



# PLANNING COMMISSION

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

**DATE:** May 2, 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)

**Issue** – This item is a continuation of the public hearing opened at the April 4, 2012 Planning Commission meeting. See Attachment B for a summary of the April 4<sup>th</sup> public hearing.

The Unified Development Code (UDC) is a simplification and reformat of the City's Land Use Code (LUC).

The purpose of the Land Use Code Simplification Project is to simplify, reformat, and make more user-friendly the City's LUC, Development Standards, and Chapter 23A. 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. To date, the Planning Commission has discussed each document at least one time.

The following articles of the UDC are currently under consideration:

- Article 1, General Provisions;
- Article 2, Review Authorities;
- Article 5, Overlay Zones;
- Article 7, Development Standards;
- Article 8, Land Division and Subdivision Standards;
- Article 9, Nonconformities;
- Article 10, Enforcement and Penalties; and,
- Article 11, Definitions and Rules of Construction.

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

Because drafts of each article was provided last month and only minor revisions have been made since then, replacement pages only are attached. Complete drafts of the articles are available online here: [http://cms3.tucsonaz.gov/planning/prog\\_proj/projects/lucsimplication/](http://cms3.tucsonaz.gov/planning/prog_proj/projects/lucsimplication/)

**Recommendation** – Staff recommends that the Planning Commission keep the public hearing open for all of the items and instruct staff to return in June with revised drafts addressing any remaining issues.

### **Background**

Land Use Code Simplification and Reformat Project. 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.

*Revised Zoning Code and Other Associated 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.

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 A – Replacement Pages)

*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. The Zoning Interpretation and Zoning Certification provision is proposed for revision to allow the Zoning Administrator additional time to render a zoning determination when a determination is complex or has citywide application, such as was the case with the recent group dwelling determination;
3. 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,
4. The transitional regulations are included to establish when the LUC and UDC apply.

*Significant Changes Made to the April 2012 Draft:*

1. Section 1.4.1 (General Applicability and Compliance) – the proposed a new subsection “E” was added to establish and clarify the role and connection of the Administrative and Technical Standards Manuals with the UDC;
2. 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.

*Issues:* To the best of staff’s knowledge, there are no significant issues with Article 1.

Article 2: Review Authorities and Powers (Attachment A – Replacement Pages)

*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 (PDSD) and the Department of Urban Planning and Design to the Housing and Community Development Department (HCDD);
2. Article 2 clarifies the HCDD and PDSD'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 PDSD 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 PDSD 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. The Design Professional and the Design Examiner positions have been combined since the powers and duties of each are so similar; and,
6. 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 April 2012 Draft:*

1. 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.

*Issues.* To the best of staff's knowledge, all of the significant issues with Article 2 that are within the scope of this project have been resolved.

Article 5: Overlays (Attachment A – Replacement Pages)

*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. *Gateway Corridor Zone, Variance (Section 5.5)* – The variance section is proposed for deletion because it is rarely, if ever, requested;
3. *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;
4. *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 PDSD 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;
5. *Neighborhood Preservation Zone, NPZ Design Review – Submittal (UDC 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;
6. *Rio Nuevo District (Section 5.11)*: 1) Staff proposes revising the Minor Project Design Review procedure from a 50’ Notice to PDSD 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 April 2012 Draft:*

1. Section 5.7.7.B, Environmental Resource Zone (ERZ), Appeals of the PDSD Director's Decision – 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;
2. Section 5.11.8.B.6, Historic Preservation Zone, Appeal to the Board of Adjustment – this appeal procedure is proposed for deletion because it was mistakenly put in this section.

*Issues.* To the best of staff's knowledge, all of the significant issues with Article 5 that are within the scope of this project have been resolved.

Article 7: Development Standards (Attachment A – Replacement Pages)

*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; and,
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.

*Significant Changes Made to the April 2012 Draft:*

1. 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,

2. 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 requires compliance with commercial access standards.

*Issues.* To the best of staff’s knowledge, there are no unresolved issues with Article 7.

Article 8: Land Division and Subdivision Standards (Attachment A – Replacement Pages)

*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 (third-party land trusts) 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.

*Significant Changes Made to the April 2012 Draft:* The draft has been revised in various ways in response to feedback from Chuck Martin, local architect and Metropolitan Pima Alliance member. Most of the revisions are relatively minor, i.e. section references. A more

substantive change is a clarification that it is the PDSD Engineering Administrator that can approve assurances if a city-approved form is used.

*Issues.* A representative from the Metropolitan Pima Alliance recently submitted suggested edits to Article 8. Staff will review the comments and, to the extent reasonable and in conformance with Arizona Revised Statutes, will revise Article 8 to accommodate the edits.

#### Article 9: Nonconformities (Attachment A – Replacement Pages)

*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 April 2012 Draft:* In response to comments from Chuck Martin (see Attachment C), Article 9 has been revised to use the terms “nonconformity” and “nonconforming use, buildings, or structures” more consistent.

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

#### Article 10: Enforcement and Penalties (Attachments F & G)

*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 PDS, 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.

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

#### Article 11: Definitions and Rules of Construction (Attachment J)

*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 (UDC 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. **Shelter Care (Sec. 11.3.7.D.4, p. 14)** – Phrase limiting care to “typically for less than 30 days” is proposed for deletion.

*Significant Changes Made to the April 2012 Draft:*

1. The Medical Marijuana-related use definitions were inadvertently placed in the Commercial Use Group instead of the Retail Trade Use Group. The latest draft has been revised to reflect this change.
2. The definitions of Assurable Items, Assurable Infrastructure, and Subdivision Improvements have been revised to ensure they are consistent with Arizona Revised Statutes and Third Party Assurance forms.

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

**Stakeholder Involvement and Feedback**

Staff has sought input and feedback on this project from the Planning Commission, LUC Committee, an ad hoc group of neighborhood representatives, and, in the upcoming months, the Metropolitan Pima Alliance.

Attachments:

Attachment A – Replacement Pages:

Article	Old Page(s)	New Page(s)
1	Entire section	Entire section
2	12, 13	12, 13
5	54, 55 and 94, 95	54, 55 and 94, 95
7	83, 84 and 85, 86	83, 84 and 85, 86
8	Entire article	Entire article
9	Entire article	Entire article
11	Portion of ‘A’ & ‘S’ definitions	Portion of ‘A’ & ‘S’ definitions

Attachment B – Summary of the April 4, 2012 Planning Commission Public Hearing on Articles 1, 2, 5, and 7 - 11

Attachment C – Comments from Chuck Martin

substantive change is a clarification that it is the PDSO Engineering Administrator that can approve assurances if a city-approved form is used.

*Issues.* A representative from the Metropolitan Pima Alliance recently submitted suggested edits to Article 8. Staff will review the comments and, to the extent reasonable and in conformance with Arizona Revised Statutes, will revise Article 8 to accommodate the edits.

Article 9: Nonconformities (Attachment A – Replacement Pages)

*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 April 2012 Draft:* In response to comments from Chuck Martin (see Attachment C), Article 9 has been revised to use the terms “nonconformity” and “nonconforming use, buildings, or structures” more consistent.

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

Article 10: Enforcement and Penalties (Attachments F & G)

*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.

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

Article 11: Definitions and Rules of Construction (Attachment J)

*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

**ATTACHMENT A – REPLACEMENT PAGES**

**ARTICLE 1 (ENTIRE ARTICLE)**



**CITY OF TUCSON  
UNIFIED DEVELOPMENT CODE**

**PRELIMINARY FINAL PUBLIC DRAFT – MAY 2012**

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# ARTICLE 1: GENERAL PROVISIONS<sup>1</sup>

## 1.1. TITLE AND EFFECTIVE DATE<sup>2</sup>

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. AUTHORITY<sup>3</sup>

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

## 1.3. PURPOSE OF THIS CODE<sup>4</sup>

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 COMPLIANCE<sup>5</sup>

- A. The provisions of the UDC apply to all development and uses of land within the City.
- B. No land shall be divided into two or more parcels or be used or occupied, no site modification or construction started, and no existing use or structure expanded, reconstructed, changed, or otherwise altered until compliance with the provisions of the UDC have been certified.
- C. 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.

<sup>1</sup> 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.

<sup>2</sup> Text from LUC Sec. 1.1.1.

<sup>3</sup> Proposed new text.

<sup>4</sup> Text from LUC Sec. 1.1.2.

<sup>5</sup> 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.<sup>6</sup>
- 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.<sup>7</sup>
- F. The Administrative and Technical Standards Manuals are companion documents to the UDC and require additional criteria, standards, and requirements that support the implementation of the UDC.<sup>8</sup>

#### 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, 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.)

<sup>6</sup> Text from LUC Sec. 1.1.5., with minor clarifications.

<sup>7</sup> Text from 23A-4.

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

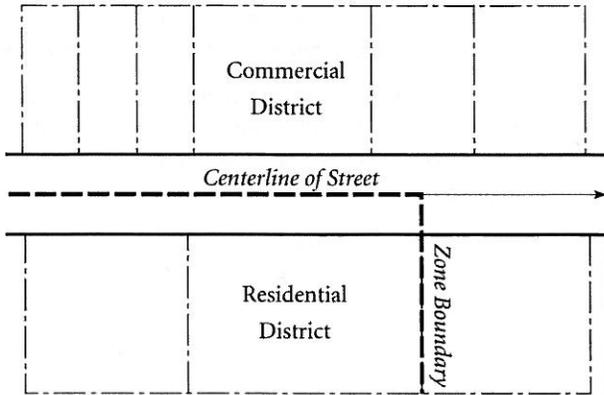
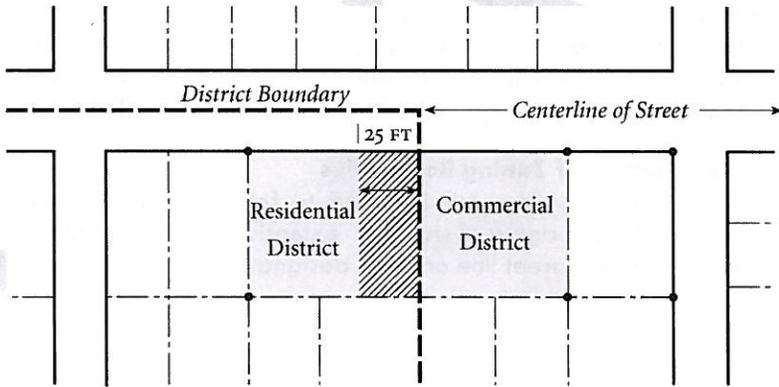


Figure 1.4-1: Determination of Zoning Boundaries

**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 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)<sup>9</sup>**

**1.5.1. INTERPRETATION BY ZONING ADMINISTRATOR**

**A.** When questions occur concerning the content or application of the UDC, the Zoning Administrator shall render a final decision and interpretation on the matter in accordance with Section 1.5.1.B, Zoning Interpretations and Zoning Certifications. In making a determination, the Zoning Administrator shall rely on the purpose of the section in question. 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.

**B. Zoning Interpretations and Zoning Certifications**

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:

1. 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.
2. 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.
3. 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 five days of receipt of any such written request ~~the time frames set forth in the PDS Review Timeline Policy, Section 3-02 of the Administrative Manual. The Zoning Administrator may take reasonable additional time when additional information for the applicant is needed, or the application is complex, for such reasons as, but not limited to, the request will have citywide application, or require consultation with the City Attorney's~~

<sup>9</sup> Text from LUC Sec. 1.2.1, including both editor's notes.

**1.5.2 Interpretations of Graphics and Captions**

~~Office. When additional time is needed, the Zoning Administrator shall contact the applicant to explain why and how much additional time is needed, and when applicable, request additional information from the applicant.<sup>10</sup>~~

4. Notification of the final zoning determination or certification shall be sent ~~within three days of the determination or decision~~ to the following persons:
  - a. The Applicant;
  - b. All parties of record;
  - c. Any Person who requests to be notified; and
  - d. For zoning determinations that have citywide application, to neighborhood associations registered with the City.<sup>11</sup>
5. The Zoning Administrator's determination shall be binding upon the applicant and all parties of record unless appealed in accordance with Sections 3.10.1 and 3.10.2, the Board of Adjustment Appeal Procedure.

**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.

**1.5.3. REFERENCES TO OTHER CODES AND LAWS**

Section references to codes and laws other than in 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.

<sup>12</sup>

**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 PROVISIONS<sup>13</sup>**

**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.

<sup>10</sup> The review ~~time frame has been relocated to the Administrative Manual per the proposed SB 1598 policy. -period has been clarified to ensure timely consideration of the zoning determinations by the Zoning Administrator, but to allow additional time if the zoning determination is complex or has citywide application.~~

<sup>11</sup> The provision has also been revised to require notification to neighborhood associations when the determination will be applied citywide.

<sup>12</sup> The regulation pertaining to the restoring unsafe structures has been moved to Section 9.16.

<sup>13</sup> Text from LUC Sec. 1.2.2, 1.2.3, and 1.2.4.

**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.

**1.7. TRANSITIONAL REGULATIONS<sup>14</sup>**

**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 RENDERED NONCONFORMING**

- A. When a building, structure, or lot is used for a purpose that was a lawful use before the effective date of this UDC, or before the adoption of original City Zoning for an annexed property, and this UDC no longer classifies such use as an allowed use in the zoning district in which it is located, such use shall be considered nonconforming and shall be controlled by Article 9: Nonconformities.
- 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: Nonconformities.

**1.7.4. APPLICATIONS COMMENCED OR APPROVED UNDER PREVIOUS ORDINANCES**

**A. Pending Applications**

- 1. Any complete application that has been submitted for approval, but upon which no final action has been taken by the appropriate decision-making

<sup>14</sup> 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**

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body prior to the effective date of this UDC, shall be reviewed in accordance with the ordinance in effect on the date the application was deemed complete. If the applicant fails to comply with any applicable required period for submittal or other procedural requirements, the application shall expire and subsequent applications shall be subject to the standards of this UDC. Any re-application for an expired project approval shall meet the standards in effect at the time of re-application.

2. An applicant with a complete application that has been submitted for approval, but upon which no final action has been taken prior to the effective date of this UDC, may request review under this UDC by a written letter to the 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 six months.
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.

**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 Code<sup>15</sup>**

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, Downtown Area Infill Incentive District, 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

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<sup>15</sup> 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.

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**1.7.4 Applications Commenced or Approved Under Previous Ordinances**

and current UDC during the three-year transition period. At the expiration of the three-year transition period, the LUC will be repealed.<sup>16</sup>

**E. Waiver of Potential Claims<sup>17</sup>**

In exchange for the processing of [entitlements],<sup>18</sup> the City requires that a property owner shall execute a waiver of any right of any potential claims under Proposition 207, the Private Property Rights Protection Act (A.R.S. Sec. 12-1134), arising from his or her development of the property as permitted by A.R.S. Sec. 12-1134 (I), in the form approved by the City Attorney. The waiver applies only to the action requested and does not diminish any other landowner rights that may exist prior to the request.

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**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.<sup>19</sup>

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<sup>16</sup> 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.

<sup>17</sup> Proposed new text; further discussion needed.

<sup>18</sup> This term needs to be clarified

<sup>19</sup> Text from LUC Sec. 1.2.11



**ATTACHMENT A – REPLACEMENT PAGES**

**ARTICLE 2 (PAGES 12 & 13)**



granting a variance. In addition, the DRB may make any recommendation that would assist in mitigating any negative impacts which might occur should the request be granted.

**3. Design Development Option (DDO), Appeals**

The DRB reviews, for recommendation to the B/A, appeals of decisions by the PDSO Director on DDO applications in accordance with Section 3.10.2, Board of Adjustment Appeal Procedure. The DRB shall apply the same findings (Section 3.11.1.D, Findings for Approval) required of the PDSO Director when making its recommendation.

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

~~Pursuant to Section 5.7.7.B.1, the DRB reviews, for recommendation to the Mayor and Council, appeals of the PDSO Director's decisions on ERZ mitigation plans in accordance with Section 3.9.2, Mayor and Council Appeal Procedure. The DRB recommendation shall apply the same standards required for a decision of the PDSO Director on an ERZ plan.<sup>16</sup>~~

**4. Environmental Resource Zone (ERZ), Variances**

a. Pursuant to Section 3.2.4.E.1.c, the DRB reviews, for recommendation to the B/A, all requests for variances from ERZ standards, in accordance with the Board of Adjustment 300' Notice Procedure Section 3.2.4.E.1. The DRB recommendation shall apply the same findings required in Section 3.2.4.E.3.a for granting a variance. In addition, the DRB may make any recommendation that would assist in mitigating any negative impacts which might occur should the request be granted.

b. If the City Engineer or designee, a notified property owner, or the applicant for the variance requests consideration of stormwater management issues related to the variance, the Stormwater Technical Advisory Committee may review the variance request concurrently with the DRB and may provide written or oral testimony at the public hearing for the variance request. Any such testimony must address the required findings.<sup>17</sup>

**5. Landscaping and Screening Standards, Variances**

Pursuant to Section 7.6.9.D, the DRB reviews, for recommendation to the B/A, all requests for variances from Section 7.6, Landscaping and Screening Standards, in accordance with Sections 3.10.1 and 3.10.3, Board of Adjustment Variance Procedure. The DRB recommendation shall apply the same findings required in Section 3.10.3.J, Findings for Approval, for granting a variance. In addition, the DRB may make any recommendation that would assist in mitigating any negative impacts which might occur should the request be granted.

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<sup>16</sup> The appeal procedure 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.

<sup>17</sup> Text from LUC Sec. 2.8.6.8.A.2.

- 6. Native Plant Preservation (NPP), Variances**  
Pursuant to Section 7.7.6.B, the DRB reviews, for recommendation to the B/A, all requests for variances from NPP standards in accordance with Sections 3.10.1 and 3.10.3, Board of Adjustment Variance Procedure. The DRB recommendation shall apply the same findings required in Section 3.10.3.J for granting a variance. In addition, the DRB may make any recommendation that would assist in mitigating any negative impacts which might occur should the request be granted.
- 7. Neighborhood Commercial (NC) Zone, Development Review**  
Pursuant to Section 4.9.13.M.1.d, the DRB reviews all proposed nonresidential development, including exterior remodeling, for approval of architectural and site design compatibility with the surrounding residential area.
- 8. Office (O-1) Zone, Development Review**  
Pursuant to Section 4.9.4.R.7, the DRB reviews all new office development in the O-1 zone, including Medical Service – Outpatient.
- 9. Communications Land Use, PDSB Director Special Exception Procedure**  
The DRB reviews, for recommendation when requested by the PDSB Director, Communications land uses in all zones that require approval in accordance with Section 3.4.2, PDSB Director Special Exception Procedure.
- 10. Communications Land Use, Zoning Examiner Special Exception Procedure**  
The DRB reviews, for recommendation, Communications land uses in all zones that require approval in accordance with Section 3.4.3, Zoning Examiner Special Exception Procedure.
- 11. Communications Land Use, Mayor and Council Special Exception Procedure**  
The DRB reviews, for recommendation when requested by the Mayor and Council, or Zoning Examiner, Communications land uses in all zones that require approval in accordance with Section 3.4.4, Mayor and Council Special Exception Procedure.
- 12. Home Occupation: Travelers' Accommodation, Lodging, Development Review**  
The DRB reviews all Home Occupation, Travelers' Accommodation, and Lodging land uses in the various zones in which the use is permitted, as provided in Section 4.9.7.H.6.

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<sup>18</sup> Staff recommends that a recommendation from the DRB on variances to Gateway Corridor Zone requirements should no longer be required because this process is rarely, if ever, used.

**ATTACHMENT A – REPLACEMENT PAGES**

**ARTICLE 5 (PAGES 54, 55 and 94, 95)**



wire fencing is used, the bottom and top wire shall be barbless and a bottom clearance of at least 18 inches from the ground is required.

**B. Exterior Lighting**

Lighting sources shall be confined to wall-mounted fixtures or standards a maximum of 42 inches in height, spaced to create pools of light rather than a saturated condition. Neither high-pressure sodium nor mercury vapor lighting shall be used. All lighting sources shall be shielded to reduce dispersed light.

**5.7.7. VARIANCES, APPEALS, AND AMENDMENTS**

**A. Variance Requests**

1. Variances from the ERZ standards are reviewed and considered for approval in accordance with Sections 3.10.1 and 3.10.3, the Board of Adjustment Variance Procedure. As provided in Section 2.2.6.C.5, the Design Review Board (DRB) reviews all ERZ variance request and forwards its recommendations to the Board of Adjustment.
2. If the City Engineer or designee, a notified property owner, or the applicant for the variance requests consideration of stormwater management issues related to the variance, the Stormwater Technical Advisory Committee (STAC) may review the variance request concurrently with the DRB and may provide written or oral testimony at the public hearing for the variance request. Any such testimony shall address the required findings.

~~**B. Appeals of the PDS&D Director's Decision**~~

~~Appeals to the Planning and Development Services Department (PDS&D) Director's decision are reviewed and considered for approval in accordance with Section 3.9.2, the Mayor and Council Appeal Procedure. If the DRB did not review the application prior to the PDS&D Director's decision, the DRB will review the appeal and forward its recommendation to the Mayor and Council.<sup>21</sup>~~

~~**C.B. Proposed Unified Development Code (UDC) Amendments**~~

~~The Stormwater Advisory Committee (SAC) may review all proposed amendments to this section and may provide written conclusions and recommendations to the PDS&D Director of the Department of Transportation to be forwarded to the Planning Commission and the Mayor and Council prior to public hearings on the proposed amendments.~~

**5.8. "H" HISTORIC PRESERVATION ZONE (HPZ)<sup>22</sup>**

**5.8.1. PURPOSE**

The purpose of this zone is to promote the educational, cultural, economic, and general welfare of the community and to ensure the harmonious growth and development of the municipality by encouraging the preservation and rehabilitation of historic districts, historic sites and structures, and archaeological resources. This zone is intended to ensure the retention of early structures and to keep them in active use and in their original appearance, setting,

<sup>21</sup> An appeal procedure is no longer necessary due to the change in procedure from the 300' Notice Procedure to the PDS&D Director Approval Procedure.

<sup>22</sup> Text from LUC Section 2.8.8.

and placement. It is also intended that new or remodeled structures, located within Historic Preservation Zones (HPZ), be designed and constructed to harmonize with structures located within the immediate vicinity, in order to preserve property values, provide for future development, and promote an awareness of the heritage of Tucson among both residents and visitors to the community.

#### 5.8.2. **APPLICABILITY**

- A. The Historic Preservation Zone (HPZ) is an overlay zone superimposed over underlying zoning;
- B. The HPZ applies to specifically mapped areas where there is an individual historically important structure, a group of surviving related structures in their original setting, or an archaeological site that gives a historic dimension to the city. A list of established HPZs and Historic Landmarks is provided in the Technical Standards Manual and is updated by the Housing and Community Development Department based on Mayor and Council action. Demolition requests in pending HPZs are subject to the standards of Section 5.8.9. To identify each HPZ or Historic Landmarks on the City of Tucson Zoning Maps, the preface "H" is added to the assigned residential, office, commercial, or industrial zone designation, i.e., R-1 becomes HR-1.
- C. The designation, amendment and change to boundaries of a HPZ are established by the Mayor and Council in accordance with Sections 5.8.3 and 3.5, the Rezoning (Change of Zoning) Procedure.

#### 5.8.3. **ESTABLISHMENT AND AMENDMENT TO HISTORIC PRESERVATION ZONES**

- A. **Standards for Establishing and Amending Historic Preservation Zones**

The following standards are examined when determining if an area, neighborhood, or district shall be established as an HPZ, whether boundaries of an existing district shall be changed or the district dissolved:

  - 1. An HPZ shall include historic sites or structures, as defined in Section 11.4.9;
  - 2. An HPZ should include a group of related sites, buildings, and structures in their original setting that contribute to an understanding of the heritage of the community;
  - 3. The group of structures, buildings, or sites should provide the area with a sense of uniqueness, and it should be readily distinguishable from other areas of the community; and,
  - 4. There should be a sufficient number of structures of related or similar characteristics to make a recognizable entity.
- B. **Preliminary Assessment**

A preliminary assessment of the proposed HPZ or Historic Landmark is provided to the PDSD Director for review and recommendation to the Mayor and Council. The preliminary assessment should include the boundaries, a summary of the resources in the proposed HPZ, evidence that a proposed district has historic significance, and a list of proposed advisory board members.

**2. Sustainable Energy Standard**

All government buildings shall meet the requirements of the Sustainable Energy Standard to the extent reasonable. The Standard may be waived by the PDSD Director based on factors including, but not limited to, excessive cost or unsuitability to the project.

**5.11.6. GENERAL RESTRICTIONS**

The following restrictions apply to all uses and development in the RND:

- A. New drive-in or drive-through facilities are not permitted, except for businesses located adjacent to the freeway, or as approved through the development review process; and,
- B. Uses shall be accommodated without altering the historic character-defining features of structures on or eligible for designation on the National Register. (See the Technical Manual for a list of all such structures within the RND.)

**5.11.7. DEMOLITION OF RIO NUEVO AND DOWNTOWN ZONE STRUCTURES**

Demolition of structures in the RND is reviewed as follows:

- A. Structures 40 years old or less and structures determined not to be eligible for, or registered on, the National Register of Historic Places or the Arizona Register of Historic Places, shall not be subject to any further review;
- B. Structures within the RND that are more than 40 years old and that are eligible for, or registered on, the National Register of Historic Places or the Arizona Register of Historic Places, shall be reviewed in accordance with this section;
- C. Structures designated as Historic Landmarks are reviewed in accordance with Section 5.8.8.A.4, Demolition of Historic Contributing Properties and Historic Landmarks; or,
- D. Structures eligible for designation which contribute to the historic character of the RND are reviewed in accordance with Section 5.8.8.A.3, Demolition of Contributing Properties, Nonhistoric.

**5.11.8. DEVELOPMENT REVIEW REQUIRED**

**A. Pre-Application Conference Required**

A pre-application conference with the Planning and Development Services Department (PDSD) is required to determine whether the application shall be reviewed through the Minor or Major Project Design Review Procedure. The applicant may request informal review by the DRB as part of the pre-application process.

**1. Minor Project**

A Minor Project is any modification of, addition to, or alternation of an existing structure that would affect the exterior appearance, which does not require a building permit, with the exception of work which proposes only color changes to the exterior of the structure.

**2. Major Project**

A major project is:

- a. A modification to or alteration of an existing structure that would affect the exterior appearance, which requires a building permit;
- b. An addition to an existing structure;
- c. A project requiring a grading permit; or,
- d. A project which proposes constructing or enlarging parking lots.

**B. Minor Project Design Review**

Minor projects are reviewed as follows:

**1. Submittal**

Upon submittal, the PDS staff reviews the application to determine that it provides all required information. The application shall be accepted or rejected for review within two days.

**2. Staff Review**

The PDS staff reviews the application to determine compliance with the applicable requirements and recommends to the PDS Director whether to approve or reject the application.

**3. Board and Subcommittee Review and Recommendation**

a. The Design Review Board (DRB) reviews applications for compliance with the RND standards and makes recommendations to the PDS Director. Applications are scheduled with the DRB at the first available meeting.

b. The Tucson-Pima County Historical Commission (TPCHC) Plans Review Subcommittee reviews applications that propose exterior changes to buildings on or eligible for inclusion on the National Register of Historic Places. The TPCHC Plans Review Subcommittee makes a finding and recommendations to the PDS Director.

**4. Decision**

The PDS Director shall make a decision on whether to approve or deny the application within seven (7) days of receiving recommendations from staff, DRB, and, when applicable, the TPCHC Plans Review Subcommittee.

**5. Notice of Decision**

Notice of the decision shall be provided to the applicant within three (3) days of the date of the decision and the appropriate advisory board and the plans review subcommittee.

~~**6. Appeal to the Board of Adjustment**~~

~~If an application is denied, the applicant may appeal the decision to the Board of Adjustment in accordance with Section 3.10 by filing an appeal within five (5) days of the notice of decision.<sup>36</sup>~~

**C. Major Project Design Review**

Major projects are reviewed as follows:

<sup>36</sup> This appeal section was mistakenly put in this section.

**ATTACHMENT A – REPLACEMENT PAGES**

**ARTICLE 7 (PAGES 83, 84 and 85, 86)**



is over one acre. The monitoring must be performed by an individual who is qualified in arid lands native plant resource identification and protection as specified in Section 7.7.4.D, Professional Expertise. The monitor must provide periodic progress reports to the developer outlining the status of work accomplished and any problems encountered. A copy of these reports must be submitted to the PDSO for the project file.

**6. Submittal Compliance**

The monitor is responsible for an assessment of the condition of the site's plants one year after the final inspection has been performed on the site. The monitor shall visit the site and prepare a report on plant status, including general plant condition, the identification of plants under stress and the appropriate method to relieve the stress, and recommendations for replacement of plants that are dead or dying. Dead or dying plants must be replaced with the same size plant at a one-to-one ratio of like genus and species. Copies of the report must be submitted to the site owner/developer and to PDSO. The owner must respond to the plant needs as outlined in the status report within six months of report submittal or within a shorter period if required to improve the health of stressed plants and prevent plant loss.

**7.7.6. ADMINISTRATION**

**A. Site Inspection and Enforcement**

All landscape standards of this section must be inspected for compliance per Sec. 7.6.9.C, Site Inspection and Enforcement.

**B. Variances**

The Design Review Board (DRB) shall review all variance requests from the Native Plant Preservation standards as provided in Section 2.2.6.C.8, Native Plant Preservation, and shall forward its recommendation in accordance with Section 2.2.6.B.6, Required Action.

**7.8. ACCESS<sup>34</sup>**

**7.8.1. ACCESS REQUIRED – NEW USES OF LAND OR STRUCTURES**

All new uses of land or structures must have legal and physical vehicular access (e.g., public or private street access or an access easement) to a public street and provide reasonable improvements for pedestrian facilities, in accordance with the applicability and substantive requirements of Section X of the Technical Manual.

**7.8.2. ACCESS REQUIRED – SUBDIVISIONS**

All subdivisions must provide a minimum of one legal, all-weather access connection to all lots in conformance with Section X of the Technical Manual. If the proposed all-weather access connection is located outside the subdivision boundary, then the applicant must include assurances for financial participation in the offsite improvement.

<sup>34</sup> 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.

- A. All subdivisions developed in phases must be designed to provide legal access of sufficient size for vehicular and pedestrian access to all phases of the development.
- B. Any proposed subdivision being divided from a larger piece of property must assure legal access of sufficient size to provide vehicular and pedestrian access to that portion of the property not included in the proposed subdivision.

**7.8.3. ACCEPTABLE TYPES OF ACCESS**

- A. Public street access, which is ingress-egress to a parcel provided by an abutting public street.
- B. Private street access, which is ingress-egress to a parcel provided by an abutting private street in which the owner of the parcel has a legal interest to assure perpetual use for access.
- C. Access easement, which is ingress-egress to a parcel provided over some other parcel through an area dedicated for such perpetual use.

**7.8.4. WIDTH OF ACCESS**

- A. The minimum width required for access to a parcel is that dimension sufficient to provide for the type of access. The minimum required width is based on access improvements being centered within the dimension. If the improvements are located off-center, an additional width may be required.
- B. All lots shall be designed with access to a public street. If a proposed lot does not have public street frontage, access must be provided by means of a private street or an access easement of sufficient size to accommodate motor vehicle and pedestrian access and public services as required for the type of development proposed for the lot.
- C. If access is provided by an easement and the easement serves more than two (2) single-family homes ~~or duplexes~~,<sup>35</sup> the City may require the easement to be developed as a street or as a parking area access lane (PAAL). The determination as to whether a developed street or PAAL is required will be made at the time of review of the proposed land division or development of the property based on the need for public services, such as utilities, refuse collection, and fire suppression, and on the projected average daily traffic (ADT) of the access easement.

**7.9. STREETS**

Streets must be designed in accordance with the Technical Manual Sec. XXX, Gated Entrance Standards (section XXX), Major Streets & Routes (Sec. 5.4), Tucson Code Chapter 25, Section XXX36 and the all applicable sections of the Standard Details for Public Improvements for City of Tucson/Pima County (2003 edition) and the Standard Specification for Public Improvements for City of Tucson/Pima County (2003 edition).

- 7.9.1. Whenever a tract to be subdivided includes any part of a street designated in the adopted MS&R Plan, the street must be platted in conformance with the MS&R Plan and Section 5.4.

<sup>35</sup> The proposed deletion is consistent with the City's policy that 3 or more units requires compliance with commercial access standards.

- 7.9.2. Certain proposed streets, as designated by the City Engineer or designee, must be extended to the subdivision boundary to provide future connection with adjoining unplatted land.
- 7.9.3. Street layout must provide for the continuation or discontinuation of such streets as the City Engineer or designee may designate.
- 7.9.4. The City of Tucson may not accept private streets for dedication as public streets if the private street was not constructed in conformance with the requirements of this section and Section X of the Technical Manual.

## **7.10. ALLEYS**

Alleys are public ways used primarily for the placement of utilities and refuse collection. Alleys are not required for new development not located in a subdivision. Alleys are required in new subdivisions only for the purposes of completing existing alley systems or providing turning radii for vehicles within existing alley systems that abut the proposed subdivision.

- 7.10.1. When alleys are required or are provided by the developer, they may be not less than 16 feet wide where there is residential development or residential zoning on both sides of the alley and not less than 20 feet wide where there is nonresidential development or nonresidential zoning on at least one side.
- 7.10.2. Alley intersections and sharp changes in alignment shall be avoided, but if necessary, corners will be designed with a radius spandrel in accordance with City Engineering standards as provided in Section X of the Technical Manual to permit safe vehicular movement. Spandrels of lesser dimensions may be approved by the City Engineer or designee where determined that safe circulation and public services will not be impeded.
- 7.10.3. Alleys must be designed in accordance with the standard street design requirements as they pertain to pavement and base materials and thicknesses. Additionally, the design must meet minimum and maximum cross slopes requirements in accordance with Section X of the Technical Manual.
- 7.10.4. Alleys must be designed to operate as water conveyance systems. The design must improve drainage conditions, or at least not worsen them.
- 7.10.5. The use of alleys for vehicular maneuvering or loading is prohibited, unless specifically permitted by Sec. 7.4.7.K or another section of this Article.

## **7.11. EASEMENTS REQUIRED**

Easements shall be provided for utilities, vehicular and pedestrian access, drainage, and other purposes as required by the appropriate utility agency, review agency, or City department.

## **7.12. HYDROLOGY**

All subdivisions, new development and expansions of existing development must comply with the City of Tucson's Floodplain Ordinance regulations, (Tucson Code Chapter 26), Watercourse Amenities, Safety, and Habitat (Tucson Code Chapter 29 Article VIII), the Stormwater Detention/Retention Manual, and the Manual for Drainage Design and Floodplain Management, as applicable.



**ATTACHMENT A – REPLACEMENT PAGES**

**ARTICLE 8 (ENTIRE ARTICLE)**



**ATTACHMENT A – REPLACEMENT PAGES**

**ARTICLE 9 (ENTIRE ARTICLE)**



**CITY OF TUCSON  
UNIFIED DEVELOPMENT CODE**

**PRELIMINARY FINAL PUBLIC DRAFT – MAY 2012**

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# ARTICLE 8: LAND DIVISION AND SUBDIVISION STANDARDS<sup>1</sup>

## 8.1. PURPOSE

The purpose of this Article is to:

- 8.1.1. Assure that all land divisions 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 design standards for land divisions and subdivisions;
- 8.1.4. Assure that all lots 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.

## 8.2. APPLICABILITY

This Article applies to all proposed land divisions 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 SPLIT<sup>2</sup>

#### A. Purpose

According to A.R.S. §9-463.01(T) the City may regulate a land split [as defined in Article 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. ~~A land split involves the~~

<sup>1</sup> 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.

<sup>2</sup> 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.

~~division of land whose area is 2 ½ acres or less into 2 or 3 lots.~~ Neither a tentative plat nor a final plat are 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 lots are of sufficient size to be developed and meet the requirements of applicable zoning classification;
2. Assures that the newly created lots 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,
3. Assures that all lots resulting from a land split shall have adequate access as specified by ~~the~~ Technical Standards Manual Section 7-01.0.0, Pedestrian Access, and UDC Section 7.8, Access.

**B. Applicability**

A proposed land split shall be submitted to PDSB for review and approval as provided in this ~~Section 8.3.1.C.~~

**C. Review Procedures**

**1. Pre-application Conference**

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

**2. Submittal**

Submittal of an application to PDSB for review and approval.

**3. Complete Application**

The application shall conform to the requirements of Section 2-06.0.0, Development Package, in the Administrative Manual. ~~Only complete applications will be accepted for processing.~~

**4. Review**

Review shall be conducted by PDSB staff for compliance with the UDC requirements on land splits. The land split shall:

- a. Not constitute a subdivision as defined in Section 11.4.20 which would require compliance with platting requirements of Section 8.4;
- b. Result in lots which conform to the minimum lot size requirements of the zoning applicable to the property;
- c. Provide access to the proposed lots in compliance with ~~the~~ Technical Standards Manual Section 7-01.0.0, Pedestrian Access, and UDC Section 7.8;
- d. Result in all existing buildings complying with building setbacks of the zoning applicable to the property; and,
- e. 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.

**D. Approval and Recordation**

PDSD will notify the applicant if the land split has been approved. After approval, the deeds for the land split shall be recorded at the Pima County Recorder's Office by the applicant/owner.

**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.

**B. Applicability**

Any proposed block plat, as defined in Section 11.4.3, shall be submitted to PSDS for review and decision as provided in [Section 8.4.1.C below](#).

**C. Review Procedures**

**1. Pre-application Conference**

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

**2. Submittal**

Applications are submitted to PSDS for review and approval.

**3. Complete Application**

The application shall conform to the requirements in the Administrative Manual. Only complete applications will be accepted for processing.

**4. Review**

PDSD shall coordinate the formal technical review of all block plats to ensure the plats are prepared in accordance with the applicable codes, ordinances and standards. The block plat shall:

- a. Result in lots/blocks which conform to the minimum lot size requirements of the zoning applicable to the property;
- b. Provide access to the proposed lots in compliance with the Technical [Standards-Manual Section 7-01.0.0., Pedestrian Access, and UDC Section 7.8;](#)
- c. Result in all existing buildings complying with building setbacks of the zoning applicable to the property;
- d. Conform to all City, State, and Federal drainage requirements;
- e. 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; and,
- f. Not be for a Flexible Lot Development.

**D. Approval and Recordation**

A block plat shall be prepared, processed, and approved in compliance with UDC Section 8.4.5, Final Plat, and the Administrative Manual Section 2-07.0.0., Final Plat, Land Splits, Block Plat, Minor Subdivision, and Condominium Plat.

**8.4.2. RESIDENTIAL AND NON-RESIDENTIAL CONDOMINIUM AND CONDOMINIUM CONVERSION PLAT<sup>3</sup>**

**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.

**B. Applicability**

A proposed condominium projects or condominium conversion, as defined in Section 11.4.4, shall be submitted to the PSDS for review and decision as provided in Section 8.4.2.C below.

**C. Review Procedures**

Under the Arizona Condominium Act, A.R.S. § 33-1201 et. seq., a subdivision plat is a required part of the condominium declaration. In conjunction with the creation of a condominium, a subdivision plat shall be prepared in accordance with this Article and processed according to these regulations, prior to the recordation of a condominium declaration as specified in A.R.S. § 33-1211.

**1. Pre-application Conference**

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

**2. Submittal**

Applications are submitted to PSDS for review and approval.

**3. Complete Application**

The application shall conform to the requirements in ~~the Administrative Manual Section 2-07.0.0., Final Plat, Land Splits, Block Plat, Minor Subdivision, and Condominium Plat.~~ Only complete applications will be accepted for processing.

**4. Tentative and Final Plat**

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. A final plat may be submitted concurrently with the tentative plat in accordance with the criteria set forth in Section 3.2.3.B.

**D. Approval and Recordation**

A Condominium Plat shall be prepared, processed, and approved in compliance with Section 8.4.5, Final Plat, and the Administrative Manual.

**8.4.3. MINOR SUBDIVISION**

**A. Purpose**

<sup>3</sup> The Residential and Non-Residential Condominium provisions have been clarified and revised to be consistent with State statutes.

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. 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: any proposed minor subdivision, as defined in Section 11.4.14, shall be submitted to PDSD for review and decision as provided in this Section and the Administrative Manual.~~

#### **C. Criteria**

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 and the Technical 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 within a 100-year floodplain area or 100-year erosion hazard setback;
7. The property has at least one all weather access;
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).

#### **D.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 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.

**E.D. Review Procedures**

- 1. A pre-application conference in accordance with Section 3.2.1 is required.
- 2. Applications are submitted to PDS for review and approval. Only complete applications will be accepted for processing.

**F.E. Review**

- 1. A minor subdivision application shall be reviewed in conformance with the review, approval, and recordation procedures for final plats as provided in Section 8.4.5, Final Plat, and ~~the Administrative Manual Section 2-07.0.0., Final Plat, Land Splits, Block Plat, Minor Subdivision, and Condominium Plat,~~ except as provided by this section.
- 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.

**G.F. Approval and Recordation**

A final subdivision plat for a minor subdivision shall be prepared, processed, and approved in compliance with Section 8.4.5, Final Plat, and ~~the Administrative Manual Section 2-07.0.0., Final Plat, Land Splits, Block Plat, Minor Subdivision, and Condominium Plat.~~

**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~~1~~, shall be submitted to PDS for review and decision as provided in this Section.

**C. Procedure**

The tentative plat shall be prepared as follows:

**1. Pre-application Conference**

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

**2. Submittal**

Applications are submitted to PDS for review and approval.

**3. Complete Application**

The application shall conform to the requirements in ~~the~~ Administrative Manual Section 2-06.0.0, Development Package. Only complete applications will be accepted for processing.

**4. Concurrent Review**

A final plat may be submitted concurrent with the tentative plat in accordance with the criteria set forth in Section 3.2.3.B.

**D. Review**

1. PDSD 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, PDSD 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, 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 PDSD 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.

**E. Approval**

**1. Notice of Decision**

a. 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 PDSD Director with a recommendation for approval.

b. The PDSD 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. See Administrative Manual for more details.

2. **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.

  - a. 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.
  - b. Approval of a tentative plat does not guarantee final acceptance of streets for dedication.
3. An 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 six months.

#### 8.4.5. FINAL PLAT

##### A. Applicability

1. ~~All~~ Proposed subdivisions, including minor subdivisions, block plats, and condominium plats, require the review and approval of a final plat ~~except as provided in Section 8.2.~~
2. The final plat shall substantially conform to the approved tentative plat and be prepared in accordance with final plat requirements set forth in ~~the~~ Administrative Manual Section 2-07.0.0., Final Plat, Land Splits, Block Plat, Minor Subdivision, and Condominium Plat.
3. 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 financial assurances as detailed in Section 8.6.2.

##### B. Procedure

The final plat shall be prepared as follows:

1. **Submittal**

Applications are submitted to the PSDS for review and approval.
2. **Complete Application**

The application shall conform to the requirements in the Administrative Manual. Only complete applications will be accepted for processing.
3. **Concurrent Review**

The final plat may be submitted concurrently with the tentative plat in accordance with the criteria set forth in Section 3.2.3.B.

##### C. Review

1. PDSD shall coordinate the formal technical review of all final plats to ensure the plats are prepared in accordance with the applicable codes, ordinances, and standards.
2. On receipt of the application, PDSD shall distribute copies of the final plat to CDRC members for review and comment.
3. CDRC shall review 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.
4. If CDRC finds that the final 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 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 PDSD 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.

**D. PDSD Engineering Administrator and PDSD Final Plat Approval**

1. **Director's Recommendation**

Upon recommendation of approval by the CDRC and submission of all required items as detailed in the CDRC approval letter, the PDSD Director shall forward the final plat to Mayor and Council for consideration. If the plat is dependent on the adoption of a rezoning ordinance, Mayor and Council 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.
2. **Mayor and Council Consideration**

The Mayor and Council shall consider the application for final approval in a public meeting.
3. **Notice of Decision**

The City Clerk shall provide a notice of the Mayor and Council's decision to the applicant and any party requesting such notice.
4. **Final Plat Recordation**

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

## 8.5. REVIEW PERIODS AND EXPIRATION DATES

### 8.5.1. TENTATIVE PLAT

#### A. Tentative Plat Maximum Review Period

1. The subdivider has one year from the date PDSO accepts the tentative plat application to obtain approval of a tentative plat that complies with requirements in effect at the time of application, except where an ordinance specifically states that the regulation applies to pending applications.
2. If the tentative plat has not been approved within one year of the date of acceptance of the application, the review period expires. A one year extension to the review period is possible as long as the plat is revised to meet all codes and regulations in effect at the time of resubmittal and appropriate fees are paid.
3. The maximum review period is two years from the date of application submittal.

#### B. Tentative Plat Expiration

1. The tentative plat approval expires three years from the date of approval.
2. When a tentative plat that is platted and recorded in phases all phases except phase I expire four years from the date of approval.
3. For subdivision processes that do not require a tentative plat, these review period apply to the final plat review.

#### C. Tentative Plat Approval Extension<sup>4</sup>

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

1. Up to a one (1) year time extension to the three (3) year tentative plat approval period, provided there have been no changes in City regulations applicable to the proposed subdivision since the approval of the tentative plat; or
2. Up to a one (1) year time periods of 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.

### 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.

#### **B. Tentative Plat Approval Extension**

<sup>4</sup> This provision was relocated here from Sec. 8.5.2.B.

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

- ~~1. Up to a one (1) year time extension to the three (3) year tentative plat approval period, provided there have been no changes in City regulations applicable to the proposed subdivision since the approval of the tentative plat, or~~
- ~~2. Up to one (1) year periods of 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.~~

## **8.6. GENERAL REQUIREMENTS FOR SUBDIVISIONS AND MINOR SUBDIVISIONS**

### **8.6.1. GENERAL PROVISIONS**

The following requirements apply to all subdivisions.

### **8.6.2. SUBDIVISION IMPROVEMENTS AND FINANCIAL ASSURANCES**

Assurances are required where necessary improvements are not completed at the time a final plat is recorded. The assurances provide security that the subdivider will complete necessary improvements.

#### **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. A subdivider shall post financial assurances to guarantee the completion of the required ~~assurable items~~ assurable infrastructure ~~subdivision improvements~~ provided that the form and the amount of the financial assurance conforms 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 ~~improvements~~ will be completed and approved by the City shall be provided by the subdivider in conformance with the Technical Manual before a final platy ~~is~~ may be forwarded to the Mayor and Council for approval. The ~~PDS~~ Engineering Administrator ~~City Manager~~ is authorized to execute on behalf of the Mayor and Council agreements to provide subdivision assurances as provided in the ~~Technical Manual~~ Administrative Manual Section 2-09.0.0, Subdivision Assurances. The PDS Director is authorized to release assurances when appropriate.

#### **B. Acceptable Form of Assurances<sup>5</sup>**

The following are acceptable forms of assurances:

<sup>5</sup> 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 Manual.



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

3. Project completion documentation is required to be submitted for final release as outlined in the PDSD Engineering established procedures in ~~the Technical Manual~~ Administrative Manual, Section 2-09.0.0, Subdivision Assurances.
4. The City will not accept dedication of the required improvements or release or reduce any assurance for a subdivided project requiring sewer or water improvements, until the PDSD Director or designee has received statements from the Director of Tucson Water and the Director of the Pima County Wastewater Management 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.

**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 conformance with PDSD Engineering procedures in ~~the Technical Manual~~ Administrative Manual Section 2-09.0.0, Subdivision Assurances.

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

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, sewer lines, water lines, street improvements, etc.). Any lot(s) released shall be served by the completed common-element improvements that serve the subject lot(s). Once the common-element improvements have been accepted, partial releases greater than 75 percent or a final release may be granted only when all the subdivision improvements have been completed, inspected, accepted by the appropriate agency, and the project closure documents have been submitted and accepted by PDSD Engineering.

**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., sewer lines, water lines, street improvements, etc.). Any lot(s) released shall be served by the 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 the subdivision improvements have been completed, inspected,

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

**2. Reduction or Partial Release of Monetary Assurances**

Where a bond, letter of credit, or other monetary assurance is provided the amount of an 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 of the total monetary value of assurances be released prior to completion of all improvements.

**F. Substitution of Third Party Trust 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 the ~~assurable items~~ assurable infrastructure that need completion are covered. The Third Party Trust 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 PDSD Director. The number of substitutes for any given subdivision may be limited as determined by the PDSD Director.

**G. Full Release of Assurables ~~Infrastructure~~ Items**

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

**H. Expiration or Lapse of Assurances**

**1. Additional Assurances**

Notwithstanding assurances provided, if the PDSD Director, in his sole discretion reasonably determines that grounds exists resulting in commercial insecurity that the required improvements will be completed he may demand additional assurances. The neglect or refusal of the Subdivider to provide such additional assurances 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.

**2. Expiration or Lapse**

If the PDSD Director determines that any applicable assurances expire, lapse, become subject to a bankruptcy or otherwise become ineffective, the PDSD

Director shall suspend the issuance of any permit(s) until such time as appropriate current assurances have been provided.

**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. External boundary survey monuments for the parcel being subdivided shall be installed prior to recordation of the final plat.
- B. All other monuments are to be installed prior to the recordation of the final plat, unless the subdivider has posted financial assurances with the City to assure the installation of the monuments after recordation.

**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.

**8.6.5. LAND CLEARING AND 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 guaranty 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 criteria listed in ~~the~~ **Administrative Manual**, but cannot be approved until after the tentative plat has been approved.

**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 redescribing lot or parcel boundaries previously recorded shall be replatted following the procedures set forth in this Article.

## 8.7. SUBDIVISION DESIGN STANDARDS<sup>6</sup>

### 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, 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;

<sup>6</sup> The Street, Access, Alley, Easements Required, and Hydrology design standards are being relocated to either Article 7 (Development Standards) or the Technical 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.

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 Criteria<sup>7</sup>**

**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 Manual Requirements**

Except as provided in this section, all applicable standards of the UDC and the Technical 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.

**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.

**(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

<sup>7</sup> 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.

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 the criteria listed in the Technical Manual. Features eligible for use of this option are those identified in the required archaeological study as meeting the criteria in the Technical 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 in a natural state at least 15 percent more area than is required by other sections of the Tucson Code. These natural features include, but are not limited to, vegetation, washes, 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 in the Technical 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 Development Option FLDs per Section 8.7.3.C.3.b.

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

**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.
- 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. 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.

**3. Natural Undisturbed Open Space (NUOS)<sup>8</sup>**

- a. 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.
- b. NUOS areas shall remain unimproved and permanently conserved with the following exceptions:
  - (1) Trails are permitted in NUOS areas and may count toward meeting Functional Open Space requirements.

<sup>8</sup> The NUOS and Detention/Retention Basin provisions apply to all development that have NUOS and detention/retention basins and can be relocated to Article 7 (Development Standards) or the Technical Manual where it will have more general applicability.

- (2) 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.

**G. Detention and Retention Basins<sup>9</sup>**

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, and in accordance with Section 7.6.6.C. Functional Open Space amenities within detention and retention basins may count toward meeting Functional Open Space requirements.
2. Detention and retention basins shall be:
  - a. Located in a common area, outside the boundaries of a residential lot;
  - b. Owned and maintained by the homeowners organization or management organization established by the developer;
  - c. Located within the perimeter wall, fence, or screening surrounding the FLD project site boundaries, if provided; and,
  - d. Designed and constructed in compliance with the Stormwater Detention/Retention Manual.
3. 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.

**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 and as described in the Technical 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

<sup>9</sup> The NUOS and Detention/Retention Basin provisions apply to all development that have NUOS and detention/retention basins and can be relocated to Article 7 (Development Standards) or the Technical Manual where it will have more general applicability.

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, Landscaping, and the Technical 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 the Technical 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 conformance with Section 7.4.6, Motor Vehicle Use Area Criteria, and the Technical Manual.
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.
  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. Setback Along FLD Project Site Boundaries<sup>10</sup>**
1. Setbacks along FLD project site boundaries are required in accordance with Section 6.X and are based on the site's underlying zoning.
  2. Street setbacks along FLD project site boundaries are required in accordance with Section 6.X, unless special zoning requirements dictate a greater distance or different point of measurement.
- L. Setbacks on Interior Lots**
1. The setback requirements of Section 6.X 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 setbacks are required, in accordance with Section 6.X. The street setback may be administratively reduced by the PDSD 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.
  3. Along parking area access lanes (PAALs), setbacks are required in accordance with the Technical Manual.
- M. Design Criteria**
1. **Architectural Variation**
    - a. **Purpose**

<sup>10</sup> The development designator system is being replaced with a development standards based on zone.

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:

- (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 of the Administrative Manual.
- (2) The AVP shall be included with the subdivision plat, site plan, or building permit submittal.
- (3) The Design Professional will review AVPs for compliance with this Section and forward his or her findings and recommendation in writing to the PDSB Director for consideration of approval.
- (4) The PDSB 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**

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 the Administrative Manual.

(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) The Design Professional will review the PMP for compliance with Section 8.7.3.M.2.b and forward his or her findings and recommendation in writing to the PDSD Director for consideration of approval.

(e) The PDSD 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 in accordance with the Technical Manual.

**O. FLD Phasing Requirements<sup>11</sup>**

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

<sup>11</sup> 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.

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.

**1. Tentative Plat<sup>12</sup>**

A tentative plat for an FLD shall be prepared, processed, and considered for approval in compliance with Section 8.4.4, Tentative Plat, with the following exception.

- a. An applicant shall hold a neighborhood meeting in accordance with Section 3.2.2.C.1.b prior to submitting a FLD application.
- b. Notice of the submittal of an FLD application PSDS Director's decision 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.
- ~~b. A party of record may appeal the PSDS Director's decision in accordance with Section 3.9.2, Mayor and Council Appeal Procedure. Appeals must be based on the grounds that the PSDS Director's decision is not in conformance with the criteria established by this section. The notice of intent to shall be filed with the City Clerk's Office no later than 14 days after the date of the decision. The complete appeal materials shall be filed within 30 days of the decision.~~

**2. Final Plat**

A final subdivision plat for an FLD shall be prepared, processed, and approved in compliance with Section 8.4.5, Final Plat.

**3. Site Plan**

A site plan is required only if a subdivision plat is not required. The submittal, review and approval of a site plan shall comply with Section 3.3.3, PSDS Director Approval Procedure.

<sup>12</sup> Staff is proposing to revise the FLD tentative plat review process to no longer require a neighborhood meeting and notice of application for the following reasons: 1) the FLD is much more prescriptive than the RCP, and, therefore, review and consideration for of proposed FLDs is much more objective and much less subject to staff interpretation; 2) the FLD standards provide greater protections to adjacent property owners; and, 3) the additional notice requirements create a mistaken perception among interested parties that they can influence the PSDS Director's decision when, in fact, the decision is based on a project's compliance with all applicable criteria.

**ATTACHMENT A – REPLACEMENT PAGES**

**ARTICLE 9 (ENTIRE ARTICLE)**



**CITY OF TUCSON  
UNIFIED DEVELOPMENT CODE**

**PRELIMINARY FINAL PUBLIC DRAFT – MAY 2012**

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# ARTICLE 9: NONCONFORMING USES, BUILDINGS, AND STRUCTURES

## 9.1. GENERAL<sup>1</sup>

### 9.1.1. INTRODUCTION

Uses, buildings, or structures that came into existence legally but that do not comply with one or more requirements of the Unified Development Code (UDC) may continue to operate or be used as provided below. A nonconforming use may be discontinued, resumed, expanded, or substituted with another nonconforming use, and nonconforming structures may be reconstructed or expanded as provided below, except for advertising and outdoor signs, which are regulated by the Sign Code, Chapter 3 of the Tucson Code.

### 9.1.2. APPLICABILITY

This Article applies to nonconforming uses, buildings, or structures created by initial adoption of or amendments to the UDC. It also applies to nonconforming uses, buildings, or structures that were legal nonconforming under previously applicable ordinances and nonconforming created by the adoption of original City zoning for a newly annexed areas, even if the type or extent of nonconformity is different.

### 9.1.3. CONTINUATION PERMITTED

Any nonconforming use, building, or structure that legally existed on \_\_\_\_\_ (insert effective date of the UDC), or that becomes nonconforming upon the adoption of any amendment to the UDC or original City zoning may be continued in accordance with the provisions of this Article.

### 9.1.4. DETERMINATION OF NONCONFORMING STATUS

The burden of establishing that a nonconforming use, building, or structure is a legal nonconformity, in all cases, is solely upon the owner of such nonconformity. Application requirements are established by the Planning and Development Services Department (PDSD) Director. See the Administrative Manual for the application requirements.

### 9.1.5. REPAIRS AND MAINTENANCE

Incidental repairs and normal maintenance of nonconforming buildings or structures are permitted unless such repairs increase the extent of nonconformity or are otherwise expressly prohibited by the UDC. Nothing in this Article shall be construed to prevent structures from being structurally strengthened or restored to a safe condition, in accordance with an official order of a public official.

### 9.1.6. RESTORING UNSAFE STRUCTURES <sup>2</sup>

Nothing in this UDC shall prevent the strengthening, restoration, or upgrading of a structure to conform to minimum Building or Fire Code standards.

<sup>1</sup> This is suggested new language to replace the broad opening paragraph in the current LUC Sec. 5.3.6. In addition, the text in LUC Sec. 1.2.7 Continuing Existing Uses, has not been carried forward in the UDC because it is redundant with the text of this article.

<sup>2</sup> Text from LUC Sec. 1.2.8.

### 9.1.7. TENANCY AND OWNERSHIP

The status of a nonconformity is not affected by changes of tenancy, ownership, or management.

## 9.2. NONCONFORMING USE<sup>3</sup>

A nonconforming use may be discontinued, resumed, expanded, or substituted with another nonconforming use as provided below.

### 9.2.1. DISCONTINUANCE OF NONCONFORMING USE

A nonconforming use may be resumed if the nonconforming use activity has been discontinued for less than six months.

- A. A discontinued nonconforming use may be substituted with another nonconforming use, as provided by Section 9.2.3 and Section 9.2.4, provided such nonconforming use is substituted within the six month period.
- B. The right to resume a nonconforming use is lost if the discontinuance is for six months or more or if a change to a conforming use occurs. Determination of discontinuance is based upon a consideration of relevant activities and records, including, but not limited to, business license records and/or utility records and the continued maintenance of the property which indicates the intent to continue or discontinue such use. Property left in disrepair or in an unkempt condition is considered in the discontinuance of the use.

### 9.2.2. EXPANSION OF A NONCONFORMING USE

A nonconforming use may be expanded within an existing or new structure or in land area subject to approval by the Zoning Examiner in accordance with Section 3.4.3, Zoning Examiner Special Exception Procedure, and provided such expansion complies with the following standards:

- A. The expansion is being undertaken within five years of the time the use became nonconforming;
- B. The expansion complies with the UDC standards. These standards include, but are not limited to, setbacks applicable to the use itself or for new construction, bicycle and motor vehicle parking standards, and landscaping and screening standards;
- C. The expansion is for the principal use or for a use that is accessory and incidental to the operation of the existing nonconforming use;
- D. The amount of expansion does not exceed 50 percent of the floor area of the existing building or land area devoted to the existing nonconforming use. Incremental expansions, cumulatively, shall not exceed the 50 percent provision;
- E. The expansion area adjoins the land area, within the same lot, which houses the nonconforming use; and,

<sup>3</sup> Text from LUC Sec. 5.3.6.1, with minor nonsubstantive clarifications only.

- F. The expansion must comply with the development standards listed for the Land Use Class of the nonconforming use in the most restrictive zone in which the nonconforming use is permitted as of right.

**9.2.3. SUBSTITUTION WITH A USE WITHIN THE SAME LAND USE CLASS**

An existing nonconforming use may be substituted with the same use or another use from the same Land Use Class without affecting the nonconforming status of the use or structures on the property. The substitution may be approved in accordance with Section 3.3.3, PDS Director Approval Procedure, if the substitute use complies with Section 9.2.4.B, .C, and .D.

**9.2.4. SUBSTITUTION WITH A USE FROM A DIFFERENT LAND USE CLASS**

A nonconforming use may be substituted with a use from a Land Use Class that is different from the one to which the existing nonconforming use belongs, provided it is approved in accordance with Section 3.4.3, Zoning Examiner Special Exception Procedure, and provided the use complies with the following standards before and after the substitute use is in operation:

- A. The substitute use is a use permitted in the most restrictive zoning classification in which the existing nonconforming use is permitted as of right;
- B. The substitute use does not generate additional traffic or noise, have longer hours of operation, have additional outside lighting, or cause other negative impacts on adjoining properties greater than those associated with the existing nonconforming use;
- C. The substitute use provides parking as required by the UDC. A modification to the parking standards may be requested in accordance with Section 7.4.10 (Parking Design Modification Request) or Sections 3.10.1 and 2.10.3, Board of Adjustment Variance Procedure; and,
- D. The substitute use does not propose an extension or enlargement of the structure or of the areas occupied by the nonconforming use, except as provided for expansion in Section 9.2.2.

**9.2.5. CHANGE IN NONCONFORMING STATUS**

When a substitute use is allowed in a zoning district that is a more restrictive zone than the zoning district in which the existing nonconforming use is first allowed, the nonconforming status for that parcel changes to the more restrictive zoning district.

**9.3. NONCONFORMING STRUCTURE<sup>4</sup>**

A nonconforming structure may be reconstructed or expanded as provided below.

**9.3.1. RECONSTRUCTION**

- A. Any nonconforming structure or groups of nonconforming structures damaged by natural causes, such as, but not limited to, fire, flood, and lightning, may be reconstructed and used as before with the following limitations.
  - 1. Permits to reconstruct the structure must be issued within 12 months of the occurrence.

<sup>4</sup> Text from LUC Sec. 5.3.6.2, with minor nonsubstantive clarifications only.

2. The reconstruction of the structure may not exceed the original footprint or square footage as it existed at the time of the occurrence.
- B. Except as set forth in Section 9.2.1, a nonconforming structure that is demolished loses its nonconforming status.

### 9.3.2. EXPANSION

Nonconforming structures may continue to be utilized as they existed at the time such structures became nonconforming; however, any expansions made to nonconforming structures after the date of the creation of the nonconformity must be in compliance with current standards. The proposed expansion of a nonconforming building or structure to rebuild any part of a building damaged or demolished due to a government act, such as right-of-way condemnation, does not count toward the 50 percent expansion standards of Section 9.2.2; however, any new construction must comply with the UDC.

### 9.3.3. LOSS OF NONCONFORMING STATUS

When a building or structure is altered to comply with applicable development standards of the underlying zoning, the nonconforming status of that building or structure is terminated.

### 9.3.4. NONCONFORMING PARKING AREAS<sup>5</sup>

Nonconforming parking areas may be reconstructed, repaved, restriped, or improved with landscaping, additional buffers, lighting, or similar modifications, including the redesign of the parking area layout. The proposed modifications are processed in accordance with Section 3.3.3, PDSD Director Approval Procedure if the modifications meet the following standards:

- A. The modifications are in the interest of public health and safety;
- B. The modifications do not increase the intensity of the nonconforming use of the parking lot; and,
- C. There is a reduction, or no change, in the adverse impact of the nonconforming parking lot on adjacent residentially zoned properties.

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<sup>5</sup> We relocated the text in proposed UDC Sec. 9.2.6 to this section, deleted the current language in UDC Sec. 9.3.4, and deleted Sec. 9.2.6 because it is no longer necessary.



**ATTACHMENT A – REPLACEMENT PAGES**

**ARTICLE 11**



## ARTICLE 11: PROPOSED CHANGES

While the proposed changes are relatively minor, they affected the pagination of most of the article. In lieu of sending the entire article, the following is an accounting of the proposed changes.

1. Medical Marijuana-related uses have been relocated from the Commercial Use Group to the Retail Trade Use Group
2. **Assurance / Financial Assurance**  
A legally binding and enforceable instrument ensuring the construction of all required subdivision improvements by a subdivider. Assurances may be in the form of third party land trusts, or monetary sureties such as performance bonds, ~~cash~~-escrow funds, letters of credit, or such other security as are acceptable to the City.
3. **Assurable ~~Infrastructure~~Items <sup>1</sup>**  
Subdivision improvements for which assurances may be required include, but are not limited to, curbs, accessible ramps, pavement, driveway aprons, sidewalks, survey monuments, storm drainage, all weather access, flood control, erosion hazard control, landscaping (irrigation and associated electrical systems), utility infrastructure to the lot lines (water, sewer, electric, natural gas, communication cables), fire prevention systems, street signage, and other private or public improvements and infrastructure in right-of-way or common areas required to be constructed, payment of fees (e.g. impact fees) and other common elements as required by this Code and other pertinent codes, or actions required to be completed by subdivider, at no cost to the City.
4. The definition of 'Assurable Infrastructure' is proposed for deletion because its pertinent information has been incorporated into the revised definition of 'Assurable Items' (now renamed 'Assurable Infrastructure').
5. **Subdivision Improvements<sup>2</sup>**  
Subdivision Improvements include all assurable infrastructure for the specific subdivision improvement items, common areas, and buildings and other infrastructure needed for the individual lots created by the plat. Subdivision improvements also include the recording of full legal entitlements necessary for the functioning of the subdivision such as easements, dedications or other binding legal documents. Buildings on newly platted lots are generally not considered part of the assurable subdivision improvements, unless determined by special conditions of the project.

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<sup>1</sup> Revised to be consistent with ARS Statutes 9-463.01 and the City of Tucson & Pima County current Third Party Trust forms.

<sup>2</sup> Definition revised to be consistent with the other definitions related to assurances.



**ATTACHMENT B – SUMMARY OF THE APRIL 4,  
2012 PLANNING COMMISSION PUBLIC  
HEARING ON ARTICLES 1, 2, 5, AND 7 - 11**



## ATTACHMENT B

### Public Hearing on UDC Articles 1, 2, 5, 7, 8, 9, 10, & 11

Wednesday, April 4, 2012

#### Summary of Comments, Questions, and Response

##### General

Chuck Martin (local architect and member of the Metropolitan Pima Alliance) was the only person who spoke at the public hearing. He commented specifically on Article 8 and a few definitions in Article 11.

**Planning Commission (PC):** The Planning Commissioners commented that the footnotes provide valuable insight into the background, where and how the UDC differs from the LUC, and any outstanding issues. They asked if the footnotes will stay in the document.

**Staff Response (Staff):** No, not as part of the formally adopted ordinance; but, it is possible to have an unofficial annotated UDC that includes the footnotes. Further thought is needed to figure out how to do this.

##### Article 1

**PC:** Sec. 1.7.4.A.2 – Will applicants be notified that the UDC has gone into effect?

**Staff:** Yes.

**PC:** Sec. 1.7.4.E – Has the term “entitlements” been clarified?

**Staff:** No, not yet, but it will be as the enabling ordinance is prepared by the City Attorney’s office.

##### Article 5

**PC:** Explanation/update on the footnote for Sec. 5.2.6.C.

**Staff:** This is a “parking lot” item that may be considered after the UDC is adopted.

**Staff:** The term “zone” will be removed from the IID and UOD labels.

**Article 8 and 11**

Chuck Martin's spoke on these articles. His comments are encapsulated in a letter he sent to the Planning Commission. Staff informed the Planning Commission that the next draft will include many of Mr. Martin's suggested edits, but that there a couple of issues that require further evaluation.

**PC:** Commissioner Maher emphasized Mr. Martin's need to clarify the submittal requirements and review procedure for land splits.

Staff: In response to a question from PC asking for clarification on the record of survey, staff explained that there is a Record of Survey Procedure and a submittal requirement of the Pima County Recorder's Office termed a record of survey. Staff is proposing to delete the Record of Survey Procedure from the code because no such procedure is accounted for in State statutes. Staff is also proposing to delete the use of term "record of survey" from the code because the City prefers to exclude other jurisdictions' procedures and requirements in City ordinances.

**Article 2, 7, 9, and 10** – No comments or questions

**ATTACHMENT C – CHUCK MARTIN’S  
COMMENTS**





March 30, 2012

CITY OF TUCSON  
Planning Commission

SUBJECT: AGENDA ITEM #3 – UNIFIED DEVELOPMENT CODE – ARTICLE 8 – APRIL 2012  
DRAFT

To Whom It May Concern;

As an architect and planner, I have been using the City Zoning Code and Development Standards for more than 35 years, and therefore have extensive experience navigating the documents.

Early on in this process I was asked to participate in the meeting with Clarion to provide comments regarding the LUC and Development Standards. More recently, I have been following the process to simplify the documents, read through several drafts of the articles and sent comments for Article 8 to staff twice. Due to time constraints, I have had to limit my reviews and have mainly been looking at Article 8 and portions of Article 11, the Admin Manual and the Technical Manual related to Article 8. Some of the comments and modifications that I have sent to staff have been included in the current draft of Article 8. The following are comments, with rational, for the April 2012 draft of Article 8 of the UDC. I did not review the FLD section.

As you can see in the comments below, the April 2012 draft of Article 8 has been modified to have general references to the Admin Manual and the Technical Manual. I assume this is true of the other articles. I think at a minimum, the Sections in those manuals that apply should be part of the reference. Having a reference to the specific section, similar to the LUC, would be very helpful to all, but mostly non-professionals. I know that it may take more time to do this, but I think it is important.

In general, I think staff is doing an admirable job with this difficult task. Although the documents are moving quickly, I believe more time is necessary to allow stake holders and practitioners to review and comment on the reformatting of the previous code, the text additions and deletions, as well as the new processes proposed by the code. Without this process, I am concerned there will about unintended consequences.

- Article 8: See the attached redlines.
- 8.1.7 Add “**survey or subdivision**” after the word recorded to include Record of Surveys. Record of Surveys would apply to land splits.
- 8.2.5 Clarify the applicability by modifying the sentence “**Although exempted from this article**, these types of land divisions **may** still require review and approval by the PDS staff and outside agencies **under other articles of the Unified Development Code.**“
- 8.3.1 Add “**as defined in Article 11.4.13**” after land split and remove reference to land area or number of lots since this is in the definition.

- 8.3.1.A.3 Add "**Section 3-05 of the**" before Technical Manual to ease search. This section of the Technical Manual applies to pedestrian access. Add reference to **Article 7.8 in the UDC** for vehicular access.
- 8.3.1.B This section does match other applicability sections. Amend section to "**Any proposed Land Split, as defined in Article 11.4.13, shall be submitted to the PSDS for review and decision as provided in this Section and Section 2-09 of the Admin Manual**"
- 8.3.1.C.3 Add "**Section 2-09**" before of the Admin Manual. Remove second sentence. This is a duplication of text in Admin Manual.
- 8.3.1.C.4.c Add "**Section 3-05 of** " before the Technical Manual to ease search. This section of the Technical Manual applies to pedestrian access. Add reference to **Article 7.8 in the UDC** for vehicular access.
- 8.3.1.D Add the text "**or a Record of Survey showing the approved split**" after the word split. Record of Surveys would apply to land splits.
- 8.4.1.B Take out the section call out since it refers to the section immediately below.
- 8.4.1.C.1 Correct Section to **3.2.2**.
- 8.4.1.C.4.b Add "**Section 3-05 of the**" before Technical Manual to ease search. This section of the Technical Manual applies to pedestrian access. Add reference to **Article 7.8 in the UDC** for vehicular access.
- 8.4.1.D Add "**Section 2-08 in**" before the Admin Manual to ease search.
- 8.4.2.B Take out the section call out since it refers to the section immediately below.
- 8.4.2.C.1 Correct Section to **3.2.2**.
- 8.4.2.C.3 Add "**Section 2-08 of**" before Admin Manual to ease search.
- 8.4.2.C.4 Unknown Section at the end of the paragraph.
- 8.4.3B Circular reference. This section refers to the definition of a Minor Subdivision in Article 11, which refers 8.4.3.C, the following section, for criteria.
- 8.4.3.1.E Correct Section to **3.2.2**.
- 8.4.3.2.F&G Add "**Section 2-08 of**" before the Admin Manual to ease search.
- 8.4.4.B Correct Section to Article, correct from 1.4.21 to **11.4.20**.
- 8.4.4.C.1 Correct Section to **3.2.2**.
- 8.4.4.C.3 Add "**Section 2-07 of**" before the Admin Manual.
- 8.4.4.C.4 I could not find this section.
- 8.4.5.A.2 Add "**Section 2-08 of**" before the Admin Manual to ease search.
- 8.4.5.B.2 Add "**Section 2-08 in the**" before Admin Manual to ease search.
- 8.4.5.B.3 I could not find this section.
- 8.6.2 The entire section should be reviewed for inconsistent language. There are references to "subdivision improvements", "improvements" and "required improvements". I have found the definitions for "subdivision improvements" and "improvements" in Article 11 and neither are correct when applied to assurances. The definitions of both include items that are not assurable. All references to "subdivision improvements", "improvements" and "required improvements" should be replaced with "**assurable items**" to be accurate.
- 8.6.2.A.1 Replace subdivision improvements with "**assurable items as defined in Article 11.4.2**"
- 8.6.2.A.2 Add "**Section 2-10 in the**" before Admin Manual to ease search.
- 8.6.2.A.3 The wording is confusing and inconsistent. Assurances should be for **assurable items** (both words are defined on Page 21 of Article 11) not "required improvements". I would reword the first sentence to "**Acceptable assurances**

**for the subdivision's assurable items will be provided by the subdivider in conformance with Article 2-10 of the Admin Manual. The assurances must be approved by PDS staff before the final plat may be forwarded to the Mayor and Council."**

- I could not find the section in the Technical Manual that authorizes the City Manager to execute the assurances. This is different than 8.6.2.B.4 in this section that states that the City Engineer is authorized to sign the agreement?
- 8.6.2.B. Based on what I have read in the Admin Manual, this section should direct people to **Section 2-10** of the Admin Manual and should be shortened to only give brief descriptions of the forms of assurance agreements. Section 2-10 of the Admin Manual is far more detailed. The forms for assurances are listed in a different order.
- 8.6.2.D-H Quite a bit of this section duplicates language in **Section 2-10.4.5-2-10.4.10** of the Admin Manual.
- 8.6.5.B I could not find a section reference in the Admin Manual that lists the criteria for submitting a grading plan prior to the approval of the tentative plat. Can a reference be added?

Article 11: See attached redlines:

All four of the next definitions new to the code and are contradicting and confusing:

- 11.4.2 **Assurable Items** – The assurable items are those subdivision improvements shown on the approved improvement plans for the subdivision. They don't include private utilities
- 11.4.2 **Assurable Infrastructure** – It seems like a generalized definition of Assurable Items.
- 11.4.10 **Improvements** – This definition appears to be meant for development versus subdivision improvements
- 11.4.20 **Subdivision Improvements** – Add text to indicate that these are the improvements shown on the related improvement plans.
- 11.4.20 **Subdivision A.** – change text to match ARS 9-463.02.

Thank you for your consideration of these comments.

Sincerely,

RICK ENGINEERING COMPANY, INC.



Chuck Martin, R. A.  
Principal Project Planner

Enclosures

TCM: kw

HAD\_CHUCK\UDC Comments\PC Art 8 Comments.docx

CHUCK MARTIN  
3/30/12  
REPLINES

**CITY OF TUCSON  
UNIFIED DEVELOPMENT CODE**

**PRELIMINARY FINAL PUBLIC DRAFT – APRIL 2012**

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## ARTICLE 8: LAND DIVISION AND SUBDIVISION STANDARDS<sup>1</sup>

### 8.1. PURPOSE

The purpose of this Article is to:

- 8.1.1. Assure that all land divisions 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 design standards for land divisions and subdivisions;
- 8.1.4. Assure that all lots 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 plat; and
- 8.1.8. Provide a convenient method of describing property being conveyed. *(survey or subdivision)*

### 8.2. APPLICABILITY

This Article applies to all proposed land divisions 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 still require review and approval by the PDS staff and outside review agencies. *(may) under other articles of the UCC.*

### 8.3. LAND DIVISION

#### 8.3.1. LAND SPLIT<sup>2</sup>

##### A. Purpose

According to A.R.S. §9-463.01(T) the City may regulate a land split within its jurisdictional limits. The state law gives the City authority to determine the division lines, area, and shapes of the parcels. A land split involves the division of land whose area is 2 1/2 acres or less into 2 or 3 lots. Neither a tentative plat nor a final plat are *as defined in Art 11, §.13*

<sup>1</sup> 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.

<sup>2</sup> 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.

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 lots are of sufficient size to be developed and meet the requirements of applicable zoning classification;
  2. Assures that the newly created lots 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,
  3. Assures that all lots resulting from a land split shall have adequate access as specified by the Technical Manual. *3-05 of the and Art. 7.8 of the UDC*
- B. Applicability** *Conflicts w/ 2-09.2.0 of the Admin Manual*  
A proposed land split shall be submitted to PDSM for review and approval as provided in Section 8.3.1.C. *this section doesn't match other applicability sections?*
- C. Review Procedures**
1. **Pre-application Conference**  
A pre-application conference is encouraged, but not required.
  2. **Submittal**  
Submittal of an application to PDSM for review and approval.
  3. **Complete Application** *2-09 of the*  
The application shall conform to the requirements in the Administrative Manual. *Only complete applications will be accepted for processing. Duplicated in A.M.*
  4. **Review**  
Review shall be conducted by PDSM staff for compliance with the UDC requirements on land splits. The land split shall:
    - a. Not constitute a subdivision as defined in Section 11.4.20 which would require compliance with platting requirements of Section 8.4;
    - b. Result in lots which conform to the minimum lot size requirements of the zoning applicable to the property;
    - c. Provide access to the proposed lots in compliance with the Technical Manual; *3-05 of the and Art. 7.8 of the UDC.*
    - d. Result in all existing buildings complying with building setbacks of the zoning applicable to the property; and,
    - e. 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.
- D. Approval and Recordation**  
PDSM will notify the applicant if the land split has been approved. After approval, the deeds for the land split shall be recorded at the Pima County Recorder's Office by the applicant/owner. *for a record of survey showing the approved split*

*Tech Manual only addresses pedestrian access*

## 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.

#### B. Applicability

Any proposed block plat, as defined in Section 11.4.3, shall be submitted to PSDS for review and decision as provided in ~~8.4.1.C~~ *below.*

#### C. Review Procedures

##### 1. Pre-application Conference

A pre-application conference in accordance with Section 3.2.1 is required. *2*

##### 2. Submittal

Applications are submitted to PSDS for review and approval.

##### 3. Complete Application

The application shall conform to the requirements in the Administrative Manual. Only complete applications will be accepted for processing.

##### 4. Review

PSDS shall coordinate the formal technical review of all block plats to ensure the plats are prepared in accordance with the applicable codes, ordinances and standards. The block plat shall:

- a. Result in lots/blocks which conform to the minimum lot size requirements of the zoning applicable to the property;
- b. Provide access to the proposed lots in compliance with the Technical Manual. *3-05 of the map*  
~~Manual~~ *Art. 7.8 of the VDC*
- c. Result in all existing buildings complying with building setbacks of the zoning applicable to the property;
- d. Conform to all City, State, and Federal drainage requirements;
- e. 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; and,
- f. Not be for a Flexible Lot Development.

#### D. Approval and Recordation

A block plat shall be prepared, processed, and approved in compliance with Section 8.4.5, Final Plat, and the Administrative Manual.

*Section 2-08*

**8.4.2 Residential and Non-residential Condominium and Condominium Conversion Plat**

**8.4.2. RESIDENTIAL AND NON-RESIDENTIAL CONDOMINIUM AND CONDOMINIUM CONVERSION PLAT<sup>3</sup>**

**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.

**B. Applicability**

A proposed condominium projects or condominium conversion, as defined in Section 11.4.4, shall be submitted to the PDS for review and decision as provided in ~~8.4.2.C.~~ *below.*

**C. Review Procedures**

Under the Arizona Condominium Act, A.R.S. § 33-1201 et. seq., a subdivision plat is a required part of the condominium declaration. In conjunction with the creation of a condominium, a subdivision plat shall be prepared in accordance with this Article and processed according to these regulations, prior to the recordation of a condominium declaration as specified in A.R.S. § 33-1211.

**1. Pre-application Conference**

A pre-application conference in accordance with Section 3.2.1 <sup>2</sup> is encouraged, but not required.

**2. Submittal**

Applications are submitted to PDS for review and approval.

**3. Complete Application**

The application shall conform to the requirements in <sup>2-08 of</sup> the Administrative Manual. Only complete applications will be accepted for processing.

**4. Tentative and Final Plat**

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. A final plat may be submitted concurrently with the tentative plat in accordance with the criteria set forth in Section 3.2.3.B. <sup>?</sup>

**D. Approval and Recordation**

A Condominium Plat shall be prepared, processed, and approved in compliance with Section 8.4.5, Final Plat, and the Administrative Manual.

**8.4.3. MINOR SUBDIVISION**

**A. Purpose**

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. The purpose of this section is to establish procedures and requirements for minor subdivision plats.

<sup>3</sup> The Residential and Non-Residential Condominium provisions have been clarified and revised to be consistent with State statutes.

**B. Applicability**

Any proposed minor subdivision, as defined in Section ~~11.4.14~~, shall be submitted to PDS&D for review and decision as provided in this Section and the Administrative Manual.

*criteria below 11.4.13 check*

**C. Criteria**

*Def REFERS TO THIS SECTION Sec. 2-08 of the*

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 and the Technical 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 within a 100-year floodplain area or 100-year erosion hazard setback;
7. The property has at least one all weather access;
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).

**D. 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 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.

**E. Review Procedures**

1. A pre-application conference in accordance with Section 3.2.1<sup>2</sup> is required.
2. Applications are submitted to PDS&D for review and approval. Only complete applications will be accepted for processing.

**F. Review**

1. A minor subdivision application shall be reviewed in conformance with the review, approval, and recordation procedures for final plats as provided in Section 8.4.5, Final Plat, and the Administrative Manual except as provided by this section. *sec 2-08 of the*
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

**G. Approval and Recordation**

A final subdivision plat for a minor subdivision shall be prepared, processed, and approved in compliance with Section 8.4.5, Final Plat, and the Administrative Manual. *sec 2-08 of the*

**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 11.4.2<sup>10</sup>, shall be submitted to PDS for review and decision as provided in this Section. *?*

**C. Procedure**

The tentative plat shall be prepared as follows:

**1. Pre-application Conference**

A pre-application conference in accordance with Section 3.2.7<sup>3</sup> is encouraged, but not required.

**2. Submittal**

Applications are submitted to PDS for review and approval.

**3. Complete Application**

The application shall conform to the requirements in the Administrative Manual. Only complete applications will be accepted for processing. *sec 2-08 of the*

**4. Concurrent Review**

A final plat may be submitted concurrent with the tentative plat in accordance with the criteria set forth in Section 3-2-3-B. *?*

**D. Review**

1. PDS 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, 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.

**E. Approval**

**1. Notice of Decision**

- a. 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.
- b. 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. See Administrative Manual for more details.

**2. 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.

- a. 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.
  - b. Approval of a tentative plat does not guarantee final acceptance of streets for dedication.
3. An 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 six months.

**8.4.5. FINAL PLAT**

**A. Applicability**

1. All proposed subdivisions, including minor subdivisions, block plats, and condominium plats, require the review and approval of a final plat ~~except as provided in Section 8.2.~~ *already exempted,*
2. *Sec 2-08* The final plat shall substantially conform to the approved tentative plat and be prepared in accordance with final plat requirements set forth in the Administrative Manual.
3. 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 financial assurances as detailed in Section 8.6.2.

**B. Procedure**

The final plat shall be prepared as follows:

**1. Submittal**

Applications are submitted to the PDSO for review and approval.

**2. Complete Application**

The application shall conform to the requirements in the Administrative Manual. Only complete applications will be accepted for processing. *Sec 2-08 of the*

**3. Concurrent Review**

The final plat may be submitted concurrently with the tentative plat in accordance with the criteria set forth in Section 3.2.3.B-*3.2.1.F*

**C. Review**

1. PDSO shall coordinate the formal technical review of all final 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 final plat to CDRC members for review and comment.
3. CDRC shall review 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.
4. If CDRC finds that the final 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 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.

**D. PDSO Engineering Administrator and PDSO Final Plat Approval**

**1. Director's Recommendation**

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. If the plat is dependent on the adoption of a rezoning ordinance, Mayor and Council 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.

**2. Mayor and Council Consideration**

The Mayor and Council shall consider the application for final approval in a public meeting.

**3. Notice of Decision**

The City Clerk shall provide a notice of the Mayor and Council's decision to the applicant and any party requesting such notice.

**4. Final Plat Recordation**

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

**8.5. REVIEW PERIODS AND EXPIRATION DATES**

**8.5.1. TENTATIVE PLAT**

**A. Tentative Plat Maximum Review Period**

- 1. The subdivider has one year from the date PDSO accepts the tentative plat application to obtain approval of a tentative plat that complies with requirements in effect at the time of application, except where an ordinance specifically states that the regulation applies to pending applications.
- 2. If the tentative plat has not been approved within one year of the date of acceptance of the application, the review period expires. A one year extension to the review period is possible as long as the plat is revised to meet all codes and regulations in effect at the time of resubmittal and appropriate fees are paid.
- 3. The maximum review period is two years from the date of application submittal.

**B. Tentative Plat Expiration**

1. The tentative plat approval expires three years from the date of approval.
2. When a tentative plat that is platted and recorded in phases all phases except phase I expire four years from the date of approval.
3. For subdivision processes that do not require a tentative plat, these review period apply to the final plat review.

**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.

**B. Tentative Plat Approval Extension**

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

1. Up to a one (1) year time extension to the three (3) year tentative plat approval period, provided there have been no changes in City regulations applicable to the proposed subdivision since the approval of the tentative plat; or
2. Up to one (1) year periods of 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.

**8.6. GENERAL REQUIREMENTS FOR SUBDIVISIONS AND MINOR SUBDIVISIONS**

**8.6.1. GENERAL PROVISIONS**

The following requirements apply to all subdivisions.

**8.6.2. SUBDIVISION IMPROVEMENTS AND FINANCIAL ASSURANCES**

Assurances are required where necessary improvements are not completed at the time a final plat is recorded. The assurances provide security that the subdivider will complete necessary improvements.

**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 *as defined in Art. 11.4.2*
2. A subdivider shall post financial assurances to guarantee the completion of the required subdivision improvements provided that the form and the amount of the financial assurance conforms 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. *assurable items*

*Sec. 2-10 -*

3. Assurances that all required improvements will be completed and approved by the City shall be provided by the subdivider in conformance with the Technical Manual before a final plat may be forwarded to the Mayor and Council for approval. The City Manager is authorized to execute on behalf of the Mayor and Council agreements to provide subdivision assurances as provided in the Technical Manual. The PDSO Director is authorized to release assurances when appropriate.

What sections

**B. Acceptable Form of Assurances<sup>4</sup>**

The following are acceptable forms of assurances:

**1. Performance Bond**

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

**2. Cash Escrow Account**

A subdivider may establish a cash 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 City Engineer from a bank or other financial institution or person acceptable to the City. The PDSO City Engineer 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 subdivision developments 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. The PDSO City Engineer 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.

**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. Mayor and Council approval of the alternate assurance method, agreement, or form(s) is required prior to the approval of the final plat.

**C. Amount of Assurances**

<sup>4</sup> 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 Manual.

2-10 A.O. ~~2012~~

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 one half (1.5) times the estimated cost of construction of the required improvements. For phased subdivisions, assurances may be provided separately for the improvements necessary for each phase.

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

1. The PDSO Director, or designee, shall provide for inspection of required improvements. *assurable items*
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 outlined in this article and the Administrative Manual.
3. Project completion documentation is required to be submitted for final release as outlined in the PDSO Engineering established procedures in the Technical Manual.
4. The City will not accept dedication of the required improvements or release or reduce any assurance for a subdivided project requiring sewer or water improvements, until the PDSO Director or designee has received statements from the Director of Tucson Water and the Director of the Pima County Wastewater Management 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.

*2-10-4.5*

**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 conformance with PDSO Engineering procedures in the Technical Manual.

*2-10-4.7*

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

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, sewer lines, water lines, street improvements, etc.). Any lot(s) released shall be served by the completed common-element improvements that serve the subject lot(s). Once the common-element improvements have been accepted, partial releases greater than 75 percent or a final release may be granted only when all the subdivision improvements have been completed, inspected, accepted by the appropriate agency, and the project closure documents have been submitted and accepted by PDSO Engineering.

**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., sewer lines, water lines, street improvements, etc.). Any lot(s) released shall be served by the 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 the subdivision improvements have been completed, inspected, accepted by the appropriate agency, and the project closure documents have been submitted and accepted by PDS&D Engineering.

**2. Reduction or Partial Release of Monetary Assurances**

Where a bond, letter of credit, or other monetary assurance is provided the amount of an 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 of the total monetary value of assurances be released prior to completion of all improvements.

**F. Substitution of Third Party Trust 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 the assurable items that need completion are covered. The Third Party Trust 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 PDS&D Director. The number of substitutes for any given subdivision may be limited as determined by the PDS&D Director.

**G. Full Release of Assurables Items**

A final release may be granted only when all the subdivision improvements have been completed, inspected, accepted by the appropriate agency, and the project closure documents have been submitted and accepted by PDS&D Engineering.

**H. Expiration or Lapse of Assurances**

**1. Additional Assurances**

Notwithstanding assurances provided, if the PDS&D Director, in his sole discretion reasonably determines that grounds exists resulting in commercial insecurity that the required improvements will be completed he may demand additional assurances. The neglect or refusal of the Subdivider to provide such additional assurances 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.

**2. Expiration or Lapse**

If the PDS Director determines that any applicable assurances expire, lapse, become subject to a bankruptcy or otherwise become ineffective, the PDS Director shall suspend the issuance of any permit(s) until such time as appropriate current assurances have been provided.

**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. External boundary survey monuments for the parcel being subdivided shall be installed prior to recordation of the final plat.
- B. All other monuments are to be installed prior to the recordation of the final plat, unless the subdivider has posted financial assurances with the City to assure the installation of the monuments after recordation.

**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.

**8.6.5. LAND CLEARING AND 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 guaranty 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 criteria listed in the Administrative Manual, but cannot be approved until after the tentative plat has been approved.

**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 redescribing lot or parcel boundaries previously recorded shall be replatted following the procedures set forth in this Article.

**8.7. SUBDIVISION DESIGN STANDARDS<sup>5</sup>****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, 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;

<sup>5</sup> The Street, Access, Alley, Easements Required, and Hydrology design standards are being relocated to either Article 7 (Development Standards) or the Technical 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.



public improvements and infrastructure in right-of-way or common areas required to be constructed, payment of fees and other common elements as required by this Code and other pertinent codes, or actions required to be completed by subdivider, at no cost to the City.

**Assurable Infrastructure**  
Assurable infrastructure means improvements that are intended for common use, or, for the lot improvements that assure that the individual lots have all-weather access, have building pad locations that are protected from flood and erosion hazards, and have utilities available, at minimum, to the lot line.

*NEW ?*  
*shown on the subdivision improvement plans and THIS SEEMS LIKE A GENERAL DEFINITION OF ASSURABLE ITEMS ?*

**Average Daily Traffic (ADT)**

The total traffic for a calendar year divided by number of days in a year (365).

**Average Finished Grade<sup>16</sup>**

The mean average elevation of ground after site preparation, measured five feet from a building at five-foot intervals. If the property line is closer than five feet from the building, then the measurement is taken from the property line.

**Average Natural Cross-Slope**

A method of determining the natural cross-slope of a parcel, prior to any grading or other disturbances.

**11.4.3. DEFINITIONS-B**

**Barrier-Free Accessibility**

Functional access for semiambulatory and nonambulatory persons; from a street or parking space to, into, and through a building.

**Bay**

Same as Service Bay.

**Bedroom<sup>17</sup>**

The term bedroom includes all of the following: 1) Any room that is designated as a bedroom; 2) Any enclosed room that has a minimum area of 60 square feet and has an accessible opening to the exterior of the building in compliance with the International Building Code (IBC), whether termed a studio, family room, study, den, bonus room, or any other name, except for a living room, dining room, kitchen, and bathrooms; and 3) Any room designated as a bedroom for the purpose of any other code requirement.

**Bicycle**

A nonmotorized device propelled only by human power having two or three wheels, any of which is more than 16 inches in diameter.

**Bicycle Locker**

A fully enclosed space of sufficient size to park a two wheeled bicycle with its accessories accessible only to the operator of the bicycle.

**Bicycle Parking Facility**

A structure that provides for the short- or long-term placement of bicycles.

<sup>16</sup> In response to staff direction to change the way the city measures height (i.e., replace "design grade elevation" with Pima County's "average finished grade"), staff has added this definition from the Pima County code.  
<sup>17</sup> The definition of bedroom is under further review to ensure it is consistent with Zoning Administrator determinations and the City's adopted Building Code.

**11.4.10. DEFINITIONS-I.**

*DEVELOPMENT* **Improvements** - ? VS SUBDIVISION IMPROVEMENTS 11.4.20  
Any on-site or off-site improvements, including refuse container enclosures, streets, sidewalks, sewer, water, and electric utility installations, drainage and flood control facilities, monuments or other similar facilities or developments for which the City of Tucson may ultimately assume responsibility for maintenance and operation, or landscaping, screening, or other site improvements required by the Tucson Unified Development Code (UDC) or other appropriate City code.

**Individuals with Physical Disabilities**

A person, as defined in Arizona Revised Statutes (ARS), Sec. 28-881, or as it may be amended, having a physical impairment that substantially limits that person's ability to move from place to place.

**Infrastructure**

All structures or improvements to the land, such as roads or facilities for the provision of gas, electric, water, drainage, or communications, that are necessary to support development on abutting property.

**Ingress/Egress**

The safe, unobstructed passage to and from the premises for use by vehicles, including refuse collection vehicles, fire vehicles, bicycles, and pedestrians.

**Interior Landscape Border**

An area along the interior side of a property line(s) of a site containing landscape materials, screening, and open space that serves as a buffer between land uses of different intensities.

**Interior Lot Line**

A lot line other than a street lot line.

**Intrusion**

A building, object, site, structure, or portion thereof that detracts from a district's historic significance because of its architectural incompatibility with the district's time, place, and historic development or its incompatibility of scale, materials, or texture or a building, object, site, or structure whose historic architectural integrity has been irretrievably lost.

**11.4.11. DEFINITIONS-J**

Reserved

**11.4.12. DEFINITIONS-K**

**Kitchen**

A room within a building containing facilities for the storage, cooking, and preparation of food, specifically a sink, refrigerator, stove, and an oven.

**11.4.13. DEFINITIONS-L**

**Land Use**

A description of the existing or proposed occupancy or utilization of land that include the principal use and accessory uses.

**Street Yard**

The yard between a street lot line and a building.

**Strip Easement**

A utility easement running parallel with, and abutting, a street.

**Structure**

A physical element constructed or erected with a fixed location on the ground or attached to another physical element having a fixed location at, below, or above grade. Structures include such elements as, but are not limited to, buildings, paved areas, walls, fences, posts, and patios.

**Structure Height**

The vertical dimension of a structure measured from a specified point on the ground. For information on applying a height standards, refer to Sec. 6.4.5.

**Stub Streets**

Dead-end streets that are planned to be continued along the same alignment in a future development.

**Subdivider**

A person or other legal entity that files an application and initiates proceedings for the subdivision of land in accordance with the provisions of this Article or any other local applicable ordinance or state statute, except that an individual serving as agent for such a person or other legal entity is not a subdivider.

**Subdivision**

Any division of land, improved or unimproved, for the purpose of financing, sales, or lease, whether immediate or future, in one of four ways:

- A. Any property whose boundaries are fixed by a recorded plat, which is divided into ~~three~~ <sup>two</sup> or more ~~lots, tracts, or parcels of land, or~~ <sup>parts or</sup> ~~parts~~ <sup>APNs 9-46302</sup> ~~parts~~ <sup>than</sup>
- B. Any property whose boundaries are not fixed by a recorded plat which is divided into four or more lots, tracts, or parcels of land; or
- C. Any property that requires the development of a new street, which is divided into two or more lots, tracts, or parcels of land; or
- D. Any condominium, cooperative, community apartment, townhouse, or similar project containing four or more parcels, in which an undivided interest in the land is coupled with the right of exclusive occupancy of any unit located thereon.

**Subdivision Improvements**

Subdivision Improvements include all assurable ~~subdivision improvement~~ items, common areas, and buildings and other infrastructure needed for the individual lots created by the plat. Subdivision improvements also include the recording of full legal entitlements necessary for the functioning of the subdivision such as easements, dedications or other binding legal documents. Buildings on ~~newly~~ <sup>newly</sup> platted lots are generally not considered part of the assurable subdivision improvements, unless determined by special conditions of the project.

*which are shown on the subdivision improvement plans.*

11.4.21. DEFINITIONS-T

ARS TITLE PAGE	NEXT DOCUMENT	PREVIOUS DOCUMENT
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9-463.02. Subdivision defined; applicability

A. "Subdivision" means improved or unimproved land or lands divided for the purpose of financing, sale or lease, whether immediate or future, into four or more lots, tracts or parcels of land, or, if a new street is involved, any such property which is divided into two or more lots, tracts or parcels of land, or, any such property, the boundaries of which have been fixed by a recorded plat, which is divided into more than two parts. "Subdivision" also includes any condominium, cooperative, community apartment, townhouse or similar project containing four or more parcels, in which an undivided interest in the land is coupled with the right of exclusive occupancy of any unit located thereon, but plats of such projects need not show the buildings or the manner in which the buildings or airspace above the property shown on the plat are to be divided.

B. The legislative body of a municipality shall not refuse approval of a final plat of a project included in subsection A under provisions of an adopted subdivision regulation because of location of buildings on the property shown on the plat not in violation of such subdivision regulations or on account of the manner in which airspace is to be divided in conveying the condominium. Fees and lot design requirements shall be computed and imposed with respect to such plats on the basis of parcels or lots on the surface of the land shown thereon as included in the project. This subsection does not limit the power of such legislative body to regulate the location of buildings in such a project by or pursuant to a zoning ordinance.

C. "Subdivision" does not include the following:

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.
2. The partitioning of land in accordance with other statutes regulating the partitioning of land held in common ownership.
3. The leasing of apartments, offices, stores or similar space within a building or trailer park, nor to mineral, oil or gas leases.

CHUCK MARTIN  
4/19/12

## ARTICLE 1: GENERAL PROVISIONS<sup>1</sup>

### 1.1. TITLE AND EFFECTIVE DATE<sup>2</sup>

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. AUTHORITY<sup>3</sup>

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

### 1.3. PURPOSE OF THIS CODE<sup>4</sup>

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 COMPLIANCE<sup>5</sup>

- ADDED*
- A. The provisions of the UDC apply to all development and uses of land within the City.
  - B. \* No land shall be divided into two or more parcels or be used or occupied, no site modification or construction started, and no existing use or structure expanded, reconstructed, changed, or otherwise altered until compliance with the provisions of the UDC have been certified.
  - C. 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.

*\* ADD REFERENCE TO EXCEPTIONS IN B.2 ?*

<sup>1</sup> 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.

<sup>2</sup> Text from LUC Sec. 1.1.1.

<sup>3</sup> Proposed new text.

<sup>4</sup> Text from LUC Sec. 1.1.2.

<sup>5</sup> Text for proposed Sec. 1.4.1A through C are from LUC Sec. 1.1.3.

making a determination, the Zoning Administrator shall rely on the purpose of the section in question. 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.

**B. Zoning Interpretations and Zoning Certification**

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:

1. 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.
2. 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.
3. The Zoning Administrator shall make the final zoning determination within five days of receipt of any such written request. The Zoning Administrator may take reasonable additional time when additional information for the applicant is needed, or the application is complex, for such reasons as, but not limited to, the request will have citywide application, or require consultation with the City Attorney's Office. When additional time is needed, the Zoning Administrator shall contact the applicant to explain why and how much additional time is needed, and when applicable, request additional information from the applicant.<sup>9</sup>
4. Notification of the final zoning determination shall be sent within three days of the determination or decision to the following persons:
  - a. The Applicant;
  - b. Any Person who requests to be notified; and
  - c. For zoning determinations that have citywide application, to neighborhood associations registered with the City.<sup>10</sup>
5. The Zoning Administrator's determination shall be binding upon the applicant and all parties of record unless appealed.

HOW? 3.10.1 & 3.10.2?

<sup>9</sup> The review period has been clarified to ensure timely consideration of the zoning determinations by the Zoning Administrator, but to allow additional time if the zoning determination is complex or has citywide application.

<sup>10</sup> The provision has also been revised to require notification to neighborhood associations when the determination will be applied citywide.

## 1.7. TRANSITIONAL REGULATIONS<sup>13</sup>

### 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. ~~USES, STRUCTURES, AND LOTS RENDERED NONCONFORMING~~

USE?

- NON CONFORMITIES**
- 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 no longer classifies such use as an allowed use in the zoning district in which it is located, such use shall be considered nonconforming and shall be controlled by Article 9: Nonconformities.
- B. Where any building, structure, or lot that legally existed on the effective date of this Code does not meet all standards set forth in the UDC, such building, structure, or lot shall be considered ~~nonconforming~~ and shall be controlled by Article 9: Nonconformities. **a non conformity**

### 1.7.4. APPLICATIONS COMMENCED OR APPROVED UNDER PREVIOUS ORDINANCES

#### A. Pending Applications

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

<sup>13</sup> 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

**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 six months.
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.

**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 Code<sup>14</sup>**

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, Downtown Area Infill Incentive District, 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.<sup>15</sup>

**E. Waiver of Potential Claims<sup>16</sup>**

**NOT DEFINED**

In exchange for the processing of [entitlements],<sup>17</sup> the City requires that a property owner shall execute a waiver of any right of any potential claims under Proposition 207, the Private Property Rights Protection Act (A.R.S. Sec. 12-1134), arising from his or her development of the property as permitted by A.R.S. Sec. 12-1134 (I), in the form approved by the City Attorney. The waiver applies only to the action requested and does not diminish any other landowner rights that may exist prior to the request.

<sup>14</sup> 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.

<sup>15</sup> 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.

<sup>16</sup> Proposed new text; further discussion needed.

<sup>17</sup> This term needs to be clarified

## ARTICLE 2: REVIEW AUTHORITIES AND POWERS<sup>1</sup>

### 2.1. PURPOSE OF ARTICLE<sup>2</sup>

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

### 2.2. REVIEW AND DECISION-MAKING BODIES

#### 2.2.1. MAYOR AND COUNCIL<sup>3</sup>

The Mayor and Council perform the following functions:

**A. General Plan**

The Mayor and Council shall adopt a comprehensive, long-range general plan for the development of the City known as the General Plan as mandated by the A.R.S., Section 9-461.05 et. seq. and in accordance with the procedures in Section 3.6.1.E and Section 3.6, Plan Adoption and Amendment Procedure<sup>4</sup>

*could not find*

**B. Specific Plans and Regulations**

The Mayor and Council shall adopt specific plans, regulations, programs, and legislation as may be needed for the systematic implementation of the General Plan and as required by Arizona Revised Statutes in accordance with the procedures in Section 3.6, Plan Adoption and Amendment Procedure. *see above*

**C. Redevelopment Plans**

The Mayor and Council may adopt or amend redevelopment plans, which are policy plans addressing slum and blighted areas from the standpoint of providing economic incentives to stimulate development/redevelopment, in accordance with Section 3.6, Plan Adoption and Amendment Procedure. *see above*

**D. Unified Development Code (UDC)**

The Mayor and Council shall adopt and amend the UDC in accordance with Section 3.7, UDC Amendment Procedure.

**E. Establishment of Original City Zoning**

The Mayor and Council shall establish original zoning for land annexed into the City in accordance with Section 3.5, Rezoning (Change of Zoning) Procedure, and A.R.S. 9-471.

**F. Changes in Zoning District Boundaries (Rezoning)**

The Mayor and Council shall consider amendments to zoning district boundaries as set forth on the City Zoning Maps in accordance with procedures in Section 3.3.1, *3.5?*

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

<sup>2</sup> Text from LUC Sec. 5.1.1.

<sup>3</sup> Text from LUC Sec. 5.1.2, with minor clarifications.

1. **General Plan**  
The Planning Commission conducts public hearings and makes recommendations to the Mayor and Council on the adoption of, and amendments to, the General Plan in accordance with Section 3.6, Plan Adoption and Amendment Procedure<sup>3</sup> *land use*
2. **Specific Plans**  
The Planning Commission conducts public hearings and makes recommendations to the Mayor and Council on adoption of, and amendment to, specific plans, including but not limited to area and neighborhood plans, and on regulations for the implementation of the General Plan in accordance with Section 3.6, Plan Adoption and Amendment Procedure. *see above*
3. **Unified Development Code (UDC)**  
The Planning Commission conducts public hearings and makes recommendations to the Mayor and Council on adoption of, and amendments to, the text of the UDC in accordance with Section 3.7, UDC Text Amendment Procedure. *see above*
4. **Other Matters**  
The Planning Commission shall review such other issues as might be required by the Mayor and Council, and upon agreement by seven of its members. The Planning Commission may consider any other matter that pertains or is reasonably related to its duties.

#### 2.2.4. ZONING EXAMINER<sup>7</sup>

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

##### A. Position

The Zoning Examiner serves in accordance with the following provisions:

1. **Appointment**  
The Zoning Examiner is appointed by the City Manager in accordance with Chapter V, Sections 2 and 13, of the City Charter.
2. **Qualifications**  
The Zoning Examiner is appointed on the basis of a demonstrated ability to perform the duties of the office, such as training and experience relevant to the conduct of administrative and adjudicative hearings and knowledge of the principles and practices of land use planning. The Zoning Examiner may not hold a City elective office concurrently with this position.
3. **Term**  
The Zoning Examiner serves at the pleasure of the City Manager. The City Manager may designate a qualified person as a temporary Zoning Examiner

<sup>7</sup> Text from LUC Sec. 5.1.6, with minor clarifications.

condition by the decision-making body in granting the use, unless specifically allowed by the UDC.

- (2) Make any changes in the uses permitted in any zoning classification.
- (3) Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.
- (4) Grant a variance to any administrative requirement of the UDC or to any requirement which is not a specific development regulation or use-specific standards required of a land use.
- (5) Grant a variance to the use-specific standards required of Educational Uses as provided in Section 4.9.3.E.

**D. Appeals of City Zoning Map Interpretation**

The B/A hears and decides appeals of Zoning Administrator's interpretations of the official City Zoning Maps in determining exact locations of zone boundary lines as shown on the City Zoning Maps in accordance with Sections 3.10.1 and 3.10.3, Board of Adjustment Appeal Procedure. *3.10.2?*

**E. Appeals of Design Development Option (DDO) Decision**

The B/A hears and decides appeals of decisions by the PSDS Director on DDO applications in accordance with Sections 3.10.1 and 3.10.3, Board of Adjustment Appeal Procedure. *3.10.2?*

**F. Appeals of Administrative Design Review Decision**

The B/A hears and decides appeals of decisions by the PSDS Director on Administrative Design Review applications in accordance with Sections 3.10.1 and 3.10.3, Board of Adjustment Appeal Procedure. In considering the appeal, the B/A shall apply the same findings required of the PSDS Director. *3.10.2?*

**G. Appeals of Design Review Board (DRB) Decision on Neighborhood Preservation Zone (NPZ) Permit<sup>11</sup>**

Pursuant to Section 5.10.3.1, the B/A hears and decides appeals of the DRB affirming or reversing the Director's decisions of compliance or non-compliance with the neighborhood-specific design manual and compatibility review criteria in accordance with Sections 3.10.1 and 3.10.3, Board of Adjustment Appeal Procedure. *3.10.2?*

*THIS APPEAL NOT LISTED IN 3.10.2*

**H. Other Responsibilities**

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

**2.2.6. DESIGN REVIEW BOARD<sup>12</sup>**

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

<sup>10</sup> The term "performance criteria," which is associated with the current Development Designator System, is being replaced by a simpler system called "use-specific standards."

<sup>11</sup> Text from Sec. 23A-32.1.2.g

<sup>12</sup> Text from LUC Sec. 5.1.8, with minor clarifications.

2. **Meetings**  
The DRB shall hold meetings as necessary to conduct its business in a timely manner. All meetings shall be open to the public.
3. **Quorum and Voting<sup>15</sup>**  
Three members, who may be either regular or alternate members constitute a quorum for a DRB panel at a hearing. Alternate members may serve on a panel or vote on a matter only if they are serving as a replacement for a regular DRB member. Except as provided below, a concurring vote of a majority of the members present and voting is necessary to make a decision. When making a decision on an appeal, the Director's decision on Neighborhood Preservation Zone design review applications, a concurring vote of a majority of the DRB (i.e. 3 out of 5) is necessary to make a decision.
4. **Records**  
The Planning and Development Services Department (PDSD) shall maintain public records of the DRB's actions, findings, and recommendations.
5. **Rules of Procedure**  
The DRB shall adopt rules of procedure necessary to carry out its functions. Copies of such rules shall be available to the public through the PDSD.
6. **Required Action**  
Applications reviewed for the purpose of providing a recommendation to another board, committee, official, or the Mayor and Council for a decision shall be forwarded without a recommendation should the DRB fail to act within 21 days of the date a plan is accepted for review by the DRB. Action by the DRB to continue deliberation to another meeting shall stay the 21 day requirement.

**C. Powers and Duties**

The DRB shall perform the following duties:

1. **Scenic Corridor Zone (SCZ), Development Review**  
Pursuant to Section 5.3.11.B, the DRB reviews development applications for projects located within a SCZ when requested by the PDSD Director or applicant, in accordance with Section 3.3.3, PDSD Director Approval Procedure. The DRB recommendation shall apply the same standards required in Section 5.3.11.C, for the decision of the PDSD Director.
2. **Scenic Corridor Zone (SCZ), Variances**  
Pursuant to Section 5.3.14, the DRB reviews, for recommendation to the B/A, all requests for variances from SCZ provisions and shall forward its recommendations in accordance with Subsection 2.2.6.B.6. The DRB recommendation shall apply the same findings required in Section 3.10.3, for granting a variance. In addition, the DRB may make any recommendation

<sup>15</sup> This section has been revised 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 PDSD Director's decision on NPZ design review applications.

7. **Native Plant Preservation (NPP), Variances**  
Pursuant to Section 7.7.6.B, the DRB reviews, for recommendation to the B/A, all requests for variances from NPP standards in accordance with Sections 3.10.1 and 3.10.3, Board of Adjustment Variance Procedure. The DRB recommendation shall apply the same findings required in Section 3.10.3.K for granting a variance. In addition, the DRB may make any recommendation that would assist in mitigating any negative impacts which might occur should the request be granted. J.?

8. **Neighborhood Commercial (NC) Zone, Development Review**  
Pursuant to Section 4.9.13.M.1.d, the DRB reviews all proposed nonresidential development, including exterior remodeling, for approval of architectural and site design compatibility with the surrounding residential area.

9. **Office (O-1) Zone, Development Review**  
Pursuant to Section 4.9.4.R.7, the DRB reviews all new office development in the O-1 zone, including Medical Service - Outpatient. THIS TEXT NOT IN SEC 4.9.4.R.7

10. **Communications Land Use, PDSB Director Special Exception Procedure**  
The DRB reviews, for recommendation, when requested by the PDSB Director, Communications Land Uses in all zones that require approval in accordance with Section 3.4.2, PDSB Director Special Exception Procedure.

CONFUSING TEXT

11. **Communications Land Use, Zoning Examiner Special Exception Procedure**  
The DRB reviews, for recommendation, Communications Land Uses in all zones that require approval in accordance with Section 3.4.3, Zoning Examiner Special Exception Procedure.

12. **Communications Land Use, Mayor and Council Special Exception Procedure**  
The DRB reviews, for recommendation when requested by the Mayor and Council, or Zoning Examiner, Communications Land Uses in all zones that require approval in accordance with Section 3.4.4, Mayor and Council Special Exception Procedure.

13. **Home Occupation: Travelers' Accommodation, Lodging, Development Review**  
The DRB reviews all Home Occupation, Travelers' Accommodation, and Lodging land uses in the various zones in which the use is permitted, as provided in Section 4.9.7.H.6.

18

14. **Rio Nuevo and Downtown (RND) Zone, Development Review**  
The DRB reviews, for recommendation, all proposed development in the Rio RND Zone, as provided in Section 5.11.8. In formulating its recommendation,

<sup>18</sup> Staff recommends that a recommendation from the DRB on Historic Preservation Zone appeal should no longer be required because this process is rarely, if ever, used.



CHUCK MARTIN  
4/19/12

## ARTICLE 9: NONCONFORMITIES

### 9.1. GENERAL<sup>1</sup>

#### 9.1.1. INTRODUCTION

*Use Buildings or lots*  
Structures that came into existence legally but that do not comply with one or more requirements of the Unified Development Code (UDC) may continue to operate or be used as provided below. A nonconforming use may be discontinued, resumed, expanded, or substituted with another nonconforming use, and nonconforming structures may be reconstructed or expanded as provided below, except for advertising and outdoor signs, which are regulated by the Sign Code, Chapter 3 of the Tucson Code.

#### 9.1.2. APPLICABILITY

*consistent language*  
This Article applies to nonconformities created by initial adoption of or amendments to the UDC. It also applies to nonconformities that were legal nonconformities under previously applicable ordinances and nonconformities created by the adoption of original City zoning for a newly annexed areas, even if the type or extent of nonconformity is different.

*non-conformity? and this Art.*

#### 9.1.3. CONTINUATION PERMITTED

Any nonconformity that legally existed on \_\_\_\_\_ (insert effective date of the UDC), or that becomes nonconforming upon the adoption of any amendment to the UDC or original City zoning may be continued in accordance with the provisions of this Article.

#### 9.1.4. DETERMINATION OF NONCONFORMITY STATUS

The burden of establishing that a nonconformity is a legal nonconformity, in all cases, is solely upon the owner of such nonconformity. Application requirements are established by the Planning and Development Services Department (PDS) Director. See the Administrative Manual for the application requirements.

#### 9.1.5. REPAIRS AND MAINTENANCE

Incidental repairs and normal maintenance of nonconformities are permitted unless such repairs increase the extent of nonconformity or are otherwise expressly prohibited by the UDC. Nothing in this Article shall be construed to prevent structures from being structurally strengthened or restored to a safe condition, in accordance with an official order of a public official.

#### 9.1.6. RESTORING UNSAFE STRUCTURES <sup>2</sup>

Nothing in this UDC shall prevent the strengthening, restoration, or upgrading of a structure to conform to minimum Building or Fire Code standards.

<sup>1</sup> This is suggested new language to replace the broad opening paragraph in the current LUC Sec. 5.3.6. In addition, the text in LUC Sec. 1.2.7 Continuing Existing Uses, has not been carried forward in the UDC because it is redundant with the text of this article.

<sup>2</sup> Text from LUC Sec. 1.2.8.

