



CITY OF BUCKEYE
PLANNING AND ZONING COMMISSION
REGULAR MEETING AGENDA
October 27, 2015

NOTICE OF POSSIBLE QUORUM OF THE BUCKEYE CITY COUNCIL

In accordance with Title 38, Chapter 3, Article 3.1, Arizona Revised Statutes, a majority of the City Council may attend the regular meeting of the Buckeye Planning and Zoning Commission but there will be no voting taking place by the City Council. Council members may participate in the discussion of any item on the agenda.

Accessibility for all persons with disabilities will be provided upon request. Please telephone your accommodation request to (623)349-6911, 72 hours in advance if you need a sign language interpreter or alternate materials for a visual or hearing impairment. [TDD (623)234-9507]

City of Buckeye
Council Chambers
530 East Monroe Avenue
Buckeye, AZ 85326

Workshop: None
Regular Meeting: 6:00 pm

Order of Items

1. The Chair will call the item number and read the notice of hearing.
2. A staff member of the Development services Department will summarize the case.
3. The applicant or representative may speak in support of the application.
4. Other persons in favor of the application may be heard.
5. Those opposed to the application may be heard.
6. The applicant may be heard in rebuttal.
7. All questions must be addressed to the Chair in order to present general discussion between those in favor of the application and those opposed to it.

At Large	District 1	District 2	District 3	District 4	District 5	District 6
Jim Zwerg	Jeffrey Nagy	Preston Hundley	Carol Kempiak <i>Chairperson</i>	Clayton Bedoya	Reverend Gregory Clemmons	Nick Hudec <i>Vice Chairperson</i>
Thomas Marcinko <i>(Alternate)</i>	Jesse Knight <i>(Alternate)</i>	Vacant <i>(Alternate)</i>	Deanna Kupcik <i>(Alternate)</i>	Vacant <i>(Alternate)</i>	Bill Elliott <i>(Alternate)</i>	Duane Mitry <i>(Alternate)</i>

Council Liaison: Councilmember Craig Heustis

1.	CALL TO ORDER/PLEDGE OF ALLEGIANCE/ROLL CALL
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2.	APPROVAL OF MINUTES FROM OCTOBER 13, 2015 PLANNING AND ZONING COMMISSION REGULAR MEETING	Action required: <i>Motion</i>
3.	CONSENT AGENDA <i>No Items</i>	
4.	CONTINUANCE AGENDA <i>No Items</i>	
5.	REGULAR AGENDA	
5A.	Subject: Engineering Update Summary: Requested Engineering update regarding Lower Buckeye Road Improvements Presented by: Scott Zipprich, City Engineer	Action required: <i>Discussion only</i>
5B.	Subject: Economic Development Update Summary: Requested Economic Development Update regarding recent and upcoming economic development activities Presented by: Len Becker, Economic Development Director	Action required: <i>Discussion only</i>
5C.	Subject: Development Code Amendment to Amend Article 6 and 8 related to Subdivision Regulations and Review Process (PLZ-15-00060) Applicant: City of Buckeye Recommendation: Approve Presented by: Ed Boik, AICP, Senior Planner	Action required: <i>Public Hearing, Discussion and motion</i>
6.	COMMENTS FROM THE PUBLIC Alternates and members of the audience may comment on non-agenda items. However, State Open Meetings Law does not permit the Commission to discuss items not specifically on the agenda.	Action required: <i>None</i>
7.	REPORT FROM STAFF	Action required: <i>None</i>
8.	COMMENTS FROM THE PLANNING AND ZONING COMMISSION	
9.	ADJOURNMENT	Action required: <i>Motion</i>



CITY OF BUCKEYE
PLANNING AND ZONING COMMISSION
REGULAR MEETING MINUTES
OCTOBER 13, 2015

Sun City Festival
Sage Center
26501 W. Desert Vista Blvd.
Buckeye, AZ 85326

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE/ROLL CALL

Chairperson Carol Kempiak called the meeting to order at 6:00 p.m.

Members present: Commissioner James Zwerg, Commissioner Jeffrey Nagy, Alternate Thomas Marcinko seated for District 2, Chairperson Carol Kempiak, Commissioner Clayton Bedoya, Commissioner Gregory Clemmons, Vice Chairperson Nick Hudec, Alternate Deanna Kupcik

Members absent: Commissioner Preston Hundley, Alternate Jesse Knight, Alternate Bill Elliott, Alternate Duane Mitry

Staff present: Planning Manager Terri Hogan, Senior Planner Adam Copeland, Senior Planner Ed Boik, Administrative Assistant Keri Hernandez, City Attorney Chris Schmaltz

2. APPROVAL OF MINUTES FROM SEPTEMBER 22, 2015 PLANNING AND ZONING COMMISSION REGULAR MEETING

A motion was made by Vice Chairperson Hudec and seconded by Commissioner Bedoya to approve the minutes of the September 22, 2015 Planning and Zoning Commission Regular Meeting as presented. Motion carried.

3. CONSENT AGENDA

No items

4. CONTINUANCE AGENDA

No items

5. REGULAR AGENDA

5A. TRILLIUM (PLZ-15-00072)

Senior Planner Ed Boik presented and was available to answer questions from the Commission.

Mr. Marcinko

A public hearing was opened at 6:11pm.

Steven Rugh spoke of his concerns regarding the wildlife corridors.

With there being no further comments from the public, the public hearing was closed 6:14pm.

Mr. Marcinko spoke of his concerns with the different options of road improvements and connections.

5B. SUN VALLEY VILLAGES 1 & 2 (PLZ-15-00077)

Senior Planner Adam Copeland presented and was available to answer questions from the Commission. A public hearing was opened at 6:17pm. There being no comments from the public, the public hearing was closed at 6:17pm.

5C. PARKS AND RECREATION MASTER PLAN (PLZ-15-00112)

Senior Planner Ed Boik presented on behalf of Robert Wisener and was available to answer questions from the Commission. Mr. Schmaltz stated that as a policy statement, an alternate language was suggested where the terminology 'prohibited' is used in policy 9.3.2. A public hearing was opened at 6:22pm. There being no comments from the public, the public hearing was closed at 6:22pm.

6. COMMENTS FROM THE PUBLIC

City Attorney Chris Schmaltz announced his resignation from Gust Rosenfeld.

7. REPORT FROM STAFF

Planning Manager Terri Hogan updated the Commission on previously approved projects by Council, and that a consultant had been chosen for the General Plan Update.

8. COMMENTS FROM THE PLANNING AND ZONING COMMISSION

Mr. Zwerg announced his resignation from the Planning and Zoning Commission effective November 1, 2015. Mr. Marcinko commented on the extension of Lower Buckeye Road. Mr. Hudec thanked Commissioner Jim Zwerg and City Attorney Chris Schmaltz for their service with the City of Buckeye.

9. ADJOURNMENT

A motion was made by Commissioner Bedoya and seconded by Commissioner Clemmons to adjourn at 6:28pm. Motion carried.

Carol Kempiak, Chairperson

ATTEST:

Keri Hernandez, Administrative Assistant

I hereby certify that the foregoing is a true and correct copy of the Planning and Zoning Commission Regular Meeting held on the 22ND day of September, 2015. I further certify that a quorum was present.

Keri Hernandez, Administrative Assistant



DEVELOPMENT CODE AMENDMENT

Report to the Planning and Zoning Commission

CASE NUMBER: DCA15-01 (PLZ-15-00060)
TITLE: Subdivision Regulations and Review Process Amendment
MEETING DATE: October 27, 2015
AGENDA ITEM: 5C

Applicant: City of Buckeye
Request: An Amendment to Article 6 & Article 8 to amend subdivision regulations and review process.
Location: Citywide
Public input: Numerous stakeholders have provided comment. While there is general support for the amendment, one letter of concern has been received. Rather than a commission review process, the letter recommends an administrative review process for master planned communities with adopted Community Master Plans (CMPs)
Recommendation: Approval

UPDATE

1. At the September 22, 2015 Planning Commission meeting, the Commission continued action on the subject item to the October 27, 2015 meeting. During this time, staff met with the development community and city staff to refine the proposed amendments. The remainder of the staff report has been updated in accordance with the refined amendments.
2. Staff hosted a Developer Partner Stakeholder meeting on October 13, 2015 to solicit comment regarding the proposed amendment. Staff explained the scope of the amendment and received valuable feedback. Many comments were related to engineering design standards, approval criteria and warranty periods and will not be incorporated into this amendment. These comments have been retained and will be

reviewed and incorporated in a separate amendment at a later time. At the conclusion of the meeting, there was general support for the amendment.

3. Exhibit C is the proposed amendment to Article 6 and 8. It has been revised since the September 22, 2015 meeting. Edits are in red. New language is underlined and removed language is struck-thru. Editing comments were included for your information.

BACKGROUND

4. At the April 28, 2015 Planning Commission meeting, the Commission initiated and amendment and directed staff to pursue subdivision review standards which streamlines process in a similar fashion to the recently adopted site plan review process. Further discussion with the Commission took place on July 28, 2015 to update the Commission on the status of stakeholder outreach.
5. The Developer Stakeholder group has repeatedly indicated support for the amendments as they streamline process and make Buckeye consistent and competitive with other valley communities.

PROJECT DESCRIPTION

6. Subdivisions are defined by State statute. The statute also prescribes numerous requirements which ensure planned and reasonable divisions of land, adequate or assured water supplies, and public infrastructure requirements.
7. Statute gives the local legislative body the authority to develop process and standards which implement the goals of the local general plan, development code and the statute.
8. The proposed subdivision code is a wholesale change to the Buckeye subdivision review process. The proposed code is compliant with statute, provides for streamlined review, and establishes process for all the types of land division which may occur in Buckeye.
9. Additionally, staff has incorporated a number of housekeeping amendments to correct omissions, references (Community Development Department/Development Services), improve overall notification process and a number of other subdivision and process related regulations.

SUMMARY:

Article 6

10. Article 6 defines the standards which apply to land division within the City. The article ensures that development is consistent with adopted plans, regulations, statute, and

standards. The section defines terms, such as subdivision, land split, and minor subdivision.

11. The article defines principles for street design, block lengths, lot arrangements, hydrants, bridges, lighting and other public infrastructure. The article also defines infrastructure parameters for design, construction and assurances.
12. Proposed changes include:
 - Redefine Minor Subdivision as a subdivision of 10 or fewer lots. This allows commercial subdivisions and small residential subdivisions to submit final plats without first developing a preliminary plat.
 - Define Map of Dedication, which is a common platting procedure involving right-of-way.
 - Expand on the types of documents which guide subdivision development to include transportation plans, parks plans, and other planning documents that are not incorporated into the General Plan or part of the Development Code.
 - Allow “other financial guarantee as determined by the City” to adapt to potential types of infrastructure financial assurances not specifically identified by code.
 - Eliminate language related to Public Utility Easements (PUEs) which are more thoroughly addressed by Engineering Design Standards.
 - Minor changes to street intersection offsets and block lengths, including additional clarification on conditions which would allow for longer block lengths.
 - General housekeeping throughout the article to maintain consistency with state statute and correct references, punctuation and spelling.

Article 8

13. Article 8 defines review process for virtually all functions of land use related applications in the City. The article defines common review procedures which apply to all cases and further refines review process for individual case types. The article directs methods of notification and public outreach, procedures for public hearings, and criteria to be used for rendering decisions.

14. Proposed changes include:

- Update of Table 8.1-1 and Table 8.2-1 to reflect process changes.
- Refine notification requirements with respect to published notice (up to 45 days prior to the hearing), posted notice (two signs required) and neighborhood meetings. Changes will reduce costs while maintaining effective public outreach.
- Revise process for minor subdivision process. A minor subdivision can be approved administratively if it does not include right-of-way dedications. If it includes right-of-way dedications, the City Council makes the final decision.
- For all preliminary plats: Preliminary plats are reviewed and decided by the Planning Commission. Approvals are effective for two years, unless otherwise stipulated. Phased preliminary plats can have “rolling expiration dates” where additional effective time is given if the project is final platted and constructed on a regular basis. One 12 month extension may be granted administratively exclusive of the previously stated standards.
- Preliminary plat notification requirements are identical to the site plan process and utilize “Notice of Application” to gather public comment early in the review process. The items are scheduled for public meeting, not public hearing. Neighborhood meetings are discretionary and can be required by the Director if anticipated project impacts warrant such outreach.
- Final plats, re-plats, and maps of dedication are reviewed and decided by City Council. It is the purview of City Council to accept land on behalf of the public; therefore these processes are recommended to be finalized by the City Council.
- General Housekeeping of 8.8 to remove sections which allowed approval of final plats without complete construction plans or financial assurances and to specify that the Mayor, City Clerk, Director of Development Services and City Engineer are required to sign approved final plats. Also removed references which allow resubmittal of denied final plat documents without collection of fees. Lastly, allowed projects which are currently under review to “opt-in” to the new process after adoption.

- General Housekeeping in Article 8.9 (Site Plan Process) to correct references/omissions with respect to pre-application conference requirements.

ANALYSIS

Comparison to other communities

15. Staff reviewed subdivision codes from many of the other cities in Maricopa County including Peoria, Surprise, Goodyear, Avondale, Phoenix, Chandler, Gilbert, and Scottsdale. Additionally, staff reviewed best practices garnered from Maricopa County and other Arizona communities.
16. Resoundingly, cities and counties require final plats to be approved by City Council or the Board of Supervisors. Any action in which public right-of-way dedications or land dedicated for public use is created or abandoned is reviewed and approved by City Council or the Board of Supervisors. Other actions, such as preliminary plats, land splits, and minor subdivisions are reviewed administratively or by the Planning Commission.
17. The proposed code is aligned with these standardized review practices and balanced to meet the needs of Buckeye's citizens, the general plan, the development code and development community interests.

RECOMMENDATION:

18. Staff recommends the following motion:

Move to recommend **approval** of Case # DCA15-01 (PLZ-15-00060), amendments to the Development Code Articles 6 and 8 to the City Council.

EXHIBITS

Exhibit A	State Statute
Exhibit B	Existing Code (Article 6 and Article 8)
Exhibit C	Proposed Code (Article 6 and Article 8)
Exhibit D	Letter of Opposition

Prepared By:
Ed Boik, AICP, Senior Planner

Reviewed By:
Terri Hogan, AICP, Planning Manager

Exhibit A

MUNICIPAL SUBDIVISION REGULATIONS

9-463. Definitions

In this article, unless the context otherwise requires:

1. "Design" means street alignment, grades and widths, alignment and widths of easements and rights-of-way for drainage and sanitary sewers and the arrangement and orientation of lots.
2. "Improvement" means required installations, pursuant to this article and subdivision regulations, including grading, sewer and water utilities, streets, easements, traffic control devices as a condition to the approval and acceptance of the final plat thereof.
3. "Land splits" as used in this article means the division of improved or unimproved land whose area is two and one-half acres or less into two or three tracts or parcels of land for the purpose of sale or lease.
4. "Municipal" or "municipality" means an incorporated city or town.
5. "Planning agency" means the official body designated by local ordinance to carry out the purposes of this article and may be a planning department, a planning commission, the legislative body itself, or any combination thereof.
6. "Plat" means a map of a subdivision:
 - (a) "Preliminary plat" means a preliminary map, including supporting data, indicating a proposed subdivision design prepared in accordance with the provisions of this article and those of any local applicable ordinance.
 - (b) "Final plat" means a map of all or part of a subdivision essentially conforming to an approved preliminary plat, prepared in accordance with the provision of this article, those of any local applicable ordinance and other state statute.
 - (c) "Recorded plat" means a final plat bearing all of the certificates of approval required by this article, any local applicable ordinance and other state statute.
7. "Right-of-way" means any public or private right-of-way and includes any area required for public use pursuant to any general or specific plan as provided for in article 6 of this chapter.
8. "Street" means any existing or proposed street, avenue, boulevard, road, lane, parkway, place, bridge, viaduct or easement for public vehicular access or a street shown in a plat heretofore approved pursuant to law or a street in a plat duly filed and recorded in the county recorder's office. A street includes all land within the street right-of-way whether improved or unimproved, and includes such improvements as pavement, shoulders, curbs, gutters, sidewalks, parking space, bridges and viaducts.
9. "Subdivider" means a person, firm, corporation, partnership, association, syndicate, trust or other legal entity that files application and initiates proceedings for the subdivision of land in accordance with the provisions of this article, any local applicable ordinance and other state statute, except that an individual serving as agent for such legal entity is not a subdivider.
10. "Subdivision" means any land or portion thereof subject to the provisions of this article as provided in section 9-463.02.

11. "Subdivision regulations" means a municipal ordinance regulating the design and improvement of subdivisions enacted under the provisions of this article or any prior statute regulating the design and improvement of subdivisions.

9-463.01. Authority

- A. Pursuant to this article, the legislative body of every municipality shall regulate the subdivision of all lands within its corporate limits.
- B. The legislative body of a municipality shall exercise the authority granted in subsection A of this section by ordinance prescribing:
 1. Procedures to be followed in the preparation, submission, review and approval or rejection of all final plats.
 2. Standards governing the design of subdivision plats.
 3. Minimum requirements and standards for the installation of subdivision streets, sewer and water utilities and improvements as a condition of final plat approval.
- C. By ordinance, the legislative body of any municipality shall:
 1. Require the preparation, submission and approval of a preliminary plat as a condition precedent to submission of a final plat.
 2. Establish the procedures to be followed in the preparation, submission, review and approval of preliminary plats.
 3. Make requirements as to the form and content of preliminary plats.
 4. Either determine that certain lands may not be subdivided, by reason of adverse topography, periodic inundation, adverse soils, subsidence of the earth's surface, high water table, lack of water or other natural or man-made hazard to life or property, or control the lot size, establish special grading and drainage requirements and impose other regulations deemed reasonable and necessary for the public health, safety or general welfare on any lands to be subdivided affected by such characteristics.
 5. Require payment of a proper and reasonable fee by the subdivider based upon the number of lots or parcels on the surface of the land to defray municipal costs of plat review and site inspection.
 6. Require the dedication of public streets, sewer and water utility easements or rights-of-way, within the proposed subdivision.
 7. Require the preparation and submission of acceptable engineering plans and specifications for the installation of required street, sewer, electric and water utilities, drainage, flood control, adequacy of water and improvements as a condition precedent to recordation of an approved final plat.
 8. Require the posting of performance bonds, assurances or such other security as may be appropriate and necessary to assure the installation of required street, sewer, electric and water utilities, drainage, flood control and improvements meeting established minimum standards of design and construction.

- D. The legislative body of any municipality may require by ordinance that land areas within a subdivision be reserved for parks, recreational facilities, school sites and fire stations subject to the following conditions:
1. The requirement may only be made upon preliminary plats filed at least thirty days after the adoption of a general or specific plan affecting the land area to be reserved.
 2. The required reservations are in accordance with definite principles and standards adopted by the legislative body.
 3. The land area reserved shall be of such a size and shape as to permit the remainder of the land area of the subdivision within which the reservation is located to develop in an orderly and efficient manner.
 4. The land area reserved shall be in such multiples of streets and parcels as to permit an efficient division of the reserved area in the event that it is not acquired within the prescribed period.
- E. The public agency for whose benefit an area has been reserved shall have a period of one year after recording the final subdivision plat to enter into an agreement to acquire such reserved land area. The purchase price shall be the fair market value of the reserved land area at the time of the filing of the preliminary subdivision plat plus the taxes against such reserved area from the date of the reservation and any other costs incurred by the subdivider in the maintenance of such reserved area, including the interest cost incurred on any loan covering such reserved area.
- F. If the public agency for whose benefit an area has been reserved does not exercise the reservation agreement set forth in subsection E of this section within such one year period or such extended period as may be mutually agreed upon by such public agency and the subdivider, the reservation of such area shall terminate.
- G. The legislative body of every municipality shall comply with this article and applicable state statutes pertaining to the hearing, approval or rejection, and recordation of:
1. Final subdivision plats.
 2. Plats filed for the purpose of reverting to acreage of land previously subdivided.
 3. Plats filed for the purpose of vacating streets or easements previously dedicated to the public.
 4. Plats filed for the purpose of vacating or redescribing lot or parcel boundaries previously recorded.
- H. Approval of every preliminary and final plat by a legislative body is conditioned upon compliance by the subdivider with:
1. Rules as may be established by the department of transportation relating to provisions for the safety of entrance upon and departure from abutting state primary highways.

2. Rules as may be established by a county flood control district relating to the construction or prevention of construction of streets in land established as being subject to periodic inundation.
 3. Rules as may be established by the department of health services or a county health department relating to the provision of domestic water supply and sanitary sewage disposal.
- I. If the subdivision is comprised of subdivided lands, as defined in section 32-2101, and is within an active management area, as defined in section 45-402, the final plat shall not be approved unless it is accompanied by a certificate of assured water supply issued by the director of water resources, or unless the subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an assured water supply by the director of water resources pursuant to section 45-576 or is exempt from the requirement pursuant to section 45-576. The legislative body of the municipality shall note on the face of the final plat that a certificate of assured water supply has been submitted with the plat or that the subdivider has obtained a written commitment of water service for the proposed subdivision from a city, town or private water company designated as having an assured water supply, pursuant to section 45-576, or is exempt from the requirement pursuant to section 45-576.
- J. Except as provided in subsections K and P of this section, if the subdivision is composed of subdivided lands as defined in section 32-2101 outside of an active management area and the director of water resources has given written notice to the municipality pursuant to section 45-108, subsection H, the final plat shall not be approved unless one of the following applies:
1. The director of water resources has determined that there is an adequate water supply for the subdivision pursuant to section 45-108 and the subdivider has included the report with the plat.
 2. The subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an adequate water supply by the director of water resources pursuant to section 45-108.
- K. The legislative body of a municipality that has received written notice from the director of water resources pursuant to section 45-108, subsection H or that has adopted an ordinance pursuant to subsection O of this section may provide by ordinance an exemption from the requirement in subsection J or O of this section for a subdivision that the director of water resources has determined will have an inadequate water supply because the water supply will be transported to the subdivision by motor vehicle or train if all of the following apply:
1. The legislative body determines that there is no feasible alternative water supply for the subdivision and that the transportation of water to the subdivision will not

constitute a significant risk to the health and safety of the residents of the subdivision.

2. If the water to be transported to the subdivision will be withdrawn or diverted in the service area of a municipal provider as defined in section 45-561, the municipal provider has consented to the withdrawal or diversion.
 3. If the water to be transported is groundwater, the transportation complies with the provisions governing the transportation of groundwater in title 45, chapter 2, article 8.
 4. The transportation of water to the subdivision meets any additional conditions imposed by the legislative body.
- L. A municipality that adopts the exemption authorized by subsection K of this section shall give written notice of the adoption of the exemption, including a certified copy of the ordinance containing the exemption, to the director of water resources, the director of environmental quality and the state real estate commissioner. If the municipality later rescinds the exemption, the municipality shall give written notice of the rescission to the director of water resources, the director of environmental quality and the state real estate commissioner. A municipality that rescinds an exemption adopted pursuant to subsection K of this section shall not readopt the exemption for at least five years after the rescission becomes effective.
- M. If the legislative body of a municipality approves a subdivision plat pursuant to subsection J, paragraph 1 or 2 or subsection O of this section, the legislative body shall note on the face of the plat that the director of water resources has reported that the subdivision has an adequate water supply or that the subdivider has obtained a commitment of water service for the proposed subdivision from a city, town or private water company designated as having an adequate water supply pursuant to section 45-108.
- N. If the legislative body of a municipality approves a subdivision plat pursuant to an exemption authorized by subsection K of this section or granted by the director of water resources pursuant to section 45-108.02 or 45-108.03:
1. The legislative body shall give written notice of the approval to the director of water resources and the director of environmental quality.
 2. The legislative body shall include on the face of the plat a statement that the director of water resources has determined that the water supply for the subdivision is inadequate and a statement describing the exemption under which the plat was approved, including a statement that the legislative body or the director of water resources, whichever applies, has determined that the specific conditions of the exemption were met. If the director subsequently informs the legislative body that the subdivision is being served by a water provider that has been designated by the director as having an adequate water supply pursuant to section 45-108, the

legislative body shall record in the county recorder's office a statement disclosing that fact.

- O. If a municipality has not been given written notice by the director of water resources pursuant to section 45-108, subsection H, the legislative body of the municipality, to protect the public health and safety, may provide by ordinance that, except as provided in subsections K and P of this section, the final plat of a subdivision located in the municipality and outside of an active management area will not be approved by the legislative body unless the director of water resources has determined that there is an adequate water supply for the subdivision pursuant to section 45-108 or the subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an adequate water supply by the director of water resources pursuant to section 45-108. Before holding a public hearing to consider whether to enact an ordinance pursuant to this subsection, a municipality shall provide written notice of the hearing to the board of supervisors of the county in which the municipality is located. A municipality that enacts an ordinance pursuant to this subsection shall give written notice of the enactment of the ordinance, including a certified copy of the ordinance, to the director of water resources, the director of environmental quality, the state real estate commissioner and the board of supervisors of the county in which the municipality is located. If a municipality enacts an ordinance pursuant to this subsection, water providers may be eligible to receive monies in a water supply development fund, as otherwise provided by law.
- P. Subsections J and O of this section do not apply to:
1. A proposed subdivision that the director of water resources has determined will have an inadequate water supply pursuant to section 45-108 if the director grants an exemption for the subdivision pursuant to section 45-108.02 and the exemption has not expired or if the director grants an exemption pursuant to section 45-108.03.
 2. A proposed subdivision that received final plat approval from the municipality before the requirement for an adequate water supply became effective in the municipality if the plat has not been materially changed since it received the final plat approval. If changes were made to the plat after the plat received the final plat approval, the director of water resources shall determine whether the changes are material pursuant to the rules adopted by the director to implement section 45-108. If the municipality approves a plat pursuant to this paragraph and the director of water resources has determined that there is an inadequate water supply for the subdivision pursuant to section 45-108, the municipality shall note this on the face of the plat.
- Q. If the subdivision is composed of subdivided lands as defined in section 32-2101 outside of an active management area and the municipality has not received written notice pursuant to section 45-108, subsection H and has not adopted an ordinance pursuant to subsection O of this section:

1. If the director of water resources has determined that there is an adequate water supply for the subdivision pursuant to section 45-108 or if the subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an adequate water supply by the director of water resources pursuant to section 45-108, the municipality shall note this on the face of the plat if the plat is approved.
 2. If the director of water resources has determined that there is an inadequate water supply for the subdivision pursuant to section 45-108, the municipality shall note this on the face of the plat if the plat is approved.
- R. Every municipality is responsible for the recordation of all final plats approved by the legislative body and shall receive from the subdivider and transmit to the county recorder the recordation fee established by the county recorder.
- S. Pursuant to provisions of applicable state statutes, the legislative body of any municipality may itself prepare or have prepared a plat for the subdivision of land under municipal ownership.
- T. The legislative bodies of cities and towns may regulate by ordinance land splits within their corporate limits. Authority granted under this section refers to the determination of division lines, area and shape of the tracts or parcels and does not include authority to regulate the terms or condition of the sale or lease nor does it include the authority to regulate the sale or lease of tracts or parcels that are not the result of land splits as defined in section 9-463.
- U. For any subdivision that consists of ten or fewer lots, tracts or parcels, each of which is of a size as prescribed by the legislative body, the legislative body of each municipality may expedite the processing of or waive the requirement to prepare, submit and receive approval of a preliminary plat as a condition precedent to submitting a final plat and may waive or reduce infrastructure standards or requirements proportional to the impact of the subdivision. Requirements for dust-controlled access and drainage improvements shall not be waived.

9-463.02. Subdivision defined; applicability

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

- B. The legislative body of a municipality shall not refuse approval of a final plat of a project included in subsection A under provisions of an adopted subdivision regulation because of location of buildings on the property shown on the plat not in violation of such subdivision regulations or on account of the manner in which airspace is to be divided in conveying the condominium. Fees and lot design requirements shall be computed and imposed with respect to such plats on the basis of parcels or lots on the surface of the land shown thereon as included in the project. This subsection does not limit the power of such legislative body to regulate the location of buildings in such a project by or pursuant to a zoning ordinance.
- C. "Subdivision" does not include the following:
1. The sale or exchange of parcels of land to or between adjoining property owners if such sale or exchange does not create additional lots.
 2. The partitioning of land in accordance with other statutes regulating the partitioning of land held in common ownership.
 3. The leasing of apartments, offices, stores or similar space within a building or trailer park, nor to mineral, oil or gas leases.

9-463.03. Violations

It is unlawful for any person to offer to sell or lease, to contract to sell or lease or to sell or lease any subdivision or part thereof until a final plat thereof, in full compliance with provisions of this article and of any subdivision regulations which have been duly recorded in the office of recorder of the county in which the subdivision or any portion thereof is located, is recorded in the office of the recorder, except that this shall not apply to any parcel or parcels of a subdivision offered for sale or lease, contracted for sale or lease, or sold or leased in compliance with any law or subdivision regulation regulating the subdivision plat design and improvement of subdivisions in effect at the time the subdivision was established. The county recorder shall not record a plat located in a municipality having subdivision regulations enacted under this article unless the plat has been approved by the legislative body of the municipality.

9-463.04. Extraterritorial jurisdiction

- A. In any county not having county subdivision regulations applicable to the unincorporated territory, the legislative body of any municipality may exercise the subdivision regulation powers granted in this article both to territory within its corporate limits and to that which extends a distance of three contiguous miles in all directions of its corporate limits and not located in a municipality. Any ordinance intended to have application beyond the corporate limits of the municipality shall expressly state the intention of such application. Such ordinance shall be adopted in accordance with the provisions set forth therein.

- B. The extraterritorial jurisdiction of two or more municipalities whose territorial boundaries are less than six miles apart terminates at a boundary line equidistant from the respective corporate limits of such municipalities, or at such line as is agreed to by the legislative bodies of the respective municipalities.
- C. As a prerequisite to the exercise of extraterritorial jurisdiction, the membership of the planning agency charged with the preparation or administration of proposed subdivision regulations for the area of extraterritorial jurisdiction shall be increased to include two additional members to represent the unincorporated area. Any additional member shall be a resident of the three mile area outside the corporate limits and be appointed by the legislative body of the county in which the unincorporated area is situated. Any such member shall have equal rights, privileges and duties with the other members of the planning agency in all matters pertaining to the plans and regulations of the unincorporated area in which they reside, both in preparation of the original plans and regulations and in consideration of any proposed amendments to such plans and regulations.
- D. Any municipal legislative body exercising the powers granted by this section may provide for the enforcement of its regulations for the area of extraterritorial jurisdiction in the same manner as the regulations for the area within the municipality are enforced.

9-463.05. Development fees; imposition by cities and towns; infrastructure improvements plan; annual report; advisory committee; limitation on actions; definitions

- A. A municipality may assess development fees to offset costs to the municipality associated with providing necessary public services to a development, including the costs of infrastructure, improvements, real property, engineering and architectural services, financing and professional services required for the preparation or revision of a development fee pursuant to this section, including the relevant portion of the infrastructure improvements plan.
- B. Development fees assessed by a municipality under this section are subject to the following requirements:
 - 1. Development fees shall result in a beneficial use to the development.
 - 2. The municipality shall calculate the development fee based on the infrastructure improvements plan adopted pursuant to this section.
 - 3. The development fee shall not exceed a proportionate share of the cost of necessary public services, based on service units, needed to provide necessary public services to the development.

4. Costs for necessary public services made necessary by new development shall be based on the same level of service provided to existing development in the service area.
5. Development fees may not be used for any of the following:
 - (a) Construction, acquisition or expansion of public facilities or assets other than necessary public services or facility expansions identified in the infrastructure improvements plan.
 - (b) Repair, operation or maintenance of existing or new necessary public services or facility expansions.
 - (c) Upgrading, updating, expanding, correcting or replacing existing necessary public services to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards.
 - (d) Upgrading, updating, expanding, correcting or replacing existing necessary public services to provide a higher level of service to existing development.
 - (e) Administrative, maintenance or operating costs of the municipality.
6. Any development for which a development fee has been paid is entitled to the use and benefit of the services for which the fee was imposed and is entitled to receive immediate service from any existing facility with available capacity to serve the new service units if the available capacity has not been reserved or pledged in connection with the construction or financing of the facility.
7. Development fees may be collected if any of the following occurs:
 - (a) The collection is made to pay for a necessary public service or facility expansion that is identified in the infrastructure improvements plan and the municipality plans to complete construction and to have the service available within the time period established in the infrastructure improvement plan, but in no event longer than the time period provided in subsection H, paragraph 3 of this section.
 - (b) The municipality reserves in the infrastructure improvements plan adopted pursuant to this section or otherwise agrees to reserve capacity to serve future development.
 - (c) The municipality requires or agrees to allow the owner of a development to construct or finance the necessary public service or facility expansion and any of the following apply:
 - (i) The costs incurred or money advanced are credited against or reimbursed from the development fees otherwise due from a development.
 - (ii) The municipality reimburses the owner for those costs from the development fees paid from all developments that will use those necessary public services or facility expansions.
 - (iii) For those costs incurred the municipality allows the owner to assign the credits or reimbursement rights from the development fees otherwise due from a development to other developments for the same category of necessary public services in the same service area.

8. Projected interest charges and other finance costs may be included in determining the amount of development fees only if the monies are used for the payment of principal and interest on the portion of the bonds, notes or other obligations issued to finance construction of necessary public services or facility expansions identified in the infrastructure improvements plan.
9. Monies received from development fees assessed pursuant to this section shall be placed in a separate fund and accounted for separately and may only be used for the purposes authorized by this section. Monies received from a development fee identified in an infrastructure improvements plan adopted or updated pursuant to subsection D of this section shall be used to provide the same category of necessary public services or facility expansions for which the development fee was assessed and for the benefit of the same service area, as defined in the infrastructure improvements plan, in which the development fee was assessed. Interest earned on monies in the separate fund shall be credited to the fund.
10. The schedule for payment of fees shall be provided by the municipality. Based on the cost identified in the infrastructure improvements plan, the municipality shall provide a credit toward the payment of a development fee for the required or agreed to dedication of public sites, improvements and other necessary public services or facility expansions included in the infrastructure improvements plan and for which a development fee is assessed, to the extent the public sites, improvements and necessary public services or facility expansions are provided by the developer. The developer of residential dwelling units shall be required to pay development fees when construction permits for the dwelling units are issued, or at a later time if specified in a development agreement pursuant to section 9-500.05. If a development agreement provides for fees to be paid at a time later than the issuance of construction permits, the deferred fees shall be paid no later than fifteen days after the issuance of a certificate of occupancy. The development agreement shall provide for the value of any deferred fees to be supported by appropriate security, including a surety bond, letter of credit or cash bond.
11. If a municipality requires as a condition of development approval the construction or improvement of, contributions to or dedication of any facilities that were not included in a previously adopted infrastructure improvements plan, the municipality shall cause the infrastructure improvements plan to be amended to include the facilities and shall provide a credit toward the payment of a development fee for the construction, improvement, contribution or dedication of the facilities to the extent that the facilities will substitute for or otherwise reduce the need for other similar facilities in the infrastructure improvements plan for which development fees were assessed.
12. The municipality shall forecast the contribution to be made in the future in cash or by taxes, fees, assessments or other sources of revenue derived from the property owner towards the capital costs of the necessary public service covered by the

development fee and shall include these contributions in determining the extent of the burden imposed by the development. Beginning August 1, 2014, for purposes of calculating the required offset to development fees pursuant to this subsection, if a municipality imposes a construction contracting or similar excise tax rate in excess of the percentage amount of the transaction privilege tax rate imposed on the majority of other transaction privilege tax classifications, the entire excess portion of the construction contracting or similar excise tax shall be treated as a contribution to the capital costs of necessary public services provided to development for which development fees are assessed, unless the excess portion was already taken into account for such purpose pursuant to this subsection.

13. If development fees are assessed by a municipality, the fees shall be assessed against commercial, residential and industrial development, except that the municipality may distinguish between different categories of residential, commercial and industrial development in assessing the costs to the municipality of providing necessary public services to new development and in determining the amount of the development fee applicable to the category of development. If a municipality agrees to waive any of the development fees assessed on a development, the municipality shall reimburse the appropriate development fee accounts for the amount that was waived. The municipality shall provide notice of any such waiver to the advisory committee established pursuant to subsection G of this section within thirty days.
 14. In determining and assessing a development fee applying to land in a community facilities district established under title 48, chapter 4, article 6, the municipality shall take into account all public infrastructure provided by the district and capital costs paid by the district for necessary public services and shall not assess a portion of the development fee based on the infrastructure or costs.
- C. A municipality shall give at least thirty days' advance notice of intention to assess a development fee and shall release to the public and post on its website or the website of an association of cities and towns if a municipality does not have a website a written report of the land use assumptions and infrastructure improvements plan adopted pursuant to subsection D of this section. The municipality shall conduct a public hearing on the proposed development fee at any time after the expiration of the thirty day notice of intention to assess a development fee and at least thirty days before the scheduled date of adoption of the fee by the governing body. Within sixty days after the date of the public hearing on the proposed development fee, a municipality shall approve or disapprove the imposition of the development fee. A municipality shall not adopt an ordinance, order or resolution approving a development fee as an emergency measure. A development fee assessed pursuant to this section shall not be effective until seventy-five days after its formal adoption by the governing body of the municipality. Nothing in this subsection shall affect any development fee adopted before July 24, 1982.

- D. Before the adoption or amendment of a development fee, the governing body of the municipality shall adopt or update the land use assumptions and infrastructure improvements plan for the designated service area. The municipality shall conduct a public hearing on the land use assumptions and infrastructure improvements plan at least thirty days before the adoption or update of the plan. The municipality shall release the plan to the public, post the plan on its website or the website of an association of cities and towns if the municipality does not have a website, including in the posting its land use assumptions, the time period of the projections, a description of the necessary public services included in the infrastructure improvements plan and a map of the service area to which the land use assumptions apply, make available to the public the documents used to prepare the assumptions and plan and provide public notice at least sixty days before the public hearing, subject to the following:
1. The land use assumptions and infrastructure improvements plan shall be approved or disapproved within sixty days after the public hearing on the land use assumptions and infrastructure improvements plan and at least thirty days before the public hearing on the report required by subsection C of this section. A municipality shall not adopt an ordinance, order or resolution approving the land use assumptions or infrastructure improvements plan as an emergency measure.
 2. An infrastructure improvements plan shall be developed by qualified professionals using generally accepted engineering and planning practices pursuant to subsection E of this section.
 3. A municipality shall update the land use assumptions and infrastructure improvements plan at least every five years. The initial five year period begins on the day the infrastructure improvements plan is adopted. The municipality shall review and evaluate its current land use assumptions and shall cause an update of the infrastructure improvements plan to be prepared pursuant to this section.
 4. Within sixty days after completion of the updated land use assumptions and infrastructure improvements plan, the municipality shall schedule and provide notice of a public hearing to discuss and review the update and shall determine whether to amend the assumptions and plan.
 5. A municipality shall hold a public hearing to discuss the proposed amendments to the land use assumptions, the infrastructure improvements plan or the development fee. The land use assumptions and the infrastructure improvements plan, including the amount of any proposed changes to the development fee per service unit, shall be made available to the public on or before the date of the first publication of the notice of the hearing on the amendments.
 6. The notice and hearing procedures prescribed in paragraph 1 of this subsection apply to a hearing on the amendment of land use assumptions, an infrastructure improvements plan or a development fee. Within sixty days after the date of the public hearing on the amendments, a municipality shall approve or disapprove the amendments to the land use assumptions, infrastructure improvements plan or

development fee. A municipality shall not adopt an ordinance, order or resolution approving the amended land use assumptions, infrastructure improvements plan or development fee as an emergency measure.

7. The advisory committee established under subsection G of this section shall file its written comments on any proposed or updated land use assumptions, infrastructure improvements plan and development fees before the fifth business day before the date of the public hearing on the proposed or updated assumptions, plan and fees.
8. If, at the time an update as prescribed in paragraph 3 of this subsection is required, the municipality determines that no changes to the land use assumptions, infrastructure improvements plan or development fees are needed, the municipality may as an alternative to the updating requirements of this subsection publish notice of its determination on its website and include the following:
 - (a) A statement that the municipality has determined that no change to the land use assumptions, infrastructure improvements plan or development fee is necessary.
 - (b) A description and map of the service area in which an update has been determined to be unnecessary.
 - (c) A statement that by a specified date, which shall be at least sixty days after the date of publication of the first notice, a person may make a written request to the municipality requesting that the land use assumptions, infrastructure improvements plan or development fee be updated.
 - (d) A statement identifying the person or entity to whom the written request for an update should be sent.
9. If, by the date specified pursuant to paragraph 8 of this subsection, a person requests in writing that the land use assumptions, infrastructure improvements plan or development fee be updated, the municipality shall cause, accept or reject an update of the assumptions and plan to be prepared pursuant to this subsection.
10. Notwithstanding the notice and hearing requirements for adoption of an infrastructure improvements plan, a municipality may amend an infrastructure improvements plan adopted pursuant to this section without a public hearing if the amendment addresses only elements of necessary public services in the existing infrastructure improvements plan and the changes to the plan will not, individually or cumulatively with other amendments adopted pursuant to this subsection, increase the level of service in the service area or cause a development fee increase of greater than five per cent when a new or modified development fee is assessed pursuant to this section. The municipality shall provide notice of any such amendment at least thirty days before adoption, shall post the amendment on its website or on the website of an association of cities and towns if the municipality does not have a website and shall provide notice to the advisory committee established pursuant to subsection G of this section that the amendment complies with this subsection.

- E. For each necessary public service that is the subject of a development fee, the infrastructure improvements plan shall include:
1. A description of the existing necessary public services in the service area and the costs to upgrade, update, improve, expand, correct or replace those necessary public services to meet existing needs and usage and stricter safety, efficiency, environmental or regulatory standards, which shall be prepared by qualified professionals licensed in this state, as applicable.
 2. An analysis of the total capacity, the level of current usage and commitments for usage of capacity of the existing necessary public services, which shall be prepared by qualified professionals licensed in this state, as applicable.
 3. A description of all or the parts of the necessary public services or facility expansions and their costs necessitated by and attributable to development in the service area based on the approved land use assumptions, including a forecast of the costs of infrastructure, improvements, real property, financing, engineering and architectural services, which shall be prepared by qualified professionals licensed in this state, as applicable.
 4. A table establishing the specific level or quantity of use, consumption, generation or discharge of a service unit for each category of necessary public services or facility expansions and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial and industrial.
 5. The total number of projected service units necessitated by and attributable to new development in the service area based on the approved land use assumptions and calculated pursuant to generally accepted engineering and planning criteria.
 6. The projected demand for necessary public services or facility expansions required by new service units for a period not to exceed ten years.
 7. A forecast of revenues generated by new service units other than development fees, which shall include estimated state-shared revenue, highway users revenue, federal revenue, ad valorem property taxes, construction contracting or similar excise taxes and the capital recovery portion of utility fees attributable to development based on the approved land use assumptions, and a plan to include these contributions in determining the extent of the burden imposed by the development as required in subsection B, paragraph 12 of this section.
- F. A municipality's development fee ordinance shall provide that a new development fee or an increased portion of a modified development fee shall not be assessed against a development for twenty-four months after the date that the municipality issues the final approval for a commercial, industrial or multifamily development or the date that the first building permit is issued for a residential development pursuant to an approved site plan or subdivision plat, provided that no subsequent changes are made to the approved site plan or subdivision plat that would increase the number of service units. If the number of service units increases, the new or increased portion of a modified development fee shall be limited to the amount attributable to the

additional service units. The twenty-four month period shall not be extended by a renewal or amendment of the site plan or the final subdivision plat that was the subject of the final approval. The municipality shall issue, on request, a written statement of the development fee schedule applicable to the development. If, after the date of the municipality's final approval of a development, the municipality reduces the development fee assessed on development, the reduced fee shall apply to the development.

G. A municipality shall do one of the following:

1. Before the adoption of proposed or updated land use assumptions, infrastructure improvements plan and development fees as prescribed in subsection D of this section, the municipality shall appoint an infrastructure improvements advisory committee, subject to the following requirements:
 - (a) The advisory committee shall be composed of at least five members who are appointed by the governing body of the municipality. At least fifty per cent of the members of the advisory committee must be representatives of the real estate, development or building industries, of which at least one member of the committee must be from the home building industry. Members shall not be employees or officials of the municipality.
 - (b) The advisory committee shall serve in an advisory capacity and shall:
 - (i) Advise the municipality in adopting land use assumptions and in determining whether the assumptions are in conformance with the general plan of the municipality.
 - (ii) Review the infrastructure improvements plan and file written comments.
 - (iii) Monitor and evaluate implementation of the infrastructure improvements plan.
 - (iv) Every year file reports with respect to the progress of the infrastructure improvements plan and the collection and expenditures of development fees and report to the municipality any perceived inequities in implementing the plan or imposing the development fee.
 - (v) Advise the municipality of the need to update or revise the land use assumptions, infrastructure improvements plan and development fee.
 - (c) The municipality shall make available to the advisory committee any professional reports with respect to developing and implementing the infrastructure improvements plan.
 - (d) The municipality shall adopt procedural rules for the advisory committee to follow in carrying out the committee's duties.
2. In lieu of creating an advisory committee pursuant to paragraph 1 of this subsection, provide for a biennial certified audit of the municipality's land use assumptions, infrastructure improvements plan and development fees. An audit pursuant to this paragraph shall be conducted by one or more qualified professionals who are not employees or officials of the municipality and who did not prepare the infrastructure

improvements plan. The audit shall review the progress of the infrastructure improvements plan, including the collection and expenditures of development fees for each project in the plan, and evaluate any inequities in implementing the plan or imposing the development fee. The municipality shall post the findings of the audit on the municipality's website or the website of an association of cities and towns if the municipality does not have a website and shall conduct a public hearing on the audit within sixty days of the release of the audit to the public.

- H. On written request, an owner of real property for which a development fee has been paid after July 31, 2014 is entitled to a refund of a development fee or any part of a development fee if:
 - 1. Pursuant to subsection B, paragraph 6 of this section, existing facilities are available and service is not provided.
 - 2. The municipality has, after collecting the fee to construct a facility when service is not available, failed to complete construction within the time period identified in the infrastructure improvements plan, but in no event later than the time period specified in paragraph 3 of this subsection.
 - 3. For a development fee other than a development fee for water or wastewater facilities, any part of the development fee is not spent as authorized by this section within ten years after the fee has been paid or, for a development fee for water or wastewater facilities, any part of the development fee is not spent as authorized by this section within fifteen years after the fee has been paid.
- I. If the development fee was collected for the construction of all or a portion of a specific item of infrastructure, and on completion of the infrastructure the municipality determines that the actual cost of construction was less than the forecasted cost of construction on which the development fee was based and the difference between the actual and estimated cost is greater than ten per cent, the current owner may receive a refund of the portion of the development fee equal to the difference between the development fee paid and the development fee that would have been due if the development fee had been calculated at the actual construction cost.
- J. A refund shall include any interest earned by the municipality from the date of collection to the date of refund on the amount of the refunded fee. All refunds shall be made to the record owner of the property at the time the refund is paid. If the development fee is paid by a governmental entity, the refund shall be paid to the governmental entity.
- K. A development fee that was adopted before January 1, 2012 may continue to be assessed only to the extent that it will be used to provide a necessary public service for which development fees can be assessed pursuant to this section and shall be replaced by a development fee imposed under this section on or before August 1, 2014. Any municipality having a development fee that has not been replaced under this section on or before August 1, 2014 shall not collect development fees until the development

fee has been replaced with a fee that complies with this section. Any development fee monies collected before January 1, 2012 remaining in a development fee account:

1. Shall be used towards the same category of necessary public services as authorized by this section.
 2. If development fees were collected for a purpose not authorized by this section, shall be used for the purpose for which they were collected on or before January 1, 2020, and after which, if not spent, shall be distributed equally among the categories of necessary public services authorized by this section.
- L. A moratorium shall not be placed on development for the sole purpose of awaiting completion of all or any part of the process necessary to develop, adopt or update development fees.
- M. In any judicial action interpreting this section, all powers conferred on municipal governments in this section shall be narrowly construed to ensure that development fees are not used to impose on new residents a burden all taxpayers of a municipality should bear equally.
- N. Each municipality that assesses development fees shall submit an annual report accounting for the collection and use of the fees for each service area. The annual report shall include the following:
1. The amount assessed by the municipality for each type of development fee.
 2. The balance of each fund maintained for each type of development fee assessed as of the beginning and end of the fiscal year.
 3. The amount of interest or other earnings on the monies in each fund as of the end of the fiscal year.
 4. The amount of development fee monies used to repay:
 - (a) Bonds issued by the municipality to pay the cost of a capital improvement project that is the subject of a development fee assessment, including the amount needed to repay the debt service obligations on each facility for which development fees have been identified as the source of funding and the time frames in which the debt service will be repaid.
 - (b) Monies advanced by the municipality from funds other than the funds established for development fees in order to pay the cost of a capital improvement project that is the subject of a development fee assessment, the total amount advanced by the municipality for each facility, the source of the monies advanced and the terms under which the monies will be repaid to the municipality.
 5. The amount of development fee monies spent on each capital improvement project that is the subject of a development fee assessment and the physical location of each capital improvement project.
 6. The amount of development fee monies spent for each purpose other than a capital improvement project that is the subject of a development fee assessment.

- O. Within ninety days following the end of each fiscal year, each municipality shall submit a copy of the annual report to the city clerk and post the report on the municipality's website or the website of an association of cities and towns if the municipality does not have a website. Copies shall be made available to the public on request. The annual report may contain financial information that has not been audited.
- P. A municipality that fails to file the report and post the report on the municipality's website or the website of an association of cities and towns if the municipality does not have a website as required by this section shall not collect development fees until the report is filed and posted.
- Q. Any action to collect a development fee shall be commenced within two years after the obligation to pay the fee accrues.
- R. A municipality may continue to assess a development fee adopted before January 1, 2012 for any facility that was financed before June 1, 2011 if:
 - 1. Development fees were pledged to repay debt service obligations related to the construction of the facility.
 - 2. After August 1, 2014, any development fees collected under this subsection are used solely for the payment of principal and interest on the portion of the bonds, notes or other debt service obligations issued before June 1, 2011 to finance construction of the facility.
- S. Through August 1, 2014, a development fee adopted before January 1, 2012 may be used to finance construction of a facility and may be pledged to repay debt service obligations if:
 - 1. The facility that is being financed is a facility that is described under subsection T, paragraph 7, subdivisions (a) through (g) of this section.
 - 2. The facility was included in an infrastructure improvements plan adopted before June 1, 2011.
 - 3. The development fees are used for the payment of principal and interest on the portion of the bonds, notes or other debt service obligations issued to finance construction of the necessary public services or facility expansions identified in the infrastructure improvement plan.
- T. For the purposes of this section:
 - 1. "Dedication" means the actual conveyance date or the date an improvement, facility or real or personal property is placed into service, whichever occurs first.
 - 2. "Development" means:
 - (a) The subdivision of land.
 - (b) The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure that adds or increases the number of service units.

- (c) Any use or extension of the use of land that increases the number of service units.
- 3. "Facility expansion" means the expansion of the capacity of an existing facility that serves the same function as an otherwise new necessary public service in order that the existing facility may serve new development. Facility expansion does not include the repair, maintenance, modernization or expansion of an existing facility to better serve existing development.
- 4. "Final approval" means:
 - (a) For a nonresidential or multifamily development, the approval of a site plan or, if no site plan is submitted for the development, the approval of a final subdivision plat.
 - (b) For a single family residential development, the approval of a final subdivision plat.
- 5. "Infrastructure improvements plan" means a written plan that identifies each necessary public service or facility expansion that is proposed to be the subject of a development fee and otherwise complies with the requirements of this section, and may be the municipality's capital improvements plan.
- 6. "Land use assumptions" means projections of changes in land uses, densities, intensities and population for a specified service area over a period of at least ten years and pursuant to the general plan of the municipality.
- 7. "Necessary public service" means any of the following facilities that have a life expectancy of three or more years and that are owned and operated by or on behalf of the municipality:
 - (a) Water facilities, including the supply, transportation, treatment, purification and distribution of water, and any appurtenances for those facilities.
 - (b) Wastewater facilities, including collection, interception, transportation, treatment and disposal of wastewater, and any appurtenances for those facilities.
 - (c) Storm water, drainage and flood control facilities, including any appurtenances for those facilities.
 - (d) Library facilities of up to ten thousand square feet that provide a direct benefit to development, not including equipment, vehicles or appurtenances.
 - (e) Street facilities located in the service area, including arterial or collector streets or roads that have been designated on an officially adopted plan of the municipality, traffic signals and rights-of-way and improvements thereon.
 - (f) Fire and police facilities, including all appurtenances, equipment and vehicles. Fire and police facilities do not include a facility or portion of a facility that is used to replace services that were once provided elsewhere in the municipality, vehicles and equipment used to provide administrative services, helicopters or airplanes or a facility that is used for training firefighters or officers from more than one station or substation.

- (g) Neighborhood parks and recreational facilities on real property up to thirty acres in area, or parks and recreational facilities larger than thirty acres if the facilities provide a direct benefit to the development. Park and recreational facilities do not include vehicles, equipment or that portion of any facility that is used for amusement parks, aquariums, aquatic centers, auditoriums, arenas, arts and cultural facilities, bandstand and orchestra facilities, bathhouses, boathouses, clubhouses, community centers greater than three thousand square feet in floor area, environmental education centers, equestrian facilities, golf course facilities, greenhouses, lakes, museums, theme parks, water reclamation or riparian areas, wetlands, zoo facilities or similar recreational facilities, but may include swimming pools.
- (h) Any facility that was financed and that meets all of the requirements prescribed in subsection R of this section.
- 8. "Qualified professional" means a professional engineer, surveyor, financial analyst or planner providing services within the scope of the person's license, education or experience.
- 9. "Service area" means any specified area within the boundaries of a municipality in which development will be served by necessary public services or facility expansions and within which a substantial nexus exists between the necessary public services or facility expansions and the development being served as prescribed in the infrastructure improvements plan.
- 10. "Service unit" means a standardized measure of consumption, use, generation or discharge attributable to an individual unit of development calculated pursuant to generally accepted engineering or planning standards for a particular category of necessary public services or facility expansions. END_STATUTE

9-463.06. Standards for enactment of moratorium; land development; limitations; definitions

- A. A city or town shall not adopt a moratorium on construction or land development unless it first:
 - 1. Provides notice to the public published once in a newspaper of general circulation in the community at least thirty days before a final public hearing to be held to consider the adoption of the moratorium.
 - 2. Makes written findings justifying the need for the moratorium in the manner provided for in this section.
 - 3. Holds a public hearing on the adoption of the moratorium and the findings that support the moratorium.
- B. For urban or urbanizable land, a moratorium may be justified by demonstration of a need to prevent a shortage of essential public facilities that would otherwise occur during the effective period of the moratorium. This demonstration shall be based on reasonably available information and shall include at least the following findings:

1. A showing of the extent of need beyond the estimated capacity of existing essential public facilities expected to result from new land development, including identification of any essential public facilities currently operating beyond capacity and the portion of this capacity already committed to development, or in the case of water resources, a showing that, in an active management area, an assured water supply cannot be provided or, outside an active management area, a sufficient water supply cannot be provided, to the new land development, including identification of current water resources and the portion already committed to development.
 2. That the moratorium is reasonably limited to those areas of the city or town where a shortage of essential public facilities would otherwise occur and on property that has not received development approvals based upon the sufficiency of existing essential public facilities.
 3. That the housing and economic development needs of the area affected have been accommodated as much as possible in any program for allocating any remaining essential public facility capacity.
- C. A moratorium not based on a shortage of essential public facilities under subsection B of this section may be justified only by a demonstration of compelling need for other public facilities, including police and fire facilities. This demonstration shall be based on reasonably available information and shall include at least the following findings:
1. For urban or urbanizable land:
 - (a) That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas.
 - (b) That the moratorium is sufficiently limited to ensure that a needed supply of affected housing types and the supply of commercial and industrial facilities within or in proximity to the city or town are not unreasonably restricted by the adoption of the moratorium.
 - (c) Stating the reasons that alternative methods of achieving the objectives of the moratorium are unsatisfactory.
 - (d) That the city or town has determined that the public harm that would be caused by failure to impose a moratorium outweighs the adverse effects on other affected local governments, including shifts in demand for housing or economic development, public facilities and services and buildable lands and the overall impact of the moratorium on population distribution.
 - (e) That the city or town proposing the moratorium has developed a work plan and time schedule for achieving the objectives of the moratorium.
 2. For rural land:
 - (a) That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas.

- (b) Stating the reasons that alternative methods of achieving the objectives of the moratorium are unsatisfactory.
 - (c) That the moratorium is sufficiently limited to ensure that lots or parcels outside the affected geographical areas are not unreasonably restricted by the adoption of the moratorium.
 - (d) That the city or town proposing the moratorium has developed a work plan and time schedule for achieving the objectives of the moratorium.
- D. Any moratorium adopted pursuant to this section does not affect any express provision in a development agreement entered into pursuant to section 9-500.05 or as defined in section 11-1101 governing the rate, timing and sequencing of development, nor does it affect rights acquired pursuant to a protected development right granted according to chapter 11 of this title or title 11, chapter 9. Any moratorium adopted pursuant to this section shall provide a procedure pursuant to which an individual landowner may apply for a waiver of the moratorium's applicability to its property by claiming rights obtained pursuant to a development agreement, a protected development right or any vested right or by providing the public facilities that are the subject of the moratorium at the landowner's cost.
- E. A moratorium adopted under subsection C, paragraph 1 of this section shall not remain in effect for more than one hundred twenty days, but such a moratorium may be extended for additional periods of time of up to one hundred twenty days if the city or town adopting the moratorium holds a public hearing on the proposed extension and adopts written findings that:
 - 1. Verify the problem requiring the need for the moratorium to be extended.
 - 2. Demonstrate that reasonable progress is being made to alleviate the problem resulting in the moratorium.
 - 3. Set a specific duration for the renewal of the moratorium.
- F. A city or town considering an extension of a moratorium shall provide notice to the general public published once in a newspaper of general circulation in the community at least thirty days before a final hearing is held to consider an extension of a moratorium.
- G. Nothing in this section shall prevent a city or town from complying with any state or federal law, regulation or order issued in writing by a legally authorized governmental entity.
- H. A landowner aggrieved by a municipality's adoption of a moratorium pursuant to this section may file, at any time within thirty days after the moratorium has been adopted, a complaint for a trial de novo in the superior court on the facts and the law regarding the moratorium. All matters presented to the superior court pursuant to this section have preference on the court calendar on the same basis as condemnation matters and the court shall further have the authority to award reasonable attorney fees incurred in the appeal and trial pursuant to this section to the prevailing party.

1. In this section:
1. "Compelling need" means a clear and imminent danger to the health and safety of the public.
2. "Essential public facilities" means water, sewer and street improvements to the extent that these improvements and water resources are provided by the city, town or private utility.
3. "Moratorium on construction or land development" means engaging in a pattern or practice of delaying or stopping issuance of permits, authorizations or approvals necessary for the subdivision and partitioning of, or construction on, any land. It does not include denial or delay of permits or authorizations because they are inconsistent with applicable statutes, rules, zoning or other ordinances.
4. "Rural land" means all property in the unincorporated area of a county or in the incorporated area of the city or town with a population of two thousand nine hundred or less persons according to the most recent United States decennial census.
5. "Urban or urbanizable land" means all property in the incorporated area of a city or town with a population of more than two thousand nine hundred persons according to the most recent United States decennial census.
6. "Vested right" means a right to develop property established by the expenditure of substantial sums of money pursuant to a permit or approval granted by the city, town or county.

ARTICLE 6: LAND SUBDIVISION

6.1. GENERAL PROVISIONS

6.1.1. Intent

This Article is intended to promote the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the City by:

- A. Promoting well-defined, sustainable neighborhoods that enhance the City's character and are compatible with adjoining lands;
- B. Creating livable neighborhoods that foster a sense of community and reduce dependency on private vehicles;
- C. Encouraging the proper arrangement of streets in relation to existing or planned streets and ensuring streets facilitate safe, efficient, and pleasant walking, biking and driving;
- D. Providing a variety of lot sizes and housing types in every neighborhood;
- E. Protecting sensitive natural and historic areas and the City's environmental quality;
- F. Providing protection from natural hazards and flood prone areas; and
- G. Ensuring compliance with the General Plan.

6.1.2. Applicability

A. General

Unless exempted in subsection B., this Article shall be applicable to all subdivision of land within the City that results in the partitioning, dividing, combining, or altering of any lot, parcel, or tract of land, including subdivisions created by an exercise of the power of eminent domain by an agency of the state or the City.

B. Exemptions

The standards of this Article shall not apply to:

- 1. Creation or realignment of an easement; and
- 2. Adjustment of the boundary line or the transfer of land between two adjacent property owners that does not result in the creation of any additional parcels.

C. Approvals Required

Before a preliminary plat for a subdivision shall be approved, the owner or authorized agent shall apply for and secure approval pursuant to Section 8.8, *Subdivision*.

6.1.3. Safety and Public Facilities

Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace. Land shall not be subdivided until proper provision has been made for drainage, water, sewage, and capital improvements such as schools, parks, recreation facilities, transportation facilities, and other public improvements.

6.1.4. Engineering And Construction Plans

A. Registered Engineer

It shall be the responsibility of the subdivider to have an engineer registered in the State of Arizona, prepare a complete set of engineering plans in accordance with all applicable City Codes, for the construction of all required improvements. Such plans shall be in conformance with the approved preliminary plat.

B. City Engineer Approval

All plans and supporting engineering reports for subdivision improvements shall be reviewed and approved by the City Engineer. All improvements shall be in accordance with the approved preliminary plat and all City standards, policies, and requirements.

6.1.5. Limitation on Conditions

A. In approving subdivisions, the City Council shall be authorized to impose such conditions upon the premises as may be necessary to carry out the general purpose and intent of this Development Code. Any conditions imposed on a development approval shall be based upon adopted standards that are: (a) contained in this Development Code, adopted plan or other document adopted by the city, and (b) sufficiently specific to ensure that the condition is imposed in a consistent and rational manner. Under no circumstance shall these provisions be interpreted to waive any responsibility to the public in the enforcement of provisions contained herein, where such conditions are necessary to protect public health, safety, and general welfare.

B. Any condition imposed on a development approval that would require the applicant to dedicate real property to the public or to pay money to the public in an amount that is determined on an individual and discretionary basis shall only be imposed if: (a) there is an essential nexus between the dedication or payment and a legitimate local government interest; and (b) the dedication or payment is roughly proportional both in nature and extent to the impact of the proposed use or development of such property.

6.2. TYPES OF LAND DIVISION

6.2.1. Subdivision

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

6.2.2. Minor Subdivision

A minor subdivision is a subdivision that creates three or fewer lots, tracts, or parcels.

6.2.3. Land Split

A land split is the division of improved or unimproved land whose area is two and one-half acres or less into two or three tracts or parcels of land for the purpose of sale or lease, as defined in A.R.S. § 9-463.

6.3. DESIGN STANDARDS

6.3.1. Minimal Standards

The design standards in this Article are minimum standards. The City, at its discretion, may impose more restrictive standards when it finds that they are necessary to preserve and protect public health, safety, and welfare..

6.3.2. Compliance with General Plan and Development Code

All subdivisions shall comply with all other applicable zoning, design, and development regulations set forth in this Development Code, including but not limited to:

- A.** The Buckeye General Plan;
- B.** The requirements of the zoning district in which the property is located (Articles 2, 3, and 4); and
- C.** Applicable development and design standards (Article 5).

6.3.3. Suitability for Subdivision

Land subject to hazardous conditions such as floods, mud flows, rock falls, possible mine subsidence, mine shafts, shallow water table, open quarries, and polluted or non-potable water supply shall be identified and shall not be subdivided until the hazards have been mitigated or will be mitigated by the subdivision and construction plans.

6.3.4. Streets

All public and private streets shall comply with the City of Buckeye Standard Engineering Specifications and Section 5.4.3, *Streets and Vehicular Circulation*, and in addition shall comply with the following standards.

A. Coordination of Streets

- 1.** All new streets shall intersect with surrounding existing streets at safe and convenient locations. Collector, local, and minor residential streets shall connect with surrounding streets where necessary to allow convenient movement of traffic and reasonable access for emergency vehicles, but connections shall not be permitted where the effect would be to encourage the use of such streets by cut-through traffic.
- 2.** When connections to surrounding streets are proposed or required by the City, public right-of-way shall be dedicated and streets developed to existing paved rights-of-way.
- 3.** The City may also require temporary hammerheads or turnarounds to be constructed for temporary cul-de-sacs between development phases.

B. Street Intersections

- 1.** Streets shall intersect as nearly as possible at right angles, and no more than two streets may intersect at any one point.

2. Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of such street. In any event, where a centerline offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall be not less than required by City engineering standards, and in no case less than 150 feet.

C. Street Design Standards

1. Streets shall be related appropriately to expected use. Streets shall be designed as set forth in the City of Buckeye Standards Engineering Specifications and as warranted by an approved Traffic Impact Analysis.
2. Streets constructed according to the City of Buckeye Standard Engineering Standards shall provide a standard curb, gutter and sidewalk.
3. Other suitable designs and materials may be approved for the construction of streets, curbs and sidewalks when in the opinion of the Planning Commission, such methods would be more environmentally desirable or more in keeping with the design of the development or neighborhood.
4. All Collector Streets, Minor Arterial Streets, and Major Arterial Streets shall have a landscaped median, which is to be constructed by the property owner/developer.

D. Bridges

All bridges shall be constructed according to applicable Arizona Department of Transportation and City standards.

E. Fire Hydrants

1. Every new development (subdivided and unsubdivided) that is served by a public water system shall include a system of fire hydrants which are constructed according to MAG standards.
2. The Fire Chief shall determine the precise location, number and type of all hydrants depending on the location, building size, density and lot size of the subject development.
3. Water lines that serve hydrants shall be at least six (6) inch diameter, and unless no other practicable alternative is available, no such lines shall be dead-end lines.

F. Lighting Requirements

1. All exterior lighting shall comply with the requirements of Section 5.10, *Exterior Lighting*.
2. All streets, sidewalks and other common areas or facilities in subdivisions created after the effective date of this Development Code shall be sufficiently illuminated to ensure the safety and security of persons and property.
3. All driveways, pedestrian and bicycle paths, parking areas, and other improved common areas located in or adjacent to new development shall be sufficiently illuminated to ensure the security and safety of persons and property.
4. Street lighting improvements shall be in accordance with the City of Buckeye Engineering Standards.

G. Street Naming

1. Continuation of Existing Names

The subdivider shall indicate the street name for public streets on the preliminary plat by projecting existing north-south and east-west street names that fall in alignment. Where no current streets are in alignment, the subdivider may propose a name based on the MAG or City street naming policy. All names are subject to final approval by the City.

2. Sign Posts

Street sign posts shall be placed at all street intersections by the subdivider and shall be in place when street paving is complete. Specifications for design, construction, location, and installation shall be in accordance with City roadway standards.

6.3.5. Blocks

A. Block Length

Residential blocks shall not be less than 300 feet nor more than 600 feet in length. The City may approve a longer block length when necessary to accommodate natural features such as steep slopes or washes (i.e., environmentally sensitive lands, low density residential development, or golf course communities).

B. Block Arrangement

Blocks shall have sufficient width to provide for two tiers of lots of depth meeting the minimum requirements of this Development Code, except where lots back onto a collector or greater street, natural feature, or subdivision boundary, or where lots face an approved loop road or cul-de-sac (See Figure 6.3-A.).

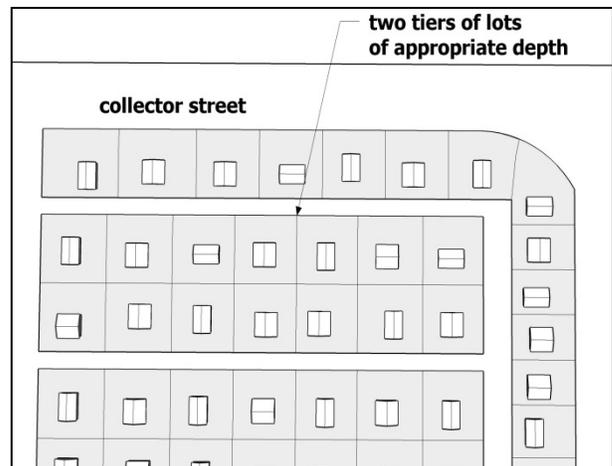


Figure 6.3-A: Example Block Arrangement

6.3.6. Lots

The design and layout of lots shall be dependent upon topography, natural vegetation, soil conditions, drainage, and abrupt changes in land use, heavy street traffic or other conditions.

- A.** The lot arrangement shall be such that there will be no foreseeable difficulties in obtaining a building permit or in providing driveway access to buildings on such lots from an approved street.
- B.** Double frontage, reversed frontage, flag, or other odd shaped lots are to be avoided.
- C.** Corner lots shall be larger than other lots in the same are to provide additional buffering area.
- D.** Lots shall be so placed as to provide positive drainage away from all buildings.

- E. Lots shall be so configured to face as many as possible in a north/south direction.
- F. Lot widths on cul-de-sacs shall be measured as the distance in a straight line, between the side lot lines at the points of intersection with the front setback line.

6.3.7. Easements

- A. The width, location, and purpose of all easements shall be provided on the final plat.
- B. Utility easements shall be located to the front of lots where practicable.
- C. Developers shall provide a minimum of an eight-foot public utility easement (PUE) adjacent to roadways when the side or rear yard of a lot abuts the public right-of-way for the purposes of siting public utilities. The PUE shall be landscaped in accordance with City standards. No structures, except those clearly incidental to the utility, shall be located within a utility easement.
- D. Drainage easements shall be provided for the retention of drainage from subdivision streets. Drainage shall not be shed to adjoining right-of-way.
- E. Natural drainage easements are encouraged to preserve washes and streams. Easements should include 25 feet of area on either side of a natural drainage area.
- F. The private maintenance of all easements shall be provided for in the recorded CC&Rs for the subdivision.
- G. Landscaping shall be provided by the developer or designee for all easement areas. Maintenance of the easement landscaping shall be provided for in the recorded CC&Rs for the subdivision.
- H. Developers shall dedicate a Vehicular Non-Access Easement to the rear or side of any lot adjacent to open space or right-of-way.

6.4. IMPROVEMENTS

6.4.1. Responsibility for Improvements

- A. Requirements in this Section apply to new development of single-family residences, subdivisions, multiple-family complexes, commercial, or industrial development.
- B. The developer shall be responsible for construction of all utility systems, such as wastewater, water, electric, phone, cable, gas, irrigation, and refuse that are needed as a direct result of the development.
- C. The extent of improvements required will be in accordance with standards as contained within this Development Code.
- D. Notwithstanding the above, any improvements assessed by the Planning Commission shall be limited to that which is necessitated as a direct result of the development.
- E. Cost of the improvements may be guaranteed by the developer posting a performance bond or providing a letter of credit, in lieu of the developer actually constructing the improvements.

6.4.2. Guarantee and Warranty of Public Improvements

A. Financial Guarantee

The City Council shall require the developer to guarantee that all required improvements will be completed in a manner satisfactory to the City using either of the following methods:

1. A performance bond, an irrevocable letter of credit, assurance of construction of subdivision improvements, funds in a restricted escrow account, or other financial guarantee approved by the City Attorney and accepted by the City Council prior to the recordation of the final plat.
2. The financial guarantee shall be 100 percent of the cost of the labor and materials necessary to complete the subdivision. If the amount of the assurance is based on an estimate, such estimate shall be prepared by a registered engineer and the amount of the financial guarantee shall be increased by 10 percent to account for unforeseen circumstances.
3. The period within which required improvements must be completed shall be specified and shall not exceed two years from the date of final approval.

B. Withhold Final Plat

As an alternative procedure, the City Council may approve a final plat and instruct the Director to withhold the recording of the plat for a period of time to allow the developer to complete the required improvements. When the developer has completed the required improvements and they have been inspected and approved by the City Engineer, the plat shall be recorded and the sale of lots may then proceed according to the approved and recorded plat.

C. Inspection Of Improvements

Prior to the approval of the required improvements by the City Engineer, an engineer retained by the developer shall certify to the City that all facilities and improvements to be dedicated to the City have been constructed in accordance with the requirements of this Development Code. The City Engineer shall also inspect all improvements to the site and certify that they comply with all specifications as set forth in the approved improvement plans. Any inspection expenses incurred by the City shall be reimbursed by the developer.

D. Warranty Of Improvements

The developer shall post a performance bond or other sufficient surety to guarantee that all defects in any public facilities or improvements that occur within two years after acceptance of the improvements by the City shall be corrected by the developer.

E. Development Agreement

The City shall have the authority to enter into a Development Agreement with the developer to carry out the provisions contained in this Development Code. The Planning Commission shall make a recommendation concerning any such development agreements prior to action by the City Council.

6.4.3. Improvement Requirements

A. Sewage Disposal Facilities

1. Every principal use and every lot within a development shall be served by a sewage disposal system that is adequate to accommodate the reasonable needs of such use or development lot with all applicable health regulations.
2. Structures shall not be occupied without an approved wastewater source that has been deemed adequate by the Maricopa County Health Department and other applicable public agencies.

B. Water Supply System

1. Every principal use and every lot within a development shall be served by a water supply system that is adequate to accommodate the reasonable needs of such use or development lots and that complies with all applicable health regulations.
2. Structures shall not be occupied without an approved water supply system that has been deemed adequate by the Maricopa County Health Department and other applicable public agencies.

C. Electric, Telephone, and Cable System

Every principal use and every lot within a development shall have available to it a source of electric power, telephone service, and cable service adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:

1. If the use is not in a development and can be served by existing service via a simple connection (as opposed to a more complex distribution system, such as would be required in an apartment complex or shopping center or would require an extension of a primary line), then no further certification is required.
2. If the use is in a development (or is a development) or is not served by existing service or a substantial internal distribution center would be necessary, or extension of a primary line would be necessary, then the utility company must review the proposed plans and certify to the City that it can provide service that is adequate to meet the needs of the proposed use or development.

D. Underground Service Lines

1. All utility lines, including irrigation service lines but not including transformers or enclosures containing equipment such as switches, meters, or capacitors that are ground-mounted and constructed in developments after the effective date of this Development Code, shall be placed underground in accordance with the specifications and policies of the respective utility company.
2. Whenever an unsubdivided development is constructed on a lot, then all electric power, telephone, and cable television lines located on the development site outside of a previously existing public street right-of-way shall be placed underground in accordance with the specifications and policies of the respective utility company.

6.4.4. Engineering Specifications

Construction and design details for all improvements shall comply with the City of Buckeye Engineering Standards.

6.5. DEDICATION

6.5.1. Streets

All street rights-of-way shall be dedicated to the public.

6.5.2. Alleys

The City Council may require the dedication of alley rights-of-way where it finds that alleys are necessary for service access, off-street loading, or parking. The minimum width of an alley right-of-way shall be 20 feet.

6.5.3. Public Park Dedication and Fees In-Lieu

See Section 5.3, *Open Space*.

ARTICLE 8: REVIEW AND APPROVAL PROCEDURES

8.1. PURPOSE AND ORGANIZATION OF THIS ARTICLE¹

8.1.1. Purpose

This Article describes the procedures for review and approval of all applications for development in the City of Buckeye. This article is intended to ensure consistency and efficiency in the administration of the City’s land use regulations.

8.1.2. Organization of Article

Common procedures, which are applicable to most types of development applications, are in Section 8.2, *Common Development Review Procedures*. Subsequent sections include additional provisions that are unique to each type of application, including staff and review board assignments and approval criteria.

8.1.3. Summary Table

Table 8.1-1 summarizes the review and decision-making responsibilities for the procedures described in this Article. The table is a summary tool and does not describe all possible types of decisions made under this Development Code. Other duties and responsibilities are described in Article 7, *Review and Decision-Making Bodies*

TABLE 8.1-1: REVIEW AND DECISION-MAKING RESPONSIBILITIES						
R = Review (Responsible for Review and/or Recommendation) H = Hearing (Public Hearing Required) D = Decision (Responsible for Final Decision) A = Appeal (Authority to Hear/Decide Appeals)						
Procedure	Section	Pre-App Conf?	Director	P&Z	City Council	Board of Adjustment
Amendment to General Plan/Specific Area Plan	8.3.	Yes	R	H-R	H-D	
Amendment to Text of Development Code	8.4.		R	H-R	H-D	
Amendment to Zoning Map (Rezoning)	8.5.	Yes	R	H-R	H-D	
Community Master Plan (CMP) and Planned Area Development (PAD)	8.6.	Yes	R	H-R	H-D	
Conditional Use Permit	8.7.	Yes	R	H-D	H-A	
Subdivision: Preliminary Plat	8.8.6.	Yes	R	H-R	H-D	

¹ RES. 17-15, ORD. 03-15; 03/17/2015

TABLE 8.1-1: REVIEW AND DECISION-MAKING RESPONSIBILITIES

R = Review (Responsible for Review and/or Recommendation)
 H = Hearing (Public Hearing Required)
 D = Decision (Responsible for Final Decision)
 A = Appeal (Authority to Hear/Decide Appeals)

Procedure	Section	Pre-App Conf?	Director	P&Z	City Council	Board of Adjustment
Subdivision: Final Plat	8.8.7.		D		H-A	
Minor Subdivision	8.8.8.		D	H-A		
Lot Split	8.8.9.		D	H-A		
Subdivision: Re-Plat: Administrative	8.8.10		D			
Subdivision: Re-Plat: City Council Review	8.8.10		R		H-D	
Site Plan: Administrative Review	8.9.3.		D	H-A		
Site Plan: Planning Commission Review	8.9.4.	Yes	R	D	H-A	
Temporary Use Permit	8.10.		D		H-A	
Variance	8.11.		H-D (Hearing Officer)		H-A	
Building Permit	8.14.		D			
Annexation	8.16.		R	H-R	D	

8.1.4. Other Reviews

In addition to the reviews summarized in Table 8.1-1, the Director may also refer applications to other boards, commissions, government agencies, and non-governmental agencies not referenced in this Article and/or in Article 6, *Review and Decision-Making Bodies*.

8.2. COMMON DEVELOPMENT REVIEW PROCEDURES ²

The common development review procedures in this Section 8.2 shall apply to all types of development applications under this Article 8, unless an exception to the common procedures is expressly identified in subsequent sections of this Article.

² RES. 17-15, ORD. 03-15; 03/17/2015

8.2.1. Step 1: Pre-Application Conference

A. Purpose

The purpose of a pre-application conference is to provide an opportunity for an informal evaluation of the applicant's proposal and to familiarize the applicant and the City staff with the applicable provisions of this Development Code, the City's General Plan, infrastructure requirements, and any other issues that may affect the applicant's proposal.

B. Applicability

1. Required for Certain Applications

A pre-application conference is required prior to the following types of applications:

- a. Amendment to the General Plan;
- b. Amendment to the Zoning Map (Rezoning);
- c. Community Master Plan;
- d. Conditional Use Permit;
- e. Subdivision: Preliminary Plat; and
- f. Site Plan approved by the Planning Commission;

Such applications shall not be accepted until after the pre-application conference is completed. The conference should take place prior to any substantial investment, such as detailed site and engineering design.

2. Optional for All Other Applications

A pre-application conference is optional prior to submission of any other application under this Development Code not listed above.

C. Initiation of Pre-Application Conference

The potential applicant shall request in writing a pre-application conference with the Director and pay the required fees. With the request for a pre-application conference, the applicant shall provide to the Director a description of the character, location, and magnitude of the proposed development and any other available supporting materials, such as maps, drawings, or models. It is the applicant's responsibility to provide sufficiently detailed plans and descriptions of the proposal for staff to make the informal recommendations discussed below. The materials should be submitted at least ten business days before the conference.

D. Pre-Application Conference Content

The Director shall schedule a pre-application conference after receipt of a proper request. At the conference, the applicant, the Director or designee, and any other persons the Director deems appropriate to attend shall discuss the proposed development. Based upon the information provided by the applicant and the provisions of this Development Code, the parties should discuss in general the proposed development, the applicable requirements and standards of this Development Code, and conditions that may be appropriate to meet the purposes and requirements of this Development Code.

E. Comments From Pre-Application Conference

City officials present at the pre-application conference shall submit their comments to the Community Development Department staff, who shall forward all comments received to the applicant within 10 business days of the conference.

F. Informal Evaluation Not Binding

The informal evaluation by the Director and staff provided at the conference is not binding upon the applicant or the City but is intended to serve only as a guide to the applicant in making the application and to advise the applicant in advance of the formal application of issues that may be presented to the appropriate decision-making body.

G. Waiver

The Director may waive the pre-application conference requirement for applications if he or she finds that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly, in his or her opinion, support such waiver.

H. Application Required Within Six Months

After a pre-application conference has been completed, the associated application must be completed within six months, or sooner if required by the Director due to changing conditions. If an application is not filed within such time frame, a new pre-application conference shall be required prior to filing an application.

8.2.2. Step 2: Neighborhood Meeting

A. Purpose

The purpose of a neighborhood meeting is to provide an opportunity to inform the residents and landowners of the surrounding neighborhood(s) of the details of a proposed development and application, how the applicant intends to meet the standards contained in this Development Code, and to receive public comment and encourage dialogue at an early time in the review process. No decision regarding the application will be made at the neighborhood meeting.

B. Applicability

A neighborhood meeting is recommended for any development proposal that will be subject to Planning Commission review. The neighborhood meeting is optional unless expressly stated otherwise in this Article 7 or required by the Director in his or her discretion.

C. Notice of Neighborhood Meeting

An applicant holding a neighborhood meeting is encouraged to provide mailed, published, and posted notice of the meeting in the same manner that would be required for public hearings on the application pursuant to Step 6 of the common development review procedures. Such notice is required if the neighborhood meeting is required by the Director or this Development Code. The applicant shall notify the Community Development Department in writing of the meeting date, time, and location no less than 14 days prior to the scheduled date of the meeting, if the meeting was required to be held by the Director or this Development Code. An affidavit certifying that the applicant completed the notice procedures under Step 6 shall be included with the development application submittal.

D. Attendance at Neighborhood Meeting

The applicant shall be responsible for scheduling the meeting, coordinating the meeting, and for retaining an independent facilitator if needed. The meeting shall be held prior to submittal of the subject development application. Attendance at the meeting by Community Development Department staff is not required and will be determined by the Director on a case-by-case basis.

E. Summary of Neighborhood Meeting

The applicant shall prepare and deliver a written summary of the neighborhood meeting to the Community Development Department within 30 days of the date of the meeting. The written summary shall be included in the staff report provided to the decision-making body at the time of the first public meeting to consider the application. The following information shall be included in the meeting summary, at a minimum: date, time, and location of the meeting; a copy of the meeting sign-in sheet, and a summary description of how the applicant has addressed or proposes to address the issues, concerns, and objections identified during the meeting.

8.2.3. Step 3: Development Application Submittal

A. Application Packet

The Director shall compile the requirements for application contents, forms, and fees and make such materials available to the public. The Director may amend and update the application materials from time to time.

B. Form of Application

Applications required under this Article shall be submitted in a form and in such number as required by the Director.

C. Consolidated Development Applications and Review

Multiple development applications for the same development proposal may be consolidated for submittal and review, if authorized by the Director and the application packets.

D. Authority to File Applications

1. Unless otherwise specified in this Development Code, applications for review and approval may be initiated by:
 - a. The owner of the property that is the subject of the application;
 - b. The owner's authorized agent; or
 - c. Any review or decision-making body.
2. When an authorized agent files an application under this Development Code on behalf of a property owner, the agent shall provide the Community Development Department with written documentation that the owner of the property has authorized the filing of the application.
3. When a review or decision-making body initiates action under this Development Code, it does so without prejudice toward the outcome.

E. Development Review Fees

1. Recovery of Costs

Development review fees are established to recover the costs incurred by the City in processing, reviewing, and recording development applications. The applicable development review fees are and shall be paid at the time of submittal of any development application.

2. Development Review Fee Schedule

The amount of the City's development review fees shall be established by the City Council and shall be based on the actual expenses incurred by or on behalf of the City.

F. Waivers

The Director may waive certain submittal requirements in order to reduce the burden on the applicant and to tailor the requirements to the information necessary to review a particular application. The Director may waive such requirements where he or she finds that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly, in his or her opinion, support such waiver.

G. Additional Information

Additional application-specific information, beyond that specified in the application packet, may be required by any decision-making body as necessary and appropriate to evaluate fully whether an application complies with the requirements of this Development Code.

H. Citizen Participation Plan

1. Every application that requires a neighborhood meeting shall include a citizen participation plan that must be implemented prior to the first public hearing. The purpose of the citizen participation plan is to:

- a.** Ensure that applicants pursue early and effective citizen participation in conjunction with the application, giving them the opportunity to understand and try to mitigate any real or perceived impacts their applications may have on the community;
- b.** Ensure that the citizens and property owners of the City of Buckeye have an adequate opportunity to learn about applications that may affect them and to work with applicants to resolve concerns at an early state of the process, and
- c.** Facilitate ongoing communication between the applicant and interested citizens and property owners, City staff, and elected officials throughout the application review process.

2. The citizen participation plan is not intended to produce complete consensus on all applications, but to encourage applicants to be good neighbors and to allow for informed decision making.

3. The citizen participation plan shall be submitted with the project application and shall include the following information at a minimum:

- a. Which residents of the City, adjacent property owners, interested parties who have submitted a request to the City to be notified of any rezoning pursuant to ARS §9-462.02, adjacent political jurisdictions, and public agencies with jurisdiction over the subject property may be affected by the application;
 - b. How those interested in and potentially affected by an applicant will be notified that an application has been made;
 - c. How those interested and potentially affected parties will be informed of the substance of the change, amendment, or development proposed by the application;
 - d. How those affected or otherwise interested will be provided an opportunity to discuss the applicant's proposal with the applicant and express any concerns, issues, or problems they may have with the proposal in advance of the public hearing;
 - e. The applicant's schedule for the completion of the citizen participation plan, and
 - f. How the applicant will keep the Planning Department informed on the status of their citizen participation efforts.
4. The level of citizen interest and area of involvement will vary depending on the nature of the application and the location of the site. The target area for early notification will be determined for the applicant after consultation with the Planning Department. At a minimum, the target area shall include the following:
 - a. Property owners within the public notice area required by Section 8.2.6 of the Development Code;
 - b. The head of any homeowners association or registered neighborhood within the public notice area;
 - c. Other interested parties who have requested that they be placed on the interested parties' notification list maintained by the Planning Department.
5. These requirements apply in addition to any notice provision required elsewhere in this Development Code.
6. Failure of any person or entity to receive notice shall not constitute grounds for any court to invalidate the actions of the municipality for which the notice was given.
7. The applicant may submit a citizen participation plan and begin implementation prior to formal application at their discretion. Submittal of a citizen participation plan shall not occur until after the required pre-application meeting and consultation with the Planning Department staff. The foregoing notwithstanding, applicants are encouraged to engage in early communication with the public.

I. Citizen Participation Report

This section applies only when a citizen participation plan is required by this Development Code.

1. The applicant shall provide a written report on the result of their citizen participation effort prior to the notice of public hearing. This report will be attached to the Planning Department's staff report.
2. At a minimum, the citizen participation report shall include the following information:
 - a. Details of techniques the applicant used to involve the public, including:
 - (i) Dates and locations of all meetings where citizens were invited to discuss the applicant's proposal;
 - (ii) Content, dated mailed, and numbers of mailings including letters, meeting notices, newsletters and other publications;
 - (iii) Where residents property owners, and interested parties receiving notices, newsletters or other written material are located; and
 - (iv) The number of people that participated in the process.
 - b. A summary of concerns, issues and problems expressed during the process, including:
 - (i) The substance of the concerns, issues, and problems
 - (ii) How the applicant has addressed or intends to address concerns, issues and problems expressed during the process; and
 - (iii) Concerns, issues and problems the applicant is unwilling or unable to address and why.

8.2.4. Step 4: Determination of Application Completeness

- A. After receipt of the development application, the Director shall determine whether the application is complete and ready for review.
- B. If the application is determined to be complete, the application shall then be processed according to the procedures set forth in this Development Code. An application will be considered complete if it is submitted in the required form, includes all mandatory information and supporting materials specified in the application packet, and is accompanied by the applicable fee. A pre-application conference shall have been held, if required by this Development Code. The determination of completeness shall not be based upon the perceived merits of the application.
- C. If an application is determined to be incomplete, the Director shall provide notice to the applicant along with an explanation of the application's deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected in a resubmittal.
- D. If any false or misleading information is submitted or supplied by an applicant on an application, that application will be deemed void and a new application must be submitted together with payment of applicable development review fees.

8.2.5. Step 5: Application Review and Report

After determining that a development application is complete, the Director shall refer the development application to the appropriate review agencies and planning staff, review the development application, and prepare a staff report. The staff report shall be made available for inspection and copying by the applicant and the public prior to the scheduled public hearing on the development application. The staff report shall indicate whether, in the opinion of the staff, the development application complies with all applicable standards of this Development Code. Conditions for approval may be recommended to eliminate any areas of noncompliance or mitigate any adverse effects of the development proposal.

8.2.6. Step 6: Notice

A. Content of Notices

Notice of all public hearings required under this Article shall, unless otherwise specified in this Development Code: (1) identify the date, time, and place of the public hearing, (2) if applicable, describe the property involved in the application by street address, or legal description, or a general description and nearest cross streets; (3) describe the nature, scope, and purpose of the proposed action; (4) indicate that interested parties may appear at the hearing and speak on the matter; and (5) indicate where additional information on the matter may be obtained. If the matter to be considered applies to territory in a high noise or accident potential zone as defined under state law, the notice shall include a general statement that the matter applies to property located in such an area.

B. Summary of Notice Requirements

The following Table 8.2-1 summarizes the notice requirements of the procedures in this Article.

TABLE 8.2-1: NOTICE REQUIREMENTS					
✓ = Notice Required					
Type of Application or Procedure	Section	Mailed	Published	Posted	Neighborhood Meeting
Amendment to General Plan/Specific Area Plan	8.3.	✓	✓	✓	✓
Amendment to Text of Development Code	8.4.	Mailed notice only required if covered by 8.2.6.D.2	✓		
Amendment to Zoning Map (Rezoning)	8.5.	✓	✓	✓	✓
Community Master Plan (CMP) and Planned Area Development (PAD)	8.6.	✓	✓	✓	✓
Conditional Use Permit	8.7.	✓	✓	✓	✓
Subdivision: Preliminary Plat	8.8.6.	✓	✓	✓	
Subdivision: Final Plat	8.8.7.				
Minor Subdivision	8.8.8.			✓	
Lot Split	8.8.9.				
Re-Plat	8.8.10				

TABLE 8.2-1: NOTICE REQUIREMENTS					
√ = Notice Required					
Type of Application or Procedure	Section	Mailed	Published	Posted	Neighborhood Meeting
Site Plan: Administrative Review	8.9.3.				
Site Plan: Planning Commission Review	8.9.4.				
Temporary Use Permit	8.10.				
Variance	8.11.	√ ⁱ	√	√	
Appeal of Administrative Decisions	8.13.		√	√	
Annexation	8.16		√	√	

NOTE: ¹ Variances require a mailed notice to surrounding property owners within 150 feet of the subject property.

C. Mailed Notice

When Table 7.2-1 requires that mailed notice be provided, the applicant shall provide the Director with a current list of applicable property owners and organizations as listed below, prepared and certified by a title insurance company or abstract company licensed by the State of Arizona. The applicant shall deposit notices into first-class mail at least 15 days prior to the scheduled date of the hearing. In computing such period, the day of posting shall not be counted, but the day of the hearing shall be counted. Written notice shall be provided by the applicant to all persons listed on the records of the County Assessor as owners of land subject to the application or as owners of the parcels within 300 feet of the outer boundary of the land subject to the application. For any rezoning of an area greater than 20 acres, General Plan amendments, and CMPs, the 300-foot requirement shall be 500 feet. The applicant shall provide a written “Affidavit of Mailing” to the Development Services Department certifying that all required notices were timely mailed.

D. Published Notice³

1. If published notice is required by Table 8.2-1, the applicant shall publish notice in a newspaper of general circulation in the area. The notice shall be published at least 15, but no more than 30, days before the scheduled hearing date. In computing such period, the day of posting shall not be counted, but the day of the hearing shall be counted. Any affidavit of publication provided by the newspaper shall be obtained by the applicant and given to the Development Services Department for their records.
2. If any application, proposed amendment, or proposed Minor Modification involves one or more of the following proposed changes or related series of changes,
 - a. A ten percent or more increase or decrease in the number of square feet or units that may be developed;

³ ORD. 14-14; 12/02/2014

- b. A ten percent or more increase or reduction in the allowable height of buildings;
- c. An increase or reduction in the allowable number of stories of buildings;
- d. A ten percent or more increase or decrease in setback or open space requirements; and/or
- e. An increase or reduction in permitted uses.

the City shall provide notice in accordance with A.R.S. §9-462.04 via one of the following methods, as per the Director's or their designee's discretion:

- f. Notice shall be sent by first class mail to each real property, as shown on the last assessment, whose real property is directly governed by the changes, or;
- g. Notices shall be included as inserts within utility bills or other mass mailings that periodically include notices or other informational or advertising materials, or;
- h. The City shall publish such changes prior to the first hearing on such changes in a newspaper of general circulation in the City. The changes shall be published in a "display ad" covering not less than one-eighth of a full page.

E. Posted Notice

Posted notice, if required by Table 8.2-1, shall be provided in the following manner: There shall be posting of at least three signs on the lot, parcel, or tract of land that is the subject of the application or proposed action by the City, and such signs shall remain on the property for a period of at least 15 days prior to the public hearing and for at least 10 days after the final disposition of the case. All signs shall be removed no later than 10 days after the expiration of the above period. The applicant shall maintain the sign in good condition throughout the required posting period. The sign shall be posted in a prominent place, clearly visible from a major arterial street if the property abuts such an arterial street, or clearly visible from a collector street if the property abuts a collector street, or clearly visible to the most heavily traveled street or public way if the property does not abut an arterial or collector street. In particular, a tract of land abutting an arterial street and that also abuts a residential subdivision having stubbed streets that cannot be served by the same arterial street serving the lot, parcel, or tract, shall post at least one additional sign clearly visible from at least one street in the residential subdivision which is stubbed to the property for which the application is being requested.

F. Constructive Notice

- 1. Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description or typographical or grammatical errors that do not impede communication of the notice to affected parties. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing and the decision-making body shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall make a formal

finding as to whether there was substantial compliance with the notice requirements of this Development Code.

2. When the records of the City document the publication, mailing, and posting of notices as required by this section, it shall be presumed that notice was given as required by this section.

8.2.7. Step 7: Public Hearing

A public hearing, if required under this Development Code, shall be conducted in accordance with the procedures adopted by the City of Buckeye.

8.2.8. Step 8: Decision and Findings

A. Decision

After consideration of the application, the staff report, comments received from other reviewers (if applicable), and the evidence from the public hearing (if applicable), the decision-maker shall approve, approve with conditions, or deny the application based on its compliance with the applicable approval criteria, as described in Step 9 of the common development review procedures. Written notification of the decision shall be provided by the Director to the applicant. All decisions shall include:

1. A statement of approval, approval with conditions, or denial, whichever is appropriate; and
2. A statement of the basis upon which the decision was made.

8.2.9. Step 9: Approval Criteria

To approve a development application, the decision maker shall find that the development application has satisfied and followed the applicable requirements of this Article and meets all of the approval criteria required for the applicable development application, as set forth in subsequent sections of this Article.

8.2.10. Step 10: Conditions of Approval

The decision-maker may impose such conditions on the approval of the application as may be necessary to reduce or minimize any potential adverse impact upon other property in the area, or to carry out the purpose and intent of the General Plan and this Development Code. In such cases, any conditions attached to approvals shall be directly related to the impacts of the proposed use or development and shall be roughly proportional in both nature and extent to the anticipated impacts of the proposed use or development. No conditions of approval, except for those attached to Variances or Minor Modification approvals, shall be less restrictive than the requirements of this Development Code.

8.2.11. Step 11: Amendments to Permits or Other Forms of Approval

A. Minor Amendments

Unless otherwise specified in this Article, minor amendments to any permit or other form of approval issued by the Director or the Planning Commission under this Article may be approved, approved with conditions, or denied administratively by the Director and may be authorized without additional public hearings. Such minor amendments may be authorized by the Director as long as the development approval, as so amended, continues to comply with the standards of this Development Code, at least to the extent of its original compliance (so as to

preclude any greater deviation from the standards of this Development Code by reason of such amendments). Minor amendments shall consist of any of the following:

1. Any change to any permit or other form of approval that was originally subject only to administrative review and was approved by the Director, provided such change would not have disqualified the original application from administrative review had it been requested at that time; and provided that the minor amendment does not result in an increase of more than ten percent in the amount of square footage of a land use or structure and does not result in a change in the types of uses in the project.
2. Any change to any permit or other form of approval that was originally subject to final review by the Planning Commission and was approved by the Planning Commission, provided that:
 - a. The minor amendment does not result in an increase in the approved number of dwelling units;
 - b. The minor amendment does not result in an increase in the amount of square footage of a non-residential land use or structure;
 - c. The minor amendment does not result in a change in the housing mix or use mix ratio; and
 - d. The minor amendment does not result in a change in the character of the development.
3. In either 1. or 2., the Director may refer the amendment to the Planning Commission and, if so referred, the decision of the Planning Commission shall constitute a final decision, subject only to appeal as provided under applicable law.

B. Major Amendments

Unless otherwise specified in this Article, amendments to any permit or other form of approval that are not determined by the Director to be minor amendments under the criteria in subsection A. shall be deemed major amendments. Major amendments shall be reviewed and processed in the same manner as required for the original application for which amendment is sought.

8.2.12. Step 12: Lapse

If applicable, the lapse of approval time frames established by the procedures of this Development Code may be extended only when all of the following conditions exist:

- A. The provisions of this Development Code must expressly allow the extension;
- B. An extension request must be filed prior to the applicable lapse-of-approval deadline;
- C. The extension request must be in writing and include justification; and
- D. Unless otherwise noted, authority to grant extensions of time shall rest with the decision-making body that granted the original approval (the one being extended).

...

8.8. SUBDIVISION

8.8.1. Purpose

The purpose of the subdivision review process is to ensure compliance with the subdivision standards and requirements in Article 6, *Land Subdivision*, while encouraging quality development consistent with the goals, policies, and objectives in the City's General Plan.

8.8.2. Applicability

The procedures of this Section 8.8, and the standards and requirements in Article 6, *Land Subdivision*, shall apply to all "subdivisions," "minor subdivisions," "re-subdivisions," and "land splits" as defined in Article 10, *Definitions*, of this Development Code, including any subdivisions or re-subdivisions created by an exercise of the power of eminent domain by an agency of the state or City, unless specifically excluded by state law.

8.8.3. Subdivision Approval is Prerequisite to Other Approvals

No building permit or certificate of occupancy may be issued for any building, structure, or improvement located within a subdivision, and no plat for a subdivision may be recorded, until:

- A. A plan for the subdivision has been approved and all required dedications of land have been made and all required improvements have been installed in accordance with the procedures and requirements of this Development Code; or
- B. A plan for the subdivision of land has been approved and, if applicable, a development agreement has been executed that provides for future improvements pursuant to Section 6.4, *Improvements*, of this Development Code.

The City shall not accept or maintain any street and shall not extend or connect any street lighting, water service, or sanitary sewer service to any subdivision of land, until and unless a final plat for the subdivision has been approved and recorded in accordance with the requirements in this Section 8.8.

8.8.4. Restriction on Sale or Transfer of Subdivided Land Without Approved Plat

Any person who transfers or sells any land located within the City by reference to a plat that has not been approved by the City and recorded by the appropriate County shall be guilty of a violation of this Development Code. Any person who transfers or sells land located within the City without meeting the applicable requirements of this Development Code and A.R.S. Sections 9-463, 9-463.01, 9-463.02 and 9-463.03 shall be guilty of a violation of this Development Code.

8.8.5. Existing Lots of Record

No provision of this Section 8.8 or Article 6, *Land Subdivision*, applies to any lot in a subdivision legally created and filed of record before the effective date of this Development Code, unless any lot, parcel, or tract is further subdivided.

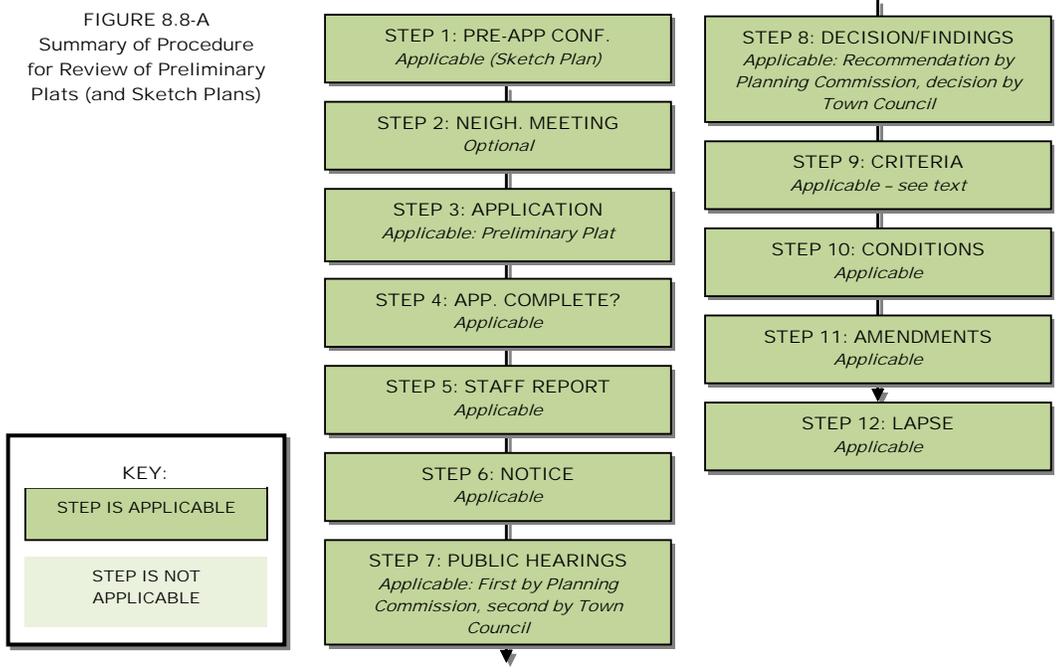
8.8.6. Procedure for Review of Preliminary Plats

The common development review procedures of Section 8.2 shall apply, with modifications as noted below. (See Figure 8.8-A.)

A. Step 1 (Pre-Application Conference) (Sketch Plan)

Applicable, as follows: A sketch plan shall be submitted to the Director staff on a form contained in the application packet. A sketch plan represents a generalized land use plan and layout for the area proposed to be included within a subdivision. It is a mandatory step that allows early, informal evaluation of a proposed subdivision before detailed planning and engineering work is undertaken and substantial expenses are incurred. At a minimum, the sketch plan shall contain the following information:

1. Uses proposed;
2. Intensity or density of uses proposed;
3. Location of public and private open space;
4. Drainage facilities;
5. All public and private road, street, and pedestrian networks proposed; and
6. Existing or proposed utilities and public services for the development.



B. Step 2 (Neighborhood Meeting)

Optional at the applicant's discretion.

C. Step 3 (Development Application Submittal)

Applicable, with the following additional provision: If only a portion of the land is intended for immediate development, the remaining portion shall be given a tract number and shall be considered a part of the preliminary and final plat. Requirements for surveying this remaining tract may be waived at the discretion of the Director.

- D. Step 4 (Determination of Application Completeness)**
Applicable.
- E. Step 5 (Staff Report)**
Applicable.
- F. Step 6 (Notice)**
Applicable. Mailed, posted, and published notice required.
- G. Step 7 (Public Hearings)**
Applicable. Two public hearings are required. The first hearing shall be held by the Planning Commission and the second hearing shall be held by the City Council.
- H. Step 8 (Decision and Findings)**
Applicable. The following additional procedures shall apply:
- 1. Public Hearing and Recommendation by Planning Commission**
 - a.** A copy of the preliminary plat filed with the City shall be available for public viewing during regular business hours. Anyone may submit written comments recommending approval or denial of the preliminary plat, stating the reasons therefore, to the Planning Commission on or before the date for the public hearing.
 - b.** The Planning Commission shall hold a public hearing on the preliminary plat and shall consider staff recommendations and any comments received from the referral entities. Within 30 days of the close of the hearing, based on the applicable approval criteria in Step 9, the Commission shall recommend that the City Council approve, conditionally approve, or deny the application; table the application for further review; or continue the hearing to a new date.
 - 2. Review and Decision by City Council**

The Council shall review the preliminary plat application at a regularly scheduled and noticed public hearing. The City Council shall consider the Planning Commission's recommendations and approve, conditionally approve, or deny the application, or table the application for further review, based on the applicable approval criteria in Step 9.
 - 3. Denial of a Preliminary Plat**

If a preliminary plat is denied by the City Council, the applicant shall be given in writing the specific reasons for the denial. The applicant may, within six months, resubmit the preliminary plat along with an affidavit stating that the deficiencies in the previous application have been corrected without paying an application fee.
 - 4. Conditions of Approval**

If the City Council specifies condition(s) for approval, the applicant may, within 60 days of such City Council action, resubmit the preliminary plat along with an affidavit to the City Council stating that the conditions specified by the City Council in the previous application have been met without paying an application fee. No public hearing by the Planning Commission is required in such cases. Such reapplication shall also be reviewed by the City Council according to the review procedures listed above for preliminary

plats. Any re-application of this type after 60 days shall be considered a new preliminary plat and shall require a new application fee and a public hearing before the Planning Commission.

5. Effect of Approval

Approval of a preliminary plat shall be deemed an expression of approval to the layouts submitted on the preliminary plat as a guide for the future installation of streets, water, sewer, and other required improvements and utilities and to the preparation of the final or record plat. Except as provided for in this section, approval of the preliminary plat shall constitute permission to submit a final plat when all conditions of approval noted as provided in this section have been met.

6. Construction Work

No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the final plat. The subdivider may undertake certain ground excavations for grading and drainage purposes if the proper permits are issued by the Director, at the subdivider's risk.

I. Step 9 (Approval Criteria)

Applicable, as follows: A preliminary plat may be approved only if the City Council finds that all of the following criteria have been met:

1. The subdivision is consistent with the General Plan.
2. The subdivision is consistent with and implements the intent of the specific zoning district(s) in which it is located.
3. The general layout of lots, roads, driveways, utilities, drainage facilities, and other services within the proposed subdivision is designed to meet the City's standards related to health and safety and in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat, and otherwise accomplishes the purposes and intent of this Development Code.
4. The subdivision complies with all applicable use, development, and design standards set forth in this Development Code that have not otherwise been modified or waived pursuant to this Article 8. Applicants shall refer to the dimensional standards in Article 4 and the development standards in Article 5 of this Development Code and shall implement them in the layout of the subdivision in order to avoid creating lots or patterns of lots in the subdivision that will make compliance with such development and design standards difficult or infeasible.
5. The plat complies with all requirements set forth in Article 6, *Land Subdivision*, of this Development Code.
6. The subdivision complies with all applicable regulations, standards, requirements, or plans of the federal or state governments and other relevant jurisdictions, including but not limited to wetlands, water quality, erosion control, and wastewater regulations.

7. The subdivision will not result in adverse impacts on the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated.
8. The subdivision shall be integrated and connected, where appropriate, with adjacent development through street connections, sidewalks, trails, and similar features.
9. The subdivision will not result in adverse impacts on adjacent properties, or such impacts will be substantially mitigated.
10. Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, schools, and fire stations are or may be available to serve the subject property, while maintaining sufficient levels of service to existing development.
11. As applicable, the proposed phasing plan for development of the subdivision is rational in terms of available infrastructure capability.

J. Step 10 (Conditions of Approval)

Applicable.

K. Step 11 (Amendments)

Applicable.

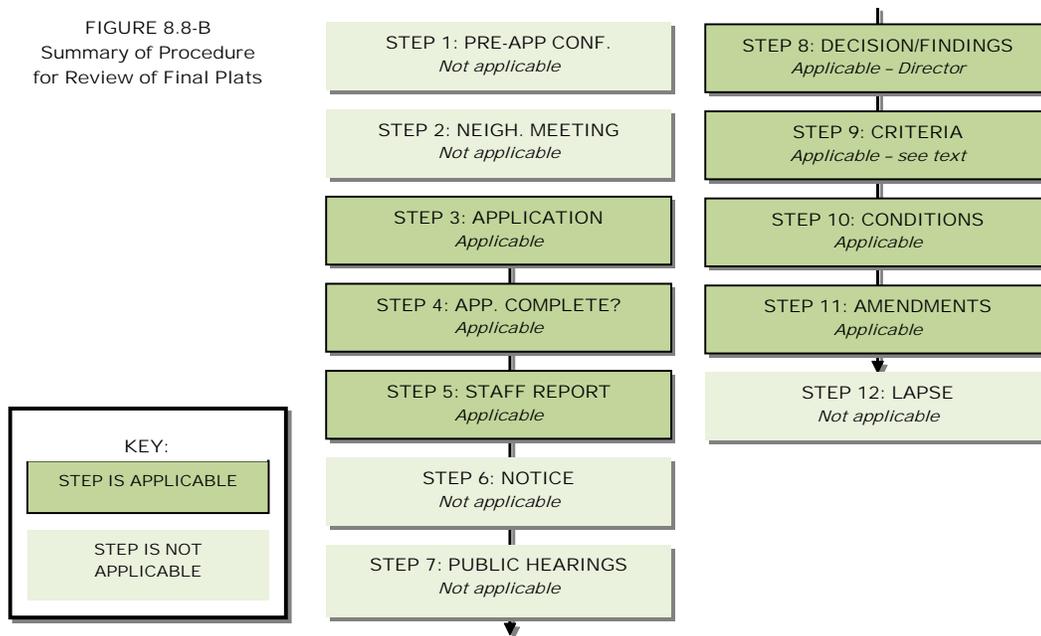
L. Step 12 (Lapse)

Applicable, as follows: Approval of a preliminary plat shall be effective for two years. If no development or change in requirements has occurred that would affect the proposed plat at the end of such two-year period, the City Council may, at the request of the applicant, extend its approval another year without the submission of a new preliminary plat by re-approving the original preliminary plat. No extensions of approval shall be granted more than once.

8.8.7. Procedure for Review of Final Plats

The common development review procedures of Section 8.2, *Common Development Review Procedures*, shall apply, with modifications as noted below. (See Figure 8.8-B.)

- A. **Step 1 (Pre-Application Conference)**
Not applicable.
- B. **Step 2 (Neighborhood Meeting)**
Not applicable.
- C. **Step 3 (Development Application Submittal)**
Applicable.
- D. **Step 4 (Determination of Application Completeness)**
Applicable.
- E. **Step 5 (Staff Report)**
Applicable.



- F. **Step 6 (Notice)**
Not applicable.
- G. **Step 7 (Public Hearings)**
Not applicable.
- H. **Step 8 (Decision and Findings)**
Applicable. The following additional procedures shall apply:
 - 1. **Director's Review and Decision**
The Director and staff shall review each proposed final plat application in light of the applicable approval criteria in Step 9. All construction plans for subdivision-related public improvements shall be referred to the City Engineer for review and approval. Based on the results of those reviews, the Director shall approve, approve with conditions, or deny the proposed final plat. If the Director finds that the final plat submittal documents do not

comply with the applicable requirements of this Development Code, the Director may refer it back to the applicant for modification or further study.

2. Final Plats that Differ from Approved Preliminary Plats

If the final plat does not substantially conform to the approved preliminary plat, based upon the determination of the Director, the Director shall refer the application to the Planning Commission, and the final plat submittal shall require review and approval in the same manner as the preliminary plat (i.e., hearings before the Planning Commission and the City Council).

3. Effect of Approval

Following the approval of a final plat, which shall have all permitted modifications, waivers, or variances expressly noted thereon, the final plat shall be signed by the Director, the City Engineer, and the City Attorney. The final plat shall then be recorded no later than 10 days after the final plat is executed by the City.

4. Acceptance of Dedications

Execution of the approved final plat shall constitute the City's preliminary acceptance of any public dedication, subject to an improvements guarantee.

5. Improvements Guarantee

The subdivider shall provide any required guarantees and warranties required by Article 6, *Land Subdivision*, to the City Clerk prior to the recording of the plat. For a period of two years after receipt of an acceptance letter from the City, the applicant shall guarantee the conditions of all public facilities and be responsible for the structural maintenance and the repair of any defects that may emerge during that period. Ownership and maintenance of those areas not formally accepted shall be the responsibility of the applicant or a private association. At the end of two years, the applicant shall petition the City for formal final release from the responsibility for the improvements. The City shall then inspect the improvements and determine whether the applicant has met the conditions specified in the preliminary acceptance. If conditions have been met, the City shall release the applicant from responsibility for the improvements. Upon final acceptance, it shall be the City's responsibility to maintain and repair all such improvements, unless stated otherwise on the final plat or within any development agreement recorded in connection with the development.

I. Step 9 (Approval Criteria)

Applicable, as follows: The Director shall approve a final plat if it meets the following criteria:

1. In the Director's discretion, the final plat substantially conforms to the approved preliminary plat and incorporates all recommended changes, modifications, and conditions attached to approval of the preliminary plat.
2. Plans and specifications for improvements connected with development of the subdivision comply with the standards in Article 6, *Land Subdivision*, of this Development Code, and any other relevant City, county, state, or federal regulations, except to the extent modifications, variances, or exceptions have been expressly allowed by the terms of the preliminary plat approval. All

construction plans for improvements shall be approved by the City Engineer prior to the Director's action on the final plat.

3. The applicant has either installed all required improvements or has executed a development improvement agreement required under Section 6.4, *Improvements*, of this Development Code.
4. The applicant has paid or satisfied all applicable fees and charges, including recording fees.

J. Step 10 (Conditions of Approval)

Applicable.

K. Step 11 (Amendments)

Applicable, with the following additional provisions:

1. Minor Amendments

The Director may approve minor amendments to approved plats, which shall be recorded and shall control over the preceding or final plat without vacation of that plat, if the amending plat is signed by the applicants only and the sole purpose of the amending plat is to:

- a. Correct an error in a course or distance shown on the preceding plat;
- b. Add a course or distance that was omitted on the preceding plat;
- c. Correct an error in a real property description shown on the preceding plat;
- d. Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
- e. Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
- f. Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
- g. Correct an error in courses and distances of lot lines between two adjacent lots if:
 - (i) Both lot owners join in the application for amending the plat;
 - (ii) Neither lot is abolished;
 - (iii) The amendment does not attempt to remove recorded covenants or restrictions; and
 - (iv) The amendment does not have a material adverse effect on the property rights of the owners in the plat;
 - (v) Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement; or
 - (vi) Relocate one or more lot lines between one or more adjacent lots if all of the following have been met:

- (1) The owners of all those lots join in the application for amending the plat;
- (2) The amendment does not attempt to remove recorded covenants or restrictions; and
- (3) The amendment does not increase the number of lots.

Notice, a public hearing, and the approval of other lot owners shall not be required for the approval and issuance of a minor amending plat. Minor amendments shall be prepared in the form of an affidavit or, where deemed necessary for clarity, a revised plat certified by a land surveyor licensed with the State of Arizona, and shall be filed with the appropriate County Clerk and Recorder.

- L. Step 12 (Lapse)**
Not applicable.

8.8.8. Procedure for Review of Minor Subdivisions

The procedure in this section shall apply to subdivisions that create three or fewer lots or tracts, provided that parcels are eligible for minor subdivision only once, and further subdivisions or newly created parcels shall be processed as regular subdivisions. The common development review procedures of Section 8.2 shall apply, with modifications as noted below.

- A. Step 1 (Pre-Application Conference)**
Applicable.
- B. Step 2 (Neighborhood Meeting)**
Not applicable.
- C. Step 3 (Development Application Submittal)**
Applicable.
- D. Step 4 (Determination of Application Completeness)**
Applicable.
- E. Step 5 (Staff Report)**
Applicable.
- F. Step 6 (Notice)**
Applicable. Posted notice only.
- G. Step 7 (Public Hearings)**
Not applicable.
- H. Step 8 (Decision and Findings)**
Applicable. The following additional procedures shall apply:
- 1. Director's Review and Decision**
The Director shall review each proposed minor subdivision in light of the applicable approval criteria in Step 9 and shall act to approve, approve with conditions, or deny the proposed minor subdivision. The Director shall

make a final decision on the final plat application within 30 days of receipt of a complete application.

I. Step 9 (Approval Criteria)

Applicable, as follows: The Director shall approve a minor subdivision application if it meets the following criteria:

1. The minor subdivision is consistent with and implements the intent of the specific zoning district in which it is located and complies with all applicable use, development, and design standards set forth in this Development Code;
2. As applicable, the minor subdivision is consistent with the terms and conditions of any previously approved CMP; and
3. Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the subject property, while maintaining sufficient levels of service to existing development.

J. Step 10 (Conditions of Approval)

Applicable.

K. Step 11 (Amendments)

Applicable.

L. Step 12 (Lapse)

Not applicable.

8.8.9. Procedure for Lot Split

All the procedures for a minor subdivision under Section 8.8.8, *Procedures for Review of Minor Subdivisions*, shall be applicable, with the following modifications:

- A. A lot split is permitted only for the division of improved or unimproved land whose area is two and one-half acres or less into two or three tracts or parcels of land, as defined in A.R.S. § 9-463.
- B. The lots, tracts, and parcels resulting after the land split shall meet the requirements of the underlying zoning district.

8.8.10. Procedure for Subdivision Re-Plat

All the procedures for a final plat shall be applicable, with the following modifications:

- A. There are two types of re-plat review: administrative and City Council review. The following applications shall qualify for administrative review:
 1. Up to 10 percent change in the overall density of the plat;
 2. Shift in internal lot line of no more than five feet provided the new lot sizes conform to the minimum zoning district standards; and
 3. Any application that, in the Directors opinion, does not cause a fundamental change in the overall function of the plat.

All other re-plat applications shall require review and decision by the City Council.

8.9. SITE PLAN REVIEW

8.9.1. Purpose

The site plan review process is intended to ensure compliance with the development and design standards of this Development Code and to encourage quality development reflective of the goals, policies, and objectives of the General Plan. For land uses requiring a site plan review, such uses may be established in the City, and building or land use permits may be issued, only after a site plan showing the proposed development has been approved in accordance with the procedures and requirements of this Section 8.9.

8.9.2. Applicability

A. Exemptions

The following types of projects are exempt from site plan review:

1. Single-family detached or duplex dwelling;
2. Tenant improvements in which the existing building is not expanded.

B. Administrative Site Plan Review

The following types of projects may be approved by the Director through the administrative site plan review process:

1. A single or combination of uses proposed in one or more structures that are less than 75,000 square feet in aggregate building area.
2. A single or combination of uses proposed not within structures which occupy less than 150,000 square feet of aggregate outdoor use area.
3. Antenna co-location on existing tower; non-concealed freestanding towers; and concealed antennae and towers
4. Any proposed development which contains any combination of the above classified types of projects.

C. Planning Commission Site Plan Review

The following types of projects shall require site plan review by the Planning Commission:

1. Any proposed development which is not classified as administrative site plan review.
2. Any Administrative Site Plan referred to the Planning Commission by the Director.

D. PENDING APPLICATIONS

An applicant with a complete application that has been submitted for review, but upon which no final action has been taken prior to the effective date of this ordinance (Ord. 3-15) may request review under this ordinance by written letter to the director.

8.9.3. Procedure for Administrative Site Plan Review

The common development review procedures of Section 8.2 shall apply, with modifications as noted below.

A. Step 1 (Pre-Application Conference)

Applicable.

B. Step 2 (Neighborhood Meeting)

Not applicable.

C. Step 3 (Development Application Submittal)

Applicable.

D. Step 4 (Determination of Application Completeness)

Applicable.

E. Step 5 (Staff Report)

Applicable.

F. Step 6 (Notice)

Public Hearing notice is not required however, mailed notice of application is applicable and the following procedure shall apply:

1. Upon application, the applicant shall provide the Director with a map exhibit and current list of applicable property owners and organizations as listed below.
2. Written "Notice of Application" shall be provided by the applicant to all persons, agencies, organizations or associations listed on the records of the county assessor as owners of land subject to the application or as owners of the parcels within 300 feet of the outer boundary of the lands subject to the application via first class US mail. Written notice shall also be provided in the same manner to the City of Buckeye Planning Division.
3. Notice shall be mailed within 15 days of the date of application. The applicant shall provide a written "Affidavit of Mailing" to the Development Services Department certifying that the notice of application was mailed in accordance with the requirements of this section.

G. Step 7 (Public Hearings)

Not applicable.

H. Step 8 (Decision and Findings)

Applicable. The following additional procedures shall apply:

1. Action by Director

The Director shall review each administrative site plan application and distribute the application to other reviewers as he or she deems necessary. Based on the results of those reviews, the Director shall take final action on the application and approve, approve with conditions, deny, or defer decision on the application based on the applicable approval criteria below.

2. Referral to Planning Commission

The Director may refer any site plan application to the Planning Commission for Planning Commission review and approval. For any referral, the review procedures for planning commission site plan review shall be applicable.

3. Appeal to the Planning Commission

Appeals of decisions made by the Director under this Section shall be made to the Planning Commission and scheduled as a public hearing. No neighborhood meeting shall be required prior to the hearing, however all other notification requirements in Section 8.2.6 shall apply. Planning Commission decision of administrative site plans shall be final.

I. Step 9 (Approval Criteria)

Applicable, as follows: A site plan approval constitutes authorization for the applicant to proceed with the preparation of final civil improvement plans, reports and building plans. A site plan may be approved upon a finding that the application meets all of the following criteria:

1. The site plan is consistent with the General Plan;
2. The site plan is consistent with any previously approved subdivision plat, planned development, or any other precedent plan or land use approval as applicable;
3. The site plan complies with all applicable development and design standards set forth in this Development Code; and
4. The development proposed in the plan and its general location is or will be compatible with the character of surrounding land uses.

J. Step 10 (Conditions of Approval)

Applicable.

K. Step 11 (Amendments)

Applicable, with the following modification: The director may approve the following amendments to approved site plans as "minor":

1. Changes in street alignment if such changes further the intent of the General Plan and this Development Code and are acceptable to the City Engineer.
2. Changes in building floor area, lot coverage, siting, and similar provisions of 10 percent or less.
3. Changes in landscaping, sign placement, lighting fixtures, etc. to further the intent of the General Plan and this Development Code.

L. Step 12 (Lapse)

Applicable, as follows:

1. The site plan shall be effective for a period of two years from the date of approval, unless stated otherwise in such approval. The Director may grant a

one-time extension of 12 months upon written request of the applicant prior to the expiration of the site plan.

2. Written request for extensions not conforming to the above may be granted by the Planning Commission. The Commission shall hold a public meeting and may modify, add, or remove conditions as part of an extension request.
3. Failure by the applicant to request a time extensions or obtain building permits prior to the expiration of the site plan shall render the unbuilt portion of the site plan null and void. The submittal, review, and approval of a revised site plan and fees shall be required prior to obtaining a building permit.

8.9.4. Procedure for Planning Commission Site Plan Review

The common development review procedures of Section 8.2 shall apply, with modifications as noted below.

- A. Step 1 (Pre-Application Conference)**
Applicable.
- B. Step 2 (Neighborhood Meeting)**
Not Applicable.
- C. Step 3 (Development Application Submittal)**
Applicable.
- D. Step 4 (Determination of Application Completeness)**
Applicable.
- E. Step 5 (Staff Report)**
Applicable.
- F. Step 6 (Notice)**
Public Hearing notice is not required however, the procedures of Section 8.9.3.F shall apply.
- G. Step 7 (Public Hearing)**
A public hearing is not applicable; however the Planning Commission shall hold a public meeting for consideration of the request.
- H. Step 8 (Decision and Findings)**
Applicable. The following additional procedures shall apply:
 - 1. Planning Commission's Review, Hearing, and Decision**
The Planning Commission shall hold a Public Meeting on the proposed application and approve, approve with conditions, or deny the proposed site plan, based on the applicable approval criteria in Step 9.
 - 2. Appeal to the City Council**
Appeals of decisions made by the Planning Commission under this Section shall be made to the City Council and scheduled as a Public Hearing. No neighborhood meeting shall be required prior to the hearing, however all

other notification requirements in Section 8.2.6 shall apply. City Council decision of Planning Commission site plan appeals shall be final.

I. Step 9 (Approval Criteria)

Applicable. A site plan may be approved upon a finding that the application meets all of the approval criteria set forth above under Section 8.9.3.I. *Approval Criteria* for administrative site plans.

J. Step 10 (Conditions of Approval)

Applicable.

K. Step 11 (Amendments)

Applicable.

L. Step 12 (Lapse)

Applicable. See Section 8.9.3.L. for the applicable lapse provisions for all site plans.

ARTICLE 6: LAND SUBDIVISION

6.1. GENERAL PROVISIONS

6.1.1. Intent

This Article is intended to promote the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the City by:

- A.** Promoting well-defined, sustainable neighborhoods that enhance the City's character and are compatible with adjoining lands;
- B.** Creating livable neighborhoods that foster a sense of community and reduce dependency on private vehicles;
- C.** Encouraging the proper arrangement of streets in relation to existing or planned streets and ensuring streets facilitate safe, efficient, and pleasant walking, biking and driving;
- D.** Providing a variety of lot sizes and housing types in every neighborhood;
- E.** Protecting sensitive natural and historic areas and the City's environmental quality;
- F.** Providing protection from natural hazards and flood prone areas; and
- G.** Ensuring compliance with the General Plan.

6.1.2. Applicability

A. General

Unless exempted in subsection B., this Article shall be applicable to all subdivision of land within the City that results in the partitioning, dividing, combining, or altering of any lot, parcel, or tract of land, including subdivisions created by an exercise of the power of eminent domain by an agency of the state or the City.

B. Exemptions

The standards of this Article shall not apply to:

1. Creation or realignment of an easement; and
2. Adjustment of the boundary line or the transfer of land between two adjacent property owners that does not result in the creation of any additional parcels.

C. Approvals Required

Before a preliminary plat for a subdivision shall be approved, the owner or authorized agent shall apply for and secure approval pursuant to Section 8.8, *Subdivision*.

6.1.3. Safety and Public Facilities

Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace. Land shall not be subdivided until proper provision has been made for drainage, water, sewage, and capital improvements such as schools, parks, recreation facilities, transportation facilities, and other public improvements.

6.1.4. Engineering And Construction Plans

A. Registered Engineer

It shall be the responsibility of the subdivider to have an engineer registered in the State of Arizona, prepare a complete set of engineering plans in accordance with all applicable City Codes, for the construction of all required improvements. Such plans shall be in conformance with the approved preliminary plat.

B. City Engineer Approval

All plans and supporting engineering reports for subdivision improvements shall be reviewed and approved by the City Engineer. All improvements shall be in accordance with the approved preliminary plat and all City standards, policies, and requirements.

6.1.5. Limitation on Conditions

A. In approving subdivisions, the City Council shall be authorized to impose such conditions upon the premises as may be necessary to carry out the general purpose and intent of this Development Code. Any conditions imposed on a development approval shall be based upon adopted standards that are: (a) contained in this Development Code, adopted plan or other document adopted by the city, and (b) sufficiently specific to ensure that the condition is imposed in a consistent and rational manner. Under no circumstance shall these provisions be interpreted to waive any responsibility to the public in the enforcement of provisions contained herein, where such conditions are necessary to protect public health, safety, and general welfare.

B. Any condition imposed on a development approval that would require the applicant to dedicate real property to the public or to pay money to the public in an amount that is determined on an individual and discretionary basis shall only be imposed if: (a) there is an essential nexus between the dedication or payment and a legitimate local government interest; and (b) the dedication or payment is roughly proportional both in nature and extent to the impact of the proposed use or development of such property.

6.2. TYPES OF LAND DIVISION

6.2.1. Subdivision

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

6.2.2. Minor Subdivision

A minor subdivision is a subdivision that creates ten or fewer lots, tracts, or parcels with or without dedications and easements, as defined in A.R.S. § 9-463.U. Minor Subdivisions do not require preliminary plats.

6.2.3. Land Split

A land split is the division of improved or unimproved land whose area is two and one-half acres or less into two or three tracts or parcels of land for the purpose of sale or lease, as defined in A.R.S. § 9-463.

6.2.4. Map of Dedication

A Map of Dedication dedicates right-of-way prior to other platting process to establish main roadways without subdividing adjacent property into building lots. No new parcels or tracts shall be established by Map of Dedication.

~~6.2.5. Abandonment~~

~~An abandonment is the abandonment of previously dedication right-of-way and/or easement which is deemed to not be necessary for public use, as defined in A.R.S. § 28-7205.~~

6.3. DESIGN STANDARDS

6.3.1. Minimal Standards

The design standards in this Article are minimum standards. The City, at its discretion, may impose more restrictive standards when it finds that they are necessary to preserve and protect public health, safety, and welfare.

6.3.2. Compliance with Adopted Plans and Development Code

All subdivisions shall comply with all other applicable zoning, design, and development regulations set forth in this Development Code, the Buckeye General Plan and all other adopted city plans, including but not limited to:

- A. Area Plans;
- B. Specific Plans;
- C. Community Master Plans and Planned Area Developments;
- D. Transportation and Transit Plans; and
- E. Parks, Trails, Recreation, and Open Space Plans.

6.3.3. Suitability for Subdivision

Land subject to hazardous conditions such as floods, mud flows, rock falls, possible mine subsidence, mine shafts, shallow water table, open quarries, and polluted or non-potable water supply shall be identified and shall not be subdivided until the hazards have been mitigated or will be mitigated by the subdivision and construction plans.

6.3.4. Streets

All public and private streets shall comply with the City of Buckeye Standard Engineering Specifications and Section 5.45.3, *Streets and Vehicular Circulation*, and in addition shall comply with the following standards.

A. Coordination of Streets

1. All new streets shall intersect with surrounding existing streets at safe and convenient locations. Collector, local, and minor residential streets shall connect with surrounding streets where necessary to allow convenient

movement of traffic and reasonable access for emergency vehicles, but connections shall not be permitted where the effect would be to encourage the use of such streets by cut-through traffic.

2. When connections to surrounding streets are proposed or required by the City, public right-of-way shall be dedicated and streets developed to existing paved rights-of-way.
3. The City may also require temporary hammerheads or turnarounds to be constructed for temporary cul-de-sacs between development phases.

B. Street Intersections

1. Streets shall intersect as nearly as possible at right angles, and no more than two streets may intersect at any one point.
2. Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of such street. In any event, where a centerline offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall be not less than required by City engineering standards, and in no case less than ~~+50~~ 135 feet.

C. Street Design Standards

1. Streets shall be related appropriately to expected use. Streets shall be designed as set forth in the City of Buckeye Standards Engineering Specifications and as warranted by an approved Traffic Impact Analysis.
2. Streets constructed according to the City of Buckeye Standard Engineering Standards shall provide a standard curb, gutter and sidewalk.
3. Other suitable designs and materials may be approved for the construction of streets, curbs and sidewalks when in the opinion of the Planning Commission, such methods would be more environmentally desirable or more in keeping with the design of the development or neighborhood.
4. ~~All~~ Collector Streets, Minor Arterial Streets, and Major Arterial Streets shall have a landscaped median as determined by the City, which is to be constructed by the property owner/developer.

D. Bridges

All bridges shall be constructed according to applicable Arizona Department of Transportation and City standards.

E. Fire Hydrants

1. Every new development (subdivided and unsubdivided) that is served by a public water system shall include a system of fire hydrants which are constructed according to MAG standards.
2. The Fire Chief shall determine the precise location, number and type of all hydrants depending on the location, building size, density and lot size of the subject development.
3. Water lines that serve hydrants shall be at least six (6) inch diameter, and unless no other practicable alternative is available, no such lines shall be dead-end lines.

F. Lighting Requirements

1. All exterior lighting shall comply with the requirements of Section 5.10, *Exterior Lighting*.
2. All streets, sidewalks and other common areas or facilities in subdivisions created after the effective date of this Development Code shall be sufficiently illuminated to ensure the safety and security of persons and property.
3. All driveways, pedestrian and bicycle paths, parking areas, and other improved common areas located in or adjacent to new development shall be sufficiently illuminated to ensure the security and safety of persons and property.
4. Street lighting improvements shall be in accordance with the City of Buckeye Engineering Standards.

G. Street Naming

1. **Continuation of Existing Names**

The subdivider shall indicate the street name for public streets on the preliminary plat by projecting existing north-south and east-west street names that fall in alignment. Where no current streets are in alignment, the subdivider may propose a name based on the MAG or City street naming policy. All names are subject to final approval by the City.

2. **Sign Posts**

Street sign posts shall be placed at all street intersections by the subdivider and shall be in place when street paving is complete. Specifications for design, construction, location, and installation shall be in accordance with City roadway standards.

6.3.5. Blocks

A. Block Length

Residential blocks shall not be less than 300 feet nor more than ~~600~~660 feet in length. The City may approve a longer block length when necessary to accommodate natural features such as steep slopes or washes (i.e., environmentally sensitive lands, low density residential development, or golf course communities, pedestrian linkages).

B. Block Arrangement

Blocks shall have sufficient width to provide for two tiers of lots of depth meeting the minimum requirements of this Development Code, except where lots back onto a collector or greater street, natural feature, or subdivision boundary, or where lots face an approved loop road or cul-de-sac (See Figure 6.3-A).



Figure 6.3-A: Example Block Arrangement

6.3.6. Lots

The design and layout of lots shall be dependent upon topography, natural vegetation, soil conditions, drainage, and abrupt changes in land use, heavy street traffic or other conditions.

- A. The lot arrangement shall be such that there will be no foreseeable difficulties in obtaining a building permit or in providing driveway access to buildings on such lots from an approved street.
- B. Double frontage, reversed frontage, flag, or other odd shaped lots are to be avoided.
- C. Corner lots shall be larger than other lots in the same are to provide additional buffering area. Alternatively, a tract may be provided to accommodate corner lot buffering.
- D. Lots shall be so placed as to provide positive drainage away from all buildings.
- E. Lots ~~shall~~should be so configured to face as many as possible in a north/south direction.
- F. Lot widths on cul-de-sacs shall be measured as the distance in a straight line, between the side lot lines at the points of intersection with the front setback line.

6.3.7. Easements

- A. The width, location, and purpose of all easements shall be provided on the final plat.
- B. Utility easements shall be located to the front of lots where practicable.
- C. Drainage easements shall be provided for the retention of drainage from subdivision streets. Drainage shall not be shed to adjoining right-of-way.
- D. Natural drainage easements are encouraged to preserve washes and streams. Easements should include 25 feet of area on either side of a natural drainage area.
- E. The private maintenance of all easements shall be provided for in the recorded CC&Rs for the subdivision.
- F. Landscaping shall be provided by the developer or designee for all easement areas. Maintenance of the easement landscaping shall be provided for in the recorded CC&Rs for the subdivision.
- G. Developers shall dedicate a Vehicular Non-Access Easement to the rear or side of any lot adjacent to open space or right-of-way.

Comment [EB1]: To be addressed after further study.

Comment [EB2]: To be addressed after further study of 6.3.7.D

6.4. IMPROVEMENTS

6.4.1. Responsibility for Improvements

- A. Requirements in this Section apply to all new development.
- B. The developer shall be responsible for construction of all utility systems, such as wastewater, water, electric, phone, cable, gas, irrigation, and refuse that are needed as a direct result of the development.
- C. The extent of improvements required will be in accordance with standards as contained within this Development Code.

- D. Notwithstanding the above, any improvements assessed by the Planning Commission shall be limited to that which is necessitated as a direct result of the development.
- E. Cost of the improvements may be guaranteed by the developer posting a performance bond or providing a letter of credit or other financial guarantee as determined by the City, in lieu of the developer actually constructing the improvements.

6.4.2. Guarantee and Warranty of Public Improvements

A. Financial Guarantee

The City Council shall require the developer to guarantee that all required improvements will be completed in a manner satisfactory to the City using either of the following methods:

1. A performance bond, an irrevocable letter of credit, assurance of construction of subdivision improvements, funds in a restricted escrow account, or other financial guarantee approved by the City Attorney and accepted by the City Council prior to the recordation of the final plat.
2. The financial guarantee shall be 100 percent of the cost of the labor and materials necessary to complete the subdivision. If the amount of the assurance is based on an estimate, such estimate shall be prepared by a registered engineer and the amount of the financial guarantee shall be increased by 10 percent to account for unforeseen circumstances.
3. The period within which required improvements must be completed shall be specified and shall not exceed two years from the date of final approval

B. Inspection Of Improvements

Prior to the approval of the required improvements by the City Engineer, an engineer retained by the developer shall certify to the City that all facilities and improvements to be dedicated to the City have been constructed in accordance with the requirements of this Development Code. The City Engineer shall also inspect all improvements to the site and certify that they comply with all specifications as set forth in the approved improvement plans. Any inspection expenses incurred by the City shall be reimbursed by the developer.

C. Warranty Of Improvements

The developer shall post a performance bond or other sufficient surety to guarantee that all defects in any public facilities or improvements that occur within two years after acceptance of the improvements by the City shall be corrected by the developer.

D. Development Agreement

The City shall have the authority to enter into a Development Agreement with the developer to carry out the provisions contained in this Development Code.

6.4.3. Improvement Requirements

A. Sewage Disposal Facilities

1. Every principal use and every lot within a development shall be served by a sewage disposal system that is adequate to accommodate the reasonable needs of such use or development lot with all applicable health regulations.

2. Structures shall not be occupied without an approved wastewater source that has been deemed adequate by the Maricopa County Health Department and other applicable public agencies.

B. Water Supply System

1. Every principal use and every lot within a development shall be served by a water supply system that will accommodate the reasonable needs of such use or development lots and that complies with all applicable health regulations.
2. Structures shall not be occupied without an approved water supply system that has been approved by all applicable public agencies.
3. All subdivisions are shall comply with the requirements of Buckeye City Code Sections 25-1-11, Assured Water Supply and 25-1-12, Adequate Water Supply, as applicable.

C. Electric, Telephone, and Cable System

Every principal use and every lot within a development shall have available to it a source of electric power, telephone service, and cable service adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:

1. If the use is not in a development and can be served by existing service via a simple connection (as opposed to a more complex distribution system, such as would be required in an apartment complex or shopping center or would require an extension of a primary line), then no further certification is required.
2. If the use is in a development (or is a development) or is not served by existing service or a substantial internal distribution center would be necessary, or extension of a primary line would be necessary, then the utility company must review the proposed plans and certify to the City that it can provide service that is adequate to meet the needs of the proposed use or development.

D. Underground Service Lines

1. All utility lines (except electric lines more than or equal to 69kV), including irrigation service lines but not including transformers or enclosures containing equipment such as switches, meters, or capacitors that are ground-mounted and constructed in developments after the effective date of this Development Code, shall be placed underground in accordance with the specifications and policies of the respective utility company.
2. Whenever an unsubdivided development is constructed on a lot, then all electric power less than 69kV, telephone, and cable television lines located on the development site outside of a previously existing public street right-of-way shall be placed underground in accordance with the specifications and policies of the respective utility company.

6.4.4. Engineering Specifications

Construction and design details for all improvements shall comply with the City of Buckeye Engineering Standards.

6.5. DEDICATION

6.5.1. Streets

All street rights-of-way shall be dedicated to the public.

6.5.2. Alleys

The City Council may require the dedication of alley rights-of-way where it finds that alleys are necessary for service access, off-street loading, or parking. The minimum width of an alley right-of-way shall be 20 feet.

6.5.3. Public Park Dedication and Fees In-Lieu

See Section 5.3, *Open Space*.

ARTICLE 8: REVIEW AND APPROVAL PROCEDURES

8.1. PURPOSE AND ORGANIZATION OF THIS ARTICLE¹

8.1.1. Purpose

This Article describes the procedures for review and approval of all applications for development in the City of Buckeye. This article is intended to ensure consistency and efficiency in the administration of the City’s land use regulations.

8.1.2. Organization of Article

Common procedures, which are applicable to most types of development applications, are in Section 8.2, *Common Development Review Procedures*. Subsequent sections include additional provisions that are unique to each type of application, including staff and review board assignments and approval criteria.

8.1.3. Summary Table

Table 8.1-1 summarizes the review and decision-making responsibilities for the procedures described in this Article. The table is a summary tool and does not describe all possible types of decisions made under this Development Code. Other duties and responsibilities are described in Article 7, *Review and Decision-Making Bodies*

TABLE 8.1-1: REVIEW AND DECISION-MAKING RESPONSIBILITIES						
R = Review (Responsible for Review and/or Recommendation) H = Hearing (Public Hearing Required) D = Decision (Responsible for Final Decision) A = Appeal (Authority to Hear/Decide Appeals)						
Procedure	Section	Pre-App Conf?	Director	P&Z	City Council	Board of Adjustment
Amendment to General Plan/Specific Area Plan	8.3.	Yes	R	H-R	H-D	
Amendment to Text of Development Code	8.4.		R	H-R	H-D	
Amendment to Zoning Map (Rezoning)	8.5.	Yes	R	H-R	H-D	
Community Master Plan (CMP) and Planned Area Development (PAD)	8.6.	Yes	R	H-R	H-D	
Conditional Use Permit	8.7.	Yes	R	H-D	H-A	
Minor Subdivision ¹	8.8.6.		D ²			

¹ RES. 17-15, ORD. 03-15; 03/17/2015

TABLE 8.1-1: REVIEW AND DECISION-MAKING RESPONSIBILITIES

R = Review (Responsible for Review and/or Recommendation)
 H = Hearing (Public Hearing Required)
 D = Decision (Responsible for Final Decision)
 A = Appeal (Authority to Hear/Decide Appeals)

Procedure	Section	Pre-App Conf?	Director	P&Z	City Council	Board of Adjustment
Subdivision: Preliminary Plat	8.8.7.		R	D		
Subdivision: Final Plat	8.8.8.		R		D	
Final Plat Re-Plat	8.8.9.		D			
Map of Dedication	8.8.10		R		D	
Abandonment	8.8.11		R		D	
Site Plan: Administrative Review	8.9.3.		D	H-A		
Site Plan: Planning Commission Review	8.9.4.	Yes	R	D	H-A	
Temporary Use Permit	8.10.		D		H-A	
Variance	8.11.		H-D (BOA or Hearing Officer)		H-A	
Building Permit	8.14.		D			
Annexation	8.16.		R	H-R	D	

NOTE:
 1 Land Split follows Minor Subdivision Process
 2 Minor Subdivision with right-of-way dedication require City Council decision (public meeting)

8.1.4. Other Reviews

In addition to the reviews summarized in Table 8.1-1, the Director may also refer applications to other boards, commissions, government agencies, and non-governmental agencies not referenced in this Article and/or in Article 6, *Review and Decision-Making Bodies*.

8.2. COMMON DEVELOPMENT REVIEW PROCEDURES ²

The common development review procedures in this Section 8.2 shall apply to all types of development applications under this Article 8, unless an exception to the common procedures is expressly identified in subsequent sections of this Article.

8.2.1. Step 1: Pre-Application Conference

A. Purpose

The purpose of a pre-application conference is to provide an opportunity for an informal evaluation of the applicant's proposal and to familiarize the applicant and the City staff with the applicable provisions of this Development Code, the City's General Plan, infrastructure requirements, and any other issues that may affect the applicant's proposal.

B. Applicability

1. Required for Certain Applications

A pre-application conference is required prior to the following types of applications:

- a. Amendment to the General Plan;
- b. Amendment to the Zoning Map (Rezoning);
- c. Community Master Plan;
- d. Conditional Use Permit;
- e. Subdivision: Preliminary Plat; and
- f. Site Plan approved by the Planning Commission;

Such applications shall not be accepted until after the pre-application conference is completed. The conference should take place prior to any substantial investment, such as detailed site and engineering design.

2. Optional for All Other Applications

A pre-application conference is optional prior to submission of any other application under this Development Code not listed above.

C. Initiation of Pre-Application Conference

The potential applicant shall request in writing a pre-application conference with the Director and pay the required fees. With the request for a pre-application conference, the applicant shall provide to the Director a description of the character, location, and magnitude of the proposed development and any other available supporting materials, such as maps, drawings, or models. It is the applicant's responsibility to provide sufficiently detailed plans and descriptions of the proposal for staff to make the informal recommendations discussed below. The materials should be submitted at least ten business days before the conference.

D. Pre-Application Conference Content

The Director shall schedule a pre-application conference after receipt of a proper request. At the conference, the applicant, the Director or designee, and any other persons the Director deems appropriate to attend shall discuss the proposed

² RES. 17-15, ORD. 03-15; 03/17/2015

development. Based upon the information provided by the applicant and the provisions of this Development Code, the parties should discuss in general the proposed development, the applicable requirements and standards of this Development Code, and conditions that may be appropriate to meet the purposes and requirements of this Development Code.

E. Comments From Pre-Application Conference

City officials present at the pre-application conference shall submit their comments to the Development Services Department staff, who shall forward all comments received to the applicant within 10 business days of the conference.

F. Informal Evaluation Not Binding

The informal evaluation by the Director and staff provided at the conference is not binding upon the applicant or the City but is intended to serve only as a guide to the applicant in making the application and to advise the applicant in advance of the formal application of issues that may be presented to the appropriate decision-making body.

G. Waiver

The Director may waive the pre-application conference requirement for applications if he or she finds that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly, in his or her opinion, support such waiver.

H. Application Required Within Six Months

After a pre-application conference has been completed, the associated application must be completed within six months, or sooner if required by the Director due to changing conditions. If an application is not filed within such time frame, a new pre-application conference shall be required prior to filing an application.

8.2.2. Step 2: Neighborhood Meeting

A. Purpose

The purpose of a neighborhood meeting is to provide an opportunity to inform the residents and landowners of the surrounding neighborhood(s) of the details of a proposed development and application, how the applicant intends to meet the standards contained in this Development Code, and to receive public comment and encourage dialogue at an early time in the review process. No decision regarding the application will be made at the neighborhood meeting.

B. Applicability

A neighborhood meeting is recommended for any development proposal that will be subject to Planning Commission review. The neighborhood meeting is optional unless expressly stated otherwise in this Article 8 or required by the Director in his or her discretion.

C. Notice of Neighborhood Meeting

An applicant holding a neighborhood meeting is encouraged to provide mailed notice of the meeting in the same manner that would be required for public hearings on the application pursuant to Step 6 of the common development review procedures. Such notice is required if the neighborhood meeting is required by the Director or this Development Code. The applicant shall notify the Development

Services Department in writing of the meeting date, time, and location no less than 14 days prior to the scheduled date of the meeting, if the meeting was required to be held by the Director or this Development Code. An affidavit certifying that the applicant completed the notice procedures under Step 6 shall be included with the development application submittal.

D. Attendance at Neighborhood Meeting

The applicant shall be responsible for scheduling the meeting, coordinating the meeting, and for retaining an independent facilitator if needed. The meeting shall be held prior to submittal of the subject development application. Attendance at the meeting by Development Services Department staff is not required and will be determined by the Director on a case-by-case basis.

E. Summary of Neighborhood Meeting

The applicant shall prepare and deliver a written summary of the neighborhood meeting to the Development Services Department within 30 days of the date of the meeting. The written summary shall be included in the staff report provided to the decision-making body at the time of the first public meeting to consider the application. The following information shall be included in the meeting summary, at a minimum: date, time, and location of the meeting; a copy of the meeting sign-in sheet, and a summary description of how the applicant has addressed or proposes to address the issues, concerns, and objections identified during the meeting.

8.2.3. Step 3: Development Application Submittal

A. Application Packet

The Director shall compile the requirements for application contents, forms, and fees and make such materials available to the public. The Director may amend and update the application materials from time to time.

B. Form of Application

Applications required under this Article shall be submitted in a form and in such number as required by the Director.

C. Consolidated Development Applications and Review

Multiple development applications for the same development proposal may be consolidated for submittal and review, if authorized by the Director and the application packets.

D. Authority to File Applications

1. Unless otherwise specified in this Development Code, applications for review and approval may be initiated by:
 - a. The owner of the property that is the subject of the application;
 - b. The owner's authorized agent; or
 - c. Any review or decision-making body.
2. When an authorized agent files an application under this Development Code on behalf of a property owner, the agent shall provide the Development Services Department with written documentation that the owner of the property has authorized the filing of the application.

3. When a review or decision-making body initiates action under this Development Code, it does so without prejudice toward the outcome.

E. Development Review Fees

1. Recovery of Costs

Development review fees are established to recover the costs incurred by the City in processing, reviewing, and recording development applications. The applicable development review fees are and shall be paid at the time of submittal of any development application.

2. Development Review Fee Schedule

The amount of the City's development review fees shall be established by the City Council and shall be based on the actual expenses incurred by or on behalf of the City.

F. Waivers

The Director may waive certain submittal requirements in order to reduce the burden on the applicant and to tailor the requirements to the information necessary to review a particular application. The Director may waive such requirements where he or she finds that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly, in his or her opinion, support such waiver.

G. Additional Information

Additional application-specific information, beyond that specified in the application packet, may be required by any decision-making body as necessary and appropriate to evaluate fully whether an application complies with the requirements of this Development Code.

H. Citizen Participation Plan

1. Every application that requires a neighborhood meeting shall include a citizen participation plan that must be implemented prior to the first public hearing. The purpose of the citizen participation plan is to:
 - a. Ensure that applicants pursue early and effective citizen participation in conjunction with the application, giving them the opportunity to understand and try to mitigate any real or perceived impacts their applications may have on the community;
 - b. Ensure that the citizens and property owners of the City of Buckeye have an adequate opportunity to learn about applications that may affect them and to work with applicants to resolve concerns at an early state of the process, and
 - c. Facilitate ongoing communication between the applicant and interested citizens and property owners, City staff, and elected officials throughout the application review process.
2. The citizen participation plan is not intended to produce complete consensus on all applications, but to encourage applicants to be good neighbors and to allow for informed decision making.

3. The citizen participation plan shall be submitted with the project application and shall include the following information at a minimum:
 - a. Which residents of the City, adjacent property owners, interested parties who have submitted a request to the City to be notified of any rezoning pursuant to ARS §9-462.02, adjacent political jurisdictions, and public agencies with jurisdiction over the subject property may be affected by the application;
 - b. How those interested in and potentially affected by an applicant will be notified that an application has been made;
 - c. How those interested and potentially affected parties will be informed of the substance of the change, amendment, or development proposed by the application;
 - d. How those affected or otherwise interested will be provided an opportunity to discuss the applicant's proposal with the applicant and express any concerns, issues, or problems they may have with the proposal in advance of the public hearing;
 - e. The applicant's schedule for the completion of the citizen participation plan, and
 - f. How the applicant will keep the Planning Department informed on the status of their citizen participation efforts.
4. The level of citizen interest and area of involvement will vary depending on the nature of the application and the location of the site. The target area for early notification will be determined for the applicant after consultation with the Planning Department. At a minimum, the target area shall include the following:
 - a. Property owners within the public notice area required by Section 8.2.6 of the Development Code;
 - b. The head of any homeowners association or registered neighborhood within the public notice area;
 - c. Other interested parties who have requested that they be placed on the interested parties' notification list maintained by the Planning Department.
5. These requirements apply in addition to any notice provision required elsewhere in this Development Code.
6. Failure of any person or entity to receive notice shall not constitute grounds for any court to invalidate the actions of the municipality for which the notice was given.
7. The applicant may submit a citizen participation plan and begin implementation prior to formal application at their discretion. Submittal of a citizen participation plan shall not occur until after the required pre-application meeting and consultation with the Planning Department staff. The foregoing notwithstanding, applicants are encouraged to engage in early communication with the public.

I. Citizen Participation Report

This section applies only when a citizen participation plan is required by this Development Code.

1. The applicant shall provide a written report on the result of their citizen participation effort prior to the notice of public hearing. This report will be attached to the Planning Department's staff report.
2. At a minimum, the citizen participation report shall include the following information:
 - a. Details of techniques the applicant used to involve the public, including:
 - (i) Dates and locations of all meetings where citizens were invited to discuss the applicant's proposal;
 - (ii) Content, dated mailed, and numbers of mailings including letters, meeting notices, newsletters and other publications;
 - (iii) Where residents property owners, and interested parties receiving notices, newsletters or other written material are located; and
 - (iv) The number of people that participated in the process.
 - b. A summary of concerns, issues and problems expressed during the process, including:
 - (i) The substance of the concerns, issues, and problems
 - (ii) How the applicant has addressed or intends to address concerns, issues and problems expressed during the process; and
 - (iii) Concerns, issues and problems the applicant is unwilling or unable to address and why.

8.2.4. Step 4: Determination of Application Completeness

- A. After receipt of the development application, the Director shall determine whether the application is complete and ready for review.
- B. If the application is determined to be complete, the application shall then be processed according to the procedures set forth in this Development Code. An application will be considered complete if it is submitted in the required form, includes all mandatory information and supporting materials specified in the application packet, and is accompanied by the applicable fee. A pre-application conference shall have been held, if required by this Development Code. The determination of completeness shall not be based upon the perceived merits of the application.
- C. If an application is determined to be incomplete, the Director shall provide notice to the applicant along with an explanation of the application's deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected in a resubmittal.
- D. If any false or misleading information is submitted or supplied by an applicant on an application, that application will be deemed void and a new application must be submitted together with payment of applicable development review fees.

8.2.5. Step 5: Application Review and Report

After determining that a development application is complete, the Director shall refer the development application to the appropriate review agencies and planning staff, review the development application, and prepare a staff report. The staff report shall be made available for inspection and copying by the applicant and the public prior to the scheduled public hearing on the development application. The staff report shall indicate whether, in the opinion of the staff, the development application complies with all applicable standards of this Development Code. Conditions for approval may be recommended to eliminate any areas of noncompliance or mitigate any adverse effects of the development proposal.

8.2.6. Step 6: Notice

A. Content of Notices

Notice of all public hearings required under this Article shall, unless otherwise specified in this Development Code: (1) identify the date, time, and place of the public hearing, (2) if applicable, describe the property involved in the application by street address, or legal description, or a general description and nearest cross streets; (3) describe the nature, scope, and purpose of the proposed action; (4) indicate that interested parties may appear at the hearing and speak on the matter; and (5) indicate where additional information on the matter may be obtained. If the matter to be considered applies to territory in a high noise or accident potential zone as defined under state law, the notice shall include a general statement that the matter applies to property located in such an area.

B. Summary of Notice Requirements

The following Table 8.2-1 summarizes the notice requirements of the procedures in this Article.

TABLE 8.2-1: NOTICE REQUIREMENTS					
√ = Notice Required					
Type of Application or Procedure	Section	Mailed	Published	Posted	Neighborhood Meeting
Amendment to General Plan/Specific Area Plan	8.3.	√	√	√	√
Amendment to Text of Development Code	8.4.	Mailed notice only required if covered by 8.2.6.D.2	√		
Amendment to Zoning Map (Rezoning)	8.5.	√	√	√	√
Community Master Plan (CMP) and Planned Area Development (PAD)	8.6.	√	√	√	√
Conditional Use Permit	8.7.	√	√	√	√
Minor Subdivision	8.8.6.			√	
Subdivision: Preliminary Plat ⁺	8.8.7.				
Subdivision: Final Plat	8.8.8.				
Final Plat Re-Plat	8.8.9				
Map of Dedication	8.8.10				

TABLE 8.2-1: NOTICE REQUIREMENTS					
√ = Notice Required					
Type of Application or Procedure	Section	Mailed	Published	Posted	Neighborhood Meeting
Abandonment	8.8.11				
Site Plan: Administrative Review	8.9.3.				
Site Plan: Planning Commission Review	8.9.4.				
Temporary Use Permit	8.10.				
Variance	8.11.	√ ²¹	✓	✓	
Appeal of Administrative Decisions	8.13.		✓	✓	
Annexation	8.16		✓	✓	
NOTE:					
1-PR or PC-zoned preliminary plats require mailed, published, posted notice and neighborhood meetings.					
²¹ Variances require a mailed notice to surrounding property owners within 150 feet of the subject property.					

C. Mailed Notice

When Table 7.2-1 requires that mailed notice be provided, the applicant shall provide the Director with a current list of applicable property owners and organizations as listed below. The applicant shall deposit notices into first-class mail at least 15 days prior to the scheduled date of the hearing. In computing such period, the day of posting shall not be counted, but the day of the hearing shall be counted. Written notice shall be provided by the applicant to all persons listed on the records of the County Assessor as owners of land subject to the application or as owners of the parcels within 300 feet of the outer boundary of the land subject to the application. For any rezoning of an area greater than 20 acres, General Plan amendments, and CMPs, the 300-foot requirement shall be 500 feet. The applicant shall provide a written "Affidavit of Mailing" to the Development Services Department certifying that all required notices were timely mailed.

D. Published Notice³

1. If published notice is required by Table 8.2-1, the applicant shall publish notice in a newspaper of general circulation in the area. The notice shall be published at least 15, but no more than 45, days before the scheduled hearing date. In computing such period, the day of posting shall not be counted, but the day of the hearing shall be counted. Any affidavit of publication provided by the newspaper shall be obtained by the applicant and given to the Development Services Department for their records.
2. If any application, proposed amendment, or proposed Minor Modification involves one or more of the following proposed changes or related series of changes,

³ ORD. 14-14; 12/02/2014

- a. A ten percent or more increase or decrease in the number of square feet or units that may be developed;
- b. A ten percent or more increase or reduction in the allowable height of buildings;
- c. An increase or reduction in the allowable number of stories of buildings;
- d. A ten percent or more increase or decrease in setback or open space requirements; and/or
- e. An increase or reduction in permitted uses.

the City shall provide notice in accordance with A.R.S. §9-462.04 via one of the following methods, as per the Director's or their designee's discretion:

- f. Notice shall be sent by first class mail to each real property, as shown on the last assessment, whose real property is directly governed by the changes, or;
- g. Notices shall be included as inserts within utility bills or other mass mailings that periodically include notices or other informational or advertising materials, or;
- h. The City shall publish such changes prior to the first hearing on such changes in a newspaper of general circulation in the City. The changes shall be published in a "display ad" covering not less than one-eighth of a full page.

E. Posted Notice

Posted notice, if required by Table 8.2-1, shall be provided in the following manner: There shall be posting of at least two signs on the lot, parcel, or tract of land that is the subject of the application or proposed action by the City, and such signs shall remain on the property for a period of at least 15 days prior to the public hearing. All signs shall be removed no later than 10 days after the expiration of the above period. The applicant shall maintain the sign in good condition throughout the required posting period. The sign shall be posted in a prominent place, clearly visible from a major arterial street if the property abuts such an arterial street, or clearly visible from a collector street if the property abuts a collector street, or clearly visible to the most heavily traveled street or public way if the property does not abut an arterial or collector street.

F. Constructive Notice

1. Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description or typographical or grammatical errors that do not impede communication of the notice to affected parties. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing and the decision-making body shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall make a formal finding as to whether there was substantial compliance with the notice requirements of this Development Code.

2. When the records of the City document the publication, mailing, and posting of notices as required by this section, it shall be presumed that notice was given as required by this section.

8.2.7. Step 7: Public Hearing

A public hearing, if required under this Development Code, shall be conducted in accordance with the procedures adopted by the City of Buckeye.

8.2.8. Step 8: Decision and Findings

A. Decision

After consideration of the application, the staff report, comments received from other reviewers (if applicable), and the evidence from the public hearing (if applicable), the decision-maker shall approve, approve with conditions, or deny the application based on its compliance with the applicable approval criteria, as described in Step 9 of the common development review procedures. Written notification of the decision shall be provided by the Director to the applicant. All decisions shall include:

1. A statement of approval, approval with conditions, or denial, whichever is appropriate; and
2. A statement of the basis upon which the decision was made.

8.2.9. Step 9: Approval Criteria

To approve a development application, the decision maker shall find that the development application has satisfied and followed the applicable requirements of this Article and meets all of the approval criteria required for the applicable development application, as set forth in subsequent sections of this Article.

8.2.10. Step 10: Conditions of Approval

The decision-maker may impose such conditions on the approval of the application as may be necessary to reduce or minimize any potential adverse impact upon other property in the area, or to carry out the purpose and intent of the General Plan and this Development Code. In such cases, any conditions attached to approvals shall be directly related to the impacts of the proposed use or development and shall be roughly proportional in both nature and extent to the anticipated impacts of the proposed use or development. No conditions of approval, except for those attached to Variances or Minor Modification approvals, shall be less restrictive than the requirements of this Development Code.

8.2.11. Step 11: Amendments to Permits or Other Forms of Approval

A. Minor Amendments

Unless otherwise specified in this Article, minor amendments to any permit or other form of approval issued by the Director or the Planning Commission under this Article may be approved, approved with conditions, or denied administratively by the Director and may be authorized without additional public hearings. Such minor amendments may be authorized by the Director as long as the development approval, as so amended, continues to comply with the standards of this Development Code, at least to the extent of its original compliance (so as to preclude any greater deviation from the standards of this Development Code by reason of such amendments). Minor amendments shall consist of any of the following:

1. Any change to any permit or other form of approval that was originally subject only to administrative review and was approved by the Director, provided such change would not have disqualified the original application from administrative review had it been requested at that time; and provided that the minor amendment does not result in an increase of more than ten percent in the amount of square footage of a land use or structure and does not result in a change in the types of uses in the project.
2. Any change to any permit or other form of approval that was originally subject to final review by the Planning Commission and was approved by the Planning Commission, provided that:
 - a. The minor amendment does not result in an increase in the approved number of dwelling units;
 - b. The minor amendment does not result in an increase in the amount of square footage of a non-residential land use or structure;
 - c. The minor amendment does not result in a change in the housing mix or use mix ratio; and
 - d. The minor amendment does not result in a change in the character of the development.
3. In either 1. or 2., the Director may refer the amendment to the Planning Commission and, if so referred, the decision of the Planning Commission shall constitute a final decision, subject only to appeal as provided under applicable law.

B. Major Amendments

Unless otherwise specified in this Article, amendments to any permit or other form of approval that are not determined by the Director to be minor amendments under the criteria in subsection A. shall be deemed major amendments. Major amendments shall be reviewed and processed in the same manner as required for the original application for which amendment is sought.

8.2.12. Step 12: Lapse

If applicable, the lapse of approval time frames established by the procedures of this Development Code may be extended only when all of the following conditions exist:

- A. The provisions of this Development Code must expressly allow the extension;
- B. An extension request must be filed prior to the applicable lapse-of-approval deadline;
- C. The extension request must be in writing and include justification; and
- D. Unless otherwise noted, authority to grant extensions of time shall rest with the decision-making body that granted the original approval (the one being extended).

...

8.8. SUBDIVISION

8.8.1. Purpose

The purpose of the subdivision review process is to ensure compliance with the subdivision standards and requirements in Article 6, *Land Subdivision*, while encouraging quality development consistent with the goals, policies, and objectives in the City's General Plan.

8.8.2. Applicability

A. The procedures of this Section 8.8, and the standards and requirements in Article 6, Land Subdivision, shall apply to all land divisions as defined in Article 6, Subdivision and Article 10, Definitions of this Development Code, including any subdivisions or re-subdivisions created by an exercise of the power of eminent domain by an agency of the state or City, unless specifically excluded by state law.

B. Administrative Review

The following types of subdivisions may be approved by the director through the administrative review process.

1. Land Splits.
2. Minor subdivisions which do not include right-of-way.

C. Planning Commission Review

The following types of subdivisions shall require final review by the Planning Commission:

1. Preliminary Plats.

D. City Council Review

The following types of subdivisions shall require final review by the City Council:

1. Final Plats.
2. Minor Subdivisions which include right-of-way dedications.
3. Maps of Dedications.
4. Abandonment of right-of-way.

E. Pending Applications

An applicant with a complete application that has been submitted for review, but upon which no final action has been taken prior to the effective date of this ordinance (Ord. xx-15) may request review under this ordinance by written letter to the director.

8.8.3. Subdivision Approval is Prerequisite to Other Approvals

No building permit or certificate of occupancy may be issued for any building, structure, or improvement located within a subdivision, and no plat for a subdivision may be recorded, until a plan for the subdivision has been approved and all required dedications of land have been made and all required improvements have been installed or financial assurances

have been accepted in accordance with the procedures and requirements of this Development Code.

8.8.4. Restriction on Sale or Transfer of Subdivided Land Without Approved Plat

Any person who transfers or sells any land located within the City by reference to a plat that has not been approved by the City and recorded by the appropriate County shall be guilty of a violation of this Development Code. Any person who transfers or sells land located within the City without meeting the applicable requirements of this Development Code and A.R.S. Sections 9-463, 9-463.01, 9-463.02 and 9-463.03 shall be guilty of a violation of this Development Code.

8.8.5. Existing Lots of Record

No provision of this Section 8.8 or Article 6, *Land Subdivision*, applies to any lot in a subdivision legally created and filed of record before the effective date of this Development Code, unless any lot, parcel, or tract is further subdivided.

8.8.6. Procedure for Review of Minor Subdivisions

The procedure in this section shall apply to subdivisions that create ten or fewer lots or tracts, and land splits. The common development review procedures of Section 8.2 shall apply, with modifications as noted below.

- A. Step 1 (Pre-Application Conference)**
Not Applicable.
- B. Step 2 (Neighborhood Meeting)**
Not applicable.
- C. Step 3 (Development Application Submittal)**
Applicable.
- D. Step 4 (Determination of Application Completeness)**
Applicable.
- E. Step 5 (Staff Report)**
 - 1. Land Split: Not applicable.
 - 2. Minor Subdivision (no right-of-way dedication): Not applicable.
 - 3. Minor Subdivision (with right-of-way dedication): Applicable.
- F. Step 6 (Notice)**
 - 1. Land Split: Not applicable.
 - 2. Minor Subdivision (no right-of-way dedication): Not applicable.
 - 3. Minor Subdivision (with right-of-way dedication): Public Hearing notice is not required however, mailed notice of application is applicable and the following procedure shall apply:

- a. Upon application, the applicant shall provide the Director with a map exhibit and current list of applicable property owners and organizations as listed below.
- b. Written "Notice of Application" shall be provided by the applicant to all persons, agencies, organizations or associations listed on the records of the county assessor as owners of land subject to the application or as owners of the parcels within 300 feet of the outer boundary of the lands subject to the application via first class US mail. Written notice shall also be provided in the same manner to the City of Buckeye Planning Division.
- c. Notice shall be mailed within 15 days of the date of application. The applicant shall provide a written "Affidavit of Mailing" to the Development Services Department certifying that the notice of application was mailed in accordance with the requirements of this section.

G. Step 7 (Public Hearings)

Not applicable, however a City Council public meeting is required for minor subdivisions which include right-of-way dedications.

H. Step 8 (Decision and Findings)

Applicable. The following additional procedures shall apply:

1. Review and Decision

The final decision body shall review each proposed land split or minor subdivision in light of the applicable approval criteria in Step 9 and shall act to approve, approve with conditions, or deny the proposed minor subdivision.

I. Step 9 (Approval Criteria)

Applicable, as follows: The final decision body shall approve a minor subdivision or land split application if it meets the following criteria:

1. The minor subdivision or land split is consistent with and implements the intent of the specific zoning district in which it is located and complies with all applicable use, development, and design standards set forth in this Development Code;
2. As applicable, the minor subdivision or land split is consistent with the terms and conditions of any previously approved CMP; and
3. Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the subject property, while maintaining sufficient levels of service to existing development.

J. Step 10 (Conditions of Approval)

Applicable.

K. Step 11 (Amendments)

Applicable.

- L. **Step 12 (Lapse)**
Not applicable.

8.8.7. Procedure for Review of Preliminary Plats

The common development review procedures of Section 8.2 shall apply, with modifications as noted below.

~~Planned Residential (PR) District and Planned Community (PC) District Establish Zoning Regulations by preliminary plat and final plat. Because of this, a neighborhood meeting and public hearing are required.~~

A. Step 1 (Pre-Application Conference) (Sketch Plan)

Applicable, as follows: A sketch plan shall be submitted to the Director staff on a form contained in the application packet. A sketch plan represents a generalized land use plan and layout for the area proposed to be included within a subdivision. It is a mandatory step that allows early, informal evaluation of a proposed subdivision before detailed planning and engineering work is undertaken and substantial expenses are incurred. At a minimum, the sketch plan shall contain the following information:

1. Uses proposed;
2. Intensity or density of uses proposed;
3. Location of public and private open space;
4. Drainage facilities;
5. All public and private road, street, and pedestrian networks proposed; and
6. Existing or proposed utilities and public services for the development.

B. Step 2 (Neighborhood Meeting)

~~1. PR and PC zoning district: Applicable.~~

~~All other zoning districts: Optional at the applicant's or Director's discretion.~~

C. Step 3 (Development Application Submittal)

Applicable.

D. Step 4 (Determination of Application Completeness)

Applicable.

E. Step 5 (Staff Report)

Applicable.

F. Step 6 (Notice)

~~PR and PC zoning districts: Applicable. Mailed, posted, and published notice is required.~~

~~All other zoning districts: Public Hearing notice is not required however, mailed notice of application is applicable and the following procedure shall apply:~~

~~2.1.~~ Upon application, the applicant shall provide the Director with a map exhibit and current list of applicable property owners and organizations as listed below.

2. Written "Notice of Application" shall be provided by the applicant to all persons, agencies, organizations or associations listed on the records of the county assessor as owners of land subject to the application or as owners of the parcels within 300 feet of the outer boundary of the lands subject to the application via first class US mail. Written notice shall also be provided in the same manner to the City of Buckeye Planning Division.

~~2.3.~~ Notice shall be mailed within 15 days of the date of application. The applicant shall provide a written "Affidavit of Mailing" to the Development Services Department certifying that the notice of application was mailed in accordance with the requirements of this section.

G. Step 7 (Public Hearings)

~~1. PR and PC zoning districts: Applicable.~~

~~All other zoning districts: Public meeting is required.~~

H. Step 8 (Decision and Findings)

Applicable. The following additional procedures shall apply for all applications:

1. Public Hearing or Public Meeting by Planning Commission

a. A copy of the preliminary plat filed with the City shall be available for public viewing during regular business hours. Anyone may submit written comments recommending approval or denial of the preliminary plat, stating the reasons therefore, to the Planning Commission on or before the date for the public hearing or meeting.

b. The Planning Commission shall hold a public hearing or meeting on the preliminary plat and shall consider staff recommendations and any comments received from the referral entities and make a final decision, based on the criteria in Step 9.

2. Effect of Approval

Approval of a preliminary plat shall be deemed an expression of approval to the layouts submitted on the preliminary plat as a guide for the future installation of streets, water, sewer, and other required improvements and utilities and to the preparation of the final or record plat. Except as provided for in this section, approval of the preliminary plat shall constitute permission to submit a final plat when all conditions of approval noted as provided in this section have been met.

3. Construction Work

No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the final plat. The subdivider may undertake certain ground excavations for grading and drainage purposes if the proper permits are issued by the Director, at the subdivider's risk.

4. Appeal to the City Council

Appeals of decisions made by the Planning Commission under this Section shall be made to the City Council and scheduled as a Public Hearing. No neighborhood meeting shall be required prior to the hearing, however all other notification requirements in Section 8.2.6 shall apply. City Council decision of Planning Commission site plan appeals shall be final.

I. Step 9 (Approval Criteria)

Applicable, as follows: A preliminary plat may be approved only if the ~~City Council~~Planning and Zoning Commission finds that all of the following criteria have been met:

1. The subdivision is consistent with the General Plan.
2. The subdivision is consistent with and implements the intent of the specific zoning district(s) in which it is located.
3. The general layout of lots, roads, driveways, utilities, drainage facilities, and other services within the proposed subdivision is designed to meet the City's standards related to health and safety and in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat, and otherwise accomplishes the purposes and intent of this Development Code.
4. The subdivision complies with all applicable use, development, and design standards set forth in this Development Code that have not otherwise been modified or waived pursuant to this Article 8. Applicants shall refer to the dimensional standards in Article 4 and the development standards in Article 5 of this Development Code and shall implement them in the layout of the subdivision in order to avoid creating lots or patterns of lots in the subdivision that will make compliance with such development and design standards difficult or infeasible.
5. The plat complies with all requirements set forth in Article 6, *Land Subdivision*, of this Development Code.
6. The subdivision complies with all applicable regulations, standards, requirements, or plans of the federal or state governments and other relevant jurisdictions, including but not limited to wetlands, water quality, erosion control, and wastewater regulations.
7. The subdivision will not result in adverse impacts on the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated.
8. The subdivision shall be integrated and connected, where appropriate, with adjacent development through street connections, sidewalks, trails, and similar features.

9. The subdivision will not result in adverse impacts on adjacent properties, or such impacts will be substantially mitigated.
10. Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, schools, and fire stations are or may be available to serve the subject property, while maintaining sufficient levels of service to existing development.
11. As applicable, the proposed phasing plan for development of the subdivision is rational in terms of available infrastructure capability.

J. Step 10 (Conditions of Approval)

Applicable.

K. Step 11 (Amendments)

Applicable.

L. Step 12 (Lapse)

1. Approval of a preliminary plat shall be effective for two years, unless otherwise stated in such approval.
2. For a preliminary plat which identifies phases, the preliminary plat shall be effective for two years. For each preliminary plat phase in which a final plat is recorded, the effective period of the approved preliminary plat shall be extended an additional two years from the recording date of the final plat.
3. This validity period may be administratively extended an additional 12 months from the date of expiration if, in the opinion of the director, satisfactory progress has been made towards the completion of the final plat for the next phase of subdivision development.
4. Failure by the applicant to request a time extensions or obtain building permits prior to the expiration of the preliminary plat shall render the unbuilt portion of the preliminary plat null

8.8.8. Procedure for Review of Final Plats

The common development review procedures of Section 8.2, *Common Development Review Procedures*, shall apply, with modifications as noted below.

A. Step 1 (Pre-Application Conference)

Not applicable.

B. Step 2 (Neighborhood Meeting)

Not applicable.

C. Step 3 (Development Application Submittal)

Applicable.

D. Step 4 (Determination of Application Completeness)

Applicable.

E. Step 5 (Staff Report)

Applicable.

F. Step 6 (Notice)

Not applicable.

G. Step 7 (Public Hearings)

Not applicable, however the City Council shall hold a public meeting for consideration of the request.

H. Step 8 (Decision and Findings)

Applicable. The following additional procedures shall apply:

1. Director's Review and City Council Decision

The Director and staff shall review each proposed final plat application in light of the applicable approval criteria in Step 9. All construction plans for subdivision-related public improvements shall be referred to the City Engineer for review and approval. Based on the results of those reviews, the Director shall recommend the City Council approve, approve with conditions, or deny the proposed final plat. If the Director finds that the final plat submittal documents do not comply with the applicable requirements of this Development Code, the Director may refer it back to the applicant for modification or further study.

2. Effect of Approval

Following the approval of a final plat, which shall have all permitted modifications, waivers, or variances expressly noted thereon, the final plat shall be signed by the Director, the City Engineer, the Mayor and City Clerk. The final plat shall then be recorded no later than ~~30-10~~ days after the final plat is executed by the City.

3. Acceptance of Dedications

Execution of the approved final plat shall constitute the City's preliminary acceptance of any public dedication, subject to an improvements guarantee.

4. Improvements Guarantee

The subdivider shall provide any required guarantees and warranties required by Article 6, *Land Subdivision*, to the City Clerk prior to the recording of the plat. For a period of two years after receipt of an acceptance letter from the City, the applicant shall guarantee the conditions of all public facilities and be responsible for the structural maintenance and the repair of any defects that may emerge during that period. Ownership and maintenance of those areas not formally accepted shall be the responsibility of the applicant or a private association. At the end of two years, the applicant shall petition the City for formal final release from the responsibility for the improvements. The City shall then inspect the improvements and determine whether the applicant has met the conditions specified in the preliminary acceptance. If conditions have been met, the City shall release the applicant from responsibility for the improvements. Upon final acceptance, it shall be the City's responsibility to maintain and repair all such improvements, unless stated otherwise on the final plat or within any development agreement recorded in connection with the development.

Comment [EB1]: Staff will review this policy and address in future amendments.

I. Step 9 (Approval Criteria)

Applicable, as follows: The City Council shall approve a final plat if it meets the following criteria:

1. The final plat substantially conforms to the approved preliminary plat and incorporates all recommended changes, modifications, and conditions attached to approval of the preliminary plat.
2. Plans and specifications for improvements connected with development of the subdivision comply with the standards in Article 6, *Land Subdivision*, of this Development Code, and any other relevant City, county, state, or federal regulations, except to the extent modifications, variances, or exceptions have been expressly allowed by the terms of the preliminary plat approval. All construction plans for improvements shall be approved by the City Engineer prior to the City Council's action on the final plat.
3. The applicant has paid or satisfied all applicable fees and charges, including recording fees.

J. Step 10 (Conditions of Approval)

Applicable.

K. Step 11 (Amendments)

Applicable, with the following additional provisions:

1. Corrective Plat (Minor Amendment)

The Director may approve minor amendments to approved plats, which shall be recorded and shall control over the preceding or final plat without vacation of that plat, if the amending plat is signed by the applicants only and the sole purpose of the amending plat is to:

- a. Correct an error in a course or distance shown on the preceding plat;
- b. Add a course or distance that was omitted on the preceding plat;
- c. Correct an error in a real property description shown on the preceding plat;
- d. Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
- e. Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
- f. Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
- g. Correct an error in courses and distances of lot lines between two adjacent lots if:
 - (i) Both lot owners join in the application for amending the plat;
 - (ii) Neither lot is abolished;

- (iii) The amendment does not attempt to remove recorded covenants or restrictions; and
- (iv) The amendment does not have a material adverse effect on the property rights of the owners in the plat;
- (v) Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement; or
- (vi) Relocate one or more lot lines between one or more adjacent lots if all of the following have been met:
 - (1) The owners of all those lots join in the application for amending the plat;
 - (2) The amendment does not attempt to remove recorded covenants or restrictions; and
 - (3) The amendment does not increase the number of lots.

Notice, a public hearing, and the approval of other lot owners shall not be required for the approval and issuance of a minor amending plat. Minor amendments shall be prepared in the form of an affidavit or, where deemed necessary for clarity, a revised plat certified by a land surveyor licensed with the State of Arizona, and shall be filed with the appropriate County Clerk and Recorder.

- L. **Step 12 (Lapse)**
Not applicable.

8.8.9. Procedure for Subdivision Final Plat Re-Plat

All the procedures for a final plat shall be applicable. The following applications shall qualify for Final Plat Re-Plat review:

- A. Up to 10 percent change in the overall density of the plat;
- B. Shifts in internal lot lines provided the new lot sizes conform to the minimum zoning district standards; and
- C. Any application that, in the Directors opinion, does not cause a fundamental change in the overall function of the plat.

8.8.10. Procedure for Map of Dedication

All the procedures for a final plat shall be applicable, with the following modifications:

- A. A preliminary plat is not a prerequisite for a map of dedication.
- B. Tracts and parcels shall not be created by a map of dedication.

~~8.8.11. Procedure for Abandonment~~

~~All the procedures for a final plat shall be applicable, except that a preliminary plat is not a prerequisite for an abandonment.~~

8.9. SITE PLAN REVIEW

8.9.1. Purpose

The site plan review process is intended to ensure compliance with the development and design standards of this Development Code and to encourage quality development reflective of the goals, policies, and objectives of the General Plan. For land uses requiring a site plan review, such uses may be established in the City, and building or land use permits may be issued, only after a site plan showing the proposed development has been approved in accordance with the procedures and requirements of this Section 8.9.

8.9.2. Applicability

A. Exemptions

The following types of projects are exempt from site plan review:

1. Single-family detached or duplex dwelling;
2. Tenant improvements in which the existing building is not expanded.

B. Administrative Site Plan Review

The following types of projects may be approved by the Director through the administrative site plan review process:

1. A single or combination of uses proposed in one or more structures that are less than 75,000 square feet in aggregate building area.
2. A single or combination of uses proposed not within structures which occupy less than 150,000 square feet of aggregate outdoor use area.
3. Antenna co-location on existing tower; non-concealed freestanding towers; and concealed antennae and towers
4. Any proposed development which contains any combination of the above classified types of projects.

C. Planning Commission Site Plan Review

The following types of projects shall require site plan review by the Planning Commission:

1. Any proposed development which is not classified as administrative site plan review.
2. Any Administrative Site Plan referred to the Planning Commission by the Director.

D. Pending Applications

An applicant with a complete application that has been submitted for review, but upon which no final action has been taken prior to the effective date of this ordinance (Ord. 3-15) may request review under this ordinance by written letter to the director.

8.9.3. Procedure for Administrative Site Plan Review

The common development review procedures of Section 8.2 shall apply, with modifications as noted below.

- A. Step 1 (Pre-Application Conference)**
Not applicable.
- B. Step 2 (Neighborhood Meeting)**
Not applicable.
- C. Step 3 (Development Application Submittal)**
Applicable.
- D. Step 4 (Determination of Application Completeness)**
Applicable.
- E. Step 5 (Staff Report)**
Applicable.
- F. Step 6 (Notice)**
Public Hearing notice is not required however, mailed notice of application is applicable and the following procedure shall apply:
1. Upon application, the applicant shall provide the Director with a map exhibit and current list of applicable property owners and organizations as listed below.
 2. Written "Notice of Application" shall be provided by the applicant to all persons, agencies, organizations or associations listed on the records of the county assessor as owners of land subject to the application or as owners of the parcels within 300 feet of the outer boundary of the lands subject to the application via first class US mail. Written notice shall also be provided in the same manner to the City of Buckeye Planning Division.
 3. Notice shall be mailed within 15 days of the date of application. The applicant shall provide a written "Affidavit of Mailing" to the Development Services Department certifying that the notice of application was mailed in accordance with the requirements of this section.
- G. Step 7 (Public Hearings)**
Not applicable.
- H. Step 8 (Decision and Findings)**
Applicable. The following additional procedures shall apply:
1. **Action by Director**
The Director shall review each administrative site plan application and distribute the application to other reviewers as he or she deems necessary. Based on the results of those reviews, the Director shall take final action on the application and approve, approve with conditions, deny, or defer decision on the application based on the applicable approval criteria below.
 2. **Referral to Planning Commission**
The Director may refer any site plan application to the Planning Commission for Planning Commission review and approval. For any referral, the review procedures for planning commission site plan review shall be applicable.

3. Appeal to the Planning Commission

Appeals of decisions made by the Director under this Section shall be made to the Planning Commission and scheduled as a public hearing. No neighborhood meeting shall be required prior to the hearing, however all other notification requirements in Section 8.2.6 shall apply. Planning Commission decision of administrative site plans shall be final.

I. Step 9 (Approval Criteria)

Applicable, as follows: A site plan approval constitutes authorization for the applicant to proceed with the preparation of final civil improvement plans, reports and building plans. A site plan may be approved upon a finding that the application meets all of the following criteria:

1. The site plan is consistent with the General Plan;
2. The site plan is consistent with any previously approved subdivision plat, planned development, or any other precedent plan or land use approval as applicable;
3. The site plan complies with all applicable development and design standards set forth in this Development Code; and
4. The development proposed in the plan and its general location is or will be compatible with the character of surrounding land uses.

J. Step 10 (Conditions of Approval)

Applicable.

K. Step 11 (Amendments)

Applicable, with the following modification: The director may approve the following amendments to approved site plans as "minor":

1. Changes in street alignment if such changes further the intent of the General Plan and this Development Code and are acceptable to the City Engineer.
2. Changes in building floor area, lot coverage, siting, and similar provisions of 10 percent or less.
3. Changes in landscaping, sign placement, lighting fixtures, etc. to further the intent of the General Plan and this Development Code.

L. Step 12 (Lapse)

Applicable, as follows:

1. The site plan shall be effective for a period of two years from the date of approval, unless stated otherwise in such approval. The Director may grant a one-time extension of 12 months upon written request of the applicant prior to the expiration of the site plan.
2. Written request for extensions not conforming to the above may be granted by the Planning Commission. The Commission shall hold a public meeting and may modify, add, or remove conditions as part of an extension request.

3. Failure by the applicant to request a time extensions or obtain building permits prior to the expiration of the site plan shall render the unbuilt portion of the site plan null and void. The submittal, review, and approval of a revised site plan and fees shall be required prior to obtaining a building permit.

8.9.4. Procedure for Planning Commission Site Plan Review

The common development review procedures of Section 8.2 shall apply, with modifications as noted below.

- A. Step 1 (Pre-Application Conference)**
Applicable.
- B. Step 2 (Neighborhood Meeting)**
Not Applicable.
- C. Step 3 (Development Application Submittal)**
Applicable.
- D. Step 4 (Determination of Application Completeness)**
Applicable.
- E. Step 5 (Staff Report)**
Applicable.
- F. Step 6 (Notice)**
Public Hearing notice is not required however, the procedures of Section 8.9.3.F shall apply.
- G. Step 7 (Public Hearing)**
A public hearing is not applicable; however the Planning Commission shall hold a public meeting for consideration of the request.
- H. Step 8 (Decision and Findings)**
Applicable. The following additional procedures shall apply:
 - 1. Planning Commission's Review, Hearing, and Decision**
The Planning Commission shall hold a Public Meeting on the proposed application and approve, approve with conditions, or deny the proposed site plan, based on the applicable approval criteria in Step 9.
 - 2. Appeal to the City Council**
Appeals of decisions made by the Planning Commission under this Section shall be made to the City Council and scheduled as a Public Hearing. No neighborhood meeting shall be required prior to the hearing, however all other notification requirements in Section 8.2.6 shall apply. City Council decision of Planning Commission site plan appeals shall be final.
- I. Step 9 (Approval Criteria)**
Applicable. A site plan may be approved upon a finding that the application meets all of the approval criteria set forth above under Section 8.9.3.I. *Approval Criteria* for administrative site plans.

J. Step 10 (Conditions of Approval)

Applicable.

K. Step 11 (Amendments)

Applicable.

L. Step 12 (Lapse)

Applicable. See Section 8.9.3.L. for the applicable lapse provisions for all site plans.

Exhibit D

From: [Richard Lopez](#)
To: [Edward Boik](#); "[bdalton@cvlci.com](#)"; [blarson@westlandresources.com](#); [bspeirs@stardustco.com](#); [chris.woolery@kimley-horn.com](#); "[coberholtzer@bfsolaw.com](#)"; "[dcoble@cvlci.com](#)"; "[dmeidinger@fclaw.com](#)"; [George Flores](#); [Jill Kusy Hegardt](#); [Kurt A. Jones AICP](#); [Laura Meyers](#); [lcheney@eldoradoholdings.net](#); [molji@hbaca.org](#); [phemingway@ritochpowell.com](#); "[Ron Hilgart](#)"; [Scott Zipprich](#); "[sochoa@silverferncompanies.com](#)"; [Terri Hogan](#); [wr@brrlawaz.com](#)
Cc: [Phil Turner](#)
Subject: RE: Results/Summary: Subdivision Code Amendment meeting: 10.13.15
Date: Monday, October 19, 2015 6:42:23 PM
Attachments: [image001.png](#)
Importance: High

Mr. Boik,

Thank you for involving the development community and providing the opportunity for comment. We appreciate your efforts to streamline the Residential Development entitlement process.

In a similar manner in which the size of the commercial building (square footage) dictated the Commercial Site Plan streamlining process: We respectfully request that the updated Development Code also allow for the administrative approval of preliminary plats within an active CMP/PAD masterplanned area (based on size) to streamline the Residential Development process.

As discussed, many of the existing "legacy" masterplanned communities governed through CMP's and PAD's have been engaged in active planning, engineering, entitlements, and development for over a decade. The size and magnitude of the forward planning & engineering efforts required to support such projects are highly complex and require extensive project history and specialized knowledge. The extensive coordination required to span across multiple City Departments and other Municipal/Regulatory Entities are extremely important factors that are difficult to efficiently convey to an outside decision making board. Lastly, the large masterplanned communities may have extensive vested entitlement rights that require interpretation with Development Code, this could also be challenging to convey to an outside decision making board.

In summary, we feel the City Staff have the experience and the means & methods to deal with such issues, and therefore the City Staff are best suited to manage the approval authority for the said preliminary plats. At a minimum, the updated Development Code should provide an opportunity for the Community Development Director to authorize administrative approvals for preliminary plats within active CMP or PAD governance areas based on their discretion.

Again, thank you for this opportunity and please do not hesitate to contact me with any questions.

Best Regards, RL



Richard Lopez, P.E.

Manager of Planning & Entitlements : : Arizona Division

direct (480) 391-6068 : : email: Richard.Lopez@pultegroup.com

From: Edward Boik [mailto:eboik@buckeyeaz.gov]

Sent: Thursday, October 15, 2015 11:06 AM

To: 'bdalton@cvlci.com'; blarson@westlandresources.com; bspeirs@stardustco.com; chris.woolery@kimley-horn.com; 'coberholtzer@bfsolaw.com'; 'dcoble@cvlci.com'; 'dmeidinger@fclaw.com'; George Flores <gflores@buckeyeaz.gov>; Jill Kusy Hegardt <jhegardt@dmbinc.com>; Kurt A. Jones AICP <kajones@tblaw.com>; Laura Meyers <Laura.Meyers@PulteGroup.com>; lcheney@eldoradoholdings.net; mollj@hbaca.org; phemingway@ritocho Powell.com; Richard Lopez <Richard.Lopez@PulteGroup.com>; 'Ron Hilgart' <rhilgart@HilgartWilson.com>; Scott Zipprich <szipprich@buckeyeaz.gov>; 'sochoa@silverferncompanies.com'; Terri Hogan <thogan@buckeyeaz.gov>; wr@brrlawaz.com

Subject: Results/Summary: Subdivision Code Amendment meeting: 10.13.15

Firstly, I want to extend my thanks to all participants for their candidness and willingness to provide comments on the proposed code amendments. As noted in the meeting, many of the comments strayed into the realm of subdivision design which is not a core purpose of the amendment. However, we will work to incorporate to the extent possible these suggestions into the amendment. Those which require more review or impact larger policy decision will be catalogued and considered in future amendments.

Here's a brief summary of the meeting.

- All Pre-plats, regardless of zoning, will be reviewed/approved by the Planning and Zoning Commission at "public meetings" which allow standard open meeting public notice (24-hrs prior to hearing) and the items to be listed on consent.
- In 6.1.2 content will be added to exempt developments from listed subdivision design regulations which are pre-empted by development agreement. (may defer this amendment until Article 1.7.3 can be amended)
- Remove Abandonments from Article 8.
- Comments were provided regarding 2-year warranty period.
- Staff will review/incorporate a number of amendments to design regulations including minimum street centerline offset, landscaped median requirements, block lengths, lot orientation.
- Clarification on terms regarding undergrounding of utilities.
- Amend consistency and editing errors between sections (8.8.3, 8.8.7.H.3, 8.8.7.I)
- City will record plats within 10 days of execution.
- City will look to move some subdivision standards to engineering design standards, where appropriate.
- City will examine standards regarding natural drainage easements and landscaping.
- City will schedule a workshop to educate the Planning and Zoning Commission on their role as a the decision maker for Preliminary Plats and the relationship of plats to zoning and the general plan.
- There was generalized support for the amendment.

I will have a revised amendment ready early next week. Look for an email with the changes at that time. The commission will make a decision and recommendation on this item at the P&Z meeting on October 27, 2015.

Regards,

Ed Boik, AICP
Senior Planner
City of Buckeye
623.349.6207

From: Edward Boik

Sent: Monday, September 28, 2015 2:08 PM

To:

'bdalton@cvlci.com';blarson@westlandresources.com;bspeirs@stardustco.com;chris.woolery@kimley-horn.com;'coberholtzer@bfsolaw.com';'dcoble@cvlci.com';'dmeidinger@fclaw.com';George Flores;Jill Kusy Hegardt;Kurt A. Jones AICP;'Laura Meyers';lcheney@eldoradoholdings.net;mollj@hbaca.org;phemingway@ritochoepowell.com;Richard Lopez;'Ron Hilgart';Scott Zipprich;'sochoa@silverferncompanies.com';Terri Hogan;wr@brrlawaz.com

Subject: Development Code Stakeholder Meeting

When: Tuesday, October 13, 2015, 11:00 AM - 1:00 PM

Location: Buckeye City Hall, Executive Conference Room

Discuss proposed amendments to the subdivision review process in sections 6 and 8 of the development code. I've attached a past email which contains a summary of the amendment, staff report and amendments.

As a reminder, the PZ commission voted to **continue** action on this item to **October 27, 2015**.



<http://www.buckeyeaz.gov/census/>

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