



ZONING CODE REWRITE

*Module 2:
Administration and Permits*

DRAFT
FOR TASK FORCE REVIEW

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1 Introduction

This is the second in a series of three modules that outlines the framework of Maricopa’s revised Zoning Code. Module 2 proposes a new regulatory and administrative process for land use decisions. The proposed processes are based on a review of existing development regulations, comments from city staff, the Zoning Code Rewrite Task Force, the Planning & Zoning Commission, other commissions and boards, and the City Council on the *Diagnosis and Evaluation Working Paper*, as well as Zoning Code Rewrite Task Force and staff comments on the *Annotated Outline*. The goal of the proposed revisions are to create a streamlined, user-friendly set of processes and to bring the administrative procedures up to date with current planning practices and state law.

Maricopa’s current Zoning Code does not clearly outline how to obtain a permit to do development because it was inherited from the County. It is difficult to ascertain what level of review is required, and there are no required findings for approvals. Nor does it state the organization of land use review bodies and how they interact. While there is a notification section, it is not tailored to types of review processes and permits. A rewrite of these sections of the Zoning Code will have a huge impact on how the city functions.

This module establishes the land use regulatory framework for Maricopa. Application processes are outlined along with neighborhood notification procedures. The permits types are described, with triggers, criteria, and review procedures detailed. The first portion of the document will detail the bodies and persons who are charged with implementing the General Plan and Zoning Code and making land use decisions. Each review body is listed with descriptions of their roles and authority. The second portion outlines procedures that apply to all application types. How to file, what to file, what types of projects require a pre-application meetings and neighborhood notification are all discussed. The public hearing process, including noticing, conduct of hearings, and appeals, are also described.

After the review body and application processes have been discussed, the each permit type is laid out. There are two main permit categories – ‘use’ permits and ‘design’ permits. Each has been broken down into projects that can be approved at staff level and those that require a public hearing. Deviations from code requirements can be approved through variances and waivers. Temporary uses, such as a street fair or farmers market, now have clear processes for review and regulation.

We have cited the Arizona State Statute where applicable and brought in formal language and regulations where appropriate. We also provided some definitions at the end of the Module which relate to terms used in the Administrative Sections. In the final Zoning Code they will be located in the 600 Series – Terms and Definitions. They are provided here for your initial review and comment.

The proposed Articles incorporate many provisions included in Maricopa’s existing code, but these are simplified, where needed, and expanded, when necessary. Technical edits also are made to reflect “best practices.” Following are highlights of specific proposals and changes from existing regulations, followed by policy questions.

REVIEW AUTHORITIES

The Zoning Code Rewrite maintains the same overall structure of review bodies that currently exist. However, based on practices in surrounding jurisdictions and elsewhere, we have re-delegated roles and responsibilities amongst each body. It is important that the City Council and Planning & Zoning Commission hear and decide only those projects of utmost significance and those have a large impact upon the development of Maricopa. Both bodies still have the power to initiate General Plan and Zoning Code amendments, as well as have overall purview of land use issues in Maricopa. However, they can now focus on larger land use issues rather than getting bogged down in smaller permit approvals.¹

In re-organizing roles and duties, our goal was to make the permit review process more streamlined and to have the review and approvals occur with minimal public hearings. We also wanted to make the appeals process less cumbersome. In organizing Maricopa's decision-making processes, we incorporated a new Hearing Officer. This person will work closely with the Zoning Administrator and the two will be responsible for issuing the majority of permits in the city. Only Conditional Use Permits and Major Development Review Permits require a hearing before the Planning & Zoning Commission – all other permits can be reviewed and issued by the Department. It should be noted that the Hearing Officer could also be the same individual as the Zoning Administrator, switching roles when necessary. We have given both persons the ability to delegate work to Department staff, further enabling permit review and approvals to occur on a more timely basis. For example, certain types of small projects could be approved without a public hearing if they met the requirements that were outlined by the Hearing Officer and/or Zoning Administrator. We believe that incorporating a Hearing Officer role will benefit Maricopa. Gilbert, Tempe, and Mesa all have a Hearing Officer position which functions in a similar role that we have established.

The Board of Adjustment's role has been realigned to focus on decisions made by the new Hearing Officer and the Zoning Administrator. This body will continue to hear the majority of appeals. In evaluating how a permit would move through the approval process, it became apparent that there were a few permit types that had cumbersome appeal processes. The main example is a variance. Currently the Board of Adjustment conducts a hearing and decides a variance. If there are any issues with this decision it must be appealed directly to the Superior Court. Variances tend to focus on smaller issues, such as adjusting the buildable area in a rear yard. These decisions should be decided by the Hearing Officer and appealed to the Board of Adjustment. Larger development issues with more impact on Maricopa's land use environment are not appealed in Superior Court; rather, they are heard by the City Council. It is the Council's decisions that are then appealed to the Superior Court. The same should occur with the Board of Adjustment. The court system should be the last resort for appeals, especially of smaller determinations. The Board of Adjustment should hear the majority of land use appeals in Maricopa and if their decision on an appeal is questioned, then an appellant can take the cause to the Superior Court. This will save both time and money, unburden the court system, and provide a decision-making process that is more in keeping with other jurisdictions such as Gilbert and Mesa.

The Development Services Director's role is to support the Planning & Zoning Commission and the Board of Adjustment. The Director is also the manager of the Department and responsible for selecting the Hearing Officer and Zoning Administrator. Finally, we have briefly outlined the roles of

¹ The review responsibilities may be refined further with input from City Management.

the bodies that have a stake in land use issues, such as the Heritage District Advisory Committee and the Ak-Chin and Gila River Indian Tribes. We have included a table in Section 501.11 that outlines the new land use application and actions, advisory bodies, decision making bodies, and appellate bodies.

COMMON PROCEDURES

One goal of the Zoning Code Rewrite is to establish uniform procedures that are common to the application and processing of a variety of different permit types. Because this Article will likely be the administrative article that users most frequently consult, it appears immediately following the Article on Review Authorities.

The majority of the material in this section is new to the Zoning Code. Procedures for conducting preliminary review, requirements for written findings, and procedures for public hearings are some of the topics addressed in this section. Preliminary review has been incorporated for larger projects and is intended to provide information on relevant City policies, regulations, and procedures that may apply to a proposed project, as well as to provide early feedback on a proposal. Preliminary review is a procedure which is used effectively in many jurisdictions. It can streamline the process by clarifying the City's expectations and resolving potential conflicts or misunderstandings in advance.

Public notice provisions have been revised and strengthened to meet all applicable state laws. A robust notice system assists all parties involved – neighbors, project sponsors, community organizations, and the like – to be informed about proposals and to voice their concerns if any. We have added a neighborhood notification process for larger projects. As with preliminary review, it is intended to assist in the exchange of information regarding a project. In addition, projects that are approved without a hearing will be noticed prior to a final determination. Called Notice of Pending Action, it will inform neighbors and organizations of a pending decision and allow a hearing request if there are concerns. Public hearing notification has also been updated, with electronic notification included as an option for future notice. As society moves further away from advertised and paper notices, it is important to provide for alternate options. We incorporated a table that outlines the notification procedures for each application type (Table 502.06).

One land use issue we addressed but did not elaborate on in the Zoning Code is A.R.S. § 12-1131, which allows a property owner to seek compensation if any new land use law reduces the fair market value of a piece of property. However, because Maricopa has existing procedures and policies in place for these issues we did not duplicate them in the Code but mentioned these in Sections 509 (General Plan Amendments) and 510 (Zoning Code and Map Amendments). One issue that we did elaborate on was 'reasonable accommodations'. Section 506 (Waivers) now allow for the petition to the Hearing Officer to grant relief of certain Code provisions in order to comply with the Federal Fair Housing Act and the American with Disabilities Act.

Finally, we have reorganized all appeal issues. There is a 'one-stop' section which consolidates all permit types, decision-making authorities, appeal bodies, and timeframes for appealing a decision. It has procedures that must be followed, notice requirements, and standards of review. There is a table that provides an easy and useful way to determine what course of action must be taken if one wishes to contest a land use decision in Maricopa (Table 502.15).

USE PERMITS

As mentioned above, we have separated Maricopa’s new permit processes into two categories: use and design. Use permits are the base permit type and correspond to what uses are permitted, not permitted, or require a conditional use in the Base and Overlay Zoning Districts. We have broken use permits down into four types: 1) Zoning Permits, which are for all uses that are permitted as-of-right but need to be checked for Code and General Plan consistency; 2) Minor Use Permits for uses that are permitted but require an additional level of review and/or conditions; 3) Conditional Use Permits for uses that may have an impact upon surrounding properties and require a high level of review; and 4) Temporary Uses for those that are short in duration. We cross-referenced each with the appropriate decision-making authority. The goal was to create a system which would allow the majority of use permits to be approved by Department staff, through the Hearing Officer and Zoning Administrator. Only Conditional Use Permits require a hearing and go to the Planning & Zoning Commission. Minor Use Permits will only be decided at a public hearing if a request is made through the Notice of Pending Action process. We have created findings for each type of permit and enabled conditions of approval to be incorporated when necessary. All use permits, with the exception of the Conditional Use Permits, are appealed to the Board of Adjustment.

DEVELOPMENT REVIEW PERMIT

The second permit category is for physical development and design issues. The intent of separating out building design and site layout, including landscaping, from use is to enable and encourage a high level of design and to control the physical form of development so that it is compatible with the adjacent properties and consistent with the General Plan. The scope of Development Review Permit is limited to physical features of development, and written findings would be required as a basis for imposing specific conditions of approval to ensure land use compatibility and compliance with standards of the Code and policies of the General Plan. Development Review Permits are broken down into two types – Major and Minor. Minor permits can be reviewed by the Zoning Administrator and do not require a public hearing. The Planning & Zoning Commission must hear and approve all Major Development Review Permits. We created thresholds to determine what qualifies as a ‘minor’ scope of work and provided flexibility so that the Planning & Zoning Commission does not get bogged down with too many applications and small projects that are consistent with parameters in the General Plan can be approved by staff based on objective criteria and standards.

PLANNED AREA DEVELOPMENTS

Planned Area Developments (PADs) that have been legally approved by the City under current zoning or were approved by the County prior to annexation will be “grandfathered”. To allow owners of these PADs to refine project plans without cumbersome re-application and public hearing procedures as long as the project is not substantially changed, this module proposes that the following minor modifications to approved PAD plans can be granted by the Director:

- Changes in phasing, including the size and housing units in individual development units, provided there is not a significant change in the overall development program that results in a 10 percent change in number of units and/or non-residential floor area.
- Changes in the location of a school site, provided the appropriate school district approves such a change in location and there is no reduction in site size or classroom space to be provided.

- Changes in the location and size of individual park sites, provided the total park acreage is not reduced, and City standards for park service areas and parkland per 1,000 residents continue to be met within the PAD with such changes.

This proposal would provide for more flexibility than under current regulations, which treat any alteration of a project's coverage, height, square footage, density, phasing or timing, among other factors to be considered, to be a "major amendment", requiring a public hearing.

To achieve housing diversity in large PADs, say over 500 lots, this module proposes that at least 10 percent of the lots shall be at least 20 percent larger (and greater setbacks/lot standards) than the median size lot and 10 percent of the lots/units shall be attached units or provide variation from conventional housing types, such as patio homes and cluster development. An alternative rule, modeled on what is done in Chandler, would be to say that for every lot provided that is less than say, 6,000 square feet, at least one lot shall be provided that is over 9,000 square feet and the overall average lot size must be 7,500 square feet. This rule does not promote compact development and may be overly rigid.

POLICY QUESTIONS

In Module 2 we have incorporated best practices of jurisdictions in adjacent communities as well as throughout the country. While we welcome feedback and questions on all sections, there are a few items that we want to highlight. These are not all-inclusive, but can serve as a starting point for Task Force discussion on how Maricopa's land use system should be structured and administered.

- A. **Planning & Zoning Commission.** The current Code is silent on qualifications for members. We added qualification requirements for two of the seven members so that there will be expertise in architectural, landscape design, or land use law on the Commission. This is a "best practice" used in many jurisdictions in the country and will ground the decision-making of the Commission in an understanding of building design as it is done in the community. These requirements would not apply to current Commissioners.
- B. **Hearing Officer – Board of Adjustment.** As discussed above, we have incorporated a new Hearing Officer role into Maricopa's regulatory system. We believe that this person will help streamline the approval process, thus freeing up the Board of Adjustment to hear higher-level issues on appeal. Appeal decisions are important – in addition to evaluating current conditions of a particular site and project, the appeal body must evaluate how the Development Department conducts business, how decisions are made, what processes are used. Their decisions set precedent and can establish new policies and procedures. The Board of Adjustment should focus on those types of issues, enabling the Hearing Officer and Zoning Administrator to focus on the 'on-the-ground' planning issues. Also, as mentioned above, it will reduce the amount of appeal decisions that have to go to the Superior Court – a body that should be the 'last avenue' for appeals.
- C. **Heritage Areas/Redevelopment Areas.** Does Maricopa wish to incorporate historic preservation controls in the revised Code? There does not seem to be any codified regulations regarding the identification, designation, and regulation of new heritage areas or individual sites. We added the Heritage District Advisory Review Body and gave them authority to review of Development Review Permits prior to approval by the Hearing Officer or the Planning & Zoning Commission.

D. **Notice.**

1. ***Newspaper Notice.*** We suggest removing this requirement for certain types of permits, as it is being phased out of many jurisdictions, is cumbersome and costly. It is often the type of notice that creates the most errors in the noticing process, resulting in continuances of public hearings. Those items that require newspaper notice in state law, such as amendments to the General Plan and Zoning Code, would continue to have newspaper notification.
2. ***Electronic Notice.*** We have added language allowing optional electronic notification for certain types of permits. This type of notice is being used more frequently by jurisdictions. It is more environmentally friendly than mailed (paper) notice and saves time and money on postage costs. By keeping this type of notice optional, it enables people to ‘opt-out’ of mailed notice and ‘opt-in’ to electronic notification. It also enables the eventual move towards public hearing addenda’s being posted online with links to notices, plans, and other materials.
3. ***Notice for ‘Minor’ Permits.*** One issue that we have identified is that no public notice has been required for permits for many small-to-medium sized projects. While seemingly innocuous, these projects can impact the quality of life for many adjacent owners and residents. With this in mind, we added a traditional notice prior to an action on Zoning Permits, Minor Use Permits, Minor Development Review Permits, and Waivers which is similar to what occurs for public hearings. If anyone had an issue with a pending decision, they could request a hearing with the appropriate hearing body (Hearing Officer, Zoning Administrator, or Planning & Zoning Commission).

E. **Revocation of Permits.** Does Maricopa wish to have a full notice and public hearing for all permit revocations? This seems cumbersome and unnecessary. The project owner and project sponsor should be given notice and have an opportunity to respond, but this could be provided for through the Director. There could be a simple notice to these parties with a seven-day response period, followed by the final decision by the Director. The decision could then be appealed to the appropriate appellant body.

F. **Temporary Use Permits.** Currently the Code requires that the adjacent property owners ‘sign-on’ to a temporary permit. We removed these requirements to make these permits more streamlined and in keeping with best practices in other jurisdictions. A 10-day notice with sign posting would be provided to neighbors. That is, should there be a ‘Notice of Approval’? We drafted the preliminary regulations to state that only posted notice is required.

G. **Development Review Permits.**

1. ***Major & Minor Permit Thresholds.*** Please review the thresholds provided to ensure that they capture the types of projects that can be approved by Department staff (via the Zoning Administrator) or require approval by the Planning & Zoning Commission.

500 Series Administration and Permits

Article 501 Officers, Boards, Committees and Commissions

501.01 Purpose

This Article identifies the purpose, duties, organization, and powers of the city bodies, officials, and administrators, charged in making decisions under various series and Articles of the Zoning Code. Subsequent articles provide detailed information regarding various procedures, applications, and permits including zoning, and General Plan text and map amendments, fees, and enforcement. When carrying out their assigned duties and responsibilities, all bodies, administrators, and officials shall interpret and apply the provisions of this Code as minimum requirements adopted to implement the policies and achieve the objectives of the General Plan.

501.02 City Council

A. Creation and Purpose.

1. The City Council is created in accordance with the Maricopa City Code and Arizona Revised Statutes.

B. Duties and Powers

1. The City Council shall have the duty to carry out the provisions and intent of the General Plan and this Code. Specifically, the City Council has the powers to do the following:
 - a. **Appointment Powers.** The City Council shall have the power to appoint and remove members of the Planning & Zoning Commission and Board of Adjustment.
 - b. **Initiation Powers.** The City Council shall have the power to initiate and hold public meetings and public hearings on the following:
 - (1) General Plan amendments; and
 - (2) Planning Code map or text amendments.
 - c. **Final Decision-Making Powers.** The City Council shall have the power to make final decisions and hold public meetings and public hearings to review and approve, continue, deny, or approve with conditions the following requests:
 - (1) General Plan amendments pursuant to Section 507;
 - (2) Zoning Code text and Zoning Map amendments pursuant to Section 508;
 - (3) Final subdivision plats pursuant to Chapter 14, Subdivision Regulations, of the City's Code;

- (4) Final Planned Area Developments and Plans, or major modifications to conditions of approved Planned Area Development and Plans; and
 - (5) Final Development Agreements and modifications to Development Agreements.
- d. ***Appeal Powers.*** The City Council shall have the power to hear and decide appeals of decisions of Planning & Zoning Commission, regarding Conditional Use Permits and Major Development Plan Review permits pursuant to Sections 503 and 504; and
2. The City Council may prescribe in connection with a request noted in subsection (c) and (d) above, conditions as the Council deems necessary, in order to fully carry out the provisions and intent of the General Plan and this Code, pursuant to Section 502.10, Conditions of Approval. Violations of any City Council condition shall be a violation of this Code.
- C. **Organization.**
1. ***Refer to Maricopa City Code.***

D. **Appeals**

Any person aggrieved by a decision of the City Council under this Code may file an appeal to the Maricopa County Superior Court within 30 calendar days after the City Council has rendered its final decision, in accordance with Section 502.15, Appeals.

501.03 Planning & Zoning Commission

A. **Creation and Purpose.**

1. The Planning & Zoning Commission is created to hold public meetings and hearings, to provide analysis and recommendations to the City Council regarding general land use policies and applications where the Commission has recommendatory power, and to render final decisions on specified applications where the Commission has final decision-making power, including, but not limited to, all aspects of a proposed and future development. The Planning & Zoning Commission recognizes that the creation of a desirable environment throughout the city for residents, business, and industry is a prime requisite for the interdependence of land values, aesthetics, and good site planning, by promoting harmonious, safe, attractive and compatible development that is therefore considered to be in the best interest of public health, safety, and general welfare.

B. **Duties and Powers.** The Planning & Zoning Commission shall have the duty to carry out the provisions outlined in Chapter 2-8 of the Municipal Code, the intent of the City of Maricopa General Plan and this Code.

1. ***Initiation Powers.*** The Planning & Zoning Commission shall have the power to initiate and hold public meetings and public hearings on the following:
 - a. General Plan amendments; and
 - b. Planning Code map or text amendments.

2. ***Final Decision-Making Powers.*** The Planning & Zoning Commission shall have the power to make final decisions and hold public meetings and public hearings to review and approve, continue, deny, or approve with conditions the following requests:
 - a. Conditional Use Permits;
 - b. Major modification to a Conditional Use Permit or major modifications to Conditional Use Permits; and
 - c. Major Development Plan Review Permits;
 - d. Major modification to a Major Development Plan Review Permit or major modification to conditions of a Major Development Plan Review Permit.
3. ***Recommendation Powers.*** The Planning & Zoning Commission shall have the power to recommend to the City Council and hold public meetings and hearings to review and approve, continue, deny, or approve with conditions the following requests:
 - a. General plan amendment and major amendment applications;
 - b. Zoning map amendment (re-zoning) and overlay district applications;
 - c. Zoning Code text amendment applications;
 - d. Recommendations on an annual basis to the City Council concerning the General Plan as well as plans for the development of any land outside the City's planning area which is substantially related to the planning of the City;
 - e. Subdivision plats, pursuant to Chapter 14, Subdivision Regulations, of the City's Code;
 - f. Planned Area Developments and Plans;
 - g. Development Agreements; and
 - h. The Planning & Zoning Commission may prescribe in connection with any application such conditions as the Commission deems necessary in order to fully carry out the provisions and intent of this Code, pursuant to Section 502.10, Conditions of Approval. Violation of any Planning & Zoning Commission condition shall be a violation of this Code.

C. **Organization.**

1. The Planning & Zoning Commission shall consist of seven regular members. All members shall be a resident of the city, and shall be appointed by the corresponding City Council member. Each Planning & Zoning Commission member shall serve the same term as their corresponding City Councilmember, unless they submit written resignation to City Council, or unless sooner removed by the Council, and their term shall be staggered so that the terms of at least two, but not more than three regular members conclude in any given year. No member shall serve more than two complete consecutive terms. Nothing herein shall affect the expiration of the current terms of the Planning & Zoning Commission. Vacancies for the unexpired term of a member shall be filled by the City Council. The members of the Planning & Zoning Commission shall serve without compensation.

2. At least two regular members of the Commission shall be currently practicing in the field of architecture, landscape architecture, urban planning, land use law, real estate, engineering, or otherwise qualified by a design background, training, experience, or similar related field.
 3. Hearings of the Planning & Zoning Commission shall be open to the public. The public shall be given an opportunity to testify orally or in writing. The minutes of its proceedings showing the vote of each member, records of the Commissions' examinations, and other official actions, shall be kept by the City Clerk as a public record.
 4. The Planning & Zoning Commission shall adopt rules of procedure consistent with the provisions of this Code for the conduct of its business and procedure.
 5. A quorum consists of four members of the Planning & Zoning Commission. The concurring vote of four members of the Planning & Zoning Commission shall be necessary to act on any matter on its agenda except that consent agenda items may be approved and continuances administratively granted as provided for in this section. In the event that Planning & Zoning Commission members are not sufficiently available to make a quorum, one staff member is authorized to act as an alternate member on consent agenda items only, and only to the extent that their presence makes a quorum. Robert's Rules of Order shall govern any other motion.
 6. The Development Services Director, or a designated representative, shall serve ex officio as secretary of the Planning & Zoning Commission.
- D. **Appeals.** Planning & Zoning Commission recommendations to the City Council, are not final decisions. Any person aggrieved by a final decision of the Planning & Zoning Commission, may file an appeal to the City Council in accordance with Section 502.15.

501.04 Board of Adjustment

A. **Creation and Purpose.**

1. The Board of Adjustment is created to hold public hearings to provide relief from the terms of this Code, to hear applications and to hear and decide appeals from decisions of the Hearing Officer or Zoning Administrator.
 - a. State law reference — A.R.S. § 9-462.06(A) Board of adjustment (creation).

B. **Duties and Powers.** The Board of Adjustment shall have the duty to carry out the provisions outlined in Chapter 2-8 of the Municipal Code and this Code.

1. The Board of Adjustment shall hold a public hearing or public meeting to review and approve, continue, deny, approve with conditions, or to the extent applicable, enter the appropriate order, the following:
 - a. Appeals from decisions made by the Hearing Officer or designee, pertaining to Variance Applications pursuant to Section 505;
 - b. Appeals from decisions made by the Hearing Officer or designee, pertaining to Waiver Applications pursuant to Section 506

- c. Appeals from decisions made by the Hearing Officer, or designee, pursuant to Section 502.15, Appeals, regarding the following:
 - (1) Minor Use Permits and Temporary Use Permits;
 - (2) Minor modifications to approved Minor Use Permits and Temporary Use Permits;
 - d. Appeals from any decision made by the Hearing Officer or designee.
 - e. Appeals from decisions made by the Zoning Administrator, or designee, regarding the following:
 - (1) Zoning Permits;
 - (2) Minor Development Plan Permits;
 - (3) Minor modifications to approved Zoning Permits, Minor Development Plan Review Permits, or minor modifications to conditions of approved development plans; and
 - f. Appeals from any decision made by the Zoning Administrator or designee.
2. The Board of Adjustment shall not:
- a. Make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the zoning ordinance provided the restriction in this paragraph shall not affect the authority to grant variances pursuant to this Code; or
 - b. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.
3. The Board of Adjustment may, in connection with any application, impose conditions as the Board deems necessary in order to fully carry out the provisions and intent of this Code. Violation of any Board of Adjustment condition shall be a violation of this Code.
- a. State law reference — A.R.S. § 9-462.06(H). Board of adjustment.

C. Organization.

- 1. The Board of Adjustment shall consist of seven regular members and three alternate members. All members shall be a resident of the city, and shall be appointed by the corresponding City Council member. Each Board member shall serve the same term as their corresponding City Councilmember, unless they submit written resignation to City Council, or unless sooner removed by the Council, and their term shall be staggered so that the terms of at least two, but not more than three regular members conclude in any given year. No member shall serve more than two complete consecutive terms. Nothing herein shall affect the expiration of the current terms of the Board of Adjustment. Vacancies for the unexpired term of a member shall be filled by the City Council. The members of the Board shall serve without compensation.

2. At least two regular members of the Board of Adjustment shall be currently practicing in the field of architecture, landscape architecture, urban planning, land use law, real estate, engineering, or otherwise qualified by a design background, training, experience, or similar related field.
 3. The Board of Adjustment shall elect a chairperson and vice-chairperson from among its own regular members who shall have power to administer oaths, take evidence, and set consent agendas.
 4. Hearings of the Board of Adjustment shall be open to the public. The public shall be given an opportunity to testify orally or in writing. The minutes of its proceedings showing the vote of each member, records of the boards' examinations and other official actions, shall be kept by the City Clerk as a public record.
 5. The Board of Adjustment shall adopt rules of procedure consistent with the provisions of this Code for the conduct of its business and procedure.
 6. A quorum consists of four members of the Board of Adjustment. The concurring vote of four members of the Board of Adjustment shall be necessary to act on any matter on its agenda, except that consent agenda items may be approved or continuances administratively granted as provided for in this section. In the event that Board members are not sufficiently available to make a quorum, one staff member is authorized to act as an alternate member on consent agenda items only and only to the extent that their presence makes a quorum. Robert's Rules of Order shall govern any other motion.
 7. The Development Services Director, or a designated representative, shall serve ex officio as the secretary of the Board of Adjustment.
- D. **Appeals.** Any person aggrieved by a decision of the Board of Adjustment under this Code may file an appeal to the Pinal County Superior Court in accordance with Section 502.15.
1. State law reference — A.R.S 9-462.06 (K) Board of adjustment (appeal of decisions)

501.05 Development Services Director

A. **Creation and Purpose.**

1. The Director (the "Director") is the manager of the Development Services Department. The Director, or designee, directs the work of the department and leads the department in fulfilling its mission.

B. **Duties and Powers.**

1. The Development Services Director, or designee, shall have the duty to carry out the provisions and intent of the General Plan and this Code. The Development Services Director, or designee, shall have the power to do the following:
 - a. Serve as Staff of the Planning & Zoning Commission and Board of Adjustment;
 - b. Issue administrative regulations for the submission and review of applications subject to the requirements of this Code and A.R.S. §9-831 et seq.;

- c. Process and make recommendations to the City Council on all applications, amendments, appeals and other matters upon which the Council has the authority and the duty to act under this Code;
- d. Investigate and make reports to the Planning & Zoning Commission on violations of permit terms and conditions when the City has initiated revocation procedures;
- e. Appoint and oversee the Hearing Officer and Zoning Administrator; and
- f. Delegate administrative and enforcement functions as he/she so deems to members of the Development Services Department staff.

501.06 Hearing Officer (Optional)

A. Creation and Purpose.

- 1. The Hearing Officer shall be appointed by the Development Services Director or their designee. The Hearing Officer is created to maintain and administer the Zoning Code, including processing of applications, abatements and other enforcement actions. In the event that no such person is appointed or if the Hearing Officer becomes unavailable, the Development Services Director shall serve as the Hearing Officer.

B. Duties and Powers.

- 1. The Hearing Officer shall have the duty to carry out the provisions and intent of the General Plan and this Code. The Hearing Officer shall have the power to hold a public hearing to review and approve, continue, deny, or approve with conditions, the following:
 - a. Minor Use Permits and Temporary Use Permits pursuant to Section 503;
 - b. Minor modification to approved Minor Use Permits and Temporary Use Permits pursuant to Section 503;
 - c. Sign permit applications;
 - d. Variance applications;
 - e. Waivers from Dimensional Requirements; and
 - f. Delegate administrative functions as he/she so deems to members of the Development Services Department staff.
- 2. The Hearing Officer may in connection with any application, impose conditions deemed necessary in order to fully carry out the provisions and intent of this Code. Violation of any Hearing Officer condition shall be a violation of this Code.

C. Procedure. Public hearings conducted by the Hearing Officer shall be open to the public. The public shall be given an opportunity to testify orally or in writing. The minutes of its proceedings shall be kept by the City Clerk as a public record.

D. Appeals. Any person aggrieved by a decision of the Hearing Officer under this Code may file an appeal to the Board of Adjustment according to Section 502.15, Appeals. Decisions of the Hearing Officer shall be heard de novo by the Board of Adjustment as applicable.

1. State law reference — A.R.S. §9-462.08 Hearing officer

501.07 Zoning Administrator

A. Creation and Purpose.

1. The Zoning Administrator is appointed by the Development Services Director or designee. The Zoning Administrator is created to interpret the meaning and intent of the General Plan and this Code and enforce the provisions contained therein.
 - a. State law reference – A.R.S. 9-462.05 Enforcement. (Zoning Administrator creation)

B. Duties and Powers.

1. The Zoning Administrator shall have the duty to carry out the provisions and intent of the General Plan and this Code. The Zoning Administrator shall have the power to hold a public hearing to review and approve, continue, deny, or approve with conditions, the following:
 - a. Zoning Use Permits;
 - b. Minor modification to approved Zoning Use Permits;
 - c. Minor Development Review Permits;
 - d. Minor modification to approved Minor Development Review Permits;
 - e. Interpret the Code as needed. Interpretation of this Code includes, but is not limited to, clarification of intention, determination of zoning classifications of land uses not specified in this Code, and the delegation of processing procedures and requirements.
 - (1) The Zoning Administrator shall keep a record of interpretations made pursuant to this section. The record of interpretations shall be available to the public;
 - f. Serve on the Technical Advisory Committee and advise on matters relating to Development and Subdivision Plat Applications; and
 - g. Delegate administrative functions as he/she so deems to members of the Development Services Department staff.
2. Any land use that is unspecified in this Code and not classified by the Zoning Administrator is prohibited in any district.

- C. **Appeals.** Any person aggrieved by a decision of the Zoning Administrator under this Code may file an appeal to the Board of Adjustment in accordance with Section 502.15, Appeals.

501.08 Heritage District Advisory Committee

A. Creation and Purpose.

1. The Heritage District Advisory Committee is created to act in an advisory capacity in all matters concerning development in the City's Heritage District. The mission of the

Heritage District Advisory Committee is to ensure that rehabilitation efforts and new developments within the District are consistent with the visual character of the district; to enhance the character of the community by taking such properties and sites into account during development, and to assist owners in the restoration and upgrading of their properties.

- B. **Duties and Powers.** For the purpose of this Code, the Heritage District Advisory Committee shall have the powers to:
1. Make recommendations to the Planning & Zoning Commission and City Council, based on the criteria as specified for the MU-HD zone; and
 2. Review and make recommendations on applications for proposed alterations, new construction, demolition or removal affecting buildings located within the MU-HD zone. Such review shall be based on the criteria as specified in the regulations for the MU-HD zone (Section 204).
 3. Any recommendation by the Heritage District Advisory Committee relative to such application will be forwarded to the appropriate decision-making body as a part of the staff report regarding the request.
- C. **Organization.** Members of the Heritage District Advisory Committee shall be appointed by the City Council. The Committee shall adopt rules of procedure consistent with the provisions of this Code for the conduct of its business and procedure.

501.09 Technical Advisory Committee

- A. **Creation and Purpose.** The Technical Advisory Committee is created to act in an advisory capacity to the Planning & Zoning Commission regarding all development applications and applications for subdivision plats and improvements.
- B. **Duties and Powers.** For the purpose of this Code, the Subdivision Technical Advisory Committee shall have the powers to review all applications for development permits and subdivision plats and improvements and make recommendations to the Zoning Administrator, Hearing Officer, Planning & Zoning Commission and City Council. Such review shall be based on the criteria as specified in this Code and in Chapter 14, Subdivision Regulations, of the City Code.
- C. **Organization.** The Technical Advisory Committee shall consist of the Zoning Administrator, Planning staff, City Engineer, Parks and Recreation Director, and representatives of the Emergency Services, Irrigation District(s), Water Companies, Sanitary District(s), School District, and utility companies. Additional members may be consulted on an as needed basis for their expertise.

501.10 Other Agencies

- A. **Ak-Chin and Gila River Indian Communities.** Any proposal that abuts or is within 300 feet of the Ak-Chin Reservation or the Gila River Reservation or involves any land under the jurisdiction of the Ak-Chin or Gila River Indian Tribe or their designees must be referred to the respective Indian Tribal Council for review and comment. Nothing in this Code shall be interpreted to interfere with the sovereignty and powers of the Ak-Chin Indian Community, the Gila River Indian Community, or their designee(s).

- B. **Arizona Board of Regents.** Any development proposal that abuts property owned or under the jurisdiction of the Arizona Board of Regents will be forwarded to the Board of Regents for review and comment. Nothing in this Code shall be interpreted to interfere with the sovereignty and powers of the Board of Regents.
- C. **Other Governmental Agencies.** Any development proposal that abuts property owned or under the jurisdiction of a government agency, including but not limited to, Federal Lands, lands covered by an Intergovernmental Agency Agreement, or any other body that has jurisdiction must be referred to the applicable agency or body for review.

501.11 Summary of Review Authorities for Permit Types

Table 501.11 summarizes review authorities for each permit type, including the advisory body, the decision-maker and the appeal body. Decisions of the Board of Adjustment are final, and the only appeal is to Superior Court.

TABLE 501.11: REVIEW AUTHORITY				
<i>Application or Action</i>	<i>Article</i>	<i>Advisory Body</i>	<i>Decision-Maker</i>	<i>Appeal Body</i>
Ministerial Actions				
Zoning Permit	503	n/a	Zoning Administrator	Board of Adjustment*
Minor Changes to an Approved Use Permit	503	n/a	Zoning Administrator	Board of Adjustment
Discretionary Quasi-Judicial Actions				
Minor Use Permit	503	n/a	Hearing Officer	Board of Adjustment
Temporary Use Permit	503	n/a	Hearing Officer	Board of Adjustment
Conditional Use Permit	503	Hearing Officer	Planning & Zoning Commission	City Council
Development Review Permit <i>Major (5Ks/f+)</i> <i>Minor</i>	504	<i>Major:</i> Development Services Director <i>Minor:</i> n/a	<i>Major:</i> Planning & Zoning Commission <i>Minor:</i> Zoning Administrator	<i>Major:</i> City Council <i>Minor:</i> Board of Adjustment
Changes to an Approved Development Review Permit	504	Development Services Director	<i>Major:</i> Planning & Zoning Commission <i>Minor:</i> Zoning Administrator	<i>Major:</i> City Council <i>Minor:</i> Board of Adjustment
Waiver from Dimensional Standards	506	Zoning Administrator	Hearing Officer	Board of Adjustment
Variances	505	Zoning Administrator	Hearing Officer	Board of Adjustment
Permit Revocation	502	Zoning Administrator	Original decision-making body	n/a
Heritage Area Development Permit	501	Heritage District Advisory Committee	<i>Major:</i> Planning & Zoning Commission <i>Minor:</i> Zoning Administrator	<i>Major:</i> City Council <i>Minor:</i> Board of Adjustment
General Plan Text and Map Amendments	507	Planning & Zoning Commission	City Council	Superior Court
Zoning Code and Map Amendments	508	Planning & Zoning Commission	City Council	Superior Court
Planned Development Districts	509	Planning & Zoning Commission	City Council	Superior Court

* Note that any decision by the Board of Adjustment is appealed to the Superior Court.

Article 502 Common Procedures

502.01 Purpose

This Article establishes procedures that are common to the application and processing of all permits and approvals provided for in the Zoning Code unless superseded by specific requirement of this Code or Arizona law.

502.02 Application Submittal and Review

- A. **Initiation of Application.** The following persons may file applications:
 - 1. The owner of the subject property; and
 - 2. An agent representing the owner, duly authorized to do so in writing by the owner, including a person with a duly executed written contract or exclusive option to purchase the subject property or a lessee in possession of the subject property.

- B. **Application Forms and Supporting Materials**
 - 1. ***Application Forms.*** The Development Services Director shall prepare and issue application forms and lists that specify the information that will be required from applicants for projects subject to the provisions of this Code. As required by A.R.S §9-836, application forms shall include the following:
 - a. A list of all required steps in the application/approval process;
 - b. Applicable time frames;
 - c. Contact person (name and telephone number);
 - d. Website address; and,
 - e. Notice for opportunity to clarify ordinances/regulations.

 - 2. ***Supporting Materials.*** The Director may require the submission of supporting materials as part of the application, including but not limited to, statements, photographs, plans, drawings, renderings, models, material samples and other items necessary to describe existing conditions and the proposed project. Unless otherwise specified, all renderings shall depict the proposed structure, landscaping, other improvements, and surrounding land uses as they would appear after project completion.

 - 3. ***Availability of Materials.*** All material submitted in support of a specific application becomes the property of the City, may be distributed to the public, and shall be made available for public inspection. At any time upon reasonable request, and during normal business hours, any person may examine an application and materials submitted in support of or in opposition to an application in the Development Services Department offices. Unless barred by law, copies of such materials shall be made available at a reasonable cost to be established annually through City Council resolution.

C. **Payment, Waiver and Refund of Application Fees.**

1. **Schedule of Fees.** The Council shall establish fees for permits, informational materials, penalties, copying, and other such items. No application shall be processed without payment of a fee unless a fee waiver or deferral has been approved.
2. **Multiple Applications.** The City's processing fees are cumulative. When more than one type of action is being requested, the total fee shall be the sum of the individual fees specified on the fee schedule.
3. **Fee Waiver or Deferral.** No fee shall be required when the applicant is the City, or if waived or deferred by the Director based upon a finding of unique financial hardship.
4. **Refund of Fees.** Once an application is filed with the Department, no portion of any application fee shall be refundable, unless the Director determines such a refund is justified on the basis of unique financial hardship. No refund shall be provided for any application that has been denied.

502.03 Preliminary Review Process

- A. **Purpose.** The purpose of the Preliminary Review is intended to acquaint the prospective applicant or applicant's representative(s) with the requirements of this Code, the General Plan and other relevant city policies and regulations. Preliminary Review is intended to be informative and identify potential issues.
- B. **Applicability.** Preliminary Review may be requested by a prospective applicant or applicant's representative for any proposal.
 1. Preliminary Review is required for:
 - a. Conditional Use Permits;
 - b. Major Development Review Permits;
 - c. Planned Area Developments;
 - d. General Plan Amendments;
 - e. Zoning Map and Text Amendments;
 - f. Proposed Subdivisions;
 - g. Projects proposing 20 or more residential units; and
 - h. Projects proposing over 20,000 square feet of non-residential space.
 2. Preliminary Review is not required for individual single-family dwelling applications or applications regarding individual structures that are accessory to a single-family dwelling.
- C. **Requirements.** Applications for Preliminary Review under this Code shall be submitted to the Development Services Department, in accordance with the format and upon such forms as established by the Director.
- D. **Preliminary Review Conference.** Upon a Preliminary Review request being filed, staff will notify the applicant or applicant's representative of a Preliminary Review conference which shall take place within 30 business days of the Preliminary Review application being filed and

be held at the Development Services Department by appointment. After reviewing the information provided from the applicant, staff from the reviewing City departments and divisions will prepare comments. Staff will review the comments with the applicant or applicant's representative at the Preliminary Review conference and provide information on Code requirements, procedures, and other relevant City policies and regulations. If the City is unable to comply with these time frames, notification will be made to the applicant and proceed as soon as practicable.

- E. **Recommendations are Advisory.** Neither the Preliminary Review conference nor the provision of information and/or pertinent policies shall be construed as a recommendation for approval or denial of the application by City representatives. Any recommendations that result from Preliminary Review are considered advisory only and shall not be binding on either the applicant or the City.

502.04 Review of Applications

- A. **Review for Completeness.** The Director shall review all applications for completeness, in conformance with this Section. The City will not schedule a meeting or hearing date or begin administrative review until the application is complete.
- B. **Complete Application.** A complete application is one which fulfills the following general requirements, more specifically described on official application forms available from the Development Services Department. A determination of whether an application is complete shall be made within 30 days of the date the application is filed with the required fee.
- C. **Incomplete Application.** If an application is incomplete and the applicant fails to submit the missing information within 60 calendar days of the first submittal, the Director, may notify the applicant that the application cannot be accepted, and a new application will be required for the proposed project. A decision by the Director requiring a re-application shall be subject to administrative appeal and shall not be construed as denial of the application. A letter shall cite a list of all deficiencies in the application and provide references to the applicable regulation(s) or policy and inform the applicant that the City's mandatory timeframe is suspended pending receipt of requested corrections or any missing information. If the City fails to provide this notice to the applicant the application is then deemed complete in accordance with the State's Compliance Policy. (A.R.S. §§ 9-835(D), 9-835(E), 9-835(F))
- D. **Complete Application.** When an application is determined to be complete, a notation on the application shall make a record of that date. If required, a public hearing shall be scheduled after the first complete review and the applicant shall be notified of the date and time.

502.05 Neighborhood Notification and Meetings

- A. **Purpose.** The purpose of a neighborhood meeting is to provide a means for the applicant, surrounding residential neighbors, and registered neighborhood and homeowner's association representatives to review a preliminary project and solicit input and exchange information about the proposed project prior to public hearings. This preliminary meeting is intended to result in an application that is responsive to neighborhood concerns and to expedite and lessen the expense of the review process by avoiding needless delays, appeals, remands or denials. The applicant is responsible for all costs associated with the neighborhood meeting.
- B. **Applicability.** A neighborhood meeting is required for the following types of applications:

1. Conditional Use Permits;
 2. Major Development Review Permits;
 3. Variances;
 4. Planned Area Development;
 5. Major modification to an approved plan or condition of approval (when original approval requires neighborhood meeting);
 6. Any application(s) that is located within 300 feet from the lot line of a residential use or district;
 7. Annexation requests;
 8. Zoning map amendments; and
 9. General Plan map amendments.
- C. **Meeting Schedule.** The applicant is required to hold one meeting prior to the first public hearing on an application for a specific site, but may hold more if desired. The required meeting shall be held at least fifteen days and not more than 90 days before the first public hearing on the application. Meetings held more than 90 days before the first public hearing shall be required to hold an additional neighborhood meeting. Neighborhood meetings shall not occur until after any required Preliminary Review meeting and consultation with the Planning Division staff.
- D. **Meeting Location.** Neighborhood meetings shall be held at a location near the proposed development site. The meeting shall be held on a weekday evening or weekends at any reasonable time and in a publicly accessible location.
- E. **Application Submittal.** The neighborhood notice and meeting materials must be submitted with the project application(s) to the Development Services Department. At a minimum, the following materials must be submitted:
1. A narrative discussing the proposed time, place and location within the City of Maricopa of the neighborhood meeting;
 2. A list of names and addresses, labeled, stamped envelopes of all the property owners within the target area, and a notarized affidavit by the applicant that the list of names and addresses is accurate, current and complete;
 3. A list of names and addresses of all other interested parties who have requested that they be placed on a notification list maintained by the Development Services Department;
 4. A notification letter including a general explanation of the substance of the proposed application, the date, time and place within the City of Maricopa scheduled for a neighborhood meeting and for all other City meetings; and the City of Maricopa and applicant contacts;
 5. An 8 ½” x 11” reduction of the proposed neighborhood sign; and
 6. The applicant’s schedule for completion of the neighborhood meeting.

7. The Director or authorized designee shall be responsible (i) to review and approve all notification materials, neighborhood meeting location, a brief description of the property change and a land map; (ii) to notify the applicant to proceed with the neighborhood meeting; and (iii) for mailing the property owner notifications provided by the applicant.
- F. **Notification Requirements.** Notice of the neighborhood meeting shall be provided at least 15 calendar days prior to the neighborhood meeting by the applicant in the following manner:
1. ***Mailed Notice.*** Written notice shall be mailed to all owners and occupants within 300 feet of the subject property, or a larger area as determined by the Zoning Administrator, and to such other persons as the Development Services Department, or authorized designee, determines to be other potentially affected citizens;
 2. ***Advertised Notice.*** The notice of neighborhood meeting shall be published once in a newspaper of general circulation published or circulated in the City of Maricopa and shall include the date, time, location and nature of the meeting.
 3. ***Posted Notice.*** Notice shall be provided on the proposed site. The sign shall be waterproof and have a minimum size of 24 inches by 36 inches (36 inches by 48 inches for Planned Area Developments, Zoning Code amendments and General Plan amendments) with all information evenly spaced and organized in a readable manner. The sign shall be placed on the property in a location determined by the Development Services Department or authorized designee.
 4. ***Electronic Notice.*** Where applicable and not in violation of state law, notice may be provided by electronic means such as emailed notice, posted notice on the city's website, or other means determined by the Development Services Director. This type of notice may be substituted for advertised notice. Any persons or organizations may request that electronic notice be substituted for mailed notice through a request to the Development Services Director.
 5. ***Contents of Notices.*** All notices shall contain information about the proposal, project description, time, date, location of neighborhood meeting and subsequent City meetings for review and approval, the names and telephone numbers citizens may call with questions and issues, and applicant and City of Maricopa contacts, including name and telephone number.
- G. **Meeting Summary.** The applicant shall submit to the Development Services Department ten calendar days before the first public hearing on the matter a written summary of the issues and discussions from the meeting and the meeting notes. This report will be attached to the Development Services Department's public hearing report and, at a minimum, include the following information:
1. Details of techniques the applicant used to involve the public, including:
 - a. Dates and locations of all meetings where citizens were invited to discuss the applicant's proposal;
 - b. Content, dates mailed, and numbers of mailings, including letters, meeting notices, newsletters, maps and other publications;

- c. Where residents, property owners, and interested parties receiving notices, newsletters, or other written materials are located;
 - d. A copy of the sign in sheet from the neighborhood meeting which shall include attendees signature, physical property address, date and the following language “This sign in sheet is intended to serve as proof that public input was pursued. Your personal information will not be used for solicitation purposes”;
 - e. A photograph of the posted neighborhood meeting sign showing the date and time at which the photo was taken; and
 - f. A newspaper clipping of the legal advertisement as published in the newspaper of general circulation in the City of Maricopa.
2. A summary of concerns, issues and problems expressed during the process, including:
 - a. The substance of the concerns, issues, and problems;
 - b. How the applicant has addressed or intends to address concerns, issues and problems expressed during the process; and
 - c. Concerns, issues and problems the applicant is unwilling or unable to address and why.
 3. Minutes of the neighborhood meeting(s).

502.06 Notification

- A. **Purpose.** This Section is intended to provide the public information about upcoming public hearings on land use issues and to provide property owners and interested organizations that may be impacted by a project of a pending action on a land use application. Public hearings shall be preceded by public notice in accordance with this Section and State law.
- B. **Applicability.** Notice is required for the following types of actions:
 1. **Public Hearings.** All applications that require a public hearing before the City Council, Planning & Zoning Commission, Board of Adjustment, Hearing Officer, or Zoning Administrator.
 2. **Notice of Pending Action.** Projects that do not require a public hearing but are subject to a Zoning Permit (Article 501), Minor Use Permit (Article 503.05), Temporary Use Permit (Article 503.09), Minor Development Review Permit (Article 504), Waivers (Article 506), and Minor Heritage Area Development Permits (Article TBD).
 3. When multiple applications are under review for the same project, the City may simultaneously issue notice for multiple applications. The more restrictive notification requirements shall apply.
- C. **Notification Requirements.** Notification shall be provided in the following manner:
 1. **Mailed Notice.** The Development Services Department, or authorized designee, shall provide notice by First Class mail.
 - a. *Time Period:*

- (1) Public Hearings: At least 15 days before the date of the public hearing.
 - (2) Notice of Pending Action: At least 10 days before the date of action when no public hearing is required.
 - b. *Recipients*:
 - (1) The applicant, the owner, and any occupant of the subject property;
 - (2) All property owners of record and tenants of property within a minimum 300-foot radius.
 - c. *Notification List*. The applicant shall provide a list of property owners and tenants within the prescribed area of notification and shall sign an affidavit verifying that the list has been prepared in accordance with the procedure outlined in this Section.
 - (1) Property Owner Notice. The last known name and address of each property owner as contained in the records of the Pinal County Assessor shall be used.
 - (2) Tenant Notice. The address of the residential and commercial tenants shall be determined by visual site inspection or other reasonably accurate means.
 - d. All neighborhood and community organizations that have previously filed a written request for notice of projects in the area where the site is located; and
 - e. Any person or group who has filed a written request for notice regarding the specific application.
2. ***Newspaper Notice***. The Development Services Department, or authorized designee, shall publish a notice in at least one newspaper of general circulation in the City.
 - a. *Time Period*:
 - (1) Public Hearings: At least 15 days before the date of the public hearing.
 - (2) Notice of Pending Action: At least 10 days before the date of action when no public hearing is required.
3. ***Posted Notice***. Notice shall be provided on the proposed site. The sign shall be colored, waterproof and have a minimum size of 24 inches by 36 inches with all information evenly spaced and organized in a readable manner. The sign shall include the proposal, project description, time, date, location of neighborhood meeting, the names and telephone numbers citizens may call with complaints and applicant and City contacts, including name and telephone number. The sign shall be placed on the property in a location determined by the Development Services Department.
 - a. *Time Period*:

- (1) Public Hearings: At least 15 days before the date of the public hearing.
 - (2) Notice of Pending Action: If required, at least 10 days before the date of action when no public hearing is required.
 - b. *Size Requirements*:
 - (1) Public Hearings: 36 inches by 48 inches.
 - (2) Notice of Pending Action: 24 inches by 36 inches.
 4. **General Plan and Zoning Code Amendments.** All notification procedures outlined in A.R.S. § 9-462.03 and § 9-462.04 must be met. For any General Plan or Zoning Code amendments must meet the following requirements:
 - a. *Newspaper Notice.* Notice shall be provided by a “display ad” covering not less than one-eighth of a full page in a newspaper of general circulation in the City. (A.R.S. § 9-462.03)
 - b. *Posted Notice.* If there is no newspaper notice, then notice shall be posted on the affected property and in at least ten public places in the municipality. The posted notice shall be printed in such a manner so that the following are visible from a distance of 100 feet: the word “zoning”, the present zoning district classification, the proposed zoning district classification, and the date and time of the hearing. (A.R.S. § 9-462.04(A)(1)).
 - c. *School District.* The applicant shall notify all applicable school district(s) not less than 30 days prior to any neighborhood meeting or public hearing. The applicant shall provide the Planning Department with a letter from the applicable school district(s) indicating that the applicant has contacted and met with the school district(s). Such letter shall be submitted to the Development Services Department not less than seven calendar days prior to any public hearing. (A.R.S. § 9-462.03)
 5. **Electronic Notice.** Notice may be provided by electronic means such as emailed notice, posted notice on the city’s website, or other means determined by the Director. This type of notice may be substituted for advertised notice. Any persons or organizations may request that electronic notice be substituted for mailed notice through a request to the Director. Electronic notice shall not substitute for any notification required by state law.
- D. **Contents of Notice.** All notices shall include the following information:
1. The location of the real property, if any, that is the subject of the application;
 2. A general description of the proposed project or action;
 3. The names of the applicant and the owner of the property that is the subject of the application;
 4. The location and times at which the complete application and project file, including any environmental impact assessment prepared in connection with the application, may be viewed by the public;

5. A statement that any interested person or authorized agent may appear and be heard;
 6. A statement describing how to submit written comments; and
 7. **Public Hearings:**
 - a. The date, time, location, and purpose of the public hearing;
 - b. The identity of the hearing body or officer; and
 - c. For City Council hearings, the Planning Commission recommendation.
 8. **Notice Pending Action:**
 - a. The date of action when no public hearing is required;
 - b. The identity of the review body/agency;
 - c. Description of action (approval, approval with conditions, denial); and
 - d. Hearing request process.
- E. **Failure to Give Notice.** Notwithstanding the notice requirements of this Section, the failure of any person or entity to receive notice shall not constitute grounds for any court to invalidate the actions of the City for which the notice was given.
- F. **Summary of Notification Requirements.** Table 502.06 summarizes the notification requirements under this Code for each application or action, including the type of notice, the notice requirement and the applicable projects for which such notice is required.

TABLE 502.06: NOTIFICATION REQUIREMENTS					
<i>Application or Action</i>	<i>Article</i>	<i>Decision-Making Body</i>	<i>Type of Notice</i>	<i>Notice Requirements</i>	<i>Applicable Projects</i>
Zoning Permit	503	Zoning Administrator	Notice of Pending Action	<u>Mailed</u> : 10 days, 300 ft owners and occupants <u>Poster</u> : 10 days before final action <u>Ad</u> : n/a	All projects permitted 'as-of-right'; labeled "P" Note: Project may be subject to Design Review and other requirements
Minor Changes to an Approved Use Permit	503	Zoning Administrator	n/a	n/a	Alterations that result in a de minimis change as determined by the Zoning Administrator
Minor Use Permit	503	Hearing Officer	Notice of Pending Action <i>If Hearing Requested:</i> Hearing Notice	<u>Mailed</u> : 10 days, 300 ft owners and occupants <u>Poster</u> : 10 days before final action <u>Ad</u> : 10 days <i>If Hearing Requested:</i> <u>Mailed</u> : 15 days, 300 ft owners and occupants <u>Poster</u> : 15 days <u>Ad</u> : 15 days	All projects subject to a MUP; labeled "M"
Conditional Use Permit	503	Planning & Zoning Commission	Hearing Notice	<u>Mailed</u> : 15 days, 300 ft owners and occupants <u>Poster</u> : 15 days <u>Ad</u> : 15 days	All projects subject to a CUP; labeled "C"
Temporary Use Permit	503	Hearing Officer	Notice of Approval	<u>Mailed</u> : 10 days, 300 ft owners and occupants <u>Poster</u> : 7 days after permit issued <u>Ad</u> : n/a	All projects requesting a Temporary Use Permit

TABLE 502.06: NOTIFICATION REQUIREMENTS					
<i>Application or Action</i>	<i>Article</i>	<i>Decision-Making Body</i>	<i>Type of Notice</i>	<i>Notice Requirements</i>	<i>Applicable Projects</i>
Development Review Permit	504	<i>Major:</i> Planning & Zoning Commission	<i>Major:</i> Hearing Notice	<i>Major:</i> <u>Mailed:</u> 15 days, 300 ft owners and occupants <u>Poster:</u> 15 days <u>Ad:</u> 15 days	<i>Major:</i> <ul style="list-style-type: none"> • Projects over 5,000 s/f • Façade Alterations more than 10% of surface area • Otherwise required by Code
		<i>Minor:</i> Zoning Administrator	<i>Minor:</i> Notice of Pending Action	<i>Minor:</i> <u>Mailed:</u> 10 days, 300 ft owners and occupants <u>Poster:</u> 10 days before final action <u>Ad:</u> 10 days	<i>Minor:</i> <ul style="list-style-type: none"> • Projects under 5,000 s/f or 20% of existing building area • Façade Alterations more than 10% of surface area • Otherwise required by Code
Changes to an Approved Development Review Permit	504	<i>Major:</i> Planning & Zoning Commission	<i>Major:</i> Hearing Notice	<i>Major:</i> <u>Mailed:</u> 15 days, 300 ft owners and occupants <u>Poster:</u> 15 days <u>Ad:</u> 15 days	
		<i>Minor:</i> Zoning Administrator	<i>Minor:</i> Notice of Pending Action	<i>Minor:</i> <u>Mailed:</u> 10 days, 300 ft owners and occupants <u>Poster:</u> 10 days before final action <u>Ad:</u> 10 days	
Waiver from Dimensional Standards	506	Hearing Officer	Notice of Pending Action	<u>Mailed:</u> 10 days, 300 ft owners and occupants <u>Poster:</u> 10 days before final action <u>Ad:</u> n/a	All Waiver Applications
Variances	505	Hearing Officer	Hearing Notice	<u>Mailed:</u> 15 days, 300 ft owners and occupants <u>Poster:</u> 15 days <u>Ad:</u> 15 days	All Variance Applications

TABLE 502.06: NOTIFICATION REQUIREMENTS					
<i>Application or Action</i>	<i>Article</i>	<i>Decision-Making Body</i>	<i>Type of Notice</i>	<i>Notice Requirements</i>	<i>Applicable Projects</i>
Permit Revocation	502.14	Original decision-making body	Hearing Notice	<u>Mailed</u> : 15 days, 300 ft owners and occupants <u>Poster</u> : 15 days <u>Ad</u> : 15 days	All Revocations
Heritage Area Development Permit	501	<i>Major:</i> Planning & Zoning Commission	<i>Major:</i> Hearing Notice	<i>Major:</i> <u>Mailed</u> : 15 days, 300 ft owners and occupants <u>Poster</u> : 15 days <u>Ad</u> : 15 days	<i>Major:</i> <ul style="list-style-type: none"> • Projects over 5,000 s/f • Façade Alterations more than 10% of surface area • Otherwise required by Code
		<i>Minor:</i> Zoning Administrator	<i>Minor:</i> Notice of Pending Action	<i>Minor:</i> <u>Mailed</u> : 10 days, 300 ft owners and occupants <u>Poster</u> : 10 days before final action <u>Ad</u> : 10 days	<i>Minor:</i> <ul style="list-style-type: none"> • Projects under 5,000 s/f or 20% of existing building area • Façade Alterations more than 10% of surface area • Otherwise required by Code
General Plan Text and Map Amendments	507	<i>Recommendation:</i> Planning & Zoning Commission <i>Final Action:</i> City Council	Hearing Notice	<u>Mailed</u> : 15 days, 300 ft owners and occupants <u>Poster</u> : 15 days <u>Ad</u> : 15 days	All General Plan Applications, including those initiated by the City Council or Planning & Zoning Commission
Zoning Code and Map Amendments	508	<i>Recommendation:</i> Planning & Zoning Commission <i>Final Action:</i> City Council	Hearing Notice	<u>Mailed</u> : 15 days, 300 ft owners and occupants <u>Poster</u> : 15 days <u>Ad</u> : 15 days	All Zoning Code Applications, including those initiated by the City Council or Planning & Zoning Commission
Planned Development Districts	509	<i>Recommendation:</i> Planning & Zoning Commission <i>Final Action:</i> City Council	Hearing Notice	<u>Mailed</u> : 15 days, 300 ft owners and occupants <u>Poster</u> : 15 days <u>Ad</u> : 15 days	All PAD Applications, including those initiated by the City Council or Planning & Zoning Commission

502.07 Multiple Applications

When multiple applications that require public hearings are filed for the same project, all issues and items shall be heard by one review body. The more senior review body shall hear and decide on each application. Those actions are subject to appeals according to Section 502.15.

502.08 Conduct of Public Hearings

All public hearings held pursuant to this Code shall comply with the following procedures:

- A. **Public Hearing Testimony.** Any person may appear at a public hearing and submit oral or written evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be identified, state their city of residence, or geographic area of residence if they live in an unincorporated area, and, if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented. The presiding officer may establish time limits for individual testimony and may require that individuals with shared concerns select one or more spokespersons to present testimony on behalf of those individuals.
- B. **Continuance of Public Hearing.** The body conducting the public hearing may by motion continue the public hearing to a fixed date, time and place or may continue the item to an undetermined date and provide notice of the continued hearing.
- C. **Investigations.** The body conducting the hearing may cause such investigations to be made as it deems necessary and in the public interest in any matter to be heard by it. Such investigation may be made by a committee of one or more members of the Council or by members of its staff or its agents or employees. The facts established by such investigation shall be submitted to the Council either in writing, to be filed with the records of the matter, or in testimony before the Council, and may be considered by the Council in making its decision.
- D. **Record of Hearing.** The body conducting the hearing shall cause a written summary of all pertinent testimony heard at such public hearing, together with a record of the names and addresses of all persons testifying, to be prepared and filed with the papers relating to such matter. These minutes shall be kept on record with the City Clerk.

502.09 Ex Parte Communications

- A. **Disclosure of Communications.** Any official who receives an ex parte communication, or engages in any other exchange of information covered by this section or who participates in a site visit shall place the communication in the public record or shall enter into the record a statement describing the time, place, and content of the communication.
- B. **Applicability.** Ex parte communications are oral or written, off-the-record communications made to or by members of the Commission or Council with applicants, neighbors, or other interested parties. Such contacts include, but are not limited to, one-on-one meetings, site visits, discussions, telephone calls, or e-mail messages that occur outside of a public meeting of the body on which the City official serves at which the matter discussed has been publicly noticed. The provisions of this section also apply to meetings between ad hoc committees including less than a majority of the body's total membership that the Planning & Zoning Commission or the City Council may establish to meet with applicants and/or surrounding property owners on a particular application.

- C. **Exceptions.** Ex parte communications do not include communications between City staff and elected or appointed City officials acting in their official capacity, the receipt of expert opinion, or the review of mail and other correspondence relating to the proceedings.
- D. **Effect.** Actions taken by the decision-making body are not invalidated by the occurrence of ex parte communication.

502.10 Findings Required

When making a decision to approve, approve with conditions, modify, revoke or deny any discretionary permit or discretionary approval under this Code, the decision-making body shall make findings of fact as required by this Code.

- A. **Date of Action.** The decision-making body shall decide to approve, modify, revoke, or deny any discretionary permit or discretionary approval following the close of the public hearing, or if no public hearing is required, within the time period required by this Code. The date of action shall be the date of the hearing.
- B. **Notice of Action.** After the decision-making body takes any action to approve, modify, or deny an application that is subject to appeal under the terms of this Code, Notice of Action shall be sent to the Applicant. The Notice shall describe the action taken, including any applicable conditions, and shall list the findings that were the basis for the decision. The Notice shall be mailed within seven calendar days from the date of taking the action, to the Applicant at the address (including electronic addresses) stated in the application and to any other person or entity who has filed a written request of such notification.
- C. **Findings.** Findings, when required by Arizona law or this Code, shall be based upon consideration of the application, plans, testimony, reports, and other materials that constitute the administrative record and shall be stated in writing in the resolution by the decision-making authority. The findings shall be set forth in the Notice of Action that the City issues following an appealable decision by the decision-making body and in any resolution the City Council adopts following action.

502.11 Conditions of Approval

- A. **Authority.** The decision-making body may impose conditions on any approval. Such conditions shall be designed to implement the requirements of this Code, protect the public from potential adverse impacts from the proposed use or development, or to fulfill an identified need for public services. In addition to those conditions imposed by the decision-making body, the City may consider as a requirement or condition any plan, exhibit, statement, or other material provided by the applicant and on record with the decision.
- B. **Contract for Conditions.** When the approval requires a contract, conditions shall be set forth in a contract executed by the city and the applicant and approved as to form by legal counsel for the city. If a contract is required, no approval shall be effective until the conditions are recorded. As a condition of approval, the city may require that the contract or a memorandum thereof be filed in the County Deed Records and shall appear in the chain of the title of the subject property, if recording is required. In addition to any personal remedy, the condition shall constitute a burden running with the land in favor of the City and, unless otherwise provided, shall be removed only with the written authorization of the City Council. The contract shall be enforceable by and against the parties, their heirs, successors and assigns. The

contract, however, shall not restrict the authority of the City from taking actions affecting the property.

- C. **Time Limits on Conditions.** Conditions shall be fulfilled within the time limitations set forth or a reasonable time if no time limitations are specified. Failure to fulfill a condition within said time may result in initiation of revocation of the approval, citation or such other enforcement action as the City deems appropriate.
- D. **Failure to Fulfill Previous Conditions.** The decision-making body may withhold a requested approval if it determines that the current applicant has not fulfilled a previous condition or requirement from a previous approval, granted to the applicant, on the subject property, and withholding the permit would encourage compliance or is necessary to protect the public from future noncompliance.
- E. **Modification or Removal of Conditions.** Modification or removal of conditions of approval may be sought on appeal or as a new application. Such proposals shall be processed through the same procedure that was used to impose the conditions.

502.12 Effective Dates

A final decision on an application for any discretionary approval subject to appeal (e.g., a Use Permit, Variance, or Design Review Approval) shall become effective after the expiration of the appeal period following the date of action, unless an appeal is filed. No building permit or business license shall be issued until the day following the expiration of the appeal period.

- A. **Expiration.** The decision-making body may specify the time within which the proposed use must be undertaken and actively and continuously pursued. The decision-making body may impose upon the permit a term of such period of time as is found to be consistent with the purposes of the use and necessary to safeguard the public safety, health and welfare. If no time period is otherwise specified, any permit granted under this Code may be declared lapsed and of no further force and effect if it is not exercised or extended within two years of its issuance.
 - 1. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
 - 2. A permit for the construction of a building or structure is exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- B. **Extensions.** The Director may approve a one-year extension of any permit or approval granted under this Code upon receipt of a written application with the required fee within one year of the date of the approval. All other extensions shall require approval by the original decision-making body.

502.13 Modification

- A. **Minor Modifications of Approvals.** The Director may approve minor modifications to approved plans that are consistent with the original findings and conditions approved by the decision-making body that would not intensify any potentially detrimental effects of the project.
- B. **Changed Plan.** A request for changes in conditions of approval of a discretionary permit or a change in an approved site plan or building plan that would affect a condition of approval

shall be treated as a new application, except that such changes determined to be minor may be approved by the Director.

- C. **Major Modifications of Approvals.** Any modification that cannot be modified by the Director must be reviewed and approved by the original decision-making body and is subject to appeal.

502.14 Revocation of Permits

Any permit granted under this Code may be revoked if any of the conditions or terms of such permit are violated or if any law or code is violated in connection therewith. Notwithstanding this provision, no lawful residential use can lapse regardless of the length of time of the vacancy.

- A. **Initiation of Proceeding.** The original decision-making body on a permit may, by its own action or following a recommendation from the Director, initiate revocation proceedings.
- B. **Public Notice.** Notice of revocation of the permit must be provided if the original permit(s) required notice.
- C. **Public Hearing.** If the original permit(s) approval required a public hearing, that decision making body shall conduct a hearing to determine whether to revoke the permit. The hearing shall be conducted in the same manner.
- D. **Decision of Revocation.** A permit(s) may be revoked under any one of the following findings:
 1. The approval was obtained by means of fraud or misrepresentation of a material fact;
 2. The permittee or holder of the permit has failed to initiate construction or undertake the use in question within a two years period following the effective date of the permit or variance;
 3. The use in question has ceased to exist or has been suspended for one year or more;
 4. There is or has been a violation of or failure to observe the terms or conditions of the permit or variance, or the use has been conducted in violation of the provisions of this Code, law or regulation; or
 5. The use to which the permit or variance applies has been conducted in a manner detrimental to the public safety, health and welfare, or so as to be a nuisance.

502.15 Appeals

- A. **Purpose.** This Section provides procedures to be used whenever an applicant or person is aggrieved by a decision by a decision-making body.
- B. **Applicability.** A final decision on any discretionary permit is subject to appeal in accordance with this section. Table 502.15, Appeal Bodies and Time Limitations, summarizes the appeal timeline for each body issuing a discretionary permit.

TABLE 502.15: APPEAL BODIES AND TIME LIMITATIONS			
<i>Application or Action</i>	<i>Appeal Submittal Deadline</i>	<i>Decision-Making Body</i>	<i>Appeal Body</i>
Zoning Permit	10 working days	Zoning Administrator	Board of Adjustment
Minor Changes to an Approved Use Permit	10 working days	Zoning Administrator	Board of Adjustment
Minor Use Permit	10 working days	Hearing Officer	Board of Adjustment
Temporary Use Permit	10 working days	Hearing Officer	Board of Adjustment
Conditional Use Permit	20 working days	Planning & Zoning Commission	City Council
Development Review Permit	<i>Major:</i> 20 working days <i>Minor:</i> 10 working days	<i>Major:</i> Planning & Zoning Commission <i>Minor:</i> Zoning Administrator	<i>Major:</i> City Council <i>Minor:</i> Board of Adjustment
Changes to an Approved Development Review Permit	<i>Major:</i> 20 working days <i>Minor:</i> 10 working days	<i>Major:</i> Planning & Zoning Commission <i>Minor:</i> Zoning Administrator	<i>Major:</i> City Council <i>Minor:</i> Board of Adjustment
Waiver from Dimensional Standards	10 working days	Hearing Officer	Board of Adjustment
Variances	10 working days	Hearing Officer	Board of Adjustment
Permit Revocation	n/a	Original decision-making body	n/a
Heritage Area Development Permit	<i>Major:</i> 20 working days <i>Minor:</i> 10 working days	<i>Major:</i> Planning & Zoning Commission <i>Minor:</i> Planning Director	<i>Major:</i> City Council <i>Minor:</i> Planning & Zoning Commission
General Plan Text and Map Amendments	30 working days	City Council	Superior Court
Zoning Code and Map Amendments	30 working days	City Council	Superior Court
Planned Development Districts	30 working days	City Council	Superior Court

C. **Rights of Appeal.** Appeals may be filed by the applicant, by the owner of property, or by any other person aggrieved by a decision that is subject to appeal under the provisions of this Code.

D. **Procedures**

1. ***Proceedings Stayed by Appeal.*** The timely filing of an appeal may stay all proceedings in the matter appealed including, but not limited to, the issuance of demolition permits, building permits, and business licenses.

2. **Filing of Appeals.** All decisions of the Hearing Officer, Zoning Administrator, Board of Adjustment, and Planning & Zoning Commission may be appealed to the appropriate body as specified in Table 502.15 by filing a written appeal not later than 5:00 p.m. on the appeal due date. All appeals must be accompanied by payment of the required fee unless specifically waived.
 3. **Submittal Requirements and Criteria.** The appeal shall set forth, in concise language, the following:
 - a. Date of appeal;
 - b. Name of appellant and the individual representing appellant;
 - c. Address to which notices shall be sent;
 - d. Telephone number of representative;
 - e. Name of applicant, if different from appellant;
 - f. Action or decision being appealed and the date of such action or decision;
 - g. Address and description of real property involved; and
 - h. The specific grounds for appeal. The appeal shall be limited to the issue(s) raised in the petition.
 4. **Public Notice.** In addition to providing notice in the same manner required for the action that was the subject of the appeal, notice shall be provided to all persons who spoke on the matter at any prior hearings on the same matter. If such persons provided their names and addresses at the time they spoke at the prior hearing, and if the board, commission, or agency provides the names and addresses to the Development Services Department.
 5. **Action.** The appeal body shall review the appeal, the record, including the application, plans, related project materials that were the subject of the original decision, any additional materials as may be presented at the appeal hearing, and any written correspondence submitted after the appeal has been filed. The appeal body shall conduct a public hearing, after which it may affirm, reverse, or modify the previous decision.
- E. **Standards of Review.** When reviewing any decision on appeal, the same standards and criteria shall apply as were required for the original decision.
- F. **Failure to File an Appeal.** Failure to file an appeal with the appropriate appeal body by 5:00 p.m. on the due date, shall render such appeal invalid.

502.16 Interpretations and Determinations

- A. Requests for interpretations of this Code and verifications relating to prior approvals or permits may be made to the Zoning Administrator. Requests shall be in writing. The decision of the Zoning Administrator on such requests may be appealed.
- B. An applicant may request from the city clarification of a regulation pertaining to an application. A request must be in writing and include all information required by A.R.S. §9-839. The city may provide the requestor with an opportunity to meet and discuss the request.

In compliance with A.R.S. §9-839, the city shall provide a written response within 30 calendar days of receipt of the request.

Article 503 Zoning and Use Permits

503.01 Purpose

This Article describes the process and general requirements applicable to those uses for which a Zoning Permit, Minor Use Permit, Temporary Use Permit, or Conditional Use Permit is required. These uses require consideration to ensure that they can be designed, located, and operated in a manner that will not interfere with the use and enjoyment of surrounding properties. The process for review of Zoning and Use permit applications is designed to evaluate possible adverse impacts and to minimize them, where possible, through the imposition of specific conditions of approval.

503.02 Applicability

Approval of a Zoning or Use Permit is required for uses or developments specifically identified in 200 Series Base Zoning Districts, 300 Series Overlay Districts, and/or any other section of this Code that requires a Zoning or Use Permit.

503.03 Application Requirements

Applications and fees for Zoning Permits and Use Permits shall be submitted in accordance with the provisions set forth in Section 502.02, Application Forms and Fees. In addition to any other application requirements, the application for a Use Permit shall include data or other evidence in support of the applicable findings required below.

503.04 Zoning Permit

- A. **Applicability.** A Zoning Permit is required for all new and modified uses that are permitted in the use tables in this Code. A Zoning Permit is required for buildings or structures constructed, the use of vacant land, changes in the character of the use of land or building, or for substantial expansions in the use of land or building, which are allowed “as-of-right”, or “P” in this Code.
- B. **Determination.** The Zoning Administrator, shall determine whether the Zoning Code allows the proposed uses or structures as-of-right. A Zoning Permit shall be issued if the Zoning Administrator determines that the proposed use or building is permitted and conforms to all the applicable use standards. An approved Zoning Permit may include attachments of other written or graphic information, including but not limited to, statements, numeric data, site plans, floor plans and building elevations and sections, as a record of the proposal's conformity with the applicable regulations of this chapter.
 1. The Zoning Administrator may direct that a request be heard instead by the Planning & Zoning Commission based on a review which includes but is not limited to the following factors:
 - a. Previous decisions by the City regarding the site on which the proposed use is located;
 - b. The probable impact of the requested use on its immediate surroundings; or

- c. The consistency of the requested use with the projected land uses, policies and principles of the General Plan.
- C. **Exceptions.** No Zoning Permit shall be required for the continuation of previously approved or permitted uses and structures, uses and structures that are not subject to any building or zoning regulations, or other uses or buildings already subject to Minor Use Permits, Conditional Use Permits, Variances, or other discretionary approvals in the district in which they are located.
- D. **Conditions.** A Zoning Permit may have conditions of approval imposed.

503.05 Minor Use Permits

- A. **Applicability.** A Minor Use Permit is required for buildings or structures constructed, the use of vacant land, changes in the character of the use of land or building, or for substantial expansions in the use of land or building, which have been found not to be inherently detrimental to the use and enjoyment of land but require an additional level of review and have a higher threshold of approval in certain circumstances. They are identified as an “M” in this Code.
- B. **Determination.** A Minor Use Permit is granted upon the discretion of the Hearing Officer or their designee after it is determined that the proposed use or building conforms to all the applicable use standards. The burden of proof for satisfying the requirements for granting of a Minor Use Permit, as stated in this Code, rests with the applicant. The issuance of a Minor Use Permit may require that the existing development site be brought into substantial conformance with the terms of the City Code, including but not limited to: landscaping, screening, parking, and storm water retention.
 - 1. The Hearing Officer may direct that a request be heard instead by the Planning & Zoning Commission based on a review which includes but is not limited to the following factors:
 - a. Previous decisions by the city regarding the site on which the proposed use is located;
 - b. The probable impact of the requested use on its immediate surroundings; or
 - c. The consistency of the requested use with the projected land uses, policies and principles of the General Plan.
- C. **Conditions.** A Minor Use Permit may have conditions of approval imposed.

503.06 Conditional Use Permits

- A. **Applicability.** A Conditional Use Permit is required for buildings or structures constructed, the use of vacant land, changes in the character of the use of land or building, or for substantial expansions in the use of land or building, which may have an impact upon the general welfare and safety of the public. These uses require an additional level of review and have a higher threshold of approval to ensure that they are compatible with the adjacent land uses and comply with the goals and intent of the General Plan. They are identified as a “C” in this Code.
- B. **Public Hearing and Notice.** Conditional Use Permits shall be subject to a hearing by the Planning & Zoning Commission, who shall review the recommendation of the Hearing

Officer and approve, conditionally approve, or disapprove the application. The burden of proof for satisfying the requirements for granting of a Conditional Use Permit, as stated in this Code, rests with the applicant. The issuance of a Conditional Use Permit may require that the existing development site be brought into substantial conformance with the terms of the City Code. All notification requirements must be followed prior to the public hearing.

- C. **Additional Findings.** In addition to the findings listed below, the Planning & Zoning Commission, in approving a Conditional Use Permit, must find that the proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood and the community.
- D. **Conditions.** A Conditional Use Permit may have conditions of approval.

503.07 Required Findings

All Use Permits shall only be granted if the decision-making body determines that the project, as submitted or as modified, conforms to all of the following criteria, in addition to any criteria that may be required or associated with the specific request. If it is determined that it is not possible to make all of the required findings, taking into consideration all of the conditions of approval, the application shall be denied. The specific basis for denial shall be established for the record.

- A. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Code and all other titles of the Maricopa City Code;
- B. Approval of the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable plan and/or policies that the City has adopted;
- C. The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conform in all significant respects with the General Plan and with any other applicable plan or policies adopted by the City Council;
- D. The proposed project will not be injurious or detrimental to the property or improvements in the neighborhood or to the general welfare of the City, specifically:
 - 1. The proposed use will not emanate any nuisances arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
 - 2. The proposed use will provide adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public, where applicable; and
- E. Adequate public services and facilities and infrastructure are available to serve the proposed project.

503.08 Conditions of Approval

The decision-making body may impose reasonable conditions on a Zoning Permit, Minor Use Permits, or Conditional Use Permit that is related and proportionate to what is being requested by the application as deemed necessary or appropriate in order to ensure that the standards and requirements of this Code are met, including, but not limited to:

- A. Limit the hours, days, place and/or manner of operation;
- B. Require site or architectural design features that minimize impacts due to removal of vegetation, noise, vibration, exhaust/emissions, light, glare, erosion, water quality impacts, odor and/or dust;
- C. Require landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;
- D. Designate the size, number, location and/or design of vehicle access points or parking areas;
- E. Require additional setbacks and planting if deemed necessary;
- F. Limit the building height, size or lot coverage, and/or location on the site; and
- G. Any other conditions that are found to be necessary to ensure that the provisions of the General Plan and this Code are met.

503.09 Temporary Use Permits

This Section establishes a process for review and approval of certain uses that are intended to be of limited duration of time and will not permanently alter the character or physical facilities of the site where they occur.

- A. **Applicability.** Uses for which a Temporary Use Permit is required are established in Article 412, Standards for Specific Uses and Activities.
- B. **Permit Procedures.**
 - 1. **Application.** Any person may apply to the Director for approval of a temporary use not less than 45 days before the use is intended to begin accompanied by payment of the required fee.
 - 2. **Required Findings.** The Development Services Director may approve an application for a Temporary Use Permit to allow a temporary use for a period of time, only upon making all of the following findings:
 - a. The proposed use will not unreasonably affect or have a negative impact on adjacent properties, their owners and occupants, or the surrounding neighborhood, and will not in any other way constitute a nuisance or be detrimental to the health, safety peace, comfort, or general welfare of persons residing or working in the area of such use or to the general welfare of the City
 - b. The proposed use is consistent with a land use permitted by the present zoning district within which the site is located, or a land use considered permitted by a zoning district listed in the General Plan as being consistent with the General Plan land use designation of the site;
 - c. The proposed use will not unreasonably interfere with pedestrian or vehicular traffic or circulation in the area surrounding the proposed use, and will not create a demand for additional parking that cannot be safely and efficiently accommodated by existing parking areas; and

- d. Appropriate controls are in place that will ensure the premises will be kept clean, sanitary free of litter, and all circulation and parking surfaces will include a suitable dust-controlled surface.
- C. **Conditions of Approval.** In approving a Temporary Use Permit, the Director may impose reasonable conditions deemed necessary to achieve the findings for a Temporary Use Permit listed above, including but not limited to:
- a. Regulation of vehicular ingress and egress and traffic circulation;
 - b. Regulation of dust control surfaces; regulation of lighting;
 - c. Regulation of hours and other characteristics of operation;
 - d. Submission of final plans to ensure compliance with conditions of approval;
 - e. Requirement of bonds or other guarantees for cleanup or removal of structure or equipment; and
 - f. Such other conditions as the Development Services Director may deem necessary to carry out the intent and purpose of this article.
- D. **Posted Notice.** Notice of any approved Temporary Use Permit shall be posted on the subject property for a period of seven days from the date the decision is issued.
- E. **Effective Date.**
- 1. ***Permit Period 45 Days or Less.*** A Temporary Use Permit issued for 45 days or less shall become effective on the date the permit is approved by the Director.
 - 2. ***Permit Period More than 45 Days.*** A Temporary Use Permit for more than 45 days shall become effective seven days from the date the permit is approved by the Director.

503.10 Protected Uses

A request for any activity that is protected by the First Amendment shall be reviewed by the appropriate decision-making body upon determination of a complete application in a timely manner. Upon determination of a complete application, the item shall be scheduled at the next regularly-scheduled public hearing complying with legal notice requirements where applicable. No continuances or other delays in such processing may occur without the concurrence of the applicant for such permit, provided that there is sufficient time to complete any public notification requirement. If approved, the use shall be commenced within one year after the approval is granted.

503.11 Expiration and Extension; Modification; Revocation

- A. A Zoning Permit, Minor Use Permit, and Conditional Use Permits granted pursuant to this Article shall expire if it has not been exercised, or if a building permit has not been issued within one year of the official action, or within the time stipulated.
- B. A minor modification of a Zoning Permit, Minor Use Permit, Temporary Use Permit, and Conditional Use Permits granted pursuant to this Article may be approved under Section 502.12. Changed plans, including changes in conditions of approval of a variance shall be treated as a new application.

- C. A Zoning Permit, Minor Use Permit, Temporary Use Permit, and Conditional Use Permit granted pursuant to this Article may be suspended, revoked, or modified upon a finding that any condition, stipulation, or term of the approval of the permit has been violated.

503.12 Appeals

A Zoning Permit, Minor Use Permit, Temporary Use Permit, and Conditional Use Permits are subject to appeal in accordance with Section 502.15.

Article 504 Development Review Permit

504.01 Purpose

This Article establishes objectives, standards, and procedures for conducting and issuing Development Review Permits. These regulations shall be carried out in a manner that encourages creative and appropriate solutions while avoiding unnecessary delays in project approval. The specific purposes of Development Review are to:

- A. Promote excellence in site planning and design and the harmonious appearance of buildings and sites;
- B. Ensure that new and modified uses and development will be compatible with the existing and potential development of the surrounding area; and
- C. Supplement other City regulations and standards in order to ensure control of aspects of design that are not otherwise addressed.

504.02 Applicability

Development Review is required for uses or developments identified in 200 Series Base Zoning Districts, 300 Series Overlay Districts, and/or any other section of this Code that requires Development Review.

504.03 Application Requirements

Applications and fees for Development Review Permits shall be submitted in accordance with the provisions set forth in Section 502.02, Application Forms and Fees. In addition to any other application requirements, the application for a Development Review Permit shall include data or other evidence in support of the applicable findings required below.²

504.04 Minor Development Review Permit

- A. **Applicability.** A Minor Development Review Permit is required for all new and modified buildings or structures, or for expansions to a building or structure that results in 5,000 gross square feet or less or twenty percent of the existing building area, alter more than 10 percent of the surface area of the exterior portion of any façade, or as otherwise required in this Code.
- B. **Determination.** The Zoning Administrator shall conduct review of all Minor Development Permits and shall approve, conditionally approve, or deny applications based on criteria in this

² Note that application requirements are outlined in Section 502.02(B), whereby the Director specifies what materials must be submitted. We recommend not adding specific requirements into the Code itself, for any modifications or updates will require a legislative amendment. Detailed items such as 3-D drawings for projects over 10,000 square feet could be an item outlined in the application form.

Article. An approved Minor Development Review Permit may include attachments of other written or graphic information, including but not limited to, statements, numeric data, site plans, floor plans, elevations, sections, material samples, as a record of the proposal's conformity with the applicable regulations of this Code.

1. The Zoning Administrator may direct that a request be heard instead by the Planning & Zoning Commission based on a review which includes but is not limited to the following factors:
 - a. Previous decisions by the city regarding the site on which the proposal is located;
 - b. The probable impact of the requested use on its immediate surroundings; or
 - c. The consistency of the requested use with the projected land uses, policies and principles of the General Plan.

C. **Conditions.** A Major Development Review Permit may have conditions of approval imposed.

504.05 Major Development Review Permit

- A. **Applicability.** A Major Development Review Permit is required for all new and modified buildings or structures, or for alterations to a building or structure that results in over 5,000 gross square feet, façade alterations that encompass more than 10 percent of the surface area, or as otherwise required in this Code.
- B. **Public Hearing and Notice.** Major Development Review Permits shall be subject to a hearing by the Planning & Zoning Commission, who shall review the recommendation of the Zoning Administrator and approve, conditionally approve, or disapprove the application. The issuance of a Major Development Review Permit may require that the existing development site be brought into substantial conformance with the terms of this Code. All notification requirements must be followed prior to the public hearing.
- C. **Conditions.** A Major Development Review Permit may have conditions of approval imposed.

504.06 Scope of Development Review

Development Review shall be based on consideration of the requirements of this Article as they apply to the design of the site plan, structures, landscaping, and other physical features of a proposed project, including:

- A. Building proportions, massing, and architectural details;
- B. Site design, orientation, location, and architectural design of buildings relative to existing structures, outdoor areas, walkways, trails, and streets on or adjacent to the property; topography; and other physical features of the natural and built environment;
- C. Size, location, design, development, and arrangement of circulation, parking, pedestrian ways, and other paved areas;
- D. Exterior colors and materials as they relate to each other, to the overall appearance of the project, and to surrounding development;
- E. Height, materials, colors, and variety of fences, walls, and screen plantings;
- F. Location and screening of mechanical equipment and refuse storage areas;

- G. Location and design of exterior lighting features;
- H. Location and type of landscaping including selection and size of plant materials, design of hardscape, and irrigation; and
- I. Size, location, design, color, lighting, and materials of all signs.

504.07 Required Findings

When conducting Development Review, the decision-making body shall evaluate applications to ensure that they satisfy the following criteria, conform to the policies of the General Plan and any applicable specific or master plan, the regulations and standards in this Code, and are consistent with any other policies or guidelines the City Council may adopt for this purpose. To obtain Development Review approval, projects must satisfy these criteria to the extent they apply.

- A. The overall design of the project including its scale, massing, site plan, exterior design, and landscaping will enhance the appearance and features of the project site and surrounding natural and built environment.
- B. The project site plan is appropriate to the function of the project and will provide a suitable environment for occupants, visitors, and the general community.
- C. Project details, colors, materials, and landscaping, are internally consistent, fully integrated with one another, and used in a manner that is visually consistent with the proposed architectural design.
- D. The project is compatible with neighboring development by avoiding big differences in building scale and character between developments on adjoining lots in the same zoning district and providing a harmonious transition in scale and character between different districts.
- E. The project contributes to the creation of a visually interesting built environment that includes a variety of building styles and designs with well-articulated structures that present varied building facades, rooflines, and building heights within a unifying context that encourages increased pedestrian activity and promotes compatibility among neighboring land uses within the same or different districts.
- F. The streetscapes, including street trees, lighting, and pedestrian furniture, are consistent with the character of activity centers, commercial districts and nearby residential neighborhoods.
- G. Street frontages are attractive and interesting for pedestrians and provide for greater safety by allowing for surveillance of the street by people inside buildings and elsewhere.
- H. The proposed landscaping plan is suitable for the type of project and site conditions and will improve the appearance of the community by enhancing the building and site design; and the landscape plan incorporates plant materials that are drought-tolerant, will minimize water usage, and are compatible with Maricopa's climate.
- I. The project has been designed to be energy efficient including, but not limited to, building siting, and landscape design. For purposes of this criterion, buildings that meet LEED™ Silver or equivalent third-party certification are considered to be energy efficient and no higher standard shall be used.

- J. The design of the site and structures promotes pedestrian activity and maximizes the quality of life for occupants of the site and surrounding buildings by avoiding significant or unreasonable loss or interference with solar access, privacy, and light and minimizing wind exposure.

504.08 Conditions of Approval

The decision-making body may impose reasonable conditions on a Development Review Permit that is related and proportionate to what is being requested by the application as deemed necessary or appropriate in order to ensure that the standards and requirements of this Code are met, including, but not limited to:

- A. Modification of materials;
- B. Additional building setbacks;
- C. Additional landscaping;
- D. Height and area limitations of structures;
- E. Limited vehicular access;
- F. Walls, fences and screening devices;
- G. Noise attenuation construction;
- H. Any other restriction necessary to protect adjacent properties, preserve neighborhood character, or mitigate adverse environmental impacts; or
- I. Any other conditions that are found to be necessary to ensure that the provisions of the General Plan and this Code are met.

504.09 Expiration and Extension; Modification; Revocation

- A. A Development Review Permit granted pursuant to this Article shall expire if it has not been exercised, or if a building permit has not been issued within one year of the official action, or within the time stipulated.
- B. A minor modification of a Development Review Permit granted pursuant to this Article may be approved. Changed plans, including changes in conditions of approval of a variance shall be treated as a new application.
- C. A Development Review Permit granted pursuant to this Article may be suspended, revoked, or modified, upon a finding that any condition, stipulation, or term of the approval of the permit has been violated.

504.10 Appeals

A Development Review Permit is subject to appeal in accordance with Section 502.15.

Article 505 Variances

505.01 Purpose

This Article is intended to provide a mechanism for relief from certain quantitative provisions in this Code where the strict application will deprive the property owner of privileges enjoyed by similar properties because of the subject property's unique and special conditions.

505.02 Applicability

Variations may be granted with respect to dimensional and performance standards, but variations from the use regulations of this Code are not allowed. The Hearing Officer shall have power to grant such variations only to the extent necessary to overcome such practical difficulty or unnecessary hardship as may be established in accordance with the provisions of this Article. No Variance shall be granted, in whole or in part, that would have an effect substantially equivalent to a reclassification of property, alter any use, height, or bulk of a building or structure not expressly permitted by the provisions of this Code for the district or districts in which the property in question is located, grant a privilege for which a conditional use procedure is provided by this Code, or would change a definition in this Code. A Variance is not a vested right and is granted upon the discretion of the Hearing Officer. The burden of proof for satisfying the requirements for granting of a Variance, as stated in this Code, rests with the applicant.

505.03 Application Requirements.

Applications and fees for a Variance shall be submitted in accordance with the provisions set forth in Section 502.02, Application Forms and Fees. In addition to any other application requirements, the application for a Variance shall include data or other evidence showing that the requested Variance conforms to the required findings set forth below.

505.04 Public Hearing

Variations shall be subject to a hearing by the Hearing Officer who shall review the recommendation of the Zoning Administrator and approve, conditionally approve, or disapprove the application. The issuance of a Variance may require that the existing development site be brought into substantial conformance with the terms of this Code. All notification requirements must be followed prior to the public hearing.

505.05 Required Findings

Variance applications shall only be granted if the Hearing Officer or their designee determines that the project as submitted or as modified conforms to all of the following criteria, in addition to any criteria that may be required or associated with the specific request. If it is determined that it is not possible to make all of the required findings, the application shall be denied. The specific basis for denial shall be established for the record. The following findings must be met in order to grant a Variance:

- A. There are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other property or uses in the same class of district, and these circumstances or conditions are not self-imposed;
- B. That owing to such exceptional or extraordinary circumstances the literal enforcement of specified provisions of this Code would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property;
- C. Such variance is necessary for the preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district; and
- D. The granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

505.06 Use Variances Prohibited

A Variance shall not be granted to permit a use otherwise not permitted in the applicable zoning district.

505.07 Conditions of Approval

In approving a Variance, the Hearing Officer may impose reasonable conditions necessary to insure that the Variance shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the zoning district in which the subject property is located, including conditions to:

- A. Achieve the general purposes of this Code or the specific purposes of the zoning district in which the site is located;
- B. Protect the public health, safety, and general welfare;
- C. Ensure operation and maintenance of the use in a manner compatible with existing and potential uses in the surrounding area; and
- D. Any other conditions that are found to be necessary to ensure that the provisions of the General Plan and this Code are met.

505.08 Expiration and Extension; Modification; Revocation

- A. A Variance granted pursuant to this Article shall expire if it has not been exercised, or if a building permit has not been issued within one year of the official action, or within the time stipulated.
- B. The Hearing Officer may approve minor modifications that are consistent with the original findings and conditions approved and which would not intensify any potentially detrimental effects of the project. Changed plans, including changes in conditions of approval of a Variance shall be treated as a new application.
- C. A Variance may be suspended, revoked, or modified upon a finding that any condition, stipulation, or term of the approval of the permit has been violated.

505.09 Appeals

A Variance is subject to appeal in accordance with Section 502.15.

Article 506 Waivers

506.01 Purpose

The purpose of this Article is to establish an alternate means of granting relief from the requirements of this Code when so doing would be consistent with the purposes of the Code and will improve the quality of development, and it is not possible or practical to approve a Variance. Further to this end, it is the policy of the City to comply with the Federal Fair Housing Act and the Americans with Disabilities Act to provide reasonable accommodation to persons with disabilities seeking fair access to housing through waiver of the application of the City's zoning regulations. This article authorizes the Hearing Officer to grant administrative relief from the Code's dimensional requirements, subject to specified limits, to achieve these and other objectives.

506.02 Applicability

The Hearing Officer may grant relief from the dimensional requirements specified in this Code as provided below.

- A. **Reasonable Accommodation.** Waiver of the type of development standard and in the amount necessary to comply with the reasonable accommodation provisions of Federal law based on a determination that the specific circumstances of the application warrant such an accommodation.
- B. **Setbacks.** Up to 10 percent of the required front, side, and rear yard setback standards.
- C. **Build-to Areas.** Up to 10 percent of the standards for building façade location.
- D. **Fences.** Maximum height of fences and freestanding walls up to one foot over height allowed.
- E. **Lot Coverage.** Up to 10 percent of the maximum amount of lot coverage.
- F. **Height.** Maximum height of buildings and structures, up to 10 percent or three feet, whichever is less.
- G. **Landscaping.** Up to 10 percent of the required landscaping.
- H. **Transparency.** Required ground-floor building transparency, up to 10 percent of minimum.
- I. **Other Standards.** Up to 10 percent of other development standards not listed in subsection J below.
- J. **Exclusions.** Waivers cannot be granted for any of the following standards:
 - 1. Lot area, width, or depth;
 - 2. Maximum number of stories;
 - 3. Minimum number or dimensions of required parking spaces;
 - 4. Residential density; or
 - 5. Maximum floor area ratio (FAR).

506.03 Application Requirements.

An application for a Waiver shall be filed with the Hearing Officer in accordance with Section 502.02 Application Forms and Fees. The application shall state in writing the nature of the waiver requested and explain why the findings necessary to grant the waiver are satisfied. The applicant shall also submit plans delineating the requested waiver.

506.04 Procedures

- A. **Authority and Duties.** The Hearing Officer shall approve, conditionally approve, or deny applications for waivers based on the recommendation from the Zoning Administrator and with consideration of the requirements of this article.
- B. **Review of Requests for Reasonable Accommodation to Ensure Access to Housing.** An application for reasonable accommodation to ensure access to housing will be referred to the Hearing Officer for review and consideration. The Hearing Officer shall issue a written decision within 45 days of the date of the application and may grant the reasonable accommodation request, grant with waivers, or deny the request.

- C. **Concurrent Processing.** If a request for Waiver is being submitted in conjunction with an application for another approval, permit, or entitlement under this Code, it shall be heard and acted upon at the same time and in the same manner as that application.

506.05 Required Findings

A decision to grant a Waiver shall be based on the following findings:

- A. The waiver is necessary due to the physical characteristics of the property and the proposed use or structure or other circumstances, including, but not limited to, topography, noise exposure, irregular property boundaries, or other unusual circumstance;
- B. There are no alternatives to the requested waiver that could provide an equivalent level of benefit to the applicant with less potential detriment to surrounding owners and occupants or to the general public;
- C. The granting of the requested waiver will not be detrimental to the health or safety of the public or the occupants of the property or result in a change in land use or density that would be inconsistent with the requirements of this Code;
- D. In Residential Districts, the Hearing Officer must also make the following findings in addition to any other findings that this article requires:
1. There are exceptional or extraordinary circumstances related to the design of the existing International Building Code compliance or other code compliance that make it difficult or impossible to enlarge the house within the base requirements, and the addition is of superior design quality and compatible with the existing neighborhood character;
 2. The change is only intended to increase the habitability and function of the structure;
 3. Granting the waiver is desirable for the preservation of an existing architectural style or neighborhood character which would not otherwise be accomplished through the strict application of the provisions of the regulations; and
 4. It can be demonstrated that the design of the proposed addition is of superior quality; compatible with the existing neighborhood character, effective in minimizing the perceived size of the dwelling, not overly intrusive to the privacy of neighboring dwellings and is in substantial compliance with the Residential District regulations.
- E. If the Waiver requested is to provide reasonable accommodation pursuant to State or Federal law, the review authority must also make the following findings in addition to any other findings that this Article requires:
1. That the housing or other property which is the subject of the request for reasonable accommodation will be used by an individual or organization entitled to protection;
 2. If the request for accommodation is to provide fair access to housing, that the request for accommodation is necessary to make specific housing available to an individual protected under State or Federal law;
 3. That the conditions imposed, if any, are necessary to further a compelling public interest and represent the least restrictive means of furthering that interest; and

4. That denial of the requested waiver would impose a substantial burden on religious exercise or would conflict with any State or Federal statute requiring reasonable accommodation to provide access to housing.

506.06 Conditions of Approval

In approving a Waiver, the Hearing Officer may impose reasonable conditions necessary to insure that the Waiver shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located, including conditions to:

- A. Achieve the general purposes of this Code or the specific purposes of the zoning district in which the project is located;
- B. Achieve the findings for a waiver granted; or
- C. Any other conditions that are found to be necessary to ensure that the provisions of the General Plan and Planning Code are met.
- D. Waivers approved based on State or Federal requirements for reasonable accommodation may be conditioned to provide for rescission or automatic expiration based on a change of occupancy or other relevant change in circumstance.

506.07 Expiration and Extension; Modification; Revocation

- A. A Waiver granted pursuant to this Article shall expire if it has not been exercised, or if a building permit has not been issued within one year of the official action, or within the time stipulated.
- B. A minor modification of a Waiver granted pursuant to this Article may be approved. Changed plans, including changes in conditions of approval shall be treated as a new application.
- C. A Waiver granted pursuant to this Article may be suspended, revoked, or modified, upon a finding that any condition, stipulation, or term of the approval of the permit has been violated.

506.08 Appeals

A Waiver is subject to appeal in accordance with Section 502.15.

Article 507 Amendments to General Plan

507.01 Purpose and Applicability

This Article establishes procedures for making changes to the General Plan as provided for in Arizona law when there are compelling reasons to do so as a result of changes in conditions or circumstances unforeseen at the time of adoption or last amendment of the General Plan. These circumstances include, but are not limited to, changes in State or federal law and problems and opportunities that were unanticipated at the time of adoption or last amendment. This amendment process is not intended to relieve particular hardships nor to confer special privileges or rights upon any person, but only to make adjustments necessary in light of changed conditions or changes in public policy. In addition to the requirements of this article, all General Plan map and text amendments shall conform to the requirements of A.R.S. §§ 9-461.06 (Adoption and Amendment of General Plan) and 12-1131 (Just Compensation).

507.02 Initiation of Amendments

Application for amendment of the General Plan may be made by the City Council, Planning & Zoning Commission, or by a property owner. If a property owner wishes to initiate an amendment, an application shall be filed with the Development Services Department. The application shall be accompanied by payment of the required fee. The City shall determine whether the proposed amendment is a “major amendment” as established in the existing General Plan.

507.03 Public Notice and Review Procedures

- A. Public notice of hearings by the Planning & Zoning Commission and the City Council for General Plan amendments shall be given as specified in Article 502, Common Procedures, and such notice and hearings also shall conform to A.R.S. § 461.06.
- B. At least 60 days before the General Plan or an element or major amendment of a general plan is noticed pursuant to subsection A of this section, the proposed General Plan Map or Text Amendment shall be transmitted to the Planning & Zoning Commission and the City Council and the following:
 - 1. The Pinal County Planning Commission.
 - 2. Each county or municipality that is contiguous to the corporate limits of the city or its area of extraterritorial jurisdiction.
 - 3. The regional planning agency.
 - 4. The Arizona Commerce Authority or any other state agency that is subsequently designated as the general planning agency for the state.
 - 5. The Department of Water Resources for review and comment on the water resources element, if a water resources element is required.
 - 6. The appropriate School District.
 - 7. If the General Plan or an element or amendment of the General Plan is applicable to territory in the vicinity of a military airport or ancillary military facility as defined in A.R.S. § 28-8461, the military airport.
 - 8. If the General Plan or an element or major amendment of the General Plan is applicable to property in the high noise or accident potential zone of a military airport or ancillary military facility as defined in A.R.S. §28-8461, the Attorney General.
 - 9. If the General Plan or an element or major amendment of the General Plan is applicable or adjacent to property under the jurisdiction of any agencies outlined in Section 501.10 (Other Agencies), to the applicable representative.
 - 10. Any person or entity that requests in writing to receive a review copy of the proposal.

507.04 Public Hearing

All General Plan amendments shall be subject to public hearings by the Planning & Zoning Commission and the City Council prior to adoption.

507.05 Planning & Zoning Commission Action

- A. **Hearing.** The Planning & Zoning Commission shall conduct at least one public hearing in conformance with the provisions of Article 502, Common Procedures. Where an amendment has been determined to be a “major amendment”, the Planning & Zoning Commission shall conduct at least two public hearings.
- B. **Recommendation to Council.** Following the public hearing, the Planning & Zoning Commission shall make a written recommendation on the adoption or amendment of the General Plan or any Element thereof. The Director shall promptly transmit to the City Council the Planning & Zoning Commission’s written recommendation, together with any maps, charts, studies, or other materials, including any required environmental analysis.

507.06 City Council Action

- A. **Hearing.** The City Council shall conduct a public hearing in conformance with the provisions of Article 502, Common Procedures. Major amendments shall be presented at a single public hearing during the calendar year they are proposed to the City.
- B. **Action.** After the conclusion of the hearing, the City Council shall approve, modify, or disapprove the proposed amendment.
 - 1. The adoption or re-adoption of or a major amendment shall be approved by affirmative vote of at least two-thirds of the members of the City Council.
 - 2. If the motion to adopt or readopt a General Plan or an amendment to the General Plan fails to pass, the City Council may reconsider the motion, but any subsequent motion must be approved by an affirmative vote of at least two-thirds of the City Council.
- C. **Public Notification.** Following the Council action, the City shall make the documents amending the General Plan, including the diagrams and text, available for public inspection.

507.07 Findings Required

The Planning & Zoning Commission shall not recommend and the City Council shall not approve a Zoning Amendment unless the proposed amendment meets the following criteria:

- A. The amendment is consistent with the General Plan; and
- B. Any change in district boundaries is necessary to achieve the balance of land uses desired by the City, consistent with the General Plan, and to increase the inventory of land within a given zoning district.
- C. The amendment will promote the growth of the City in an orderly manner and protect the public health, safety, peace, comfort and general welfare.

Article 508 Amendments to Zoning Map and Text

508.01 Purpose and Applicability

Any amendment to this Zoning Code which changes any property from one zone to another, which imposes any regulation not previously imposed, or which removes or modifies any regulation previously imposed, shall be adopted in the manner set forth in this article. In addition to the

requirements of this article, amendments to the zoning map and text shall conform to the requirements of A.R.S. §§ 9-462.03 (Zoning Map Amendment Procedure) and 12-1131 (Just Compensation).

508.02 Initiation of Amendments

Application for amendment of the Zoning Map and this Code may be made by the City Council, Planning & Zoning Commission, or by a property owner. If a property owner wishes to initiate an amendment, an application shall be filed with the Development Services Department. The application shall be accompanied by payment of the required fee.

508.03 Public Notice and Review Procedures

Public notice of hearings by the Planning & Zoning Commission and the City Council for Zoning Map amendments or Zoning Code Text amendments shall be given as specified in Article 502, Common Procedures.

508.04 Public Hearing

All Zoning Map and Text amendments shall be subject to a minimum of one public hearing by the Planning & Zoning Commission and to one public hearing by the City Council prior to adoption.

508.05 Planning & Zoning Commission Action

- A. **Hearing.** The Planning & Zoning Commission shall conduct a public hearing in conformance with the provisions of Article 502, Common Procedures.
- B. **Recommendation to Council.** Following the public hearing, the Planning & Zoning Commission shall make a written recommendation on the adoption or amendment of the General Plan or any Element thereof. The Director shall promptly transmit to the City Council the Planning & Zoning Commission's written recommendation, together with any maps, charts, studies, or other materials, including any required environmental analysis.
- C. **Findings.** The Planning & Zoning Commission shall make the following findings in their recommendation to the City Council:
 1. The amendment is consistent with the General Plan.
 2. Any change in district boundaries is necessary to achieve the balance of land uses desired by the City, consistent with the General Plan, and to increase the inventory of land within a given zoning district.
 3. The amendment will promote the growth of the City in an orderly manner and protect the public health, safety, peace, comfort and general welfare.

508.06 City Council Action

- A. **Hearing.** The City Council shall conduct a public hearing in conformance with the provisions of Article 502, Common Procedures.
- B. **Protested Applications for Zoning Map Amendment Requiring Supermajority of City Council to Pass.** If the owners of 20 percent or more either of the area of lots included in a proposed Zoning Map amendment, or of those immediately adjacent in the rear or any side thereof extending 150 feet therefrom, or of those directly opposite thereto, extending 150 feet from the street frontage of the opposite lots, file a protest in writing against such an action, it

shall not become effective except by the favorable vote of three-fourths of all members of the City Council. Such written protests shall be filed in the office of the Director by no later than twelve o'clock noon the Monday of the week prior to the City Council meeting at which such amendment will be considered. If any members of the City Council are unable to vote on such a question because of a conflict of interest, then the required number of votes for passage of the question shall be three fourths of the remaining membership of the City Council, provided that such required number of votes shall in no event be less than a majority of the full membership of the City Council.

- C. **Action.** After the conclusion of the hearing, the City Council may approve, modify or disapprove the proposed Zoning Map or text amendment. The City Council may condition its approval of any Zoning Map Amendment. Such conditions may include, but are not limited to: conditions to assure implementation of the submitted plan in accordance with the General Plan, and other applicable policies and plans adopted by the City; conditions to achieve the purpose and intent of the requested zoning district; conditions to achieve reasonable compatibility with the proposed use and adjacent land uses, and additional or different approval processes as may be required by this Code.
- D. **Findings.** Prior to approval of the proposed amendments, the City Council shall make the following findings:
 - 1. The amendment(s) is consistent with the General Plan.
 - 2. Any change in district boundaries is necessary to achieve the balance of land uses desired by the City, consistent with the General Plan, and to increase the inventory of land within a given zoning district.
 - 3. The amendment will promote the growth of the City in an orderly manner and protect the public health, safety, peace, comfort and general welfare.
- E. **Public Notification.** Following the Council action, the City shall make the documents amending the Zoning Code and map, including the diagrams and text, available for public inspection.
- F. **Emergency Zoning Changes Prohibited.** A decision made by the Council involving rezoning of land which changes the zoning classification of such land may not be enacted as an emergency measure and such a change shall not be effective for at least 30 days after final approval of the change in classification by the Council.

Article 509 Planned Area Development

509.01 Purpose

This Article provides procedures for establishing a Planned Area Development (PAD) District to facilitate orderly development of larger sites in the City consistent with the General Plan, especially where a particular mix of uses or character is desired that can best be achieved through an integrated development plan.

509.02 Applicability

The procedures in this article shall apply to all proposals to establish a PAD District and to pre-existing PADs approved under the prior Code.

509.03 Procedures

- A. **Decision-Making Body.** A PAD District must be adopted by the City Council. A public hearing before the Planning & Zoning Commission is required prior to City Council review, and the Planning & Zoning Commission shall make a recommendation to the City Council.
- B. **Review Procedures.**
1. **Rezoning.** An application for rezoning to a PAD District shall be processed as an amendment to the Zoning Map and shall include a PAD Plan.
 2. **PAD Plan.** The PAD Plan may be accepted and processed concurrently in the same manner as a Conditional Use Permit application, although additional information is required to be submitted in order to determine that the intent of this Code and the General Plan will be fulfilled.
 3. **Preliminary Subdivision Plat.** A PAD may be submitted, processed, and reviewed prior to the submission of a preliminary subdivision application pursuant to Chapter 14 of the Municipal Code, but no permits may be issued unless and until a final plat has been approved and recorded with the Pinal County Recorder's Office.
- C. **Initiation.** An amendment to reclassify property to PAD shall be initiated by a property owner or authorized agent or a motion of the Planning & Zoning Commission or the City Council. If the property is not under a single ownership, all owners must join the application, and a map showing the extent of ownership shall be submitted with the application.
- D. **Application Content.** An application for a PAD, made on the prescribed form, shall be filed with the Director, accompanied by the required fee. Applications shall contain all of the following:
1. **Legal Description.** A legal description of the site and a statement of the number of acres, or square feet if less than one acre, contained therein.
 2. **Title Report.** A title report verifying the description and the ownership of the property.
 3. **Ownership Declaration.** A declaration as to whether the site is to remain under the same ownership and control or to be divided into small units during or after development and the manner and method of the division.
 4. **Project Narrative.** A generalized narrative describing the location of the site, its total acreage, and the existing character and use of the site and adjoining properties; the concept of the proposed development, including proposed uses and activities, proposed residential densities if appropriate, and physical land alteration required by the development; and the relation of the proposed PAD to the General Plan.
 5. **Development Schedule.** A development schedule, including anticipated timing for commencement and completion of each phase of development, tabulation of the total number of acres in each separate phase and percentage of such acreage to be devoted to particular uses, and an indication of the proposed number and type of dwelling units by phase of development, if applicable.
 6. **Maps and Diagrams.** Maps, diagrams, and other graphics necessary to establish the physical scale and character of the development and demonstrate the relationship

among its constituent land uses, buildings and structures, public facilities, and open space. These graphics shall at a minimum indicate:

- a. A map showing the perimeter boundaries of the project site, the perimeter of the ownership, the location and dimensions of any existing property lines and easements within the site, and all uses and structures within a 300-foot radius of the project area boundaries;
- b. Existing and proposed changes in the topography of the site, including the degree of land disturbance, the location of drainage channels or water courses, and the direction of drainage flow in one-foot contour intervals on areas of cross-slopes of less than five percent, at two-foot intervals on areas of cross-slopes of five to 10 percent, and at five-foot intervals on areas of cross-slopes exceeding 10 percent;
- c. Demonstration that development is in conformity with the Parks Trails Open Space Plan of the General Plan, including but not limited to circulation of proposed movement of vehicles, goods, and pedestrians within the district and to and from adjacent areas, streets and driveways, sidewalks and pedestrian ways, transit stops, and off-street parking and loading areas;
- d. A site plan indicating existing and proposed uses, location and dimension of buildings and structures, gross floor area of existing and proposed structures, identification of structures to be demolished or removed;
- e. Detailed engineering site plans, including proposed finished grades and all public improvements as well as estimates of grading volume (cut and fill), with accompanying grading sections or other technical drawings acceptable to the Director of Public Works;
- f. Detailed engineering plans for the provision of public utilities for the site, including provisions for off-site connections and facilities necessary to serve the site;
- g. A detailed tabulation of the proposed densities of dwelling units, bedroom count, building coverage, paving coverage, landscaped areas, parking dedication, and height of structures;
- h. Lighting for the building and adjacent parking and pedestrian travel areas;
- i. Utilization of buildings and structures, including activities and the number of living units;
- j. Reservation of land for community buildings for residents' use and a management office and land for public uses, including schools, parks, playgrounds, and other open spaces;
- k. Dimensioned building elevations showing proposed architectural concepts, color program and material samples; and
- l. A preliminary sign program, including the size and location of all proposed signs.

7. ***Open Space and Landscaping Plan.*** An existing and proposed open space and landscaping plan including landscape concept and type of plant materials, recreation area, parking, service and other public area used in common on the property and a description of intended improvements to and maintenance of the open area of the property.
8. ***Other Information.*** Any other information deemed necessary by the Director to ascertain if the project meets the required findings for a PAD Plan and re-zoning.

509.04 Planned Area Development Diversity Requirements

To achieve housing diversity in large PADs (over 500 lots), at least 10 percent of the lots shall be at least 20 percent larger (and greater setbacks/lot standards) than the median size lot in the PAD, and 10 percent of the lots/units shall be attached units or provide variation from conventional housing types, such as patio homes and cluster development. This latter requirement also can be met if 10 percent of the total number of lots are under 6,000 square feet in size and provide significant architectural detailing, side entry garages, zero lot line housing, or housing with alley access for garages..

509.05 Required Findings

A PAD Plan and re-zoning PAD District shall only be approved if all of the following findings are made:

- A. The proposed development is consistent with the General Plan and any applicable specific plan, including the density and intensity limitations that apply;
- B. The subject site is physically suitable for the type and intensity of the land use being proposed;
- C. Adequate transportation facilities and public services exist or will be provided in accord with the conditions of PAD plan approval, to serve the proposed development; and the approval of the proposed development will not result in a reduction of traffic levels of service or public services so as to be a detriment to public health, safety, or welfare;
- D. The proposed development will not have a substantial adverse effect on surrounding land uses and will be compatible with the existing and planned land use character of the surrounding area;
- E. The development generally complies with applicable adopted design guidelines; and
- F. The proposed development is demonstratively superior to the development that could occur under the standards applicable to the underlying base district, and will achieve superior community design, environmental preservation and/or substantial public benefit. In making this determination, the following factors shall be considered:
 1. Appropriateness of the use(s) at the proposed location.
 2. The mix of uses, housing types, and housing price levels.
 3. Provision of units affordable to persons and families of low and moderate income or to lower income households.
 4. Provision of infrastructure improvements.
 5. Provision of open space.
 6. Compatibility of uses within the development area.

7. Creativity in design and use of land.
8. Quality of design, and adequacy of light and air to the interior spaces of the buildings.
9. Overall contribution to the enhancement of neighborhood character and the environment of Maricopa in the long term.

509.06 Conditions

In approving a PAD Plan and re-zoning, the City Council may impose reasonable conditions deemed necessary to:

- A. Ensure that the proposal conforms in all significant respects with the General Plan and with any other applicable plans or policies that the City has adopted;
- B. Achieve the general purposes of this Code or the specific purpose of the zoning district in which the project is located;
- C. Achieve the findings listed above;
- D. Mitigate any potentially significant impacts identified as a result of environmental review; or
- E. Any other conditions that are found to be necessary to ensure that the provisions of the General Plan and this Code are met.

The City Council may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

509.07 Expiration and Renewal

- A. **Expiration.**
 1. **PAD Plan.** A PAD Plan shall be effective on the same date as the ordinance creating the PAD District for which it was approved and shall expire two years after the effective date unless actions specified in the conditions of approval have been taken, or a building permit has been issued and construction diligently pursued. An approved PAD Plan may specify a development staging program exceeding two years.
 2. **Preliminary Map.** Where a preliminary map has been approved in conjunction with a PAD Plan, the PAD Plan shall expire upon the expiration of the preliminary map.
 3. **Phased Development.** In the event that the applicant intends to develop the project in phases, and the City Council approves phased development, the PAD Plan shall remain in effect so long as not more than one year lapses between the end of one phase and the beginning of the next phase.
- B. **Renewal.** An approved PAD Plan that has not been exercised may be renewed for a two-year period approved by the City Council after a duly-noticed public hearing. Application for renewal shall be made in writing between 30 and 120 days prior to expiration of the original approval. The City Council may renew a PAD Plan if it finds the renewal consistent with the purposes of this article.

509.08 Amendments of Approved Plans

- A. **Changed Plans.** Amendments to a PAD District or PAD Plan may be requested by the applicant or its successors. Amendments to the approved Phasing PAD District or PAD Plan

shall be classified as major or minor amendments. Upon receipt of an amendment application, the Director shall determine if the proposed amendment constitutes a major or minor amendment.

B. **Major Amendments.** Any major amendment to the PAD shall be processed as a new application. An amendment will be deemed major if it involves one or more of the following changes:

1. A change in the boundary of the PAD District;
2. An increase or decrease in the number of dwelling units for the PAD District that is no more than 5 percent greater than the maximum or 5 percent less than the minimum stated in the PAD Plan;
3. An increase or decrease in the floor area for any non-residential land use that results in the floor area exceeding the minimum or maximum stated in the PAD Plan by 10 percent or more;
4. Alterations of maximum building heights or overall site coverage, or substantial changes in the external appearance or use of any building or structure;
5. Any significant or substantial rearrangements of such buildings or structure;
6. Any change in the overall residential units' density, ownership pattern, or significant lot dimensions;
7. Any alteration of landscaped areas, public access spaces, recreation areas, school sites, or other amenities;
8. Any change in phasing or timing; or
9. Any alteration to the utilities to be provided.
10. Any change in land use or density that is likely to negatively impact or burden circulation adjacent to the PAD District or the overall major street system, as determined by the City Engineer; or
11. Any other proposed change to the PAD Plan or the conditions of approval that substantively alters one or more of its components with potentially significant adverse environmental consequences, as determined by the Director.

C. **Minor Amendments.** Amendments not meeting one or more of the criteria listed in subsection B above shall be considered minor if they are consistent with the original findings and conditions of approval. Minor Amendments may be approved by the Director. The Director may, at his/her discretion, refer any request for an amendment to a to a PAD Plan that may generate substantial public interest to the Planning & Zoning Commission for a decision.

D. **Pre-Existing PAD Modifications.** Any PAD that was approved prior to the passage of this Code, may have the following minor modifications approved by the Director:

1. Changes in phasing, including the size and housing units in individual development units provided there is not a significant change in the overall development program that results in an increase in the number of units and/or non-residential floor area.

2. Changes in the location of a school site provided the appropriate school district approves such a change in location and there is no reduction in site size or classroom space to be provided.
3. Changes in the location and size of individual park sites provided the total park acres is not reduced and City standards for park service areas continue to be met with such changes.

509.09 Development Plan Review

Plans for a project in a PAD District shall be accepted for planning and building permits or subdivisions only if they are consistent with an approved PAD Plan and any conditions of approval. No project may be approved and no building permit issued unless the project, alteration or use is consistent with an approved PAD Plan.

509.10 Failure to Comply with Conditions

Failure to comply with any PAD permit condition or development schedule is a violation of this article and subject to Article 512, Enforcement. The Planning & Zoning Commission or City Council may initiate revocation proceedings under this Code, or suspend the applicant's permit until such time as the applicant conforms to the conditions thereof.

509.11 Revocation or Modification of Planned Development Permit

A PAD permit may be revoked or modified as provided by Section 502.14, Revocation.

Article 510 Reserved (for Development Agreements)

Article 511 Annexation Procedure

511.01 Purpose

This Article establishes uniform procedures for annexation and zoning of property not within the City limits.

511.02 Initiation of Annexations

Applications for requests for annexation shall be made in the office of the Planning & Zoning Division on a form provided and shall be accompanied by the required fee.

511.03 Procedures

A. Process.

1. Requests for annexation by any property owner not within the City limits shall be submitted to the Development Services Department.
2. Upon compliance with State statutes and City regulations such requests for annexation shall be forwarded to the City Council.
3. If the City Council accepts the request for annexation, official annexation petitions shall be prepared by staff to be circulated by the requesting property owners.

4. When all provisions of State annexation laws have been complied with, the City Council shall hold the required public hearings to consider an ordinance for annexation.
- B. **Zoning of Annexed Properties.** Areas under consideration for annexation may be zoned at the time of annexation or within six months after the annexation to City zoning districts comparable to, but not greater in intensity than, that permitted in the General Plan. In the event that City zoning is not established with annexation, the area shall be considered to be zoned as shown on the Official Zoning Map of Pinal County.
- C. **Construction and Building Permits.**
1. Pinal County Building or Use Permits validly issued pursuant to Pinal County requirements not more than 60 days prior to the effective date of annexation, shall be accepted by the City as valid permits for a period of 60 days after the effective date of annexation. If construction has not commenced on or before the 60th day after the effective date of annexation, a City building or use permit shall be required.
 2. For buildings under construction with a valid building or use permit issued by Pinal County prior to the effective date of an annexation code, a City building permit shall not be required, but the Building Inspector shall require that buildings constructed under such Pinal County building or use permit shall be structurally safe and shall conform to pertinent Pinal County zoning regulations in effect at the time the County permit was issued.

511.04 Existing Uses and Structures

- A. Any use or activity conducted contrary to Pinal County zoning regulations at the effective date of annexation and not constituting a legal non-conforming use under the Pinal County zoning regulations shall not be considered a legal non-conforming use by the City.
- B. Any use, activity or structure that is existing at the effective date of annexation, under a Pinal County use permit with a time limit imposed, may continue for the extent of the time limit. Any extension of this time limit requires City approval of a Zoning Permit or Use Permit pursuant to Article 503. The type of permit required shall be determined according to the regulations for the City zoning district where the use is located.
- C. Any lot or parcel of land legally subdivided and duly recorded in the Pinal County Recorder's Office prior to the effective date of this Code and having an area, width, depth, or street frontage less than that required in the Zoning District regulations in which such lot or parcel is situated, shall be deemed to be a lot and may be used as a building site, provided that all other regulations for the Zoning District shall apply.
- D. Building setbacks established by Pinal County overlay zoning or a use permit for residential developments including manufactured home parks and subdivisions, shall be enforced. Residential developments without county overlay zoning or special use permit shall have setbacks as specified in this Zoning Code.

Article 512 Enforcement

512.01 Purpose

This Article establishes the responsibilities of various departments, officials and public employees of the City to enforce the requirements of this article and sets forth the procedures the City will use to identify, abate, remove, and enjoin those uses, structures, or buildings that are deemed to be in violation of this Code. Nothing in this Article shall remove the enforcement powers and duties of any other agency as outlined in the Municipal Code.

512.02 Enforcement Responsibilities

All departments, officials, and public employees of the City, vested with the duty or authority to issue permits or licenses, shall conform to the provisions of this article, and shall issue no permit or license for uses, buildings, or purposes in conflict with the provisions of this article; and any such permit or license issued in conflict with the provisions of this article shall be null and void. All officers not specified in this Section shall enforce the provisions of this Code related to their areas of responsibilities, when necessary. The following officials, departments, and employees have specific responsibilities as follows:

- A. **Zoning Administrator.** The Zoning Administrator or their designee shall enforce all provisions of this article related to issuance of discretionary permits and shall have responsibility for ordering the correction of violations and initiating the revocation of discretionary permits pursuant to Section 502.14, Revocation, and the abatement of nuisances as defined in this Article.
- B. **Building Official.** Prior to issuance of building permits, the Building Official shall ascertain that plans presented with the building permit application conform to those approved subject to the requirements of this Article.
- C. **Code Enforcement Officer.** The Code Enforcement Officer shall enforce all provisions of this article pertaining to the use, erection, construction, reconstruction, relocation, conversion, alteration, or addition to any building or structure and condition of approval of use permits, variances, nuisance abatements, or other discretionary approvals. The Code Enforcement Officer is hereby authorized to cause to be stopped any work or use undertaken without or contrary to approval granted pursuant to this article or in violation of any of its other provisions.
- D. **City Attorney.** The City Attorney may, at their discretion or upon order of the Council, immediately commence action or proceedings for the abatement and removal and enjoinder of violations in the manner provided by law, and may take such other steps and may apply to such courts as may have jurisdiction to grant such relief as will abate and remove such use, or building or structure, and may seek to restrain and enjoin any person, firm or corporation from such use of any property, building or structure, or from setting up, erecting, building, maintaining or demolishing any such building or structure contrary to the provisions of this Article.

512.03 Nuisance Defined

- A. **Structure or Use.** Any building or structure erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this Code, and any use of any land, buildings or premises established, conducted, operated or maintained contrary to the

provisions of this Code, shall be, and the same hereby declared, to be unlawful and a public nuisance.

- B. **Violation of Permit.** Any use established through the issuance of a discretionary permit (i.e. conditional use permit, variance, preliminary parcel map, preliminary tract map, etc.) which is not constructed, operated and/or maintained in compliance with the provisions of this Code and the conditions of approval of said permit shall be, and the same hereby declared, to be unlawful and a public nuisance.
- C. **Other Nuisances.** Any use, event, structure or building, whether non-conforming or otherwise, that meets any of the following criteria shall be deemed a public nuisance subject to abatement as set forth herein: excessive littering; excessive noise (particularly between the hours of 11:00 p.m. and 7:00 a.m.); noxious smells or fumes; or violation of any provision of this article or any other City, State, or federal regulation, code, or statute.

512.04 Penalties

Any person, firm or corporation, whether as principal, owner, agent, tenant, employee or otherwise, who violates any provisions of this Code shall be subject to a civil penalty. *(Existing City Code penalty provision to be added if one has been adapted)*. Each day of a continuing violation is a separate violation for the purpose of imposing a separate penalty. The civil penalty for violations of this Code shall be established by separate resolution of the City Council. Enterprise shall be defined pursuant to A.R.S. §13-105. An alleged violator shall be entitled to an administrative hearing on his liability, and a review by the City Council as provided in A.R.S. §11-808. Pursuant to that statutory section, the City Council shall adopt written rules of procedure for such hearings and reviews.

512.05 Remedies

An alleged violator who is served with notice of violation subject to a civil penalty shall not be subject to a criminal prosecution for the same factual situation. However, all other remedies provided for herein shall be cumulative and not exclusive. The conviction and punishment of any person hereunder shall not relieve such person from the responsibility to correct prohibited conditions or to remove prohibited buildings, structures, or improvements nor prevent the enforcement, correction or removal thereof. In addition to the other remedies provided in this Article, the City Council, the City Attorney, or any adjacent or neighboring property owner who shall be especially damaged by the violation of any provision of this Code, may institute, in addition to the other remedies provided by law, injunction, mandamus, abatement or any other appropriate action, proceeding or proceedings to prevent or abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

512.06 Nuisance Abatement

- A. **Notice and Order and Opportunity to Cure.** Following identification of any uses, structures, or buildings that are deemed to be in violation of this Code, or any nuisance as defined in this article, the Code Enforcement Officer shall issue a Notice of Order to the property owner and occupant of the subject property. The notice shall specify the exact violation or nuisance that has been identified, a date by which the nuisance must be corrected, provisions regarding re-inspection and any fees that may apply, and the name and contact information of the Code Enforcement Officer or designee. Prior to initiation of nuisance abatement, the property owner shall have the opportunity to cure the violation within the specified time period. The Code Enforcement Officer may authorize additional re-inspections

if there is substantial progress in curing the violation, and all re-inspection fees are paid as required by the adopted City fee schedule.

- B. **Initiation of Nuisance Abatement.** Proceedings under this section to terminate, modify or condition any use, structure or building may be initiated by resolution of the City Council on its own accord or following recommendation by the Zoning Administrator. In either case, the resolution shall identify the use, building, or structure being considered, identify the property involved, set forth the reason or reasons for the proposed abatement, and fix a time and place for a public hearing on the proposed abatement. A resolution initiating abatement proceedings may be adopted without a public hearing.
- C. **Notice of Public Hearing.** Upon initiation of abatement proceedings, the City Clerk shall give notice to the violator of his right to a public hearing before the Council pursuant to the provisions in Article 502, Common Procedures. In addition, within the prescribed time period, the City Clerk shall also mail the notice of the right to hearing to the person or persons whose use, structure or building is the subject of the abatement proceedings, any person who requested initiation of abatement proceedings, and to any other person who has filed a written request with the Development Services Department for such notice.
- D. **Public Hearing.** The City Council shall conduct a public hearing in the manner prescribed in Article 502, Common Procedures and shall provide for testimony by City staff and the owner of the use, structure, or property that is the subject of the proceeding. Any other interested person shall also be given an opportunity to provide testimony.
- E. **Action.** The City Council shall consider the staff report and the evidence, testimony, and facts presented at the hearing before taking action. If the Council finds that the use, building, or structure constitutes a nuisance, it may impose any remedy as provided for in this article.
- F. **Decision and Notice.** The decision of the City Council shall be final. The City Clerk shall issue a Notice of Action describing the Council's action, with its findings. The City Council shall mail the notice to the permit holder and to any person who has requested such notification by filing a written request with the City Clerk.
- G. **Effective Date.** A decision to abate a nuisance shall become effective immediately after the date of decision.

512.07 Recording a Notice and Order

- A. If compliance is not had with an order of the Code Enforcement Officer or their designee, to correct violations of this Code within the time specified in the Notice and Order, the Director may file with the County Recorder a certified statement describing the property and certifying that:
 - 1. The property and/or structure is in violation of this article; and
 - 2. The owner has been so notified.
- B. The notice shall specifically describe the violations and a proof of service shall also be recorded with the Notice and Order.
- C. Whenever the corrections ordered shall thereafter have been completed, the Code Enforcement Officer shall file a new certified statement with the County Recorder certifying

that all required corrections have been made so that the property and/or structure is no longer in violation of this Code.

Definitions Related to Administration

Article. An article set out in this Code, unless another ordinance or statute is mentioned.

Block. Property bounded on all sides by a public right-of-way.

Board of Adjustment. The Board of Adjustment of the City of Maricopa.

Building Site. A lot or parcel of land occupied or to be occupied, by a main building and accessory buildings together with such open spaces as are required by the terms of this title and having its principal frontage on a street, road, highway, or waterway.

Changed Plans. Any changes in physical design, site layout, lot sizes and patterns, building footprints, elevations or siting, drainage, utilities, or roadway locations on a development plan constitute a changed plan. Changes in architectural materials and finishes, lighting fixtures, or a planting palette are not considered plan changes.

City. The City of Maricopa.

City Council. The City Council of the City of Maricopa.

County. Pinal County.

Construction. Construction, erection, enlargement, alteration, conversion or movement of any building, structures, or land together with any scientific surveys associated therewith.

Development. Any manmade change to improved or unimproved real estate, including but not limited to the division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill or land disturbance; and any use or extension of the use of land.

Development Agreement. An agreement between the City and any person having a legal or equitable interest in real property for the development of such property and which complies with the applicable provisions of Arizona Revised Statutes for such development agreements.

Director. The Development Services Department Director of the City of Maricopa or his/her designee.

Disabled Person means a person who: (1) has a physical or mental impairment which substantially limits one (1) or more of such person's major life activities; (2) has a record of having such an impairment; or (3) is regarded as having such an impairment. However, "disabled" shall not include current illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substance Act [21 United States Code 802]).

Effective Date. The date on which a permit or other approval becomes enforceable or otherwise takes effect, rather than the date it was signed or circulated.

General Plan. The City of Maricopa General Plan.

Hearing Officer. The Hearing Officer of the City of Maricopa, or his or her designee.

Owner. A person or persons holding single or unified beneficial title to the property, including but not limited to the settlor of a grantor trust, a general partner, firm or corporation.

Permit. Any Zoning Use Permit, Minor Use Permit, Conditional Use Permit, Temporary Use Permit, Development Review Permit, Building Permit, license, certificate, approval, or other entitlement for development and/or use of property as required by any public agency.

Permitted Use. Any use or structure that is allowed in a zoning district and subject to any restrictions applicable to that zoning district.

Planning & Zoning Commission. The Planning & Zoning Commission of the City of Maricopa.

Pre-existing. In existence prior to the effective date of this Revised Code.

Principal Use. A use that fulfills a primary or predominant function of an establishment, institution, household, or other entity and occupies at least 70 percent of the gross floor area.

Project. Any proposal for a new or changed use or for new construction, alteration, or enlargement of any structure, that is subject to the provisions of this ordinance.

Qualified Applicant. The property owner, the owner's agent, or any person, corporation, partnership or other legal entity that has a legal or equitable title to land that is the subject of a development proposal or is the holder of an option or contract to purchase such land or otherwise has an enforceable proprietary interest in such land.

Reasonable Accommodation. Any deviation requested and/or granted from the strict application of the city's zoning and land use laws, rules, policies, practices and/or procedures

Review Authority. Body responsible for making decisions on zoning and related applications.

Use Permit. A discretionary permit, such as a minor use or conditional use permit, which may be granted by the appropriate City of Maricopa authority to provide for the accommodation of land uses with special site or design requirements, operating characteristics, or potential adverse effects on surroundings, which are not permitted as of right but which may be approved upon completion of a review process and, where necessary, the imposition of special conditions of approval by the permit granting authority.

Variance. A discretionary grant of permission to depart from the specific requirements of this Code that is warranted when, due to special circumstances regarding the physical characteristics of the property, the strict application of standards would deprive the property of privileges available to other property in the same zoning classification.

Zoning Administrator. The Zoning Administrator of the City of Maricopa, or his or her designee.

Zoning District. A specifically delineated area or district in the city within which regulations and requirements uniformly govern the use, placement, spacing, and size of land and buildings.

Zone or Zoning District means a specifically delineated geographic area in the city within which regulations and requirements uniformly govern the use, placement, spacing, and size of land and buildings.

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