdivision documents shall be submitted to identify all monuments (interior and exterior), which an Arizona registered land surveyor has set to show compliance with the approved minor subdivision documents."
8.7.3.F.3: FLD – Natural Undisturbed Open Space	Relocate the NUOS standards to Article 7 where they will have general application to all development affected by NUOS.	Development Community	Upon further evaluation, staff recommends stating that trails in natural open space and NUOS may count toward meeting the functional open space requirement; however, staff recommend deleting the remainder of the NUOS provision from the FLD section and not relocating it to Article 7. Instead, staff recommends allowing the natural open space and NUOS standards as applied by other overlay zones to regulate.
8.7.3.G: FLD – Detention and Retention Basins	Relocate the Detention and Retention Basin standards to Article 7 where they will have general application to all development affected by the detention and retention standards.	Development Community	This change has been made as proposed. The standards are now in Sec. 7.11.

Article 9: Nonconforming Use, Buildings, and Structures

Key: Shaded cells indicate where a change to the June 2012 draft is proposed

Title	Comments/Questions	Comment From	Staff Response
9.1.5: Repairs and Maintenance	Who has the authority to submit an official order? What is the extent or limit of the term "Public Official"	Development Community	An official order can come from several different officials, including the Building Official, Fire Marshall, or HCD enforcement officer. To clarify this staff recommends revising this section as follows: " <u>...structurally strengthened or restored to a safe condition to conform to the City's adopted Building and Fire Code, in accordance with an order from the City's Building Official.</u> " This revision is consistent with Sec. 9.1.6, which is similar to Sec. 9.1.5.
9.2.1: Discontinuance of a Nonconforming Use	Clarify that the marketing and listing of a property for sale confirms the intent for continuing a nonconforming use as one of the "relevant activities and records" the section talks about, and, therefore, would allow a discontinuance of the nonconforming use for more than 6 months. This proposed clarification is consistent with previous Zoning Administrator's determination.	Staff	N/A

Title	Comments/Questions	Comment From	Staff Response
9.3.1: Reconstruction	Does some sort of issuance need to be on file, stating the premise was destroyed by natural causes? If not, what is to say it does not fall under 9.2.1, discontinuance of a nonconforming use after the first 6 months.	Development Community	Generally, whenever there is a fire or some sort of natural disaster that affects a building, there is a report that is to be completed by a building inspector or fire inspector. This will establish the date of the occurrence.

Article 10: Enforcement and Penalties

Key: Shaded cells indicate where a change to the June 2012 draft is proposed

Title	Comments/Questions	Comment From	Staff Response
10.4.1.C & D & E: Actions by the Zoning Administrator	vagueness as to who determines "as appropriate"	Development Community	In practice, the Zoning Administrator routinely consults the PSDS Director, City attorney(s), HCDD, or other staff when making a determination, including to whom violations should be reported (if not already specified by code). Staff does not recommend including detailed criteria trying to anticipate every scenario when something should go to the City Attorney and/or PSDS Director.
10.4.3.A & B: Action by PSDS	days? Calendar or business days.	Development Community	Calendar days. The draft will be revised to specify this.
10.4.3.A & B: Action by PSDS	Timeframe for hearings? None provided.	Development Community	When the Board of Adjustment considers the appeal, the timeframes are in accordance with UDC Section 3.10.2. Future drafts will specify this. Some appeals are considered by City Court in accordance with Chapter 8 of the Tucson Code.
10.4.4.C.2: Additional Penalties for unauthorized demolition of historic structures	Are the timeframes for penalization reasonable?	Development Community	The timeframes are the same as current code. In staff's opinion, these timeframes are reasonable.

Title	Comments/Questions	Comment From	Staff Response
10.4.4.E.6: Additional Penalties for unauthorized demolition of historic structures	What is "reasonable economic...after Rehab" ...vague ..who makes this determination	Development Community	The term "reasonable economic use" is related to the concepts of "unreasonable economic hardship" and "reasonable use of the property" defined in Sec. 5.8.9.B (HPZ - Unreasonable Economic Hardship). To clarify this confusion, staff recommends: 1) put a section reference to 5.8.9.B in this section; and, 2) for consistency purposes, use a single term ("reasonable economic use") in both sections.
10.4.5: Penalties for violation of native plant preservation standards	Penalties - Would accidents by workers be considered negligence and put at risk?	Development Community	Yes, on two separate occasions is Sec. 10.4.5, it states that "any person who, individually or through the acts of another person, intentionally or negligently damages, destroys, or removes from the site any Protected Native Plant, except as authorized by an approved Native Plant Preservation Plan, is subject to" fines and additional penalties.
10.4.5.A.1: Penalties for violation of native plant preservation standards	is there a max cumulative amount per event?	Development Community	No, however, there is a maximum fine for each protected plant that is damaged, destroyed, or removed.
10.4.5.B: Penalties for violation of native plant preservation standards	What is "reasonable economic...after Rehab" ...vague ..who makes this determination	Development Community	Sec. 10.4.5 does not include "a reasonable economic use" clause like in Sec. 10.4.4. Please clarify.

Article 11: Definitions and Rules of Construction

Key: Shaded cells indicate where a change to the June 2012 draft is proposed

UDC Sec.	Comments/Questions	Comment From	Staff Response
Change of Use & New Use	How are they exactly different or the same	Development Community	The terms are interchangeable in the code. For simplification purposes, staff recommends using the term "change of use" throughout the code rather than new use because change of use is a more generally accepted term. The proposed revision uses the definition of "new use" for change of use. New use has been replaced throughout the code.
Critical Riparian Habitat Areas	Habitat Maps - are they still being used?	Development Community	Yes, they are.
Cross-Slope	Is this the same as "Average Natural Cross Slope"?	Development Community	Staff recommends deleting the term "average natural cross slope" and renaming "cross slope" to "average cross slope". The recommendation will result in changing terminology elsewhere in the code.
Design Grade	How does this work in sec. 6.4.4, where height uses the "Finish Grade"	Development Community	Clarification - the term "finished grade" is used only once in Sec. 6.4.4 and applies specifically to determining building height in Historic Preservation Zones. With that said, historic preservation review staff will be asked if "finished grade" can be changed to "design grade" for consistency reasons.
Improvements	Should this reference non-subdivision projects only, since subdivision improvements have a separate definition of using assurable infrastructure?	Development Community	Under consideration

UDC Sec.	Comments/Questions	Comment From	Staff Response
Mobile Home Space	The terms "mobile home park" and "mobile home" do not have a definition - believe there should be one in the text.	Development Community	"Mobile home dwelling" and "mobile home park" are defined in Sec.11.3.7.C of the Residential Use Group.
Natural Open Space & Natural Undisturbed Open Space	These two definitions are a bit confusing. Could you please expand on the need to have both.	Development Community	While the terms are similar, the key distinction between the two is that Natural Open Space allows limited disturbance for trails and rights-of-way when the crossing is minimized.
Protected Development Right	No definition for "Protected Development Rights"....?	Development Community	The draft has been revised to include the following definition from Arizona Revised Statutes - "Protected Development Right - the right to undertake and complete the development and use of property under the terms and conditions of a protected development right plan and this article, without compliance with subsequent changes in zoning regulations and development standards, except as provided by section 9-1204."
Site Coverage	Why not change FLD to "Lot Coverage"	Development Community	Staff does not recommend this change because then each lot within an FLD would have to comply with the lot coverage limits of the underlying zone. This runs counter to the point of the FLD, which is to provide greater flexibility on a per lot basis than the standard requirements when designing a subdivision. Such a change would greatly affect one's ability to create a small lot, infill subdivision project.

UDC Sec.	Comments/Questions	Comment From	Staff Response
Tract	Add a definition of "tract." With the proposed terminology change in the land split section (Sec. 8.3.1), a definition of "tract" is needed.	Staff	N/A
Undisturbed Natural Desert	Is this the same as NUOS?	Development Community	It effectively is, but its application is limited to one standard in the landscaping section.

CITY OF TUCSON
UNIFIED DEVELOPMENT CODE

PRELIMINARY FINAL PUBLIC DRAFT – JULY 2012

Note: The underlines and comments in the margin indicate proposed revisions to the June 2012 draft.

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ARTICLE 1: GENERAL PROVISIONS¹

1.1. TITLE AND EFFECTIVE DATE²

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.

COMMENTARY

For a 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.

1.2. AUTHORITY³

This UDC is adopted pursuant to the powers granted by the Arizona Revised Statutes (A.R.S.).

1.3. PURPOSE OF THIS CODE⁴

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:

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

1.4. APPLICABILITY AND JURISDICTION

1.4.1. GENERAL APPLICABILITY AND COMPLIANCE⁵

- A. The provisions of the UDC apply to all development and uses of land within the City.
- B. Land shall not be divided into two or more parcels, except as allowed in accordance with Section 8.2, Land Division and Subdivision Standards, 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. The Planning and Development Services Department shall not issue approvals or permits for, nor shall any person commence excavation, grubbing, grading, paving, demolition, or construction of any sort before compliance with UDC standards has been certified.

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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 Text from LUC Sec. 1.1.1.

³ Proposed new text.

⁴ Text from LUC Sec. 1.1.2.

⁵ Text for proposed Sec. 1.4.1A through C are from LUC Sec. 1.1.3.

- D. All provisions of the UDC shall be consistent with, and conform to, the General Plan and other related plans and policies adopted by the Mayor and Council.⁶
- E. The certification of zoning compliance as provided in Section 1.5.1.B, *Zoning Interpretations and Zoning Certifications*, shall consist of the certification that proposed development and construction are in conformance with the UDC prior to final development approval.⁷
- F. The Administrative and Technical Standards Manuals are companion documents to the UDC and provide additional criteria, standards, and requirements that support the implementation of the UDC.⁸

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1.4.2. ZONING MAPS

- A. **Title**
A set of maps depicting all zoning boundaries within the city of Tucson is established and entitled "City of Tucson Zoning Maps."
- B. **Purpose**
The city is divided into zoning districts, and the establishment of the zoning maps is for the purpose of graphically indicating the locations of all land use zoning boundaries within the corporate limits of the city, and facilitating the application of the UDC on each individual piece of property.
- C. **Applicability**
The City of Tucson Zoning Maps, as part of the UDC, depict the land use regulations applicable on each individual property within the city limits by identifying the zoning classification that applies on each property. Maps are added to the set upon the adoption of original city zoning for land annexed into the city.
- D. **Determination of Zoning Boundaries**
Zoning boundary lines are intended to follow lot lines to the centerlines of streets, alleys, railroad rights-of-way, or extensions of such rights-of-way, except where referenced to a street line or other designated line. (See Figure 1.4-1.)

⁶ Text from LUC Sec. 1.1.5., with minor clarifications.

⁷ Text from 23A-4.

⁸ This is new text intended to clarify the connection and authority of the Administrative and Technical Standards Manuals.

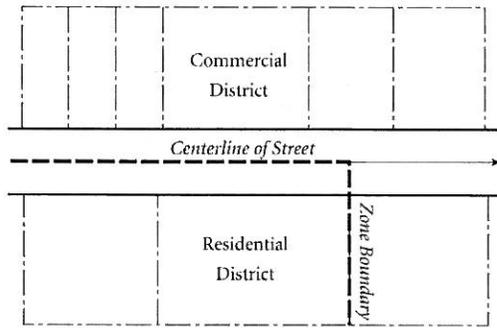
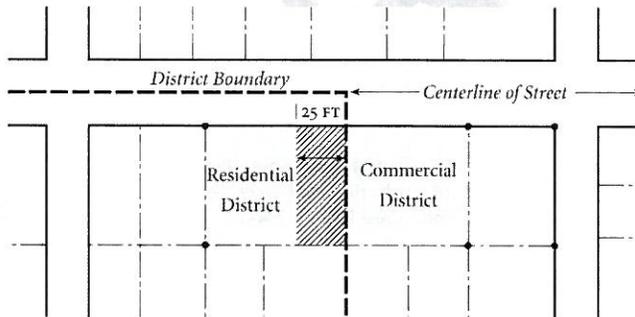


Figure 1.4-1: Determination of Zoning Boundaries

E. Zoning Boundaries Dividing a Lot

On any lot that was under single ownership and of record on September 20, 1948, and divided by a zoning boundary into two (2) or more separate zoning categories, the permitted uses and accessory uses allowed in one zone may encroach twenty-five (25) feet into the other zone if such zone is more restrictive and the encroaching use is not permitted in the more restrictive zone. (See Figure 1.4-2)



Permitted and accessory uses in one district may encroach 25 FEET into other district.

Lot under single ownership on September 20, 1948

Figure 1.4-2: Zoning Boundaries Dividing a Lot

F. Zoning Boundary Conflict

If any question arises concerning the location of a land use zoning boundary, the Zoning Administrator renders a final decision and interpretation on the matter in conformance with Sec. 1.5.1, *Interpretation by the Zoning Administrator*.

G. Zoning of Right-of-Way

Zoning is applicable on all property, except street rights-of-way. Use of street rights-of-way for other than public street purposes requires approval by the Zoning Administrator and the Department of Transportation. The Zoning Administrator may allow, within the right-of-way, only those uses or structures that are permitted on the property immediately abutting the right-of-way.

1.5. INTERPRETATIONS OF THE UNIFIED DEVELOPMENT CODE (UDC)⁹

1.5.1. ZONING INTERPRETATION AND ZONING CERTIFICATIONS BY THE ZONING ADMINISTRATOR

A. General

~~The Zoning Administrator renders a final decision and interpretation in accordance with this Section when an interpretation of the substantive provisions of the UDC or the application of substantive zoning provisions in the zoning certification of a site plan, tentative plat, or final plat is requested.~~

B. Requesting a Zoning Interpretation or Certification

1. ~~Requests for a written interpretation or certification must be made in writing to the Zoning Administrator. The request must include: the name and address of the person requesting a certification or interpretation; the ordinance, code or part thereof, or substantive policy statement that requires interpretation or clarification; the requesting party's proposed interpretation or clarification; and whether the issue(s) are currently being considered by the City in connection with a pending application or request for approval and the identity of the proposed project or development; and,~~

2. ~~Any person, including those affected by the proposed development may request a written interpretation or certification. For the purposes of this Section, a person affected by the proposed development is the applicant, owners or residents of property within 300 feet of the site, any neighborhood association within one mile.~~

C. Decision and Notice of Decision

1. ~~The Zoning Administrator shall make a final, written, zoning interpretation and mail notice of the interpretation or certification to the applicant and all parties of record within the time frames set forth in Section 3-02, Compliance Review Timeframes Policy, of the Administrative Manual.¹⁰ The applicant or the Zoning Administrator may place other parties on notice of the interpretation or certification by providing a copy of the application to such parties at the time it is submitted to the Zoning Administrator and listing such persons as a party of record in the application. The Zoning Administrator may include as a party of record a person(s) affected by the proposed development as provided in Section 1.5.1.B.2 and any person as determined by the Zoning Administrator who may be personally affected by the proposed development~~

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Deleted: Zoning Administrator interpretations can be appealed in accordance with Sections 3.10.1 and 3.10.2, Board of Adjustment Appeal Procedure. 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.

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⁹ Text from LUC Sec. 1.2.1, including both editor's notes, and Section 23A-31 of the Tucson Code.

¹⁰ The review time frame has been relocated to the Administrative Manual per the proposed SB 1598 policy.

in a manner that is beyond the impact of the development on the general public;

2. The Zoning Administrator shall provide the applicant with an opportunity to meet with designated City staff to discuss the Zoning Administrator's written interpretation;
3. The Zoning Administrator shall rely on the purpose of the UDC section in question when making a zoning interpretation;
4. The zoning administrator may designate certain decisions as precedent for future decisions. Any decision so designated shall be binding upon future cases unless reversed on appeal. One (1) copy of all precedent decisions shall be maintained by the zoning administrator and one (1) copy shall be maintained by the city clerk for public review and inspection;
5. All zoning interpretations shall be posted to the City website; and,
6. The zoning administrator's interpretation shall be binding upon the applicant and all parties of record unless appealed.

D. Substantive Policy Statements

The Zoning Administrator may, in his sole discretion, also issue substantive policy statements. Such written, substantive policy statements will be advisory in nature, providing information regarding the City's policies and current practices, procedures, methods of action and approach to implementing the stated policy and the UDC and the Administrative and Technical Standards Manuals.

No less than annually, the City shall publish, on its website, a directory summarizing any Substantive Policy Statements and maintain a copy of the directory and policy statements at the office of the Planning and Development Services Department, where they will be available for public inspection.

E. Appeals to the Zoning Interpretation,

1. A party of record to a zoning interpretation can appeal the interpretation.
2. Appeals are considered by the Board of Adjustment in accordance with Sections 3.10.1 and 3.10.2, Board of Adjustment Appeal Procedure, in accordance with Sections 3.10.1 and 3.10.2, Board of Adjustment Appeal Procedure;
3. Notice of intent to appeal, including a statement explaining the reason for the appeal, must be filed with the Planning and Development Services Department no later than 14 days after the effective date of the zoning interpretation¹³;

¹³ Section 23A-31 currently states that appeals must be filed within 30 days. For consistency with the appeal procedures for other application types, staff proposes adding a notice of intent to appeal requirement.

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Deleted: <#>For any development reviewed in accordance with this Section that involves an interpretation of the substantive provisions of the UDC or the application of substantive zoning provisions in the zoning certification of a site plan, tentative plat, or final plat, a request for a written interpretation or certification may be submitted to the Zoning Administrator in the following manner: ¶

<#>A person affected by the proposed development, as defined in subsection 2 below, may request in writing that any decision requiring an interpretation of substantive zoning regulations be reviewed and decided by the Zoning Administrator. The applicant or the Zoning Administrator may place other parties on notice of the determination by providing a copy of the application to such parties at the time it is submitted to the Zoning Administrator and listing such persons as a party of record in the application.¶

<#>A person affected by the proposed development shall include the applicant, owners or residents of property within 300 feet of the site, any neighborhood association within one mile and any person who may be personally affected by the proposed development in a manner that is beyond the impact of the development on the general public.¶

<#>The Zoning Administrator shall make the final zoning determination and mail notice of the determination or certification to the applicant and all parties of record within the time frames set forth in the City of Tucson Development Review Time Frame Policy, Section 3-02 of the Administrative Manual.¹¹ ¶

<#>Notification of the final zoning determination or certification shall be sent to the following persons:¶

<#>The Applicant;¶ ... [1]

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4. The complete appeal application is due no later than 30 days after the effective date of the zoning interpretation.

1.5.2. INTERPRETATIONS OF GRAPHICS AND CAPTIONS

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

1.5.3. REFERENCES TO OTHER CODES AND LAWS

Section references to codes and laws other than the UDC, such as the Arizona Revised Statutes (A.R.S.) 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 maintained. These administrative amendments do not affect the substantive application of the UDC.

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1.5.4. TERMS

For purposes of the UDC, the terms regulations, standards, and requirements all refer to regulatory provisions of the UDC.

1.6. CONFLICTING PROVISIONS¹⁵

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 provided.

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.

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.

¹⁴ The regulation pertaining to the restoring unsafe structures has been moved to Section 9.16.

¹⁵ Text from LUC Sec. 1.2.2, 1.2.3, and 1.2.4.

1.7. TRANSITIONAL REGULATIONS¹⁶

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.

1.7.2. VIOLATIONS CONTINUE

Any violation of the previous Land Use Code (LUC) shall continue to be a violation under this UDC and shall be subject to the penalties and enforcement in Article 10: *Enforcement and Penalties*; except when 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 standards 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. NONCONFORMING USES, STRUCTURES, AND LOTS

- A. When a building, structure, or lot is used for a purpose that was a lawful use before the effective date of this UDC, or before the adoption of original City Zoning for an annexed property, and this UDC ~~does not classify~~ 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 9: *Nonconforming Uses, Buildings, and Structures*.
- B. Where any use, building, structure, or lot that legally existed on the effective date of this Code does not meet all standards set forth in the UDC, such use, building, structure, or lot shall be considered nonconforming and shall be controlled by Article 9: *Nonconforming Uses, Buildings, and Structures*.

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1.7.4. APPLICATIONS COMMENCED OR APPROVED UNDER PREVIOUS ORDINANCES

A. Pending Applications

- 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 an ordinance in effect on the date the application was deemed complete. There may be a transition period set forth by ordinance which allows an applicant to select whether the LUC or UDC will govern the development during a limited time period (see Choice of Code below). If the applicant fails to comply with any applicable required period for submittal or other procedural requirements for the applicable code, the application shall expire and subsequent applications shall be subject to the standards of this UDC. Any re-application for an expired project approval shall meet the standards in effect at the time of re-application.
- 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, or a form of the LUC

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¹⁶ Section is proposed new text. This section was added to provide greater clarity on the status of development applications that are pending when the new UDC is adopted.

1.7.4 Applications Commenced or Approved Under Previous Ordinances

then applicable by a written letter to the Planning and Development Services Department.

B. Tentative and Final Plats

1. Tentative plat approvals granted prior to the effective date of this UDC may be extended no more than once, and for no longer than one year.
2. A final plat application, for which the tentative plat was approved prior to the effective date of this UDC, may be processed pursuant to the applicable terms of the ordinance in place at the time of tentative plat approval, even if the application does not comply with standards set forth in this UDC.

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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 regulatory provisions 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 standards of this UDC.

D. Choice of Code¹⁷

For a period of three years after the effective date of this UDC, an applicant who was the landowner of record prior to the effective date of this UDC may choose to be governed by the provisions of this UDC or those of the Land Use Code (LUC) in effect on the date this UDC becomes effective. During this three-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. Applicants electing to be governed by the LUC during this period will not have the ability to seek modifications or exceptions pursuant to: Flexible Lot Development, Design Development Option,¹⁸ and Parking Design Modification Request. The selection 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 three-year transition period. At the expiration of the three-year transition period, the LUC will be repealed.¹⁹

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¹⁷ 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. Developers object to making no longer available the FLD, DDO, and the PDMR in the LUC on the grounds that it will reduce flexibility and raise Prop 207 concerns. Note: the FLD, DDO, and the PDMR will be maintained in the UDC. Staff thinks Prop 207 concerns are minimized or eliminated by maintaining these modification processes in the UDC.

¹⁸ Staff recommends maintaining the IID in the LUC because to make it no longer available in the LUC would require notifying property owners in and within 300 feet of the IID and neighborhood associations in and within 1 mile of the IID – a total of 3,000+ notices – for each public hearing with the Planning Commission and M&C. As a result, the LUC Project would likely be delayed and potentially create additional issues.

¹⁹ In the ordinance adopting the UDC and repealing the LUC the ordinance language must make clear that the LUC will remain in effect for a three year period under the conditions specified.

1.7.4 Applications Commenced or Approved Under Previous Ordinances

E. Waiver of Potential Claims

By electing to proceed under this code, the property owner waives any and all potential claims that may arise under A.R.S. 12-1134 et. seq. for any diminution in the value of his property that may be claimed from any difference between the requirements and standards of this code and those of the LUC.

1.8. SEVERABILITY

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 the ordinance.²⁰

²⁰ Text from LUC Sec. 1.2.11

ATTACHMENT C-1

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7.4.2. APPLICABILITY

The provisions of this Division apply to:

- A. Proposed development or redevelopment;
- B. Changes of use in existing development, except as permitted by Section 3.3.3.G, Zoning Compliance for Site Improvements in Existence on May 1, 2005; and,
- C. Any expansion of an existing use or any addition of a new use to an existing development.

7.4.3. GENERAL PROVISIONS

A. Parking Required

- 1. Parking is required for every use unless otherwise specified in Section 7.4.4.B, *Minimum Number of Motor Vehicle Spaces Required*, or 7.4.8.B, *Minimum Number of Bicycle Parking Spaces Required*.
- 2. Each Land Use Group (Group), except for Residential and Storage, has a standard minimum parking formula. The standard formula applies to every Land Use Class (Class) within that Group, except for those Classes specifically listed in the parking tables.
- 3. The Land Use Groups and the Classes within each Group are defined in Article 11.
- 4. Required parking for uses not defined in Article 11 are determined by the Zoning Administrator.

B. Parking for Individuals with Physical Disabilities

Off-street parking spaces for individuals with physical disabilities must be provided as required by the City of Tucson's adopted Building Code.

C. Change of Approved Vehicular Use Area

Any change of the vehicular use area as shown on the approved site plan must comply with the requirements of this Section.

D. ~~Changes of Use~~

~~Parking for changes of use is required as follows:~~

- 1. When ~~the proposed~~ use is the same as the ~~use it is replacing~~, the parking remains the same in accordance with Article 9, *Nonconforming Uses, Buildings, or Structures*.
- 2. When the ~~proposed~~ use is ~~different that the use it is replacing, the parking remains the same provided all of the following criteria are met:~~
 - a. The replacement use must be a permitted use in the current zone, except a replacement use may not include a restaurant or bar (Food Service or Alcoholic Beverage Service uses) or a similar use listed in the applicable Land Use Group;
 - b. The parking intensity for a proposed replacement use, except as permitted by Section 3.3.3.H, *Zoning Compliance for Site Improvements in*

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Existence on May 1, 2005, must be the same or a lesser intensity as a prior use on the subject property as documented by the applicant. The property owner must provide documentation regarding the prior use as required by the Zoning Administrator;

- c. Existing on-site parking, landscaping, and screening may remain in their current configuration; however, the Planning and Development Services Director may require new improvements including paving and striping when a public safety hazard exists or may be created; and,
- d. The proposed use must comply with the City of Tucson's adopted Building Code pertaining to accessibility for individuals with physical disabilities.

~~3. When the proposed use is different than the use it is replacing and the criteria of Section 7.4.3.D.2 cannot be met, the required number of motor vehicle and bicycle parking spaces shall be in accordance with Sections 7.4.4 and 7.4.8, respectively, except as provided below.~~

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~~4. When the change of use is in a tenant space within a shopping center, mixed use, or multiple use development, the required number of bicycle parking spaces is based on the gross floor area, or whichever method for determining the minimum required number bicycle parking spaces in accordance with Section 7.4.8, of the tenant space in which the proposed change of use occurs.⁵~~

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E. Expansions⁶

Expansions of existing uses are subject to the following.

- 1. If an expansion is less than 25 percent or if a series of expansions cumulatively results in less than a 25 percent expansion in floor area, the requirements of this section apply only to the proposed expansion. Existing development on the site is subject to the zoning regulations in effect at the time of approval of the most recent approved plan for the existing development. However, if the existing development was approved prior to April 1, 1969, and there is no approved plan on file with the City, the vehicular use area for the existing development shall comply with:
 - a. The parking, screening, and landscaping requirements in effect at the time the development permit for the existing use was approved; and
 - b. The paving and striping requirements of this Division.
- 2. If an expansion is 25 percent or greater or if a series of expansions cumulatively results in a 25 percent or greater expansion in floor area, the requirements of this Section apply to the entire site.
- 3. Expansions as noted in Section 7.4.3.E.1 and 2 are cumulated over time from April 1, 1969, for the application of motor vehicle parking regulations and

⁵ Sections 7.4.3.D.3 & 4 are clarifications on when and to what extent parking is required for changes of use and are based on zoning interpretations.

⁶ The expansion provisions throughout the LUC will be evaluated for consolidation and standardization following adoption of the UDC. Consequently, this and other expansion provisions throughout the LUC/UDC will be deleted from their respective sections and replaced with references to a consolidated Expansion section.

ATTACHMENT D

CITY OF TUCSON
UNIFIED DEVELOPMENT CODE

PRELIMINARY FINAL PUBLIC DRAFT – JULY 2012

Note: The underlines and comments in the margin indicate proposed revisions to the June 2012 draft.

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ARTICLE 8: LAND DIVISION, LAND SPLIT, AND SUBDIVISION STANDARDS¹

8.1. PURPOSE

The purpose of this Article is to:

- 8.1.1. Assure that all land divisions, land spits, and subdivisions are in conformance with the City's regulations regarding land development;
- 8.1.2. Assure a coordinated vehicular and pedestrian circulation system;
- 8.1.3. Establish minimum standards for land divisions and subdivisions;
- 8.1.4. Assure that all lots or parcels are provided with infrastructure improvements;
- 8.1.5. Provide an expedient and consistent review process;
- 8.1.6. Obtain accurate survey and permanent public record of the boundaries of lots created by the division of lands and subdivision plats;
- 8.1.7. Facilitate the conveyance of land by reference to an accurate legal description by means of a recorded subdivision plat; and
- 8.1.8. Provide a convenient method of describing property being conveyed.

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8.2. APPLICABILITY

This Article applies to all proposed land divisions, land spits, and subdivisions of land as defined in this Code, with the following exceptions:

- 8.2.1. The sale or exchange of parcels of land to or between adjoining property owners if such sale or exchange does not create additional lots;
- 8.2.2. The partitioning of land in accordance with other statutes regulating the partitioning of land held in common ownership;
- 8.2.3. The leasing of apartments, offices, stores, or similar space within a building or mobile home/RV park, or mineral, oil, or gas leases;
- 8.2.4. Land divisions for defining cemetery plots or columbarium units; and,
- 8.2.5. Although exempt from this article, these types of land divisions may still require review and approval by the PDSD staff and outside review agencies in accordance with other articles of the UDC.

8.3. LAND DIVISION

8.3.1. LAND SPLIT²

A. Purpose

¹ The entire text for this article was taken from staff's most recent redraft of the article. The 20-year history is being removed from the code because it is not supported by State statute.

² Land split appeal process has been eliminated because it is a review process. Once the review is complete, the applicant may appeal the decision in accordance with the same process as any review process.

According to A.R.S. §9-463.01(T) the City may regulate a land split as defined in Section 11.4.13 within its jurisdictional limits. The state law gives the City authority to determine the division lines, area, and shapes of the parcels. Neither a tentative plat nor a final plat is required but the resulting lots shall conform to applicable zoning requirements and other government codes and ordinances. The purpose of this Section is to establish a review process for land splits. This review:

1. Assures that newly created tracts or parcels are of sufficient size to be developed and meet the requirements of applicable zoning classification; Deleted: lots
2. Assures that the newly created tracts or parcels have locations for building pads that are protected from flood and erosion hazards as defined in the Floodplain Ordinance (Tucson Code Chapter 26) and Standards Manual for Drainage Design and Floodplain Management in Tucson, Arizona; and, Deleted: lots
3. Assures that all tracts or parcels resulting from a land split shall have adequate access as specified by Section 7.8, Access, of the UDC, Sections 7-01.0.0, Pedestrian Access, and 10-01.0.0, Street Technical Standard, of the Technical Standards Manual and City of Tucson Drainage Manuals. Deleted: lots
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B. Applicability

A proposed land split shall be submitted to PDSD for review and approval as provided in this Section.

C. Pre-application Conference Recommended

A pre-application conference is encouraged, but not required.

D. Application Required

Submittal of an application to the PDSD is required in order to process the request. The application must be in accordance with Section 2-08.0.0, Land Split Applications, of the Administrative Manual. Applications are reviewed for completeness in accordance with Section 3.2.3, Application Requirements.

E. Review

Land splits are reviewed by the PDSD for compliance with the following requirements:

1. Does not constitute a subdivision as defined in Section 11.4.20 which would require compliance with platting requirements of Section 8.4;
2. Results in tracts or parcels which conform to the minimum lot size requirements of the property's zone; Deleted: lots
3. Provides access to the proposed tracts or parcels in accordance with Section 7.8, Access, of the UDC, Sections 7-01.0.0, Pedestrian Access, and 10-01.0.0, Street Technical Standard, of the Technical Standards Manual, and the City of Tucson Floodplain Ordinance and Drainage Manuals; Deleted: lots
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4. Results in all existing buildings complying with the perimeter yard requirements of the property's zone; and,
5. Results in tracts or parcels of at least the minimum size required to build in accordance with the applicable zoning including any natural, environmental Deleted: lots

and floodplain requirements in accordance with the City of Tucson Floodplain Ordinance and Drainage Manuals.

- F. **Decision**
 - 1. The PDSO Director decides whether to approve or deny an application.
 - 2. The PDSO will notify the applicant if the land split has been approved.
- G. **Recordation Required**

After approval, the deeds for the land split shall be recorded at the Pima County Recorder's Office by the applicant/owner or his designated agent.

8.4. SUBDIVISIONS

8.4.1. BLOCK PLAT

- A. **Purpose**

The block plat process allows a subdivider to divide a parcel of land into ten or fewer lots without the necessity of a tentative plat, subject to the requirements of this section as allowed for by A.R.S. §9-463.01(U). A block plat may be used to abandon a previously recorded plat. Although a tentative plat is not required, additional information shall be submitted as needed, to review the project for compliance with all governmental regulations and good engineering practices. Additional information that may need to be provided include a geotechnical report, grading plan, drainage report, phasing plan, title report, or other documents that the City deems necessary to review for compliance with all applicable standards.
- B. **Applicability**

Any proposed block plat, as defined in Section 11.4.3, shall be submitted to PDSO for review and decision as provided below.
- C. **Pre-application Conference Required**

A pre-application conference in accordance with Section 3.2.1 is required.
- D. **Application, Review, Decision, and Recordation**
 - 1. Block plats shall be prepared, reviewed for compliance with Section 8.4.1.E, *Criteria*, and considered for approval in accordance with Section 8.4.5, *Final Plat*, with the exception that a pre-application is required.
 - 2. After approval of the block plat by the Mayor and Council, the block plat must be recorded with the Office of the Pima County Recorder.
- E. **Criteria**

Block plats must:

 - 1. Result in lots/blocks that conform to the minimum lot size requirements of the property's zone;
 - 2. Provide access to the proposed lots in compliance with Section 7.8, *Access*, of the UDC and Sections 7-01.0.0, *Pedestrian Access*, and 10-01.0.0, *Street Technical Standard*, of the Technical Standards Manual;

8.4.2 Residential and Non-residential Condominium and Condominium Conversion Plat

3. Results in all existing buildings complying with the perimeter yard requirements of the property's zone;
4. Conform to all City, State, and Federal drainage requirements;
5. Result in lots of at least the minimum size required to build in conformance with the applicable zoning including any natural, environmental and floodplain requirements;
6. Not be for a Flexible Lot Development; ~~and,~~
7. When used to abandon a plat, the disposition of the public right-of-way and utility easements created by the abandoned plat is provided.

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8.4.2. RESIDENTIAL AND NON-RESIDENTIAL CONDOMINIUM AND CONDOMINIUM CONVERSION PLAT³

A. Purpose

The purpose of this section is to establish procedures and requirements for proposed condominium projects and the conversion of existing structure(s) into condominiums as allowed by A.R.S. Title 33, Chapter 9.

B. Applicability

A proposed condominium projects or condominium conversion, as defined in Section 11.4.4, shall be submitted to the PSD for review and decision as provided below.

C. Application, Review, Decision, and Recordation

1. Under the Arizona Condominium Act, A.R.S. §33-1219, a subdivision plat is a required part of the condominium declaration. In conjunction with the creation of a condominium, a subdivision plat must be approved prior to the recordation of a condominium declaration as specified in A.R.S. §33-1211.
2. A tentative and final plat is required; however, the approved site plan for the existing structure/development may serve as the tentative plat if approved by the Director.
3. Tentative plats of ~~a~~ proposed condominium ~~are~~ prepared, reviewed, and considered for approval in accordance with Section 8.4.4, *Tentative Plat*.
4. Final plats of the proposed condominium or condominium conversion are prepared, reviewed, and considered for approval in accordance with Section 8.4.5, *Final Plat*.
5. A final plat may be submitted concurrent with the tentative plat in accordance with Section 3.2.3.B, *Sequential or Concurrent Review Procedure*.
6. After approval by the Mayor and Council, the final condominium or condominium conversion plat must be recorded with the Office of the Pima County Recorder.

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8.4.3. MINOR SUBDIVISION

A. Purpose

³ The Residential and Non-Residential Condominium is a proposed new section.

A minor subdivision may be accomplished with less documentation and it provides a more streamlined process than required for subdivisions. Although a tentative plat is not required, additional information shall be submitted, as needed, to review the project for compliance with all governmental regulations and good engineering practices. Additional information that may need to be provided include a geotechnical report, grading plan, drainage report, phasing plan, title report, or other documents that the City deems necessary to review for compliance with all applicable standards. The purpose of this section is to establish procedures and requirements for minor subdivision plats.

B. Applicability

A subdivision meeting the following criteria is considered a minor subdivision:

1. The number of proposed lots is ten or less;
2. All utility services are available at the subdivision site boundary;
3. All proposed lots have street frontage or perpetual access easements of a minimum width and maximum length complying with requirements established by Section 7.8, Access, of the UDC and Section 10-01.0.0, *Street Technical Standards*, of the Technical Standards Manual;
4. All streets forming the boundary of the subdivision are fully improved, except for sidewalks that may be improved as part of the project;
5. The subdivision has no special topographic conditions, such as slopes greater than ten percent;
6. The property is not located within a 100-year regulatory floodplain area or erosion hazard setback;
7. The property has all weather access in accordance with the City of Tucson Floodplain Ordinance and Design Manuals, or Section 10-02.4.4, *Street Drainage*, of the Technical Standards Manual;
8. The proposed subdivision site does not have special development requirements, or special requirements have been reviewed and special development requirements have been determined. These special development requirements may include, but are not limited to, the Hillside Development Zone (HDZ); the Environmental Resource Zone (ERZ); the Scenic Corridor Zone (SCZ); and the Watercourse Amenities, Safety, and Habitat (WASH) ordinance; and
9. The minor subdivision cannot be used for the creation of Flexible Lot Development (FLD).

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C. General Provisions

1. Minor subdivisions shall conform to the design standards provided in Section 8.6, *General Requirements for Subdivisions and Minor Subdivisions*, and Sections 8.7.1 and .2, *Subdivision Design Standards*.
2. Up to two single-family model homes may be authorized for construction prior to recordation of the final plat, provided:

- a. Sale of a lot or occupancy of an individual structure as a residence does not occur until after recordation of the final plat and the City's release of ~~assurances~~ for improvements, and
- b. The location of each structure is based on the minor subdivision lot configuration approval for final plat recording.

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D. Pre-application Conference Required

A pre-application conference in accordance with Section 3.2.1 is required.

E. Application, Review, Decision, and Recordation

1. Minor subdivisions are prepared, reviewed for compliance with all applicable requirements, and considered for approval in accordance with Section 8.4.5, *Final Plat*, with the exception that a pre-application is required.
2. Any reviews that are normally conducted during the tentative plat process, such as those involving drainage statements or reports, shall instead be conducted as part of the final plat process.
3. After approval by the Mayor and Council, the minor subdivision must be recorded with the Office of the Pima County Recorder.

8.4.4. TENTATIVE PLAT

A. Purpose

The tentative plat sets forth the technical mapping of the project including its density, intensity, land uses, pedestrian and bicycle ways, trails, parks, open space, and future lots, streets, and drainage patterns established for the site. The purpose of this section is to establish procedures and requirements for tentative plats. If the subdivision proposed is a Flexible Lot Development, the subdivision shall additionally comply with Section 8.7.3.

B. Applicability

Any proposed subdivision, as defined in Section 11.4.20, shall be submitted to PDSD for review and decision as provided in this Section.

C. Pre-application Conference Recommended

A pre-application conference in accordance with Section 3.2.1 is recommended, but not required.

D. Neighborhood Meeting Required for Flexible Lot Developments Only

For Flexible Lot Development Project tentative plats only, the applicant is required to conduct a neighborhood meeting and provide notice of the meeting in accordance with Section 3.2.2, *Neighborhood Meeting*.

E. Application Required

1. Submittal of an application to the PDSD is required in order to process the request. The application must be in accordance with Section 2-06.0.0, *Development Package*, of the Administrative Manual. Applications are reviewed for completeness in accordance with Section 3.2.3, *Application Requirements*.

2. A final plat may be submitted concurrent with the tentative plat in accordance with Section 3.2.3.B, *Sequential or Concurrent Review Procedure*.
3. For Flexible Lot Development Project tentative plats only, a mailed notice of application is required in accordance with Section 3.2.4.B, *Mailed Notice*.

F. Review

1. PDSO shall coordinate the formal technical review of all tentative plats to ensure the plats are prepared in accordance with the applicable codes, ordinances, and standards.
2. On receipt of the application, PDSO shall distribute copies of the tentative plat to CDRC members for review and comment.
3. CDRC shall review the tentative plat for compliance with all pertinent codes and legal requirements, including, but not limited to, codes regulating streets, sidewalks and public transportation access, zoning, floodplain and drainage, grading, fire, water, environmental services, Pima County wastewater, and utility company regulations.
4. If CDRC finds that the tentative plat requires revisions then:
 - a. The plat will be returned to the subdivider with a letter listing specific deficiencies and required revisions;
 - b. The subdivider shall resubmit a revised tentative plat and a letter which responds to each deficiency in detail and explains any revisions made by the subdivider to the plat;
 - c. The subdivider continues to resubmit the tentative plat until such time as the CDRC recommends approval of the tentative plat and it is forwarded to the PDSO Director; and,
 - d. Any necessary resubmittals will not change or extend the expiration times commencing at acceptance of a tentative plat, as provided in this article.
5. The zoning of the property shall permit the proposed use, and any changes to zoning shall have been adopted prior to the approval of the tentative plat.

G. Decision

1. If the requirements for tentative plats have been met, then the CDRC, by its designated representative, shall send a letter to the applicant notifying the applicant that the plat has been forwarded to the PDSO Director with a recommendation for approval.
2. The PDSO Director, or designee, shall approve the tentative plat once all the final documents, as detailed in the CDRC decision letter, are submitted for his or her signature.

H. Significance of Tentative Plat Approval

- Approval of the tentative plat shall constitute authorization for the subdivider to proceed with the preparation of the final plat.
1. Once a tentative plat is approved, the layout and design under which approval of the tentative plat is granted shall not be changed without

concurrence of both the reviewing departments and agencies and subdivider prior to the expiration date of the tentative plat.

2. Approval of a tentative plat does not guarantee final acceptance of streets for dedication.

I. **Tentative Plats Approved Prior to the Effective Date of the UDC**

A final plat application for which a tentative plat was approved prior to the effective date of this UDC may be processed 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 standards 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 one year.

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8.4.5. FINAL PLAT

A. **Applicability**

1. Proposed subdivisions, including minor subdivisions, block plats, and condominium plats, require the review and approval of a final plat.
2. The subdivider shall construct all required subdivision improvements, at no expense to the City, prior to recordation of the final plat, or the subdivider may post assurances as detailed in Section 8.6.2, *Subdivision Improvements and Assurances*.

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B. **Application Required**

1. Submittal of an application to the PSDS is required in order to process the request. The application must be in accordance with Section 2-07.0.0, *Final Plat, Land Splits, Block Plat, Minor Subdivision, and Condominium Plat*, of the Administrative Manual. Applications are reviewed for completeness in accordance with Section 3.2.3.
2. The final plat shall substantially conform to the approved tentative plat.
3. Assurances in accordance with Section 8.6.2, *Subdivision Improvements and Assurances*, is also required, when applicable, for review and consideration for approval by the PSDS Engineering Administrator.⁴
4. A final plat may be submitted concurrent with the tentative plat in accordance with Section 3.2.3.B, *Sequential or Concurrent Review Procedure*.

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C. **Review**

1. The CDRC reviews the final plat for compliance with all pertinent codes and legal requirements, including, but not limited to, codes regulating streets, sidewalks and public transportation access, zoning, floodplain and drainage, fire, water, environmental services, Pima County wastewater, and utility company regulations. Additionally, the PSDS Engineering Administrator reviews the assurances in accordance with Section 8.6.2, *Subdivision Improvements and Assurances*.
2. If the CDRC finds that the final plat requires revisions then:

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⁴ This provision regarding financial assurances is a proposed addition intended to make a clear link between a final plat and financial assurances.

- a. The plat will be returned to the subdivider with a letter listing specific deficiencies and required revisions;
 - b. The subdivider shall resubmit a revised final plat and a letter which responds to each deficiency in detail and explains any revisions made by the subdivider to the plat;
 - c. The subdivider continues to resubmit the final plat until such time as the CDRC recommends approval of the final plat and it is forwarded to the PDSO Director; and,
 - d. Any necessary resubmittals will not change or extend the expiration times commencing at acceptance of a final plat, as provided in this article.
3. Upon completing their review, the CDRC shall forward a recommendation whether to approve the final plat.

D. Decision

1. Recommendation and Scheduling with the Mayor and Council

- a. Upon recommendation of approval by the CDRC and submission of all required items as detailed in the CDRC approval letter, the PDSO Director shall forward the final plat to Mayor and Council for consideration.
- b. Pursuant to Section 8.6.2.A.3, assurances must be approved by the PDSO Engineering Administrator prior to the Mayor and Council's consideration of the final plat.⁵
- c. If the plat is dependent on the adoption of a rezoning ordinance, the Mayor and Council's consideration of the plat shall be scheduled for the same agenda as, or on an agenda following, the Mayor and Council consideration of the rezoning ordinance.

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2. Mayor and Council Decision and Notice of Decision

Upon a recommendation by the PDSO Director that the final plat meets all applicable requirements, the Mayor and Council shall decide whether to approve or deny the application in a public meeting. The City Clerk shall provide a notice of the Mayor and Council's decision to the applicant and any party requesting such notice.

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3. Recordation

- a. When a subdivider has opted not to post assurances and in accordance with Section 8.6.2.A, a subdivider shall construct all required subdivision improvements at no expense to the City prior to the recordation of the final plat.⁶
- b. The City Clerk's Office shall forward the final plat documents to the Office of the Pima County Recorder for recordation after approval of the final plat by Mayor and Council. If the use of the property proposed through the plat is dependent on the adoption of a rezoning ordinance,

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⁵ This provision is a proposed addition intended to more clearly identify the when and how financial assurance requirements affect the processing of a final plat.

⁶ This provision is a proposed addition intended to more clearly identify when and how financial assurance requirements affect the processing of a final plat.

the recordation shall occur after the effective date of any change in zoning.

8.5. EXPIRATION DATES

8.5.1. TENTATIVE PLAT⁷

A. Tentative Plat Expiration

1. The tentative plat approval expires three years from the date of approval if a final plat has not been approved and recorded within this period.
2. When a tentative plat is approved with phases, all phases except phase one, expire four years from the date of approval. A final plat for phase one must be approved and recorded within three years of tentative plat approval. A final plat for all other phases must be approved and recorded within four years of tentative plat approval.
3. If the subdivider fails to develop the platted lots or subdivision infrastructure and intervening UDC changes make the lots unbuildable (i.e. nonconforming), then the subdivider is required to file an amended, conforming plat.

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B. Tentative Plat Approval Extension⁸

A subdivider may request an extension of the tentative plat approval period. The extension may be granted based on the following:

1. For non-phased subdivisions, up to a one (1) year time extension, may be granted, provided there have been no changes in City regulations applicable to the proposed subdivision since the approval of the tentative plat; or
2. For phased subdivisions, up to a one (1) year time extension for each phase of a tentative plat being platted and recorded in phases, provided there have been no changes in City regulations applicable to the proposed subdivision since the approval of the tentative plat phase under consideration.

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8.5.2. FINAL PLAT

A. Final Plat Approval Period

A final plat shall be approved and recorded within three years of the tentative plat approval date. A final plat is subject only to the ordinances in effect at the time of the tentative plat application except where an ordinance specifically states that it applies to pending applications.

⁷ In response to SB 1598, the review timeframes have been removed from the Tentative Plat section and relocated to Sections 3-02 and 3-03 of the Administrative Manual.

⁸ This provision was relocated here from Sec. 8.5.2.B.

8.6. GENERAL REQUIREMENTS FOR SUBDIVISIONS

8.6.1. GENERAL PROVISIONS

The following requirements apply to all subdivisions.

8.6.2. SUBDIVISION IMPROVEMENTS AND ASSURANCES

Assurances are required when the assurable infrastructure is not completed at the time a final plat is recorded. Assurances provide security that the subdivider will complete necessary improvements. The following requirements also apply to the subdivider(s) or developers when acceptable substitutions of assurances are used.

A. Requirement

1. A subdivider shall construct all required subdivision improvements at no expense to the City prior to the recordation of the final plat; or
2. If a subdivider posts assurances to guarantee the completion of the required assurable infrastructure, the form and the amount of the assurance shall conform to the requirements of this section and the Administrative Manual and is satisfactory to the City Attorney's Office as to form, sufficiency, and manner of execution.
3. Assurances that all required assurable infrastructure will be completed as approved by the City shall be provided by the subdivider in accordance with Section 2-09.0.0, Assurances, of the Administrative Manual before a final plat is forwarded to the Mayor and Council for approval. The PDSO Engineering Administrator is authorized to execute on behalf of the Mayor and Council agreements with the subdivider to ensure that subdivision assurances are provided by the subdivider in accordance with Section 2-09.0.0, Assurances, of the Administrative Manual. The PDSO Director is authorized to release assurances when appropriate.

B. Acceptable Forms of Assurances⁹

The following are acceptable forms of assurances. For phased subdivisions, assurances may be provided separately for the improvements necessary for each phase:

1. Completion/Performance Bond

A subdivider may post a completion/performance bond for financial assurances executed by a surety company licensed to do business in the State of Arizona in an amount approved by the PDSO Engineering Administrator. The PDSO Engineering Administrator may sign the bond instrument on behalf of the City, and the City Attorney shall approve same as to form.

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⁹ Assurances (third-party land trusts) will no longer go to the Mayor and Council as long as the applicant uses the forms in the Technical Standards Manual.

2. **Escrow Account**

A subdivider may establish an escrow account with the City or a bank or similar financial institution acceptable to the City.

3. **Letter of Credit**

A subdivider may provide an irrevocable letter of credit in a sum approved by the PDSO Engineering Administrator from a bank or other financial institution or person acceptable to the City. The PDSO Engineering Administrator is authorized to sign the agreement on behalf of the City, and the City Attorney's Office shall approve same as to form.

4. **Third Party Land Trust**

A subdivider may vest ownership of the property constituting the subdivision in a Third Party Trustee, with direction that the property in trust will not be released for sale by the Trustee unless and until the City agrees to the release. The City will thereafter agree to a full or partial release of trust property as provided in this section and Section 2-09.0.0, Assurances, of the Administrative Manual. The PDSO Engineering Administrator is authorized to sign the agreement on behalf of the City and the City Attorney shall approve same as to form. The Mayor and Council approval of the third party land trust is required if the subdivider deviates from the City-approved third party land trust documents.

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5. **Alternative Forms of Assurances**

The PDSO Director or designee may accept alternate methods to assure the completion of subdivision improvements where acceptable to the PDSO Director and the City Attorney's Office in form and substance. Personal checks are not accepted. Mayor and Council approval of the alternate assurance method, agreement, or form(s) is required prior to the approval of the final plat.

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C. **Amount of Assurances**

Except for third party land trust agreements, the PDSO Director or designee may require a monetary amount for assurance of subdivision improvements not to exceed one and two tenths (1.2)¹⁰ times the estimated cost of construction of the required improvements.

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D. **Inspection and Acceptance of Improvements for Partial and Final Releases**

1. The PDSO Director, or designee, shall provide for inspection of required improvements.
2. If the PDSO Director or designee finds upon inspection that any of the required improvements have not been constructed per City approved documents, or have not been constructed in accordance with the City's construction standards and specifications, the subdivider shall be responsible for completing or replacing such improvements in accordance with the list of deficiencies, the City accepted specifications, and approved plans, as

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¹⁰ The proposed change from 1.5 times to 1.2 times would make the City standard equal to the industry standard.

outlined in this article and Section 2-09.0.0, Assurances, of the Administrative Manual.

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3. Project completion documentation is required to be submitted for final release as outlined in the PDS Engineering established procedures in Section 2-09.0.0, Assurances, of the Administrative Manual.

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4. The City will not accept dedication of the required improvements or release or reduce any assurance for a subdivided project requiring sewer, water, or transportation improvements, until the PDS Director or designee has received statements from the Director or designee of Tucson Water or other water company serving the property, the Tucson Department of Transportation, and the Pima County Regional Wastewater Reclamation Department that such improvements have been satisfactorily completed. Upon such approval and recommendation by the City Manager, the Mayor and Council shall accept the improvements for dedication in accordance with established procedure.

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E. Partial Release of Assurance

1. Partial Release of Subdivision Improvements for Third Party Land Trust

Where a Third Party Land Trust is provided as assurance for completion of improvements, a partial release of a portion of the subdivision may occur, prior to the completion of all improvements, provided the partial release is proportional to the level of completion of improvements. Requests for release, inspections, and approvals shall be in accordance with Section 2-09.0.0, Assurances, of the Administrative Manual.

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a. Partial Release of Residential Subdivision Assurances for Third Party Land Trust

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Up to 75 percent of the lots held in a third party trust in any particular phase may be released prior to completion and acceptance of the common-element improvements (e.g., basins, drainage facilities, sewer lines, water lines, street improvements, etc.). Any lot(s) released shall be served by the completed common-element improvements. Once the common-element improvements have been accepted, partial releases greater than 75 percent or a final release may be granted only when all of the assurable subdivision improvements have been completed, inspected, accepted by the appropriate agency, and the project closure documents have been submitted and accepted by the PDS Engineering Administrator.

b. Commercial Subdivisions for Third Party Land Trust Release

Up to 60 percent of the lots in any particular phase may be released prior to the completion and acceptance of the common-element improvements (e.g., basins, drainage facilities, sewer lines, water lines, street improvements, etc.). Any lot(s) released shall be served by the completed common-element improvements. Once the common-element improvements have been accepted, partial releases greater than 60 percent or a final release may be granted only when all of the assurable subdivision improvements have been completed, inspected, accepted by

the appropriate agency, and the project closure documents have been submitted and accepted by the PDSO Engineering Administrator.

2. Reduction or Partial Release of Monetary Assurances

Where a bond, letter of credit, or other monetary assurance is provided the amount of ~~the~~ assurance may be reduced upon partial completion of construction or actual dedication of one or more improvements, but, only in a ratio that the dedicated improvement(s) bears to the total improvements indicated on the plat. Where a subdivider completes and offers to dedicate the required improvements for a portion of the final plat, monetary assurances for such improvements may be reduced only where the improvements can be used and maintained independently of remaining improvements required for the entire plat. For example, temporary cul-de-sacs should be provided for incomplete streets; water, sewer, and electric facilities should be capable of independent operation; and adequate access for public safety vehicles shall be provided. In no case may more than 75 percent, ~~or 65 percent for commercial projects~~, of the total monetary value of assurances be released prior to completion of all improvements.

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F. Substitution of Assurances

Where a Third Party Land Trust is provided as assurance for completion of improvements, a substitute assurance may be submitted for review. The substitute trust shall include those portions of the subdivision to be covered. Additional substitute ~~assurances~~ may be needed to be in place so that all ~~of the~~ assurable infrastructure that ~~needs~~ completion ~~is~~ covered. The Third Party Trust ~~or other types of assurances~~ may be entirely substituted by another form of assurance using cost estimate procedures based on the remaining improvements with contingency and mobility costs. Acceptance of substitute ~~assurances~~ is solely at the discretion of the PDSO Director. The number of substitutes for any given subdivision may be limited as determined by the PDSO Director.

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G. Full Release of Assurable Infrastructure

A final release may be granted only when all ~~of the~~ ~~assurable~~ subdivision improvements have been completed, inspected, accepted by the appropriate agency, and the project closure documents have been submitted and accepted by the PDSO Engineering Administrator.

H. Additional Assurances

Notwithstanding ~~assurances~~ provided, if the PDSO Director, in his sole discretion reasonably determines that grounds exist, ~~that could result in~~ commercial insecurity that the required improvements will be completed, ~~he~~ ~~or she~~ may demand additional financial assurances. The neglect or refusal of the ~~subdivider~~ to provide such additional ~~assurance~~ within 30 days shall result in the immediate suspension of the issuance of any permits or further permits unless and until further assurance is provided.

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I. Expiration or Lapse of Assurances

~~If an assurance expires, the PDSO Director shall suspend the issuance of any permit(s) until such time when assurances have been provided.~~ If the PDSO Director determines

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that any applicable ~~assurances have lapsed~~, become subject to a bankruptcy or otherwise become ineffective, the PDS Director ~~reserves the right to issue a stop work order, stop release of additional lots, and utilize the financial assurances to complete the assurable items, or apply monetary penalties as prescribed by law.~~

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8.6.3. SURVEY MONUMENTS REQUIRED

The subdivider shall place survey monuments of appropriate type and design delineating the external boundary of the parcel being subdivided, public streets, and all public street intersections within or adjacent to the subdivision, installed in accordance with established practices of the City.

- A. ~~For subdivisions with tentative plats, the survey monuments shall be installed after the tentative plat approval and before final plat recordation, unless the subdivider has posted assurances with the City to assure the installation of all monuments after recordation.~~
- B. ~~Prior to recordation, the minor subdivision documents shall be submitted to identify all monuments (interior and exterior), which an Arizona registered land surveyor has set to show compliance with the approved minor subdivision documents.~~

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8.6.4. PERMITS FOR MODEL HOMES

Upon approval of the tentative plat, up to five single-family model homes may be authorized for construction prior to recordation of the final plat, provided:

- A. Sale or occupancy of an individual unit as a residence does not occur until after recordation of the final plat and the City's release of ~~assurances~~ for improvements; and,
- B. The location of each unit is based on the lot configuration approved for the tentative plat at one unit per proposed lot.

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8.6.5. LAND CLEARING AND SUBDIVISION GRADING

- A. Land clearing or grading may begin after grading plans are approved, provided the plans are prepared in compliance with an approved tentative plat and such tentative plat is in conformance with the underlying zoning. Mass graded subdivisions include grading of all the platted lots and other subdivision improvements by the developer. Custom graded lot subdivisions include the road improvements that ~~guarantee~~ access to each lot, and other subdivision improvements where access to a future building pad is feasible for each lot.
- B. Grading plans may be submitted for review prior to approval of the tentative plat in accordance with Section 2-06.4.9.M, *Grading Plan*, of the Administrative Manual ~~and Section 2-01.0.0, *Excavating and Grading*, of the Technical Standards Manual~~, but cannot be approved until after the tentative plat has been approved.
- C. ~~Concurrent review of a grading plan and a tentative plat may be permitted when submitting a Development Package in accordance with Section 2-06.0.0 of the Administrative Manual.~~
- D. ~~When applicable, phased grading information shall be provided on the tentative plat and grading plan.~~

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8.6.6. PLAT ABANDONMENT

A recorded plat that is filed for the purpose of abandoning the plat, meaning reverting to the configuration of land previously subdivided, or vacating streets or easements previously dedicated to the public; or vacating or redesigning lot or parcel boundaries previously recorded ~~may be replatted in accordance with Section 8.4.1, Block Plats, if all other criteria of Section 8.4.1.F are met. Otherwise, the plat shall be replatted in accordance with Sections 8.4.4, Tentative Plat, and 8.4.5, Final Plats.~~

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8.7. SUBDIVISION DESIGN STANDARDS¹¹

8.7.1. PARKS, RECREATIONAL FACILITIES, FIRE STATIONS, AND SCHOOL SITES

Where, in accordance with an adopted plan, it is determined that there are inadequate parks and recreational facilities, fire stations, or school sites, the Mayor and Council may require that land area within the subdivision be reserved for one or more of those uses. Such requirement shall be in accordance with state subdivision statutes regulating reservation of parks, recreational facilities, fire stations, and school sites.

8.7.2. PHASED SUBDIVISIONS

All plats for subdivisions platted in phases shall comply with this Article and all other relevant City regulations and standards.

8.7.3. FLEXIBLE LOT DEVELOPMENT (FLD)

A. Purpose

The purpose of the Flexible Lot Development (FLD) is to provide greater flexibility and creativity in the design of residential development by:

1. Providing incentives to achieve community goals, such as historic and archaeological preservation, preservation of native vegetation, development within low-income areas, and in-fill housing projects;
2. Implementing the goals and objectives of the General Plan, Area Plans, and Neighborhood Plans;
3. Providing open space that is usable and includes suitably located active and passive recreational amenities, such as trails, walking paths, picnic areas, and playgrounds;
4. Providing for visual, and where achievable, physical connections to open space areas on adjacent properties;
5. Efficiently using land and public facilities by means of a more economical arrangement of buildings, circulation systems, land uses, and utilities;
6. Preserving to the greatest extent possible existing Natural Undisturbed Open Space, environmentally sensitive areas, and landscape features and amenities, such as significant topography, protected peaks and ridges,

¹¹ The Street, Access, Alley, Easements Required, and Hydrology design standards are being relocated to either Article 7 (Development Standards) or the Technical Standards Manual. These standards apply to more types of development applications than just land divisions and subdivisions, and therefore, should be located where they will have more general applicability.

natural vegetation, washes, riparian areas, and floodplains, and integrating such features with structures and other improvements;

7. Coordinating architectural styles, building forms, and building relationships within the development and with surrounding land development;
8. Providing high-quality sustainable development within the city that incorporates "green building" techniques such as water harvesting, solar access, and passive solar orientation;
9. Mitigating the urban heat island effect by requiring such measures as canopy trees throughout the FLD project and other acceptable mitigation efforts; and,
10. Creating incentives for appropriate urban infill development on lots with site constraints.

B. Applicability

FLDs may be developed in the following zones:

1. Single-family detached residential development in the SR, SH, RX-1, and RX-2 zones;
2. Single-family residential development, attached or detached, in the R-1, MH-1, and MH-2 zones; and
3. Single-family attached or detached, and multifamily residential development in the R-2, R-3, O-1, O-2, O-3, C-1, C-2, and C-3 zones.

C. General Development Criteria¹²

1. Conformance with the General Plan and other Applicable Plans

An FLD shall be in conformance with the General Plan and any of its components, including any applicable adopted area and neighborhood plans.

2. Applicability of General UDC and Technical Standards Manual Requirements

Except as provided in this section, all applicable standards of the UDC and the Technical Standards Manual apply to FLDs.

3. Development Alternatives

FLDs shall be developed using one of the following alternatives:

a. Standard FLD

Standard FLD projects shall not exceed the dimensional standards for Development Alternative A in Section 8.7.3.D, *Regulations for FLD Projects*.

b. Maximum Density Option

FLD projects that meet at least one of the following development options may develop to the dimensional standards for the Development Alternative B in Section 8.7.3.D, *Regulations for FLD Projects*.

¹² The Project Amenities and Site Improvements section (LUC Section 3.6.1.4.C) is proposed for deletion because the section is redundant, and in some ways, conflicts with the Assurance requirements. Deletion of this section does not reduce or negate a developer's responsibility to construct or provide a certain amount of a project's amenities prior to the sale or release of any residences.

(1) Low Income Housing

A minimum of ten percent of the project's total number of units or minimum of two units, whichever is greater, are constructed and used for low-income housing.

(2) Housing for the Elderly

The entire project is designed and constructed only for the elderly. A covenant shall be recorded for the project site stating that the housing is restricted for use by the elderly. Residents of an FLD for elderly shall be at minimum 62 years old.

(3) Historic Preservation

The project includes preservation of a historic site, structure, or landmark or leads to the preservation or scientific study and archaeological documentation of prehistoric or historic buildings or sites, in accordance with Section 3-01.2.0, *Historic Preservation Requirements*, of the Technical Standards Manual. Features eligible for use of this option are those identified in the required archaeological study as meeting the criteria in the Technical Standards Manual. A recorded covenant preserving the historical site is required.

(4) Additional Functional Open Space

The project preserves at least 20 percent more Functional Open Space than is required by Section 8.7.3.F.1, *Functional Open Space Requirements*. The additional open space shall be usable for passive or active recreational uses, such as trails, walking paths, picnic areas, and playgrounds.

(5) Additional Open Space within an FLD Greater than 5 Acres

The project preserves features in a natural state at least 15 percent more area than is required by other sections of the UDC, including, but not limited to: Sections 5.2, *Hillside Development Zone*; 5.7, *Environmental Resource Zone*; or 7.7, *Native Plant Preservation*. These natural features include, but are not limited to, vegetation, washes, [riparian floodplain](#), and hillsides.

(6) Proximity to an Arterial Street

The project is located in the City's Central Core (as defined in the City of Tucson's General Plan) and is on a designated arterial street near transit facilities to promote the use of transit and reduce vehicle trips. The project density does not conflict with any applicable area or neighborhood plan.

(7) Trail or Wildlife Corridor Dedication

The FLD provides for dedication of trails or wildlife corridors, or both, that connect to offsite trails and wildlife corridors as approved by the Parks and Recreation Department.

(8) Green Building

The project is designed and located to comply with the energy efficiency requirements listed Section 3-01.3.0, *Green Building Requirements*, of the Technical Standards Manual.

D. Regulations for FLD Projects

The following regulations are required of all FLD projects:

1. Development Alternative A is for standard FLDs.
2. Development Alternative B is for Maximum Density Option FLDs in accordance with Section 8.7.3.C.3.b, *Maximum Density Option*.

TABLE 8.7.3-1: Dimensional Standards for FLDs				
Zone	Development Alternative	Site Coverage (max. %)	Allowable Density (max.)	Building Height (ft)
SR	A	8	0.25	30
RX-1	A	33	1.00	30
RX-2 & SH	A	33	2.25	25
R-1 & MH-1	A	50	5.14	25
	B	70	6.25	25
MH-2	A	62	8.00	25
	B	75	15.00	25
R-2	A	62	8.71	25
	B	75	22.00	25
R-3	A	70	36.00	40
	B	75	44.00	40
O-1, O-2 & O-3	A	75	22.00	25
C-1	A	75	36.00	25
C-2 & C-3	A	75	44.00	40

3. [Site coverage, which is calculated differently than lot coverage, is calculated in accordance with Section 6.4.3, Lot Coverage and Site Coverage.](#)

E. Minimum Lot Size

There is no minimum lot size within an FLD, except as follows:

1. Lots in the SR and RX-1 zones shall be at least 18,000 square feet.
2. Lots in the RX-2 zone shall be at least 12,000 square feet.
3. All lots developed with a septic system shall be at least one acre.

F. Open Space Requirements

1. Functional Open Space Area Requirements

- a. Functional Open Space shall be provided as shown in the following table:

TABLE 8.7.3-2: Functional Open Space Standards	
Project Size	Functional Open Space Requirement
5 acres or less	Less than 13 DU/AC* = 109 SF**/unit 13 DU/AC or more = 161 SF/unit
More than 5 acres	269 SF/unit
*DU/AC = Dwelling units per acre **SF = square feet	

- b. Functional Open Space shall be for an active recreational, passive recreational or scenic purpose.
- c. An FLD shall provide Functional Open Space amenities appropriate for the mix of residents for which the FLD project is designed.

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UNIFIED DEVELOPMENT CODE
Article 8: Land Division, Land Split, and Subdivision Standards
8.7 Subdivision Design Standards
8.7.3 Flexible Lot Development (FLD)

- d. A homeowners' association or management organization shall be established by the developer to be responsible for the ownership, permanent care, and maintenance of Functional Open Space areas.
- e. Any portion of the FLD project site that has been dedicated to and accepted by a public entity for public use as a Functional Open Space amenity may be included in meeting the Functional Open Space area requirements. Dedications that meet this requirement include, but are not limited to, parks, trail, and detention and retention basins that incorporate Multiple-Use Concepts and Aesthetic Design Guidelines described in Chapter IV of the Stormwater Detention/Retention Manual.
- f. The portion of the FLD project site that includes all or portion of a trail located within a natural open space or natural undisturbed open space may be included in complying with the Functional Open Space area requirements.
- g. **Exemptions**
The following FLD projects are exempt from functional open space requirements:
 - (1) An FLD project with 60 lots or fewer located within one-quarter (1/4) of a mile of a City community park of at least 15 acres which does not require crossing an arterial roadway to reach the park; or
 - (2) An FLD project zoned SR, SH, RX-1 or RX-2.

2. **Configuration and Location of Functional Open Space within an FLD Project**

- a. FLD projects 5 acres and less. Functional Open Space amenities should be configured as contiguous areas, but may also be incorporated into the design of other elements on the site, such as detention/retention basins and buffers, in order to make those areas functional.
- b. FLD projects more than 5 acres. Functional Open Space may be divided into smaller areas if they are distributed throughout the project site and conveniently located for residents of the FLD project.
- c. Functional Open Space shall be conveniently located to and usable by the maximum number of the residential units on the site.
- d. To the greatest extent possible, Functional Open Space should not be comprised of remnant areas that are not usable by residents of the FLD project.
- e. Where the project is located near a public preserve, or can provide connections to open space areas or areas of environmentally or culturally significant features, the open space shall be configured in a manner to preserve this connectivity.

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 <#>NUOS areas include environmentally significant features (as identified in the Environmental Resource Zone; Hillside Development Zone; and, Watercourse Amenities, Safety and Habitat zone); culturally significant features (features eligible for National Register status as identified during the cultural resource assessment process); designated floodplains (except where channelized); and, other features identified during the FLD site design plan process.¶
 <#>NUOS areas shall remain unimproved and permanently conserved with the following exceptions:¶
 <#>Trails are permitted in NUOS areas and may count toward meeting Functional Open Space requirements. ¶
 Infrastructure is permitted in NUOS areas when connectivity of services is required or cannot be achieved elsewhere on the site outside the NUOS area using design techniques that minimize the impact on the NUOS, such as limiting crossings and borings.

¹⁴ The Detention/Retention Basin provisions apply to all development that have detention/retention basins and have been relocated to Article 7 (Development Standards) where it will have more general applicability.

G. Detention and Retention Basins¹⁴

1. To the greatest degree practicable, detention and retention basins within an FLD shall be designed as Functional Open Space by incorporating the Multiple-Use Concepts and Aesthetic Design Guidelines described in Chapter IV of the Stormwater Detention/Retention Manual, [the Floodplain Ordinance](#), and in accordance with UDC Section 7.6.6.C, *Stormwater Runoff*. Functional Open Space amenities within detention and retention basins may count toward meeting Functional Open Space requirements; ~~and, developed in accordance with Section 7.1.1, *Detention and Retention Basins*,~~

H. Landscaping, Screening and Wall Requirements

1. FLD projects shall comply with Section 7.6, *Landscaping and Screening Standards*, except as otherwise provided by this section.
2. One canopy tree shall be provided every 40 feet of pedestrian circulation systems, excluding crossings with streets, alleys, and driveways. If providing canopy trees every 40 feet is not achievable, the applicant shall:
 - a. Provide the equivalent number of trees that would be obtained using the 40-foot increment measure; and,
 - b. Distribute the trees within the FLD project site along pedestrian circulation systems and within Functional Open Space areas.
3. Landscape plans shall incorporate water-conserving design as defined in Section 7.6.6, *Use of Water*, and as described in the Technical Standards Manual.
4. Water harvesting techniques shall be incorporated as part of the landscape design based on the Water Harvesting Guidance Manual prepared for the City of Tucson Transportation Department Stormwater Section.
5. Mechanical equipment, utility boxes, irrigation equipment and similar elements shall be screened from adjacent streets exterior to the project and from adjacent existing residential development. Screening shall be architecturally integrated with the overall design of the FLD.
6. If a perimeter wall is proposed along an existing public right-of-way, it shall be constructed of, or painted with, graffiti-resistant materials. The wall shall incorporate one or more of the following decorative materials:
 - a. Tile;
 - b. Stone;
 - c. Brick;
 - d. Adobe;
 - e. A textured material such as stucco or plaster; or
 - f. Metal.

I. Parking

Parking shall comply with Section 7.4, *Motor Vehicle and Bicycle Parking*, applicable sections of Section 7.6.4.B, *Landscaping and Screening in Vehicular Use Areas*, and the

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<#>Detention and retention basins shall be:¶
<#>Located in a common area, outside the boundaries of a residential lot;¶
<#>Owned and maintained by the homeowners organization or management organization established by the developer; ¶
<#>Located within the perimeter wall, fence, or screening surrounding the FLD project site boundaries, if provided; and,¶
<#>Designed and constructed in compliance with the Stormwater Detention/Retention Manual.¶
Slopes should be no steeper than 4:1 where water depths exceed two feet within a detention or retention basin so that a safety barrier is not required.

Technical Standards Manual, applicable regulations related to accessibility, and the following criteria:

1. Streets within the FLD site for which on-street parking is proposed shall be designed with parking lanes that comply with Section 10-01.0.0, *Street Technical Standards*, of the Technical Standards Manual.
2. An alley abutting an existing development shall not be used for parking access.
3. Common parking areas shall meet the following requirements:
 - a. No more than 60 parking spaces may be located in any single outdoor parking area;
 - b. There shall be a minimum of 30 ft. separation between common parking areas. Common parking areas shall be separated by a building or landscaping;
 - c. The same parking area access lane (PAAL) may provide access to two or more parking areas; and,
 - d. Curbed areas shall provide openings to allow water to flow into landscaped areas and water harvesting basins.

J. Circulation and Connectivity

1. The right-of-way and pavement widths for internal ways, common parking areas, streets, roads, or other means of vehicular circulation and for surface drainage serving the FLD shall be in accordance with Section 10-01.2.4, *Parking Lanes*, of the Technical Standards Manual and Section 7.4.6, *Motor Vehicle Use Area Criteria*, of the UDC.
2. All elements of an FLD, including residential units and recreational amenities, shall be connected by a pedestrian circulation system.
3. Interior pedestrian sidewalks shall connect to sidewalks on abutting streets and to abutting commercial and recreational facilities with adjacent property owner's consent.
4. Bus turn-out lanes and bus waiting shelters shall be provided if requested by the City.
5. Barrier Free Access to Functional Open Space Amenities
 - a. For purposes of this section, barrier free access is defined as functional access for semiambulatory and nonambulatory persons.
 - b. Barrier free access to Functional Open Space amenities shall be provided pursuant to the City's adopted Building Code Section 1109.14 (Recreational and sports facilities). Exception: FLDs using the Housing for the Elderly maximum development option (Section 8.7.3.C.3.b) shall provide barrier free access pursuant to the City's adopted Building Code Section 1109.14 (Recreational and sports facilities) or 50 percent, but not less than one, of each type of Functional Open Space amenity, whichever is greater.

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6. Trails that have current or future linkages to other trails, open space areas or recreation areas shall be provided as determined by the City Parks and Recreation Department.
 - a. Trails shall be constructed in compliance with the design criteria established for trails by the City of Tucson Parks Department and Pima County Parks Department.
 - b. Hard and soft surface paths, when required, shall have an average separation of at least five feet to allow for landscaping that does not interfere with the paths, except where a reduced width is allowed by the City's Parks and Recreation Department.
- K. **Perimeter Yards Along FLD Project Site Boundaries¹⁵**
 1. Perimeter yards along FLD project site boundaries are required in accordance with the site's underlying zone as provided in Section 6.3.4, *Dimensional Standards and Exceptions Tables*.
 2. Street perimeter yards along FLD project site boundaries are required in accordance with Section 6.4.5.C, *Street Perimeter Yards*, unless special zoning requirements dictate a greater distance or different point of measurement.
- L. **Perimeter Yards on Interior Lots**
 1. The perimeter yard requirements of Section 6.3.4, *Dimensional Standards and Exceptions Tables*, may be reduced for setbacks along interior lot lines to the extent permitted by the City's adopted Building Codes.
 2. Along interior street lot lines, street perimeter yards are required, in accordance with Section 6.4.5.C, *Street Perimeter Yards*. The street setback may be administratively reduced by the PDSO Director based on a finding that the reduced setback enhances the architectural design or the vehicular circulation in the FLD and a transportation statement is approved by the City's Traffic Engineering division. A street perimeter yard reduction request is considered for approval concurrent with the processing of the plat or site plan, whichever is applicable.
 3. Along parking area access lanes (PAALs), setbacks are required in accordance with Section 7.4.6.F.2, *Setbacks from Access Lanes and PAALs*.
- M. **Design Criteria**
 1. **Architectural Variation**
 - a. **Purpose**

To provide architectural diversity, visual interest, and to avoid monotony in architectural design by requiring variations in such architectural treatments as color, finished materials, massing and rooflines, orientation of units, garages and porches.
 - b. **Applicability**

The requirements of this section apply to projects meeting the following criteria:

¹⁵ The development designator system is being replaced with a development standards based on zone.

- (1) Projects with 20 or more single-family detached residential units except when residential units are on lots larger than 10,000 square feet or, where dwelling units are separated by 30 feet or more; or,
- (2) Elevations of single family detached units abutting a public street designated as a collector or arterial street in the Major Streets and Routes Plan; or, a private or public street designed and/or designated as a residential collector street.

c. Requirements

- (1) The same architectural elevation shall not be repeated more often than every fourth lot.
- (2) Architectural variation may be accomplished by incorporating a minimum of two of the following design features into the affected elevations: different building footprint orientation, building elevation, garage placement, roof type, ornamentation, or architectural style. The applicant shall work with the City's Design Professional to ensure that adequate variation is achieved.
- (3) Garage Placement. For FLD projects with over 20 or more single-family detached residential units, no more than 50 percent of detached residential units throughout the FLD shall be designed with garages that protrude from or are flush with the front wall of the living area or front porch of the house.

d. Architectural Variation Plan Required

- (1) An Architectural Variation Plan (AVP) demonstrating compliance with the requirements of this section shall be prepared in accordance with the Section 2-06.5.3.E, Architectural Variation Plan, of the Administrative Manual. Deleted: f
- (2) The AVP shall be included with the subdivision plat, site plan, or building permit submittal.
- (3) An AVP is reviewed and considered for approval as part of the subdivision plat, site plan, or building permit review procedure, whichever is applicable, with the Design Professional included as the reviewer of the AVP. The Design Professional will review AVPs for compliance with this Section and forward his or her findings and recommendation in writing to the PDSD Director for consideration of approval.
- (4) The PDSD Director's decision may be appealed in accordance with Section 3.9.1, *Design Review Board Appeal Procedure*.
- (5) Conditions of the approved AVP shall be included as notes on the approved plat or site plan, whichever applies, and the building plan.
- (6) An AVP shall be approved prior to issuance of a building permit.

2. Transition Edge Treatment and Mitigation for Adjacent Properties

a. Transition Edge Treatment

Where a single-family attached or multi-family FLD project is adjacent to existing single-family residential development, the FLD shall provide buffering in order to preserve the privacy of the existing residential development. Examples of buffering include, but are not limited to, landscaping, a fence, or a wall. The proposed buffering shall be included as conditions on the approved subdivision plat or site plan.

b. Privacy Mitigation

(1) Applicability

Privacy mitigation as required by this section is required when multistory residences are proposed adjacent to existing single story residences and the existing residences are zoned R-2 or more restrictive.

(2) Prohibited Improvements

Balconies, windows (except for clerestory and translucent windows), or any other feature on an upper floor that overlook the rear and side yards of an adjacent residence are prohibited.

(3) Privacy Mitigation Plan

A Privacy Mitigation Plan (PMP) is required demonstrating compliance with this section.

(a) PMPs shall be prepared in accordance with Section 2-06.5.3.F, [Privacy Mitigation Plan](#), of the Administrative Manual.

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(b) PMPs shall demonstrate that adequate measures, such as screening, setbacks, building mass, solar access, air circulation, and light access are incorporated into the design of the project to preserve the existing residents' privacy.

(c) PMPs shall be included with submittal of the tentative plat or site plan, whichever is applicable.

(d) A PMP is reviewed and considered for approval as part of the subdivision plat, site plan, or building permit review procedure, whichever is applicable, with the Design Professional included as the reviewer of the AVP. The Design Professional will review the PMP for compliance with this section and forward his or her findings and recommendation in writing to the PDS Director for consideration of approval.

(e) The PDS Director's decision may be appealed in accordance with Section 3.9.1, *Design Review Board Appeal Procedure*.

(f) Conditions of the approved PMP, including a description of the required mitigation and for which units the mitigation applies, shall be included as notes on the plat or site plan, whichever applies, and the building plan.

(g) A PMP shall be approved prior to issuance of a building permit.

3. **Solar Access and Passive Solar**
 - a. **Solar Access**

Dwelling units should be configured to allow solar access to adjacent structures in accordance with Section 7.3, *Solar Considerations*.
 - b. **Passive Solar**

FLD projects should incorporate passive solar design when practicable.
- N. **Management of Common Properties**

The subdivision plat will provide for the ownership, control, maintenance, and liability of all common areas through the homeowner's association or joint and several liability of all property owners.
- O. **FLD Phasing Requirements¹⁶**

An FLD may be phased for construction and development; however, the FLD shall be considered a single project for purposes of allowable densities, open space, common areas, hydrology, and grading, provided that all of the following conditions are met.

 1. The entire FLD shall be platted as one project, as setbacks and other FLD requirements are based on the entire FLD site. If the FLD is platted by phase, then each phase shall comply with requirements as a separate project, including the following:
 - a. Homeowners' association documentation shall allow for the annexation of future phases if designed to work as one project; and,
 - b. If access to future phases is designed to be through the phase being platted, right-of-way easements or other acceptable legal instruments shall be provided on/with the plats and homeowners' association documents.
 2. If the FLD contains common areas, the entire FLD shall be subject to an overall set of comprehensive conditions, covenants, and restrictions which establish the character of the development and create an overall homeowners' association. If the documentation for the overall homeowners' association does not indicate responsibility for each phase within the FLD, then the excluded phase shall have its own homeowners' association which will be responsible for owning and maintaining any common area, open space, natural area, or recreation area within the phase.
 3. The developer shall submit a document to show how the project amenities and site improvements will be developed in proportion to the number of residential units developed. The site improvements shall be designed to function independently for each phase and as each new phase is added. Such project amenities and site improvements shall be located adjacent to or within developed or developing phases and on property that is abutting or

¹⁶ The Project Amenities and Site Improvements section (LUC Section 3.6.X) is proposed for deletion because the section is redundant, and in some ways, conflicts with the Assurance requirements. Deletion of this section does not reduce or negate a developer's responsibility to construct or provide a certain amount of a project's amenities prior to the sale or release of any residences.

physically connected to the residential development in order to provide access between the amenity and the development it serves.

4. At no time during the construction of the FLD shall the number of constructed residential units per acre of developed land exceed the overall density for the land area in each phase and as approved by the recorded plat

P. FLD Submittal, Review, and Decision

An FLD shall be prepared, processed, and have a tentative and final plat or site plan, whichever is applicable, approved prior to issuance of a building permit with the following exception. Model homes may be authorized for construction prior to recordation of the final plat in accordance with Section 8.6.4, Permits for Model Homes.

1. Tentative Plat

- a. A tentative plat for an FLD shall be prepared in accordance with Section 2-06.0.0, *Development Package*, of the Administrative Manual, including Section 2-06.5.0, *Flexible Lot Development – Additional Requirements*, of the Administrative Manual.
- b. A tentative plat for an FLD is processed and considered for approval in accordance with Section 8.4.4, *Tentative Plat*, with the following exceptions:
 - (1) An applicant shall hold a neighborhood meeting in accordance with Section 3.2.2.C.1.b prior to submitting a FLD application.
 - (2) Notice of the submittal of an FLD application shall be sent to the applicant, property owners within 300 feet of the project site, and neighborhood associations within one mile of the project site.

2. Final Plat

- a. A final subdivision plat for an FLD shall be prepared in accordance with Sections 2-07.0.0, *Final Plat, Land Splits, Block Plats, Minor Subdivisions, and Condominium Plats*, and 2-06.5.0, *Flexible Lot Development – Additional Requirements*, of the Administrative Manual.
- b. A final subdivision plat for an FLD is processed and considered for approval in accordance with Section 8.4.5, *Final Plat*.

3. Site Plan

- a. A site plan is required only if a subdivision plat is not required.
- b. A site plan for an FLD shall be prepared in accordance with Section 2-06.0.0, *Development Package*, of the Administrative Manual, including Section 2-06.5.0, *Flexible Lot Development – Additional Requirements*, of the Administrative Manual.
- c. An FLD site plan is reviewed and considered for approval in accordance with Section 3.3.3, *PDSD Director Approval Procedure*.