



CITY OF SURPRISE
Regular City Council Work Session
16000 N. Civic Center Plaza
Surprise, AZ 85374
Tuesday, October 6, 2020 @ 4:00 PM
COUNCIL CHAMBERS

- A. Call To Order
- B. Roll Call
- C. Pledge of Allegiance
- D. Proclamation and Community Acknowledgements
- E. City Manager Report
- F. City Clerk Report
- G. Call To The Public

NOTICE: In an effort to protect health and safety of city employees, residents, and visitors, the Council Chambers will be partially open to the public with limited seating. The public may access the meeting by viewing a live stream or broadcast of the meeting. To watch live, please visit www.surpriseaz.gov/surprisetv, the Surprise City Gov Facebook page at www.facebook.com/cityofsurprise. Cox channel 11 and Century Link channel 8513 will also carry the meeting live. For instructions on how to comment on agenda items and public hearings, please go to <https://bit.ly/3k2NIV1>

H. Regular City Council Work Session Agenda

CONSENT AGENDA:

REGULAR AGENDA ITEM - PUBLIC HEARING:

REGULAR AGENDA ITEM - NON-PUBLIC HEARING:

- | | | | |
|----|--|---|---|
| 1. | District 1 | Presentation and discussion pertaining to Community Facilities Districts and the Surprise CFD Policy. | None

Andrea Davis
Ellen VanRiper
Finance |
| 2. | Citywide | Presentation and discussion regarding residential development standards and narrow lot subdivisions as part of the development code update. | None

JOSHUA MIKE
Community
Development |
| 3. | Citywide | Presentation and discussion pertaining to proposed amendments to Surprise Municipal Code Chapter 105, Article II, Division 1, Section 105-19 as it pertains to the 2018 International Fire Code, Chapters 5, 9, and 12. | None

Keith Tanner
Fire - Medical |
| I. | Other Business and Future Agenda Items | | |

J. City Council Reports

K. Executive Session

For information Purposes; Upon a public majority vote of a quorum of the City Council, the Council may hold an executive session, which will not be open to the public, but for only the following purposes:

- discussion or consideration of personnel matters (A.R.S. §38-431.03 (A)(1));
- discussion or consideration of records exempt by law from public inspection (A.R.S. §38-401.03 (A)(2));

L. Adjournment

SHERRY ANN AGUILAR, CITY CLERK, MMC

POSTED: October 1, 2020 at 12:50 PM

SPECIAL NOTE: PERSONS WITH SPECIAL ACCESSIBILITY NEEDS, INCLUDING LARGE PRINT MATERIALS OR INTERPRETER, SHOULD CONTACT THE CITY CLERK'S OFFICE @ 623.222.1200 OR TTY 623.222.1002, BY NO LATER THAN 24 HOURS IN ADVANCE OF THE REGULAR SCHEDULED MEETING TIME.



CITY OF SURPRISE
Regular City Council Work Session

Council Meeting Date: October 6, 2020

Contact Person: Andrea Davis, DIRECTOR -
FINANCE, Ellen VanRiper, DEPUTY CITY
ATTORNEY

Submitting Department: Finance

District: District 1

Staff Recommendations: None

Consent: No

Regular: No

Public Hearing: No

Report/Discussion: Yes

Agenda Wording:

Presentation and discussion pertaining to Community Facilities Districts and the Surprise CFD Policy.

Motion:

None; discussion only.

Background:

On June 4, 2020, the City received an application for approval of the proposed West Surprise Regional Infrastructure Community Facilities District ("CFD") from Buena Vista Holdings, LLC, Mesquite Mountain Ranch Investments, LLC, and 92 Acres Associates, LLC, for three undeveloped properties in west Surprise: Buena Vista Ranch, Mesquite Mountain Ranch, and Rancho Vista. The CFD application recently was revised to now be for only Mesquite Mountain Ranch ("MMR CFD"). The MMR CFD will be presented to the City Council for consideration and possible approval on October 20, 2020.

The purpose of the current work session item is to have a general discussion with the City Council about CFDs and to review the City's CFD Policy approved and adopted in November 2018. City staff will also be available to answer any questions.

Objective Analysis:

CFDs provide a funding mechanism for approved development projects. The CFD issues debt to finance the construction or operation of public infrastructure and is repaid by a secondary property tax levied on real property within the CFD.

Policy Compliant:

Discussion only.

Financial Impact:

None; discussion only.

Budget Impact:

None; discussion only.

FTE Impact:

None; discussion only.

ATTACHMENTS:

1. Presentation
 2. CFD Policy Adopted 11-20-2018_201811211545202572
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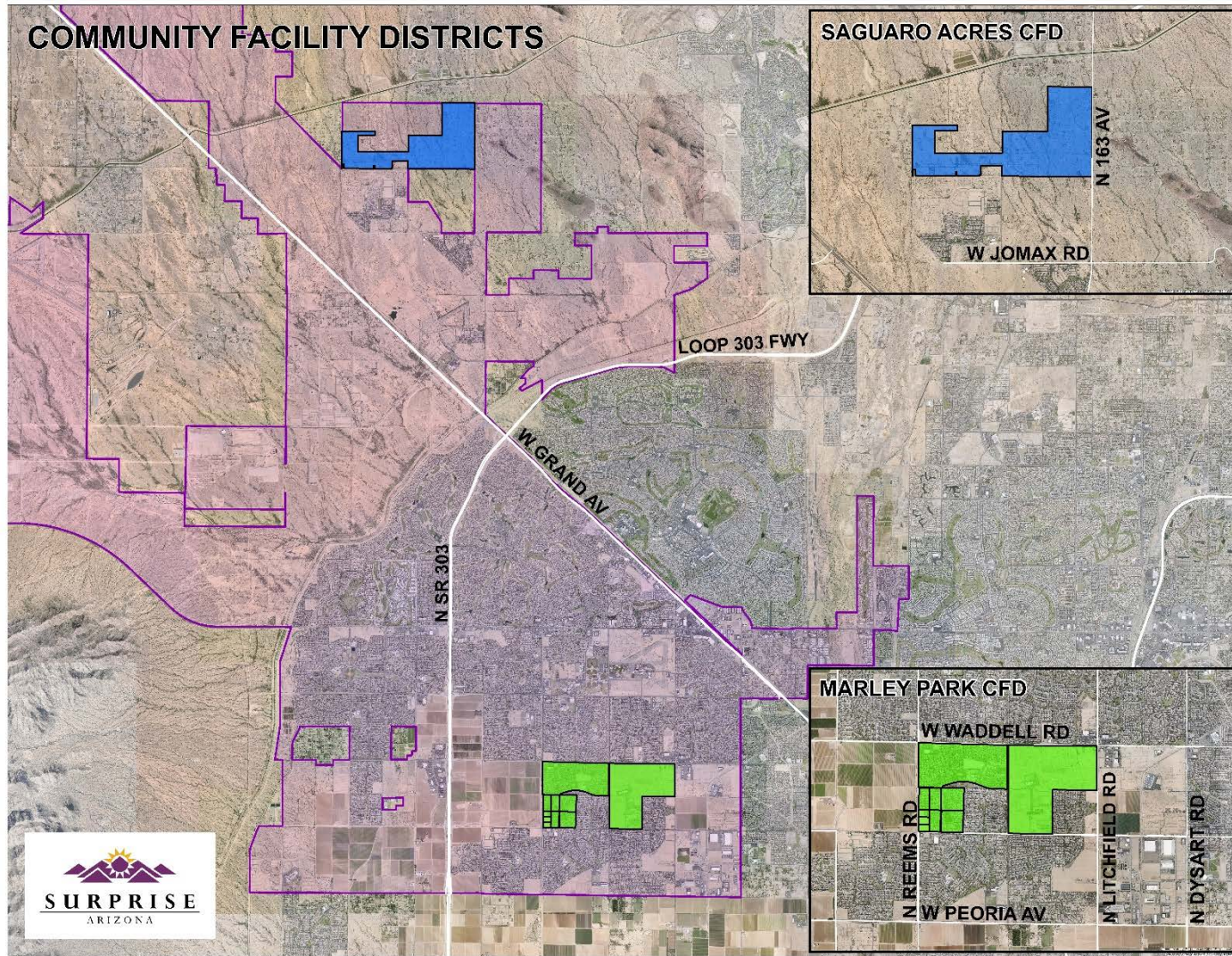
Community Facilities Districts An Overview

City Council Work Session
October 6, 2020

What is a Community Facilities District?

- Special taxing district, A.R.S. § 48-701 et. seq.
- Separate political subdivision
- Property tax levy assessed to pay debt, operations, and maintenance
- Finances, acquires, and constructs public infrastructure and enhanced municipal services within a defined area
- Marley Park and Saguaro Acres

COMMUNITY FACILITY DISTRICTS



Overarching Objectives with CFDs

- Protect the financial interests and integrity of the City
- Protect the financial interests of the future owners of property within the CFD

Developer CFD Benefits

- Limited private financing market
- Spur development that may otherwise not be built until much later if at all
- Finance and extend infrastructure in advance of growth

City CFD Benefits

- Incentivize developers to provide “better” development “sooner”
- Infrastructure and facilities paid by CFD
- CFD can partially offset operations and maintenance

Potential Drawbacks of CFDs

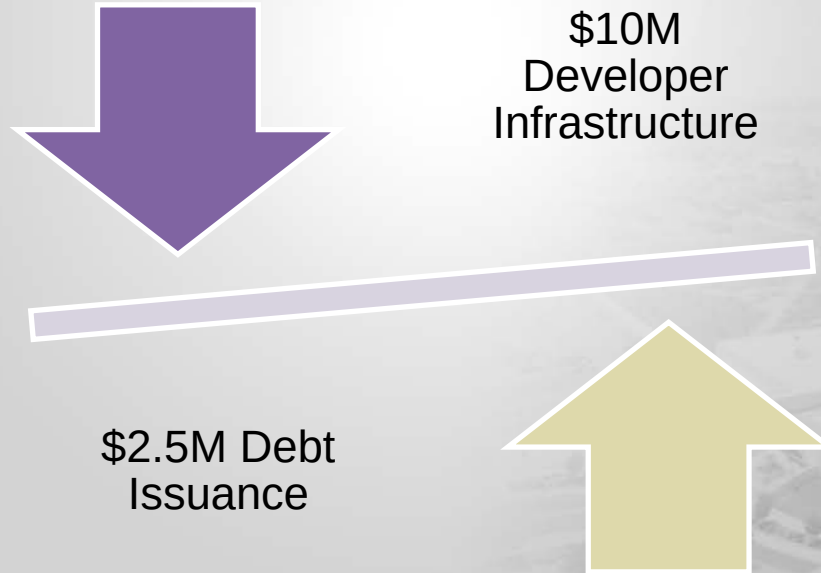
- Backlash from residents within CFD who are subject to more taxes than in neighboring communities
- Residents subject to CFD tax and GO Bond tax
- Administrative burden on City Staff
- City likely party to any litigation involving District and will incur defense costs
- If CFD fails to pay debt, City's borrowing capacity could be impacted

How Does a CFD Work?

- Sells bonds to construct or acquire qualified public infrastructure and enhanced municipal services
 - Sanitation
 - Sewage
 - Water
 - Drainage and flood control
 - Roadways
 - Parking facilities
 - Parks
 - Recreational facilities
 - Landscaping
 - Public buildings
 - Lighting systems
 - Traffic control

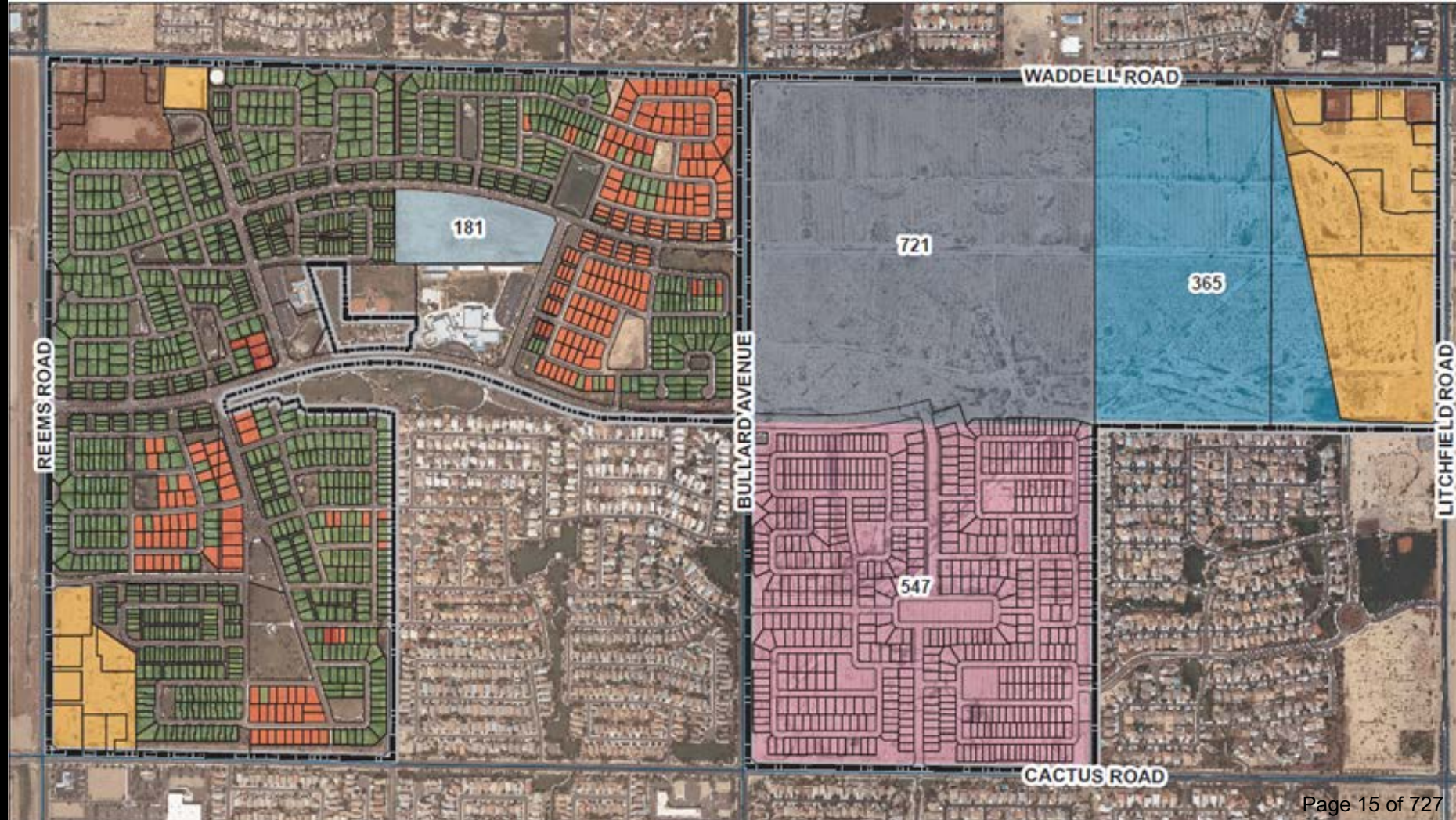
Equity Contribution

- \$0.25 for each \$1.00 of eligible infrastructure



Existing CFD - Marley Park

- Created in 2004
- Approximately 2,900 parcels
- Mayor and Council serve as the Board of Directors
- FY2021 rate of \$3.4771 per \$100 of assessed value



Existing CFD - Saguaro Acres

- Created in 2000
- Approximately 201 parcels
- Residents of the district serve as the Board of Directors
- 2021 rate of \$2.8671 per \$100 of assessed value

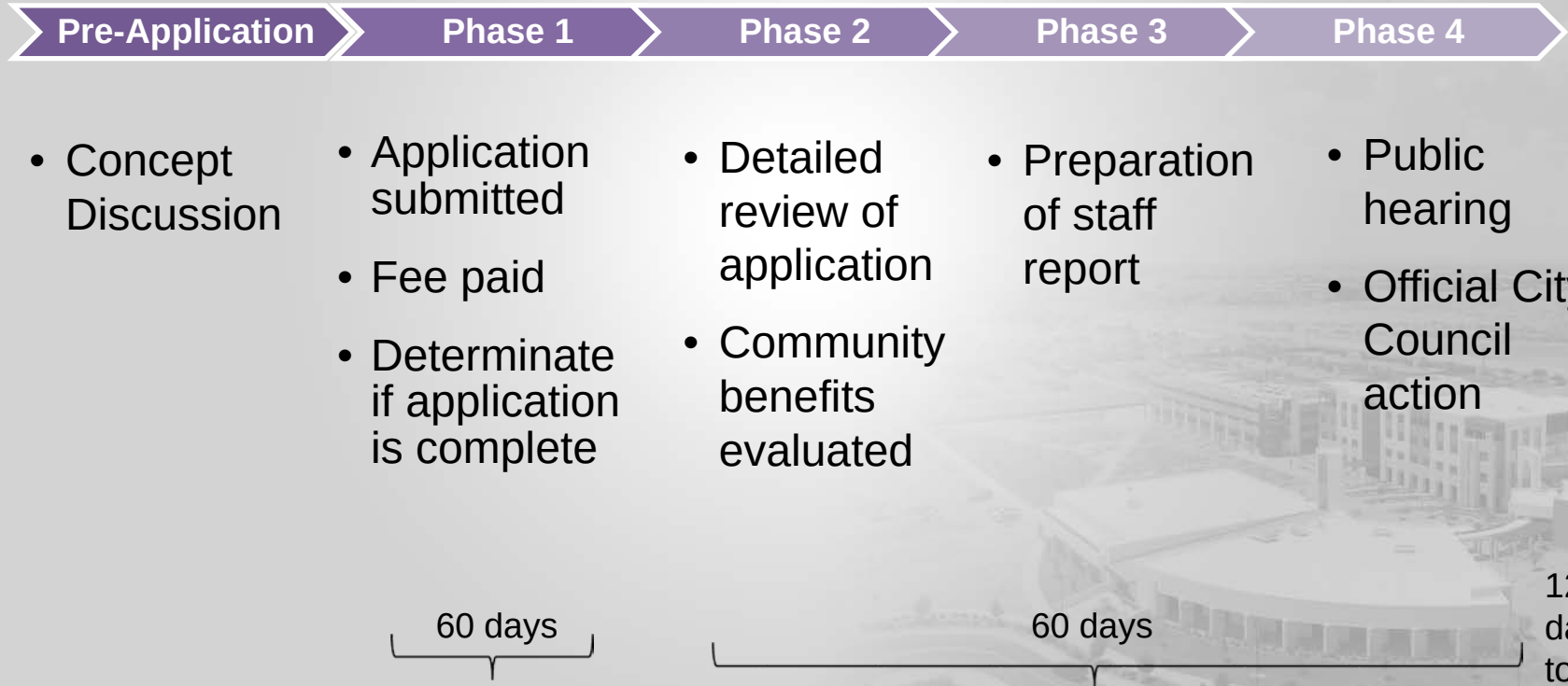
CFD Policy History

- Revised October 2, 2018 due to State Statute changes
 - Add 2 non-city members to CFD Board
 - Accelerated application process
 - “Complete Application” triggers 60 days
 - Application fee reduced \$25k to \$15k
 - Insurance and indemnification requirement
 - Continues *no presumption* of CFD formation

“Complete Application”

- Triggers 60-day time clock
 - Information/documentation required by statute
 - Fully negotiated CFD agreements
 - Petition in favor of CFD by 25% of landowners
 - General and detailed descriptions of project, infrastructure to be constructed, costs, financing, development timetable, etc.

Timeline



CFD Policy – Is it a Qualified Project?

- Targeted economic development
 - Signature retail, quality employment, and enhanced community life
- Unique housing
 - Custom-built homes, high-rise, multipurpose buildings, and green, energy efficient (LEED)
- Equitable taxation

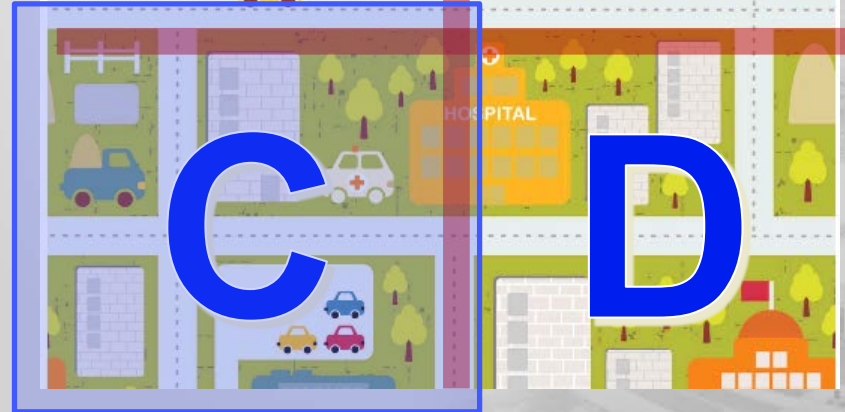
Equitable Taxation – Justify Paying More

**\$100 annual
property tax**



**\$100 annual
property tax**

**\$125 annual
property tax**

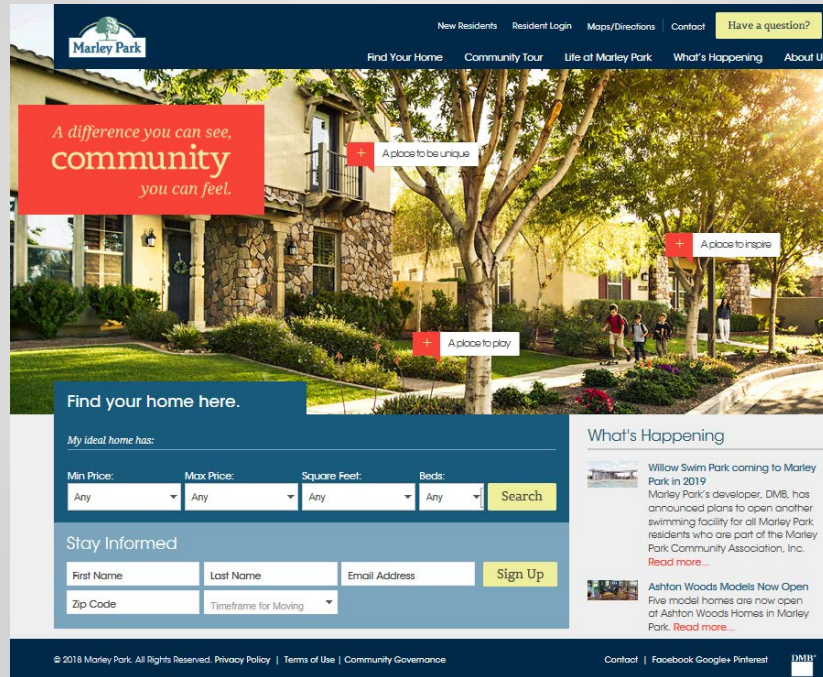


**\$100 annual
property tax**

CFD Policy – Insurance and Indemnification

- Developer provides general liability and Directors & Officers insurance
- For all CFDs, availability may be limited and level of coverage not expected to be adequate
- Solution is to require an indemnify deposit of \$1.5 million
- Release when CFD is dissolved or developer provides alternative security by amending Development Agreement

CFD Policy – Enhanced Disclosure

A screenshot of the Marley Park website. The header features the Marley Park logo and navigation links: New Residents, Resident Login, Maps/Directions, Contact, and a 'Have a question?' button. Below the header is a main banner with a large photo of a house and trees. Overlaid on the banner are three red callout boxes with white text: 'A difference you can see, community you can feel.', 'A place to be unique', and 'A place to inspire'. Below the banner is a 'Find your home here.' section with a search form. The form includes fields for 'Min Price:', 'Max Price:', 'Square Feet:', and 'Beds:', each with a dropdown menu set to 'Any'. There is a 'Search' button. Below the search form is a 'Stay Informed' section with fields for 'First Name', 'Last Name', 'Email Address', 'Zip Code', and a 'Timeframe for Moving' dropdown. There is a 'Sign Up' button. To the right of the search form is a 'What's Happening' section with two articles. The first article is titled 'Willow Swim Park coming to Marley Park in 2019' and the second is titled 'Ashton Woods Models Now Open'. Both articles have a 'Read more...' link. The footer contains copyright information: '© 2018 Marley Park. All Rights Reserved. Privacy Policy | Terms of Use | Community Governance'. It also includes links for 'Contact', 'Facebook', 'Google+', 'Pinterest', and a 'DMR' logo.

<https://marleypark.com/>

*District Disclosure Statement
Marley Park Community Facilities District*

Marley Park LLC, an Arizona limited liability company (the "Developer"), in conjunction with the City of Surprise, Arizona (the "City"), have established a community facilities district ("CFD") at the development known as "Marley Park." The CFD has financed and will finance certain public infrastructure improvements, which will result in a property tax liability for each property owner of Marley Park resulting from being in the CFD.

Background. On September 30, 1988, the Arizona Community Facilities District Act became effective. This provision in State law was created to allow Arizona municipalities to form CFDs for the primary purpose of financing the acquisition, construction, installation, operation and maintenance of public infrastructure improvements.

How the CFD Works. On February 12, 2004, the Mayor and Council of the City approved the formation of the CFD, which includes all the residential and commercial property in Marley Park. An election was held on December 7, 2004, at which time the owners of the property within the CFD voted to authorize up to \$80,000,000 of general obligation bonds ("GO Bonds") to be issued over time by the CFD to finance the acquisition or construction of public improvements. The improvements are dedicated or transferred to the City, which will operate and maintain such improvements.

What Has Been Financed? The CFD was formed to finance, initially, the improvement of certain public amenity improvements, including Heritage Park, as well as roads and related improvements benefiting Marley Park and its residents. The land required for these improvements is provided by the Developer or, in the case of Heritage Park, donated by the Marley family. The initial GO Bonds, in the amount of \$1,365,000, were issued in 2006. In 2007, the amount of GO Bonds issued was \$3,950,000, in 2008 the amount was \$3,395,000, in 2016 the amount was \$4,800,000, and in 2017 an additional \$3,000,000 was issued. Over time, up to \$40,000,000 of GO Bonds will be issued for these improvements.

Benefits to Residents. The use of a CFD allows property owners within Marley Park to enjoy both a higher level of public improvements (for example, Heritage Park) and have those improvements early in the life cycle of the community. Additionally, CFD property taxes - similar to the balance of each property owner's remaining property tax liability - are currently deductible for purposes of calculating federal and state income taxes.

Property Owners Tax and Assessment Liability. The obligation to repay the bonds will become the responsibility of any property owner in the CFD through the payment of property taxes collected by the Maricopa County Treasurer in conjunction with other property tax payments.

Beginning in fiscal year 2004-05, the CFD levied a property tax not to exceed \$.30 per \$100 of assessed value to cover CFD operational expenses (the "O/M Tax"). For fiscal year 2018-2019, the O/M Tax is unchanged at \$.30 per \$100 of assessed value and the Debt Service Tax also remained at \$3.64 per \$100 of assessed value. The combined property tax rate is \$3.94 per \$100 of assessed value. The Debt Service Tax rate is subject to change on an annual basis depending on market conditions.

Impact of Additional CFD Property Tax and Assessment. The following illustrates the estimated annual additional CFD tax liability to be imposed by the CFD, in the future, based on varying residential values within Marley Park and a combined \$3.94 per \$100 O/M Tax and Debt Service Tax rate:

Value of Residence	Estimated Annual Additional CFD Tax Liability*
\$100,000	\$394
200,000	\$787
300,000	\$1,181
400,000	\$1,575

***Assumptions:**

1. Improved residential property assessment ratio will remain at 10%.
2. Tax amount is computed by multiplying the tax rate per \$100 of Value of Residence times the assessment ratio.

The information in this publication is current as of July 1, 2018. Additional information regarding the description of infrastructure improvements to be financed by the CFD, bond issue public disclosure documents and other documents and agreements (including a copy of this Disclosure Statement) are available for review in the City of Surprise - City Clerk's office (623) 222-1200.

Your signature below acknowledges that you have read the above disclosure at the time you made your decision to purchase property within Marley Park and signed your purchase contract, and that you understand the property you are purchasing will be taxed to pay the District's general obligation bonds described above and issued in the future and the District's operation, administrative and maintenance expenses.

Signature(s) of Buyer(s):

Print Name(s) of Buyer(s):

Date: _____, 20__

IF PURCHASING JOINTLY OR OTHERWISE WITH ANOTHER PARTY:

Signature(s) of Buyer(s):

Print Name(s) of Buyer(s):

Date: _____, 20__

Current Address of Buyer(s):

Marley Park Street Address:

Surprise, Arizona _____

Parcel No. _____ Lot No. _____

UPON EXECUTION, MAIL TO:

City Clerk's Office
CITY OF SURPRISE
16000 N. Civic Center Plaza
Surprise, AZ 85374

Council Process

- Staff report provided at public hearing
- If application is denied, Applicant can resubmit within 1 year without fee
- If application is approved, agreements are finalized, \$50,000 administrative expense fee is collected, and debt is issued
 - CFD District Agreement
 - Development Agreement

Other Development Options

- Buy-in Agreements
 - Extends allowable payback period
 - Includes “Financing Costs” as reimbursable costs
 - Creates a “Benefited Area” for oversized public improvements/infrastructure
 - Must meet City plans
 - Allows developers to administer (City oversight)



SURPRISE
ARIZONA

**QUESTIONS OR
COMMENTS?**

Thank You

	Standard Operating Procedure COMMUNITY FACILITIES DISTRICTS	
PROCESS: Application and Establishment of a Community Facilities District Within the City of Surprise		
POLICY REFERENCE: Arizona Revised Statutes (ARS) § 48-701 et. seq. ; Surprise Municipal Code § 2-335 et. seq. ; Securities Exchange Commission Rule 144A;		
ISSUE DATE: November 13, 2003 (Resolution 03-166)	LAST AMENDED DATE: February 28, 2008 (Resolution 08-20)	EFFECTIVE DATE: November 20, 2018 (Resolution 2018-115)

GENERALLY

In order to secure for the City of Surprise, Arizona (the “City”), the public benefits of the Community Facilities Act (the “Act”), as most recently amended by the Arizona Legislature in 2017 (Laws 2017, Chapter 208; codified at [Arizona Revised Statutes, Title 48, Chapter 4, Article 6](#)) and to promote the best interests of the City, the following policy guidelines and application procedures are adopted by the City Council and are applicable to Community Facilities Districts (a “CFD” or “CFDs”) when approved by the City to assist in development of land owned by third party landowners acting in a capacity as developers. Recognizing that a CFD is a statutory special taxing district with borrowing powers created within the boundaries of the City that has perpetual existence, the City Council believes that the formation of each CFD should be considered carefully in order to ensure its lasting success.

Each CFD shall be treated separately and apart from every other one for purposes hereof including particularly, but not by way of limitation, for purposes of [Policy Section 1.e](#) and [Procedures Section 1.b.e](#) under Policy Section 1b under Procedures.

PURPOSE

The purpose of this document is to establish policy guidelines and procedures for the establishment of CFDs within the City of Surprise that afford a fair and equitable process for those entities wishing to pursue this financing mechanism, but that also insulate the ultimate property owners within the CFD from overly burdensome financial hardship. Thus, this policy includes provisions that attempt to protect homeowners from financial liability in excess of targeted tax rates and assessments.

DEFINITIONS

All terms used herein shall have the meaning given to them in the Act (specifically, [A.R.S. § 48-701](#)), unless otherwise defined below. Terms not defined in the Act shall have the meanings

ascribed to them in the Surprise Municipal Code or shall have their ordinary and regular meaning.

POLICY

1. General Policies

- a. Community facilities districts ("CFD" or "CFDs") , as defined in the Act, in the City may provide a funding mechanism for approved development projects to finance the construction, operation, and maintenance of public infrastructure and/or the acquisition of completed public infrastructure that benefits the ultimate owners of the real property comprising the CFD (the "District"). The CFD may also be utilized by the City to provide enhanced municipal services to the Property benefitted by the improvements.
- b. A CFD should be formed primarily in connection with the construction and/or the acquisition of public infrastructure for development of infill or mixed-use master planned communities, projects that include substantial commercial and/or residential development, or development that would promote quality job creation in the City of Surprise.
- c. CFD financing is intended for large, regional infrastructure associated with master planned communities or major, large development projects in order to promote growth funding for certain growth-related costs and to preserve city bonding capacity for city-wide infrastructure, such as that included in the Capital Infrastructure Plan ("CIP").
- d. Any public infrastructure financed through a CFD should be in conformance with the City's General Plan, area plans, zoning, and plans for infrastructure, parks, and open space in order to encourage orderly growth and development. A CFD is not intended to replace or subsidize minimum or otherwise required developer-funded infrastructure or community improvements to serve the CFD property. The use of a CFD for infrastructure or community improvements that are the subject of development impact fees is disfavored. Special consideration may be given to a developer requesting formation of a CFD if the proposed development provides an enhanced level of infrastructure amenities and/or municipal services desired by the City, or if the City deems public infrastructure requirements placed upon the development to be significantly disproportionate to the normal infrastructure requirements.
- e. The Applicant shall provide, from non-CFD sources, at least \$0.25 in infrastructure or community improvements for each \$1.00 of debt to be issued by a CFD to finance public infrastructure purposes.
- f. Fees and other charges assessed by the City in connection with the submission and consideration of an Application to form a CFD shall not exceed fifteen thousand dollars (\$15,000.00). The City may use outside consultants as "staff" to review or confirm any analyses prepared in conjunction with an Application for or financing by the CFD. If authorized by the district board of a CFD (the "Board"), exercising its sole discretion, all or part of such costs may be reimbursed to the Applicant from a CFD tax levy, CFD assessments, CFD revenues or CFD bond proceeds, provided such reimbursement is in conformance with federal law, state law, and these guidelines.

- g. To provide ease of administration and the largest tax/revenue base possible, the City will encourage an area to be governed by as few CFDs as possible, and a preference will be given to one master CFD for a single development. The decision to form a CFD shall be a decision of the City Council exercised in its sole and absolute discretion. Such decision will have no other ramifications on any other aspects of the project such as zoning, and does not guarantee other matters with respect to the project as they relate to the City or the CFD.
- h. Unless the City Council determines otherwise, each CFD will be governed by a nine member Board (the "Board") consisting of the members of the City Council, ex officio, and the two additional members designated in the CFD application by the property owner owning the largest amount of privately owned acreage in the proposed district. The two additional members will be appointed when the Council adopts the resolution ordering formation of the CFD. In the alternative, the City Council may appoint a five member Board, with the members to be appointed when the Council adopts the resolution ordering formation of the CFD. Board members appointed by the City Council shall not have a substantial financial interest (defined as a non-speculative pecuniary or proprietary interest, either direct or indirect, that is not a remote interest, as defined in A.R.S. § 38-502) in any property located within the CFD, or be an owner, officer, or member of an entity with an ownership interest in property located within the CFD, nor shall the relative of any member (defined as a spouse, child, child's child, parent, grandparent, brother, or sister, and their spouses, or the parent, brother, sister, or child of a spouse) have a substantial financial interest in any property located within the CFD or be an owner, officer, or member of an entity with an ownership interest in property located within the CFD. At the option of the Board, advisory committees may be utilized. The day-to-day administrative responsibilities of the CFD will be performed pursuant to a contract by outside personnel or by the City staff. Each Board member appointed by the City Council, who is not also a member of the Council, shall execute a document granting an unqualified "hold harmless" guarantee for the City, the CFD and its officers, agents, and employees.
- i. The two additional members designated by the owner(s) of the largest amount of privately-owned acreage in the proposed CFD shall serve terms of a length set forth in the Act. However, if no such terms are designated in the Act, the two members shall each serve six-year terms, provided, however, of the first two such additional members to be appointed, one shall serve a term of four years to establish staggered terms for such members. If the City Council elects to appoint a five member Board, the Council will designate three of the five initial members to serve six-year terms and two to serve four-year terms to establish staggered terms.
- j. Unless otherwise agreed to by the City, the CFD must be self-supporting from the standpoint of financing, operations, and maintenance; no City funds will be used for CFD purposes. Notwithstanding anything contained herein, none of the property, the credit nor the taxing power of the City shall be pledged to or otherwise secure the payment of any CFD obligation or indebtedness.
- k. After review of required pertinent information, the Board will determine, in its sole and absolute discretion, whether the CFD will fund construction and/or acquisition of public infrastructure as well as the amount, timing, and form of financing to be used by a CFD.

- l. All public infrastructure constructed and/or acquired by a CFD will utilize statutory public procurement in accordance with all applicable federal and state laws and the Surprise Municipal Code, as such may be amended from time to time.
- m. The CFD will not use bond proceeds or other CFD funds to purchase public rights-of-way or other real property to be used for public infrastructure improvements if such real property would be required to be dedicated and conveyed to the City by the Applicant upon development of the Property.
- n. Unless otherwise agreed to by the City, all costs of administration and operation of the CFD and the operation and maintenance of public infrastructure provided by the CFD including replacement reserves, if appropriate, shall be the responsibility of the CFD, the Applicant, applicable homeowner associations, or any combination of the foregoing, as may be acceptable to the Board. The day-to-day administrative responsibilities of the CFD will be performed pursuant to one or more contracts with outside personnel or by the City staff.
- o. These Policy Guidelines and Application Procedures may be modified from time to time by the City Council and will be applicable to any Applications under review. All concerns of the City must be adequately addressed before the staff of the City will consider an Application to be complete and ready for submission and consideration by the City Council.

2. Implementation

- a. Owners which determine to proceed with formation of a CFD shall appoint a single contact to whom all communications about the CFD from representatives of the City shall be directed; who will initiate any discussion on any matter related to the formation of the CFD with representatives of the City; and who, personally or by designee, together with the City representative, will attend future finance related meetings held by any homeowner association formed by the developer for the purpose of marketing, managing, and selling property within the CFD. The representative of the City for the same purposes shall be the City Manager of the City or his/her designee. No other person associated with the City shall be contacted with regard to the foregoing except such representative. The City Council can meet with CFD applicants but cannot negotiate, promise, or otherwise bind the City.
- b. If it is determined that a CFD should be part of the development plan for the proposed District, subject to the requirements hereof, matters relating to the formation and subsequent activities of such CFD with regard to the proposed District shall be accomplished by an amendment to the development agreement, provided a development agreement exists. If there is no existing development agreement the owner is required to enter into a CFD development agreement to be considered for approval by the City Council along with the CFD Application.
- c. Upon written request to the City, owners which express interest in having CFD[s] included as part of their plans for development will be provided with a standard form of agreement expected to be entered into by the City, the CFD, such owner, and other interested parties in conjunction with formation of the CFD that includes standard terms and conditions that will be common to all such districts formed by the City and will not

be subject to negotiation. Such provisions would include those relating to indemnification, limitations on remedies, procedures for constructing and/or acquiring infrastructure (including applicable public bidding requirements), and expense subsidies.

3. Contents of a Completed Application

- a. An "Application" for the purposes of [A.R.S. § 48-702 \(B\)](#) and for the formation of a CFD, must be **complete** and submitted in its entirety prior to any determination by the City Council that a CFD will be formed. The Application shall, at a minimum, contain the following information and be organized in the manner described below.
- b. Applicant Information
 - i. General Description: A general description of the Applicant, including the corporate and organizational structure of the entity or individual making the Application to form a CFD. This description should include the names of all officers and/or corporate directors directly related or associated with the proposed development of the proposed district.
 - ii. Contact(s): The name, address, phone number, and other relevant information of the primary contact for the Applicant. This information should list the names (and other relevant information) of any legal representatives, engineers, architects, financial consultants, and/or other consultants significantly involved with the Application.
 - iii. Experience: A general description of the Applicant's experience with similar types of projects as development of the Property
 - iv. Financial Capability: Financial statements and any additional evidence demonstrating the Applicant's ability, capacity, and commitment to undertake the proposed development
- c. Designation of Board Members
 - i. Provide the names, addresses, telephone numbers, backgrounds, qualifications, and other relevant information of the two additional board members designated by the owner of the largest amount of privately owned acreage in the proposed CFD who may be appointed to the Board in accordance with [Policy Section 1.h](#).
 - ii. State the process for the designation of the two additional board members on completion of the development of all property in the CFD.
 - iii. Provide documentation evidencing each such member's obligation to comply with Arizona Revised Statutes [Title 38, Chapter 3, Articles 3.1 and 8](#).
- d. Petition
 - i. A complete Application shall include a petition in favor of creation of the CFD. The petition must include a list of all parcels in the proposed CFD along with the parcel

number, owner name(s), situs address, metes and bounds description, and lot size (parcel square footage or acreage) for each individual parcel. The petition must be signed by the owners of at least twenty-five percent (25%) of the land area proposed to be included in the CFD.

e. Proposed CFD and Public Infrastructure Description

- i. General Description: A general description of the proposed CFD, its purpose, proposed public infrastructure and/or services to be provided, and a statement describing the overall community benefit or enhanced public services to be derived from the CFD. This description shall include a statement of how the proposed CFD meets the existing development objectives of the City, including the degree to which the CFD is consistent with the goals of the City's General Plan for promoting orderly development, consistent with growth management policies and zoning requirements, and the degree to which the land use plan for the CFD is consistent with the City's General Plan, and any area, infrastructure, parks, open space, and other plans guiding development in the area.
- ii. Location: A description of the proposed CFD's general location within the City; an area site map illustrating the proposed boundaries and a legal description of the proposed boundaries. This description must include an analysis of the appropriateness of the CFD boundaries and how those boundaries address Section 1 above, including the adjacency of property owned by the State of Arizona and the likelihood of development of the State Land in the future.
- iii. Ownership Interests: The identity and address of all persons or entities with any interest in the property within the proposed District including lienholders and purchasers under pending sales contracts and the names and addresses of any qualified electors located within the proposed boundaries of the CFD. A certificate from the Maricopa County Assessor or, if not accurate, a current title report and certificate from the Maricopa County Elections Department shall be submitted as evidence of names or persons with any interest in the land and qualified electors, respectively.
- iv. Operating Plan: An operating plan for the CFD, describing the functions of the CFD and how the operation and maintenance of the public infrastructure will be provided.
- v. Status of Entitlements and Source of Water, Sewer Treatment and Other Utilities/Services: The status of all entitlements with respect to the proposed district as well as the plan for providing water, sewer treatment and other utilities and services (fire, police, education, etc.) to the area.

f. Proposed Improvements

- i. Description of Public Infrastructure: A detailed description of the types of public infrastructure to be constructed and/or acquired by the CFD. This description should include a proposed project schedule for commencement and completion of (a) public infrastructure and (b) the private development.

- ii. **Description of Enhanced Municipal Services:** A detailed description of the enhanced municipal services proposed to be provided, funded, and/or maintained by the Applicant or CFD, including, but not limited to, public safety, fire protection, roadway landscape maintenance, public parks, public trails, other public open space, and/or publicly accessible recreational amenities.
- iii. **Estimated Costs:** An estimate of the costs to construct and/or acquire the public infrastructure and enhanced municipal services to be completed and/or maintained by the CFD. This information shall include a detailed list of the estimated cost of each component of the public infrastructure and enhanced municipal services. The Applicant should take note of the fact that the public infrastructure to be acquired cannot be the subject of a statutory development fee assessed by the City.
- iv. **Development Timetable:** A detailed timetable describing the scheduling, timing or phasing of the public infrastructure and enhanced municipal services. This schedule should include a timetable for acquiring both the public and private components of the overall development with respect to the proposed District. Each phase of the development should be shown separately.

g. **Financing Plan**

- i. **Description of Financial Plan:** A detailed description of the capital financing plan for the public infrastructure, enhanced municipal services, and the private development with respect to the proposed District, including both public and private components of such development. This description must include the proposed types of tax-exempt/taxable bonds to be issued for the public infrastructure and enhanced municipal services as well as the financing plan of the Applicant for the private development and the sources of the proposed financing including any debt or equity.
- ii. **Sources and Uses of Funds:** A detailed sources and uses of funds for the public infrastructure with respect to the proposed District. This schedule must include the description of components of the public infrastructure and enhanced municipal services that will be financed by the type of bonds to be issued.
- iii. **Financial Feasibility:** A financial feasibility study, covering the period of time until the last proposed bond of the CFD will be paid, for the entire project being developed on the proposed District including the public infrastructure, enhanced municipal services, and the private development. This feasibility study must include a preliminary market absorption study for the private development.
- iv. **Fiscal Impact:** An analysis of the tax, assessment, and utilities fee impact on the users/residents within the CFD, specifically, projected property tax rates and levies, special assessments, fees, charges and any other costs to be borne by the CFD. A comparative analysis of such taxes, assessments, and fees of similar or adjoining areas and/or CFDs must also be provided.
- v. **Value-to-Lien Ratio Analysis:** Based on the estimated value of the property within the proposed District, including after construction of the public improvements and

enhanced municipal services, an analysis of the value-to-lien ratios of the proposed public financing if in the form of assessment bonds.

- vi. Operation and Maintenance Costs: A detailed description and a financial proforma of the estimated annual operation and maintenance costs of the public infrastructure and enhanced municipal services, including for replacement reserves, if appropriate. The Application must clearly detail the specific entities such as the CFD, homeowner associations, the Applicant, the City, etc. that will be responsible for funding the ongoing operation and maintenance costs for all CFD improvements and enhanced municipal services, including for replacement reserves, if appropriate. This section shall also provide a description of the revenue source of each.
- h. District Development and Financing Participation Agreement
- i. The District Development and Financing Participation Agreement between the City and the Applicant (the "CFD District Agreement") must include matters required by the Act, such as A.R.S. § 48-708(D), and must have been fully negotiated by the Applicant and City staff, with agreement by both parties, and in a substantially final form, including all terms and provisions to be approved by the City if formation of a CFD is approved.
- i. Miscellaneous Information
- i. Marketing Plan: A detailed description of the proposed marketing plan to be used by the Applicant to market property within the CFD. This information may include comparisons of the proposed CFD to similar CFDs in the area.
 - ii. Disclosure to Prospective Property Owners: Information regarding the proposed disclosure form that will be used to describe to prospective buyers the potential tax, assessment, and fee implications of the CFD. The form shall describe any economic advantage or the estimated savings, if any, to property owners in the form of reduced purchase prices, enhanced public services and/or amenities, additional community benefits, etc. that are projected to result from CFD financing. Such forms shall have provisions for the signed acknowledgement of receipt of such disclosure form. Landowners/developers/homebuilders are required to describe in their promotional materials the financial and other relative impacts of the development being in a CFD and must state that signed disclosure forms will be required as part of the closing documents for the initial purchase by a homebuyer and, as practicable any subsequent transfers. Also, information regarding how the landowners/developers/homebuilders will require the creation and maintenance of a website for each homeowners' association within the proposed District that prominently includes the fact that the property within the association is part of a CFD and the implications thereof.
 - iii. Equity Contribution: A description of the proposed equity contribution from the Applicant/landowner and a calendar showing the timing and sources of such equity contribution including evidence of at least \$1.00 of eligible infrastructure or community improvements benefiting the proposed District for each \$0.25 of debt to be issued by the CFD and reimbursed to the developer.

- iv. Insurance and Indemnification: The Applicant is responsible for the cost of insurance to cover all actions and activities taken by the Board of the CFD, including the two additional board members designated by the owner(s) and any other members appointed by the City Council, relating to the CFD formation, financing, administrative actions, or other related activities in amounts and with deductibles determined by the Risk Manager of the City. The completed Application shall provide an explanation of how such insurance coverage shall be provided by the Applicant and how assurances will be provided that premiums and deductibles will be paid in the future. Insurance must include “per occurrence coverage” including a “securities” rider if bonds are to be sold.
- v. Separately, the completed Application must also indicate how indemnification outlined in the development agreement will be provided for the City, the CFD and their agents, officers, and employees for, from, and against any and all liabilities, claims, costs, and expenses, including attorneys’ fees, incurred in any challenge or proceeding to the formation, operation, administration of the CFD, the offer and sale of CFD bonds, the levying by the CFD of any tax, assessment or charge and the operation and maintenance of public infrastructure financed or owned by the CFD, the entity providing the indemnification (including financial statements and other supporting information for such entity), appropriate collateral arrangements, etc.
- vi. Development Agreements: Include as an appendix, any existing development agreements entered into, including any amendments, thereto, between the City and the Applicant relating to this proposed development. The new or amended development agreement must be in substantially final form, including all terms and provisions to be approved by the City if formation of a CFD is approved by the City Council. The development agreement must include matters required by A.R.S. § 48-701 et. seq. and must have been fully negotiated by the Applicant and City staff, with agreement by both parties.
- vii. Waiver: In its sole and absolute discretion, the City reserves the right to waive any requirements of this Community Facilities District Policy. The waiver shall be administratively approved by the City Attorney and the City Manager, or his/her designee, after having been publicly noticed in a newspaper of general circulation for no less than ten (10) days.

PROCEDURES

1. Pre-Submission Meeting

- a. The City encourages potential applicants for a CFD to schedule, prior to submission of its Application, a meeting with City staff to discuss the proposed project and the potential submission of an application before the Applicant expends substantial time and financial resources preparing a formal Application. A pre-application meeting is not mandatory, but is recommended. During the meeting, the Applicant will present and discuss the proposal to City staff, and staff will provide comments and feedback on the proposal and identify any initial concerns. The City will not charge an application fee for this meeting. A pre-application meeting may be scheduled by contacting the

Administration Division of the City's Finance Department and may include appropriate City staff and outside professionals and consultants.

2. Application

- a. One hard copy of the Application, along with an electronic copy thereof, for the formation of a CFD shall be submitted to the Finance Department, Administration Division, of the City.
- b. At the time of submission of the Application, the Applicant shall be charged a non-refundable fee of \$15,000 as a deposit on account to be applied by the City in its sole discretion to the costs incurred in connection with processing and reviewing the Application and the formation and administration of each CFD. The City will provide for the timely payment of all such costs and expenses. If, upon formation of the CFD, any balance of such deposit remains, it will be applied for the purposes described in [Procedures Section 3.a](#). If the application is denied, the City will not assess any additional fee for the submission of a substantially similar Application submitted within one year following the denial.
- c. The Application will not be considered "complete," until it has been reviewed and analyzed by appropriate City staff, and the Applicant has submitted all requested documentation and information. The determination as to whether the Application is complete shall be made within sixty (60) days of submission, unless the City and the Applicant agree to extend the time period, or if the Applicant unreasonably delays providing information requested by the City. Before or during the pre-submission conference or at any other time prior to a determination that the Application is complete, City staff may request additional information. The Applicant shall promptly provide any and all supplemental information requested.
- d. The review, analysis, and consideration of an Application will be generally conducted as follows:
 - i. Phase 1 will consist of a comprehensive review of the Application to identify missing or incomplete information and to identify and discuss concerns with the Applicant. The end result of Phase 1 will be a determination of whether the Application is complete or incomplete. An application shall be deemed "complete" when it is determined by City staff to include all documents and other information required to be submitted under the Act, and this Policy and requested by staff and otherwise conforms to this Policy.
 - ii. If the Application is determined to be complete, the review will move on to Phase 2, which will be a more detailed review by appropriate City staff that will include, but will not be limited to, examining the feasibility, financing analyses, and evaluation of community benefits relating to the CFD as well as compatibility with the matters described in [Policy Section 2.c](#). This Phase may include several iterations of review, comment, and re-review.
 - iii. Phase 3 will consist of a report, prepared by the City, which includes recommendations related to the CFD and an analysis of the impact of the

formation of the CFD and its effects on the City. This report may provide a recommended disposition of the completed Application and any additional requirements that will be placed on the Applicant and/or the CFD.

- e. At the conclusion of Phase 3, the completed Application along with any reports prepared by City staff and the staff's recommendation will be forwarded to the City Council for consideration and possible approval during a regular City Council meeting to be convened within sixty (60) days of the City staff's determination that the Application is complete. The request for formation of the CFD shall be placed on the agenda as a public hearing item, and the public will be allowed to speak and comment on the Application.
- f. A resolution declaring the intent to form a CFD shall be considered by the City Council immediately following the public hearing. If the City Council does not adopt the resolution, it will provide a written basis for not adopting the resolution which shall identify the specific changes needed for the completed Application to be approved. The written basis will be prepared by City staff for approval by the City Council during the next regularly scheduling public meeting. A copy of the approved written basis will be promptly provided to the Applicant.
- g. The resolution must include the area to be included in the district; the purpose of the district; a statement that a general plan for the district is on file with the City Clerk; the date, time, and location of the hearing to be held on the formation of the district; where objections to the formation of the district must be filed; the composition of the Board; and and a statement that formation of the CFD may result in the levy of taxes to pay the costs of improvements to be constructed by the District and for the operation and maintenance of the improvements.
- h. If the City Council approves an Application, the Applicant and City staff will coordinate a schedule of events for formation of the CFD. Simultaneously with formation of the CFD, the Applicant and the City will enter into the final CFD District Agreement incorporating the requirements of any report, recommendations of City staff relating to such CFD, the requirements of these policy guidelines and any other restrictions, provisions and agreements required by the City. If there are existing agreements with the Applicant for the provision of public infrastructure proposed to be furnished by the CFD, then those agreements will be amended to reflect the agreements and conditions pertaining to the CFD by the means of such CFD District Agreement. As required by [Policy Section 3.h.i](#) above, a fully negotiated CFD District Agreement along with any necessary or amended development agreements must be included as part of a complete CFD Application.

3. CFD Financial Operations and Debt Financing

- a. Upon approval of formation of a CFD, the Applicant shall deposit with the CFD a nonrefundable administrative expense fee in the amount of \$50,000. The administrative expense fee shall be applied by the CFD in its sole discretion to the costs and expenses incurred in connection with the formation, review of any feasibility study, election costs, administration, operation, and maintenance with respect to the CFD or its public infrastructure. The CFD Board will provide for the timely payment of all such

costs and expenses. From time to time, upon depletion of the administrative expense fee and provision of an accounting of the uses of such amount, the CFD Board may request, and the Applicant shall promptly deposit with the CFD, additional \$25,000 deposits to be applied to the purposes contemplated herein.

- b. The Board shall require the imposition of an ad valorem property tax upon the CFD taxable property of up to \$100.00 of assessed value upon the CFD taxable property in order to provide for the CFD to be self-supporting for its administrative, operation, and maintenance expenses and replacement reserve purposes, if appropriate. Failure to cooperate with the imposition of such tax will relieve the City and the CFD from undertaking any obligations or operations.
- c. In connection with any request for debt financing, unless otherwise agreed to by the City, the Applicant will provide a current appraisal of the fair cash market value of the property within the proposed CFD that is to be taxed or assessed, prepared by a person who is designated as a Member Appraisal Institute ("MAI") and a certified general real estate appraiser, such appraisal to be in form and substance acceptable to the City, in its sole discretion. Generally, the appraisal shall be based on the wholesale, bulk sale of the property in the CFD.
- d. The amount of debt of a CFD may not have any substantial direct or indirect negative impacts on the debt or financing capabilities of the City, and the debt imposed on the CFD may not impose an unreasonable financial burden on future CFD residents.
- e. Each feasibility report for financing by a CFD shall describe any economic advantage or the estimated savings, if any, to residents in the form of reduced purchase prices, enhanced public services and/amenities, additional community benefits, etc. that are projected to result from such CFD financing.
- f. Proceeds of the sale of each bond issue shall, except to the extent limited by applicable law, be applied to fund a debt service reserve fund in the maximum, permissible amount or an acceptable reserve fund surety bond, insurance policy or other guarantee shall be provided in lieu thereof. If applicable law does not permit the funding of such a reserve fund, the applicant or third parties shall provide amounts for such purpose under circumstances acceptable to the Board.
- g. If general obligation ("GO") bonds are to be issued by the CFD, those GO bonds will be secured by an unlimited ad valorem tax on all taxable property located within the CFD. Prior to the issuance of GO bonds by the CFD, the Applicant shall describe in the project feasibility report, in addition to the statutory requirements, the following:
 - i. The current direct and overlapping tax and assessment burden on the property within the CFD and the full cash value and assessed valuation of the Property as shown on the most recent assessment roll. (The Applicant shall provide a current appraisal of the fair market value of the Property within the CFD that is to be taxed, prepared by a person who is designated as a MAI and a certified general real estate appraiser (such person hereafter referred to as an "MAI Appraiser"), such appraisal to be in form and substance acceptable to the Board, in its sole discretion. Generally, the appraisal shall be based on the wholesale, bulk value of the Property. The appraisal shall not be required if the sizing of the debt

issuance is based on existing assessed values or if sufficient collateral is to be provided by the Applicant so that land value is not a determinative issue.

- ii. The amount and timing of CFD GO bonds to be issued
- iii. The expected market absorption of development within the CFD
- iv. The effect of the CFD bond issuance on CFD property tax rates, calculated over the entire period of time that the proposed GO bonds are estimated to be outstanding or based on the phasing of the public infrastructure to be financed, as applicable.
- v. Choice of mechanism to limit the total tax rate of the CFD. Except as hereinafter provided, a series of bonds will only be issued if the debt service therefor can be amortized with substantially equal amounts of annual debt service from amounts generated by a tax rate determined by the Board per one hundred dollars (\$100.00) of secondary assessed valuation of property within the boundaries of the CFD as indicated on the tax roll for the then current tax year. For purposes of the foregoing, a delinquency factor for tax collections equal to the greater of five percent (5%) or the historic, highest 3 year average, annual, percentage delinquency factor for taxpayers within the City as of such fiscal year shall be assumed; all property in the CFD owned by the Applicant or any entity owned or controlled by the Applicant shall be assigned the last value such property had when categorized as "vacant" for purposes of secondary assessed valuation and the debt service for any outstanding series of bonds theretofore issued shall be taken into account in determining whether such tax rate will produce adequate debt service tax collections; provided, however, that the first series of the bonds shall be issued no later than necessary to have the debt service tax costs therefor appear on the first tax bill applicable to any single family residential unit, to be located within the boundaries of the CFD to be owned by other than the Applicant or any entity owned or controlled by the Applicant or any purchaser to whom the Applicant or any entity owned or controlled by the Applicant sells property within the boundaries of the CFD. A deposit equal to one year's maximum debt service on each series of such bonds will be required from the Applicant or third parties and would be used to maintain the tax rate described above at its original level; such deposit would be subject to replenishment if applied for such purpose.

The CFD Board at its discretion may consider issuing bonds in greater amounts than described in the preceding paragraph. If the debt service tax rate determined by the Board is not sufficient to produce amounts to pay the entire debt service necessary with respect to such GO bonds when due, the Applicant or other entity acceptable to the Board will be required to provide collateral sufficient to pay one-hundred percent (100%) of the difference between the revenues produced by such pre-established tax rate and the actual debt service coming due in that fiscal year for each year while any of the bonds of the series in question are outstanding in the form of a cash contribution or other acceptable form of security or any combination of the foregoing, which shall be bankruptcy proof, as required by the Board. A cash flow schedule illustrating the amount and the time period required to cover such shortfall will be required to be submitted as part of the feasibility report. Such amount shall be required to remain fully funded until such time as

the Board, exercising its sole discretion, determines sufficient assessed valuation has been created that the debt service will be self-supporting. At that time, the Board, exercising its sole discretion, will determine whether the collateral will be released in whole or in part. Parameters for the foregoing will be included in the development agreement described in [Procedures Section 2.h](#).

- vi. Marketing Plan for the Sale of Bonds
 - a. Publicly offered bonds must be rated in one of the four highest investment grade ratings from Standard & Poor's Corporation, a division of the McGraw-Hill Companies ("S&P"), Moody's Investors Services ("Moody's"), or other nationally recognized bond rating service. Pursuant to state statutes, the CFD will not sell non-investment grade bonds in a public offering.
 - b. Bonds not publicly offered need not be rated. However, purchasers of such bonds must be similar to those acceptable pursuant to Rule 144A of the Securities Exchange Commission ("Qualified Buyers") and must agree to hold the bonds for his/her own account and not to resell the bonds except to Qualified Buyers.
 - c. Bonds offered through a limited public offering must be sold only to "Qualified Institutional Buyers" (as defined in Rule 144A under the Securities Act of 1933, as amended) or "Accredited Investors" (as defined in Section 2(a) (15) of the Securities Act of 1933, as amended). Initial purchasers of the Bonds will be deemed to have represented by such purchase that such purchaser is either a Qualified Institutional Buyer or an Accredited Investor, and understands the bonds may not be reoffered, resold, pledged, or otherwise transferred except to Qualified Institutional Buyers or Accredited Investors.
- h. Assessment bonds shall be secured by first lien (subject only to the lien for general taxes and prior special assessments) on the property benefited and shall be issued only if arrangements are made to have the applicable assessments collected on a tax bills by the Treasurer of Maricopa County, Arizona. The Applicant must describe for assessment bonds in each project feasibility report, along with the statutory requirements, the following:
 - i. The current direct and overlapping tax and assessment burdens on real property to comprise the CFD and the full cash value and assessed valuation of that property as shown on the most recent assessment roll. The Applicant shall provide a current appraisal of the fair market value of the property within the proposed CFD that is to be assessed, prepared by a person who is designated as an MAI Appraiser, such appraisal to be in form and substance acceptable to the Board, in its sole discretion. Generally, the appraisal shall be based on the wholesale, bulk value of the Property. The appraisal shall not be required if sufficient collateral is to be provided by the Applicant so that land value is not a determinative issue.
 - ii. The amount and timing of CFD assessment bonds to be issued

- iii. The expected market absorption of development within the CFD
- iv. The estimated assessment amount to be placed on prospective assessed parcels
- v. Whether the assessments will be paid upon sales of lots by the Applicant or will remain on the property after sale
- vi. Marketing Plan for Sale of Bonds
 - a. Publicly offered bonds must be rated in one of the four highest investment grade ratings from S&P, Moody's or other nationally recognized bond rating service, or an appraisal of the property within the proposed CFD to be encumbered, prepared by an MAI Appraiser and in form and substance acceptable to the Board, in its sole and absolute discretion, shall indicate a minimum land value to debt ratio of 3 to 1, on an assessed parcel by assessed parcel basis, prior to the issuance of debt.
 - b. Bonds not publicly offered need not be rated. However the purchasers of such bonds must be Qualified Buyers and agree to hold the bonds for his/her own account and not to resell the bonds except to Qualified Buyers. Further, in connection with the sale of unrated bonds, the Board must have received an appraisal of the land to be encumbered, prepared by an MAI Appraiser and in form and substance acceptable to the Board, in its sole and absolute discretion, indicating a preferred minimum land value to debt ratio of 4 to 1, on an assessed parcel by assessed parcel basis, prior to the issuance of debt.
 - c. Bonds offered through a limited public offering must be sold only to "Qualified Institutional Buyers" (as defined in Rule 144A under the Securities Act of 1933, as amended) or "Accredited Investors" (as defined in Section 2(a) (15) of the Securities Act of 1933, as amended). Initial purchasers of the Bonds will be deemed to have represented by such purchase that such purchaser is either a Qualified Institutional Buyer or an Accredited Investor, and understands the bonds may not be reoffered, resold, pledged, or otherwise transferred except to Qualified Institutional Buyers or Accredited Investors.
- i. Revenue bonds shall be payable from a specified revenue source. The Applicant must describe in each project feasibility report, along with the statutory requirements, the following:
 - i. The revenue source from which bonds will be payable. The CFD Board reserves the right to require that independently prepared financial feasibility studies or reports be provided as it deems necessary to confirm the amount and availability of revenues.
 - ii. The expected market absorption of development within the CFD
 - iii. The amount and timing of CFD revenue bonds to be issued
 - iv. The financial impact of the proposed issue(s) on prospective residents

- v. Any plan for subsidizing revenues to meet obligations with respect to the bonds
- vii. Marketing Plan for Sale of Bonds
 - a. Publicly offered bonds must be rated in one of the four highest investment grade ratings from S&P, Moody's or other nationally recognized bond rating service. Pursuant to state statutes, the CFD will not sell non-investment grade bonds in a public offering.
 - b. Bonds not publicly offered need not be rated. However, purchasers of such bonds must be Qualified Buyers and must agree to hold the bonds for his/her own account and not to resell the bonds except to Qualified Buyers.
 - c. Bonds offered through a limited public offering must be sold only to "Qualified Institutional Buyers" (as defined in Rule 144A under the Securities Act of 1933, as amended) or "Accredited Investors" (as defined in Section 2(a) (15) of the Securities Act of 1933, as amended). Initial purchasers of the Bonds will be deemed to have represented by such purchase that such purchaser is either a Qualified Institutional Buyer or an Accredited Investor, and understands the bonds may not be reoffered, resold, pledged, or otherwise transferred except to Qualified Institutional Buyers or Accredited Investors.

4. Financing Considerations

- a. The Applicant (or such other third party acceptable to the CFD Board) shall indemnify the City and the CFD and their agents, officers, and employees and shall hold the City and the CFD and their agents, officers and employees harmless for, from and against any and all liabilities, claims, costs and expenses, including attorneys' fees, incurred with respect to the formation, operation, or administration of the CFD, the offer and sale of CFD bonds, the levying by the CFD of any tax, assessment or charge and the operation and maintenance of public infrastructure financed or owned by the CFD.
- b. In addition, if such insurance is not otherwise available from another source, the Applicant shall be responsible for the cost of a Director's and Officers (D&O) insurance policy to cover all actions and activities taken by the Board and officers of the CFD relating to the CFD formation, financing, administrative actions and other related activities and for depositing the amount of any deductible in escrow with the CFD or for providing a plan for providing for such deductible. The amount of the D&O coverage will be determined by the CFD at the time of formation.
- c. Unless otherwise provided to the CFD pursuant to other requirements, prior to CFD financing and construction and/or acquisition of any public infrastructure, the CFD and the City will be provided with an independent environmental report or assessment of any real property which will be dedicated to or otherwise owned, leased or operated by the City or the CFD with respect to any public infrastructure, if necessary, and a proposed form of indemnity agreement with respect to all environmental law liability.



CITY OF SURPRISE
Regular City Council Work Session

Council Meeting Date: October 6, 2020 Contact Person: JOSHUA MIKE
Submitting Department: Community Development District: Citywide
Staff Recommendations: None

Consent: No Regular: No Public Hearing: No Report/Discussion: Yes

Agenda Wording:

Presentation and discussion regarding residential development standards and narrow lot subdivisions as part of the development code update.

Motion:

Presentation and discussion only.

Background:

Staff has prepared changes to the Land Development Ordinances that will implement the General Plan 2035. This code update has included across-the-board teamwork from all disciplines of the development community; home builders, architects, engineers, landscape architects, planners, etc. Since April 2020, after the stay-at-home order was put in place, staff continued to revise the drafts based on those meetings and other feedback such as phone calls and emailed suggestions. The newest draft is a comprehensive version, incorporating revisions that attempt to follow the direction set by City leaders and address the needs of developers in the City. This presentation will include feedback from the industry regarding provisions for residential zoning.

Objective Analysis:

The Land Development Ordinances (LDO) and Planning and Engineering Design Standards (PEDS) will incorporate changes to the entire development code, replacing the current SUDC, and clarifying the standards for site, open space, general development regulations.

Policy Compliant:

This development code update will implement the General Plan 2035.

Financial Impact:

While this item does not have an immediate or direct financial impact, ongoing development activity in the City will inevitably have a future financial impact as additional resources are needed to provide city services.

Budget Impact:

There is no anticipated budget impact related to this item.

FTE Impact:

This item does not have an impact on current staff levels.

ATTACHMENTS:

1. 00 FS18-296 LDO Code Update Memo-10.6.2020
 2. 01 LDO Code Update-Residential Language Excerpts
 3. 02 FS18-296 Surprise Land Development Ordinances Chapters 101-108 (August 2020 REDLINE DRAFT with notes)
 4. 03 FS18-296 Surprise Land Development Ordinances Chapters 101-108 (August 2020 CLEAN DRAFT)
 5. 04 Code Update Presentation 10.6.2020
-

LDO Update Discussion

Case:	FS18-296
Project Name:	Land Development Ordinances Update – Pools and Community Facility
Council Districts:	Citywide
Meeting Date:	October 6, 2020
Planner:	Joshua Mike
Attachments:	01 LDO Code Update-Residential Language Excerpts 02 FS18-296 Surprise Land Development Ordinances Chapters 101-108 (August 2020 REDLINE DRAFT with notes) 03 FS18-296 Surprise Land Development Ordinances Chapters 101-108 (August 2020 CLEAN DRAFT)

Background:

In December 2019, the Community Development Department published a proposed comprehensive update, which will replace the existing SUDC with Land Development Ordinances (LDO) within the city's Municipal Code and establish the Planning and Engineering Design Standards (PEDS).

During the first few months of this year, many of the draft chapters were presented and discussed at stakeholder meetings, Planning and Zoning Commission meetings, and City Council Work Sessions. Over the past few months, while social distancing protocols and gathering restrictions have been in place, staff has continued to revise the drafts based on those meetings and additional feedback received by phone and email. Starting in August, a series of hybrid stakeholder meetings have taken place to discuss these revisions.

Introduction:

This memo presents the provisions in the LDO as it relates to the regulations for residential development. Instead of focusing solely on a chapter of the LDO or the PEDS separately, the discussion will approach a typical development situation. The most common situation has been narrow lot subdivisions, so we will explore how it is addressed within sections within different chapters of the LDO.

It will show the draft language presented to stakeholders and City leadership, and a summary of outreach discussions. It will identify multiple options discussed between staff and stakeholders. Direction will be sought from the Planning and Zoning Commission and City Council on how to finalize standards.

The attachments to this memo includes a collection of excerpts that apply to narrow lot development projects as well as updated copies of the LDO Chapters 101-108 since the first draft was published. One copy includes all the changes shown in red and includes notes from

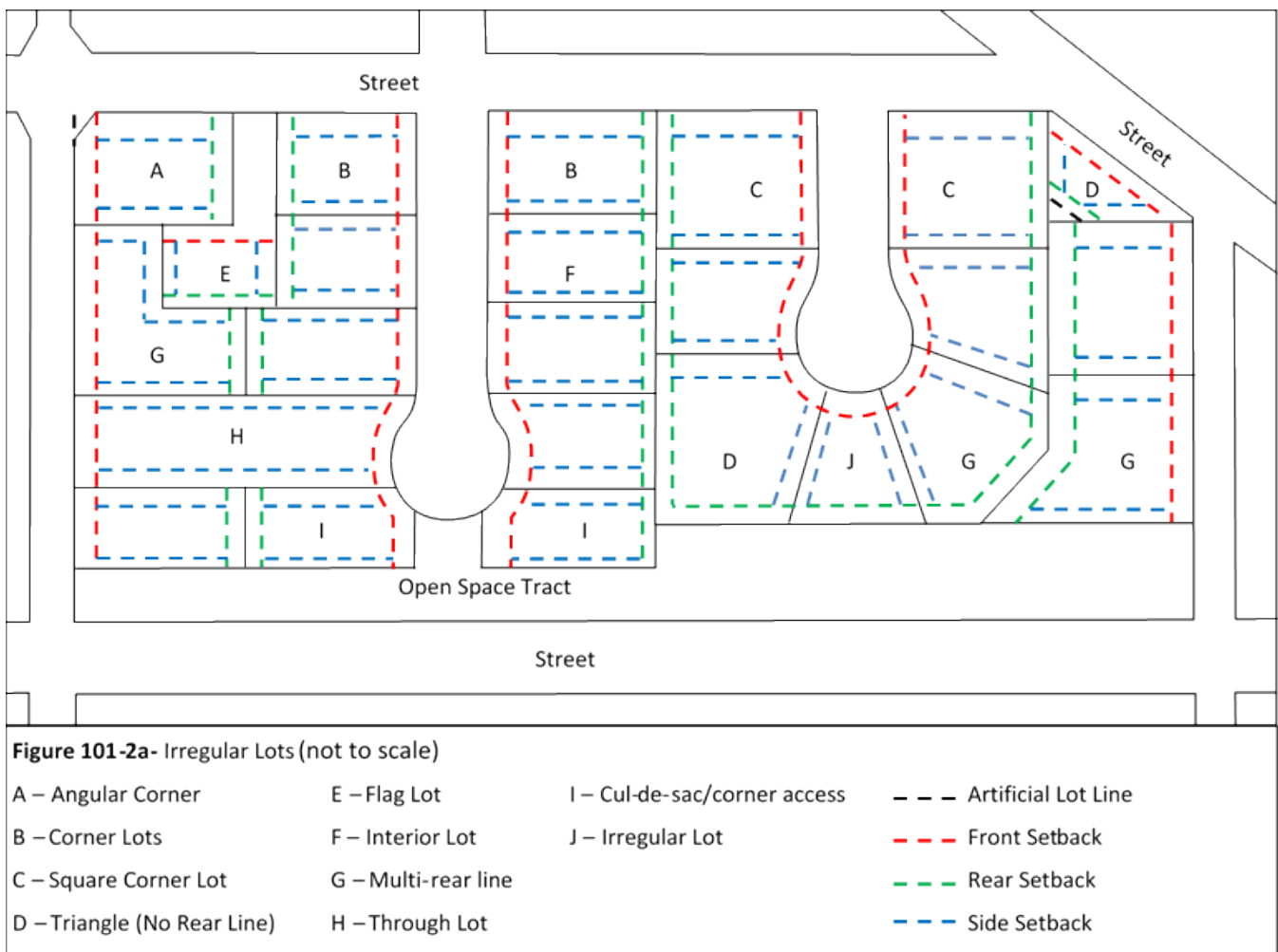
stakeholder and City comments. The other copy has all the revisions accepted and displayed as a clean version of the draft.

CHAPTER 101 - ADMINISTRATIVE PROVISIONS:

The excerpt is from Article 2 of Chapter 101 of the LDO and relates to the discussions about residential terms and definitions. The text reflects changes made to the last draft published in December 2019 to clarify the irregular lots, how to apply width and depth averages, and interpret setbacks. A visual sample was added to aid in interpreting the language.

The terms addressed in these revisions include:

- Lot
- Lot Depth
- Lot Lines
- Lot Width
- Setbacks
- Yard



CHAPTER 104 - FUNDAMENTAL DEVELOPMENT REQUIREMENTS:

The excerpt from Article 1 of Chapter 104 of the LDO relates to the discussions about Urban Growth Principles. The revisions take a practical approach to timely extension of City service and the flexibility for the development community. The section is divided into 2 concepts, expectations of goals that will be met with new development and the policies that will be applied.

CHAPTER 106-ZONING AND USE STANDARDS:

The subsection from Article 2 of Chapter 106 of the LDO relates to the discussions about residential zoning development standards. The revisions take into account input and suggestions from the development community since the drafts published in December 2019. Those revisions include:

1. Clarity on how developers can request higher lot yield within a residential development rezoning application.
2. Administer the provisions of Lot Area per Dwelling Unit in single-, two-, and three-family zoning districts
3. Adjust some lot sizes and setbacks to be easy to read.
4. Increase lot coverage
5. Remove the requirement to build an alley in narrow lot subdivisions. The standard will be an optional solution that developers can use to address issues related to narrow lot subdivisions.

Table 106-2b - Residential Low Density (R-1) Zoning district

Lot Categories	A	B	C	D	E	F
General Plan Compatibility	Suburban	Suburban	Suburban	Suburban and Rural	Rural	Rural
Min Lot Area (sf)	5,000 4950-7,999	8,000-11,999	12,000-17,999	18,000-27,999	28,000-43,559	≥ 43,560
Min Lot Width (sf)	45 ⁴	60	80	90	100	130
Min. Front setback ¹ (ft)	12	12	15	20	20	30
Max. Front setback (ft)	25	25	30	35		
Min. Rear setback ¹ (ft)	15	20	20	25	30	30
Min. Side setback ¹ (ft)	5&88/13 ²	5&108/15 ²	10 8/20 ²	10 & 15/25 ₂	20	20
Min. Street side setback ¹ (ft)	15	15	15	15	20	20
Max. Bldg. Height (ft)	30	30	30	30	30	30
Max Lot coverage	45%	40 45%	35 40%	30%	30%	25%
Open space (% of gross area of residential development) ²³	20%	20%	20%	15%	15%	10%

Notes:

1. Garage face and embellishments shall be setback a minimum of twenty-five (25) feet measured from any opposing property line; except rear alley loaded garages, which shall be setback ~~nine-six~~ feet (69') from edge of alley line.
2. ~~Minimum side setback: one side / total side setbacks on a lot.~~
3. The City requires open space on a development/subdivision basis rather than on a lot-by-lot basis.
4. ~~New blocks with any Residential lots that are less than fifty feet (50') wide shall have vehicular access from an alley~~

Table 106-2c - Residential Medium Density (R-2) Zoning district

Lot Categories	A ⁴	B ⁴	C ⁴	D ⁴
General Plan Compatibility	Urban	Suburban	Suburban	Suburban
Min-Lot Area (sf)	3,500- 4,949 4,999	4,949 5,000- 7,999	8,000-11,999	≥12,000
Min Lot Width (sf)	40 ⁻⁶	45 ⁻⁶	70	80
Min. Front setback ¹ (ft)	10	12	12	15
Max. Front setback (ft)	25	25	25	30
Min. Rear setback ¹ (ft)	10	15	20	20
Min. Side setback ^{1,2} (ft)	5² & 7 /12 ³	5² & 8 /13 ³	5 & 10 8/15	10 8/20
Min. Street side setback ¹ (ft)	10	10	10	10
Max. Bldg. Height (ft)	30	30	30	30
Lot Area per Dwelling unit (sf)	3,500	3,500	3,500	3,500
Open space(% of gross acres of residential development) ^{5,3}	25%	20%	20%	20%

Notes:

1. Garage face and embellishments shall be setback a minimum of twenty-five (25) feet measured from any opposing property line, except rear alley loaded garages, which shall be setback nine feet (9') from alley edge line.
2. ~~Minimum side setback: one (1) side / total side setbacks on a lot~~
3. May be reduced to 0' setback for Single-family dwellings as attached building and separated by a common wall along the property line. End units must maintain the ~~total combined larger~~ setback
4. ~~Maximum of three (3) dwelling units per lot of record. Minimum lot area of four thousand square feet per dwelling unit (4,000 sf/du), except lots in Column A are permitted one dwelling unit (1 du).~~
5. The City requires open space on a subdivision or development site basis rather than on a lot-by-lot basis
6. ~~New blocks with any Residential lots that are less than fifty feet (50') wide shall have vehicular access from an alley~~

The excerpts from Article 9 of Chapter 108 of the LDO relates to the discussions about incorporating the PUD overlay as a tool applicants may use to request deviations from the some regulations. The intent is to provide desired flexibility for developers to address unique constraints facing a project.

- Re-established, last draft of LDO removed this tool
 - Tool used to request deviations from the some regulations
 - New proposed language
 - Provide desired flexibility for developers
 - Address unique constraints facing a project
- Permitted in any zoning district except the Surprise Heritage District (SHD), and Traditional Neighborhood Development (TND), or individual residential dwellings
- Permitted uses in underlying zoning apply (does not permit deviations)
- Permits deviations to Ch 106-Zoning and Ch 109-Signs

CHAPTER 108 - LAND DIVISION AND SUBDIVISION REGULATIONS:

The excerpt from Article 2 of Chapter 108 of the LDO relates to the discussions about platting and developing narrow lot residential subdivisions.

The narrow lot regulations are included in the Lot Planning Section of the LDO since the platting process is where narrow lots are actually created. The regulations intend to provide desired flexibility for developers that need narrow lots in the subdivisions. During earlier discussions, stakeholders told the City that narrow lots are only needed to compute lot yield and complete certain block lengths.

The regulation also follows direction from Planning and Zoning Commission and City Council to address the negative consequences from narrow lot subdivisions. The intent is to also create new subdivisions that offer more lot diversity than a plat with nearly identical, homogenous lots.

Restrictions to mitigate problems from narrow lot subdivisions:

1. Up to ten percent (10%) of the lots within a new final plat may be less than fifty feet (50') wide. No more than two such lots shall abut one another.
2. Up to twenty-five percent (25%) of lots within a final plat may be less than fifty feet (50') wide, if at least 1 mitigating design is included in the plat.
3. Up to fifty percent (50%) of the lots within a final plat may be less than fifty feet (50') wide if alleys as outlined in Sec 108-2.4.C are incorporated in the plat design.
4. Mitigating factors that can be incorporated into the design of the plat include but are not limited to
 - a. Alleys
 - b. Single-car driveways and garages,
 - c. Open carports,
 - d. Shared driveways,
 - e. Public parking areas within one-eighth mile (1/8 mi) of every lot.
 - f. The Community Development Director or designee may modify this list if the intent is maintained with such modification.

DISCUSSION AND INPUT:

Discussions with stakeholders, Planning and Zoning Commission meetings, and City Council Work Sessions, included the allowed narrow lot widths, minimum side setbacks, and the concentration of narrow lots permitted in a subdivision.

Setbacks

Setbacks are used to ensure structures maintain a minimum distance from adjacent property lines and rights-of-way. These are important for fire safety and limiting the intensity of the construction, such as keeping a reasonable distance. The proposed side setbacks listed is to regulate the minimum setback on one side of a home and the combined aggregate setback distances of both sides.

Some setbacks were revised since the last draft to address unclear phrasing on the table and accommodate some stakeholders' requests. However, the revisions did not include the request to reduce the setbacks to 5-feet on each side for the narrow lot categories.

City Comments

1. The intent of the larger side setback is to provide for a 'usable' side yard. The City is addressing the concern that there is no functional side yard when the only available home products provided in a subdivision maximize the buildable width.
2. 7' and 8' side yards allow for at least one side yard that can accommodate small utility trailers, ATVs, and other personal recreational vehicles, etc. and for small RV gates.
3. Matching small side yard setbacks may prevent or can add substantial costs to constructions projects in the rear yard, such guest homes, sheds, or pools.
4. Much of the reason for the lot categories is to allow for non-homogenous subdivision layouts and create housing diversity within subdivisions. The setbacks simply address the various lot size and appropriate intensities.
5. It may be necessary to adjust the table to better clarify and identify side setbacks

Feedback from the WeSERV Association of REALTORS showed that the resale homebuyers are consistently seeking are wide side yards. Approximately 88% of those asked consider small side yards as a deterrent. They received comments that when buyers want larger yards agents take them to Goodyear or Peoria.

Narrow Lots

Narrow lots are proposed as a permitted development standard as part of the LDO update in order to accommodate market conditions and housing affordability through subdivision design. The City recognizes that narrow lots allow home builders to provide more options at or below the median home value. However, the dominance of narrow lot can create long term conflicts and constraints for the City to manage for the lifespan of a subdivision, long after buildout is complete.

1. Garage Dominance
 - a. On a hypothetical 40-foot wide lot, over 70% of the home's width is a garage, after subtracting 12' setbacks and a typical 20' wide two-car garage face.
 - b. PEDS require outdoor features, e.g. front porches, plaza, courtyard, etc.
 - c. Garage face setback is proposed to be 25', pushing the home far from the ROW
2. On Street Parking
 - a. Remaining on street parking (avg 10'x20' parallel space) leaves 1 space per lot.
 - b. Difficult logistics with aligning driveways to avoid driveway access conflicts
3. Driveway/pedestrian conflicts
 - a. Safety concerns with abundance of driveway crossing the sidewalks
4. Trash Collection and Fire-Medical access
 - a. Narrow lot proposals conflict with existing fleet and practices
 - b. City must enforce "no parking on trash day regulations"

DIRECTION FROM CITY LEADERSHIP:

Staff received direction from the Planning and Zoning Commission and City Council to address the negative consequences from narrow lot subdivisions. Designs and development options can be integrated into subdivisions to benefit both the builder in the short-term and the residents of the City in the long-term.

STAKEHOLDER RESPONSE:

Stakeholders engaged in thorough discussion during the meeting on August 31. A summary of questions and suggested revisions is listed below.

- Many homebuilders requested that the side setbacks be reduced to 5' in R-1, Lot Category A and R-2, Lot Categories A & B.
- What is the rationale for using 50-foot lot widths as the threshold for narrow lot restrictions?
 - Staff informed the stakeholders that neighborhoods with the majority of lots wider than 50' do not typically have the problems of narrower lots. The statistical measurements for buildable widths on a 50-foot wide lot are listed below
 - Total side setbacks = 13 feet (5' & 8' on either side)
 - Total home width = 37 feet (assuming it is built to the full buildable width)
 - Typical garage width = 20 feet (door plus framed embellishment)
 - Remaining front elevation of the home = 17 feet
 - The home face of 45% with a garage face of 55% to the total product width
 - Typical driveway are 16-20 feet wide,
 - with two 5' setbacks between two neighboring driveways, there is not enough space for an on-street parking space
 - two 8' setbacks provide enough space for most cars to park on-street
 - As lots become narrower in a plat, the measurements above become more lopsided.
- Are the on-street parking issues with solid waste collection the driving force for limiting the number of narrow lots in a plat?
 - Staff informed the stakeholders that there are many compounding conflicts that are the base for the proposed restrictions.
 - Those restrictions include garage dominance designs, on street parking, driveway conflicts with vehicle movement and pedestrian, and access for city services like trash collection and fire-medical access.
 - Staff also noted that previous solutions like 'no parking on trash days' signs were used as a reactive solution. This code update is an opportunity to establish alternative proactive solutions.
- A few homebuilders requested an increase in the maximum lot coverage limitation in zoning districts R-1 and R-2. They suggested increasing the total limit or adding a 5% coverage limit for detached accessory structures.
 - It was noted that some homes currently offered are at the top of or exceed the lot coverage limit that would otherwise fit on the lot size.

- Concern was voiced that homeowners will be limited from building accessory structures like sheds, casitas, or gazebos in combination with available home products.
- Staff requested examples of current (either built or available for sale) home products to be presented and reviewed as a comparison.
- An overview the PUD Overlay was discussed and stakeholders will provide more feedback after a more in-depth review.

DIRECTION NEEDED:

In order to prepare the next set of revisions for the LDO and the PEDS, staff is considering some of the suggestions identified by the stakeholder groups. Direction from the City Leaders is needed on the following concepts.

- Should the developments standards be maintained as proposed?
 - Should the City maintain a usable side yard setback on all lot categories?
- Are the quantity restrictions and mitigation standards sufficient to allow narrow lots without long-term problems?
- Is the proposed PUD Overlay clearly written to meet the needs of applicants?

CONCLUSION:

Feedback from this meeting will be discussed and revisions to the LDO and PEDS will be made. Updated drafts will be published and distributed to the stakeholder and discussed at future stakeholder meetings, Planning and Zoning Commission meetings, and City Council Work Sessions.

The excerpt below is from Article 2 of Chapter 101 of the LDO and relates to the discussions about residential terms and definitions. The redline text reflects changes made to the last draft published in December 2019.

The terms address in these revisions include:

- Lot
- Lot Depth
- Lot Lines
- Lot Width
- Setbacks
- Yard

CHAPTER 101 - ADMINISTRATIVE PROVISIONS

ARTICLE 1 – IN GENERAL

ARTICLE 2 – RULES OF INTERPRETATION AND GLOSSARY OF TERMS

Lot: A single piece of property, including a *parcel* of land, shown in the records of the Maricopa County Assessor's Office, to be used pursuant to all City requirements for the development. For specific types of lots see definitions below and Figures 101-2a.

1. **Lot, Corner:** A lot at a junction of and fronting on two (2) or more intersecting *streets*.
2. **Lot, Flag:** A lot with street frontage limited to the width of the drive aisle so that the building envelope is back from the street behind another lot (commonly known as panhandle) with the buildable area of the lot set back from the street behind another lot, with limited street frontage.
3. **Lot, Interior:** A lot other than a corner or *through lot*.
4. **Lot, Irregular:** Nonrectangular lots, lots with three sides or more than four sides, and other nonstandard lots that require special measurement techniques in order to achieve the purpose of setback requirements (commonly known as cul-de-sac, pie, reverse pie, and/or triangular).
5. **Lot, Key:** A lot where the *side lot line abuts the rear lot line of a corner lot*.
56. **Lot, Through:** A lot having *street frontage* on two (2) parallel or approximately parallel *streets*, (commonly known as double frontage).

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Lot Depth: The ~~horizontal~~ distance between the front lot line and the rear lot line of a lot of a line measured at the midpoint of and a right angle to the ~~front lot line and running between the front lot line and the rear lot line of a lot.~~

Lot Line: The boundary that sets the border of a lot. (commonly known as a property line). For specific application of specific lot lines see the definitions below and Figures 101-2a.

Comment [AB1]: From HBACA:

This definition can be problematic as applied to pie shaped lots and may require a rear yard setback for a side yard lot line.

1. **Lot Line, Front:** The ~~narrowest~~ lot line abutting separating the lot from the right-of-way. In the case of corner lots,
 - a. In the case of an interior lot or through lot, a line separating the lot from the street
 - b. In the case of a corner lot, the front lot line separating the narrowest street frontage of the lot from the street. For square, corner lots, the front shall be determined by Community Development Director or Designee.
 - c. In the case of flag lots, the front lot line shall be the line closest to perpendicular to the street on which the lot accesses, unless determined otherwise by the Community Development Director or Designee
 - d. In the case of irregular shape lots (see Figure 101-2a), the front lot line shall follow the right of way line
2. **Lot Line, Rear:** ~~The A~~ lot line which is opposite and most distant from the front lot line. An and, in the case of an irregular or triangular shaped lot may have more than one (1) rear lot line or; a line ten feet in length within the lot, parallel to and at the maximum distance from the chord of front lot line.
3. **Lot Line, Side:** Any lot line that is not a front lot line or a rear lot line.

Lot Width: The distance as measured in a straight line, between side lot lines as measured along the minimum front setback.

Setback: The minimum distance by which any structure must be separated from right-of-way or lot line. For specific application of specific setbacks see the definitions below and Figures 101-2c.

1. **Setback, Front:** The minimum setback line parallel to the Front Lot line.
 - a. In the case of an interior lot or through lot, the front setback shall follow the front lot line
 - b. In the case of a corner lot with a curved or angular ROW line, the front setback may extend along an extending artificial front lot line in an attempt to make a rectangular lot.

- c. In the case of *flag lots*, the *front lot line* shall be the line closest to perpendicular to the street on which the lot accesses, unless determined otherwise by the director
 - d. In the case of irregular shape lots (see **Figure 101-2a**), the *front lot line* shall follow the right of way line
 - e. In the case of cul-de-sac and corner access lots, the *front setback* shall extend along the shortest, abutting lot line.
- 2. **Setback, Rear:** The minimum *setback* line parallel to the *Rear lot line*.
 - 3. **Setback, Side:** The minimum *setback* line parallel to any *Side lot line* between the *front* and *rear setbacks*.
 - 4. **Setback, Street Side:** The minimum *setback* line parallel to the *Side lot line* that *abuts* a *right-of-way* between the *front* and *rear setbacks*.

Yard: An open area of a residential *lot* that is at *grade* level between the *dwelling* and the adjoining *lot lines*, except as otherwise provided in this Ordinance

- 1. **Yard, Front:** A *yard* extending between two (2) *side lot lines* and the depth of which is the distance between the *front lot line* ~~street~~ and the primary *building* and *fence return*, when present. The required *front yard* area is the area of the *front yard* that is bound by the *side* and *front lot lines* and the *front setback line*.
- 2. **Yard, Rear:** A *yard* extending between two (2) *side lot lines* and the depth of which is the distance between the *rear lot line* and the primary *building*. The required *rear yard* area is the area of the *rear yard* bound by the *side* and *rear lot lines* and the *rear setback line*.
- 3. **Yard, Side:** A *yard* extending between the *fence return* or *front yard* and *rear yard* and the depth of which is the distance between the *side lot line* and the primary *building*. The required *side yard* area is the area of the *side yard* that is bound by the *front* and *rear yards* and *side lot lines*.
- 4. **Yard, Street Side:** A *side yard* which is along the *side lot line* that *abuts* a *street*.

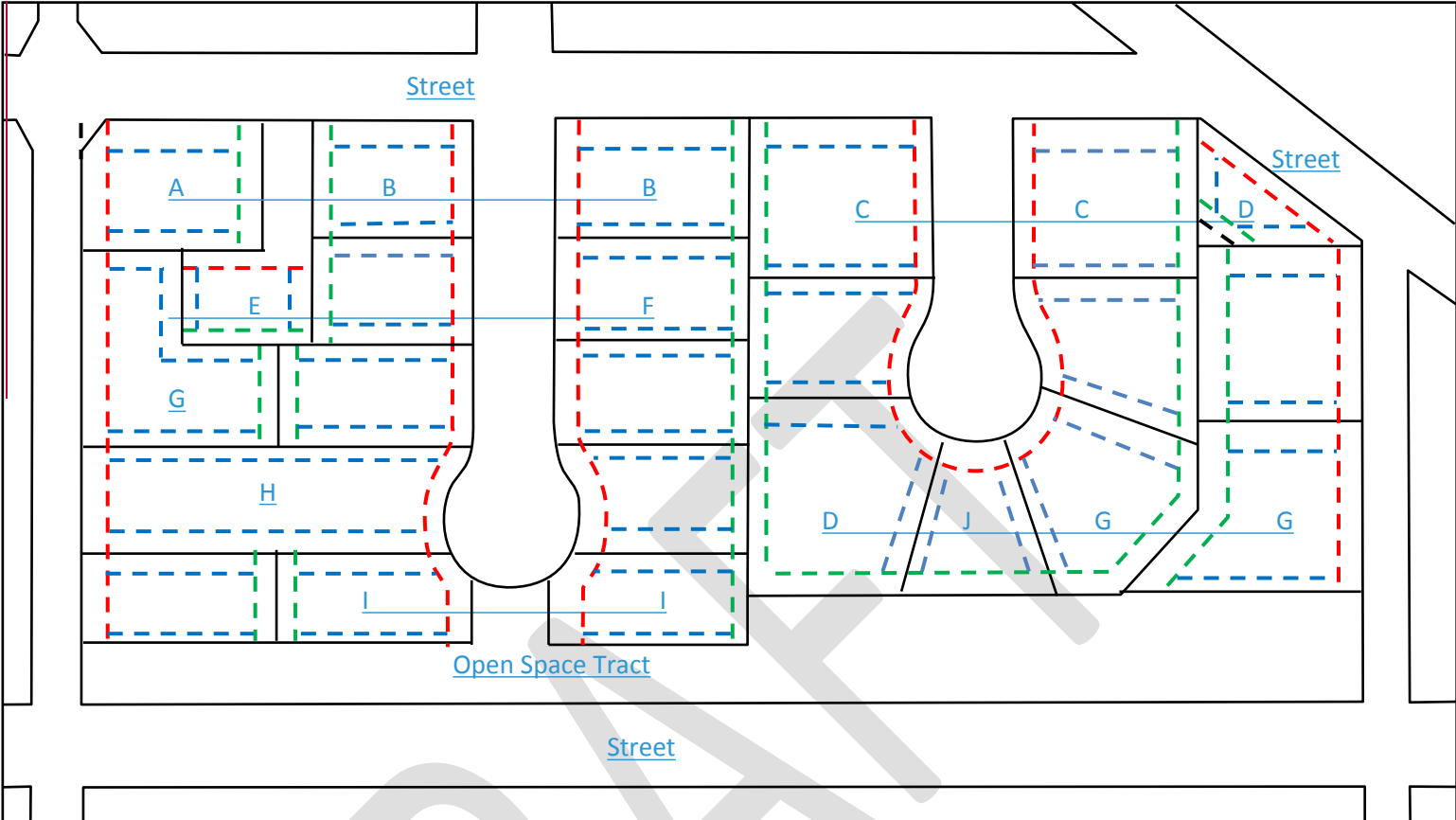


Figure 101-2a- Irregular Lots (not to scale)

A – Angular Corner	E – Flag Lot	I – Cul-de-sac/corner access	— — — Artificial Lot Line
B – Corner Lots	F – Interior Lot	J – Irregular Lot	- - - Front Setback
C – Square Corner Lot	G – Multi-rear line		- - - Rear Setback
D – Triangle (No Rear Line)	H – Through Lot		- - - Side Setback

The excerpt below is from Article 1 of Chapter 104 of the LDO and relates to the discussions about Urban Growth Principles. The redline text reflects changes made to the last draft published in December 2019.

CHAPTER 104 - FUNDAMENTAL DEVELOPMENT REQUIREMENTS

ARTICLE 1 – IN GENERAL

104-1.4 Urban Growth Principles

- A. Urban Growth ~~standards-principles~~ encourage and guide the planning of new development to locate ~~adjacent and/or contiguous to already existing developed~~ near urban development areas of the City, with the intent to achieve the following objectives:
1. The expansion of incorporated City limits and ~~contiguous~~ service areas through a timely and orderly annexation program.
 2. The reinvestment in built-up areas of the City through the infill development process.
 3. The preservation of rural characteristics, natural areas, and features.
 4. The protection and preservation of environmentally sensitive features from the encroachment of urban development as required by Section 104-Article 2.
 5. The promotion of the City's individual image, identity, and character through the extensive and enhanced trails for pedestrian multimodal connectivity.
 6. The preservation of historical and cultural features.
 7. Account for improved air quality and minimize non-commuter vehicle miles traveled.
 - ~~(2) The efficient use, timely, and cost-effective extension of new City infrastructure and services.~~
 - ~~(3) The physical connection and visual integration of new development with adjoining existing and proposed development.~~
 - ~~(4) The reinvestment in built-up areas of the City through the infill development process.~~
 - ~~(5) The preservation of rural characteristics, natural areas, and features.~~

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- ~~(6) — The protection and preservation of environmentally sensitive features from the encroachment of urban development.~~
- ~~(7) — The improvement of air quality by reducing vehicle miles traveled and by encouraging public transit and alternatives to private automobile use.~~
- ~~(8) — A wide mix of housing types and greater diversity in both residential and nonresidential architecture.~~
- ~~(9) — The promotion of the City's individual image, identity, and character through the extensive and enhanced use trails for pedestrian multimodal connectivity.~~
- ~~(10) — The preservation of historical and cultural features.~~

B. Using the regulations within this Ordinance, a~~All new construction~~ and development within the City, including residential subdivisions or development having an overall *gross residential density* ~~of at least greater than~~ one dwelling unit per gross acre (1 du/ac) ~~or greater shall;~~ meet the following minimum standards related to the required degree of contiguity, access, and availability of adequate public infrastructure.

1. Demonstrate efficient, timely, and cost-effective extension of new City infrastructure and services and cost-effective for the City's budget program.

2. Design for multimodal travel to nearby businesses and services as an alternative to private automobile use and accommodate public transit to existing or planned and funded route

~~31. (At least one-sixth (1/6)) of the proposed development's site boundaries shall be contiguous to, and have shared access and have multimodal connectivity with between the proposed development's boundary and existing urban development. All such new uses and developments are shall be existing urban development. All such uses and developments are served by completed infrastructure, including paved streets, public sewer and water, storm water drainage and other utilities, as well as fire suppression consistent with the current City-adopted fire code. Said standards shall further apply to any developments petitioning to annex into the City.~~

2. ~~If the development is an approved scheduled phase of an overall master development plan, which meets the contiguity requirement of this section, and if any portion of the development phase is within one-half mile (1/2 mi) of an existing urban development, then the specific development phase need not comply with the minimum contiguity requirement.~~

3. ~~For purposes of this section, contiguity shall not be affected by the existence of a platted street or alley, a public or private right of way, a~~

Comment [AB2]: From HBACA:

We are very concerned that this requirement is overly restrictive and will stifle many important development opportunities within the City. There are going to be natural and financial obstacles to non-contiguous development, however, City regulations do not need to be an additional obstacle. There are examples of developments throughout the Valley that were once non-contiguous but have since become key components of the region's economy. Surprise should not eliminate the possibility of this type of growth. While there are still waivers and exceptions provided in this section, those types of waivers and exceptions are often far too unpredictable and time consuming to provide any type of relief from a general prohibition on this type of development. This section should be revised to provide more immediate flexibility.

In addition, we note that the term "urban development" in this section is undefined. We also received feedback that the terms "urban development" and "contiguity" are being used interchangeably and should be clarified.

Finally, we would like to note that one of the City's identified "urban growth principles" is "[a] wide mix of housing types and greater diversity in both residential and nonresidential architecture. "We think that this is a principle that the City should continue to strive for and is one of the great opportunities Surprise has to offer. However, we implore the City to constantly keep this principle in mind when proposed projects include entry-level housing and

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public or private transportation *right-of-way* or area, publicly owned *open space*, or a lake, reservoir, stream, wash or other natural or artificial waterway located immediately between the proposed development and existing *urban development*.

4. ~~(Waiver/exceptions)~~ The City council, City Manager, or his/her designee may waive or make exceptions to the contiguity requirements of this section provided a specific finding is made that the proposed development will:
- a. ~~Substantially advance the implementation of the City's *General Plan* provisions regarding greater diversity in housing types and densities;~~
 - b. ~~Produce special benefits to the City in terms of large-scale *open space* dedication or preservation, completion of regional trail linkages, or substantially advance other primary *open space* and recreational goals contained in the City's *General Plan*; and/or~~
 - c. ~~Produce special benefits to the City in terms of a long-term economic development opportunity in accordance with the *General Plan*; or promote the *infilling* of an area with already existing noncontiguous urban-level development.~~

Comment [AB3]: From Tiffany & Bosco:

also include City Manager or his/her designee to allow waivers

The subsection below is Article 2 of Chapter 106 of the LDO and relates to the discussions about residential zoning districts. The redline text reflects changes made to the last draft published in December 2019.

CHAPTER 106 - ZONING AND USE STANDARDS

ARTICLE 1 – IN GENERAL

ARTICLE 2 – RESIDENTIAL ZONING DISTRICTS

106-2.1 General Standards

- A. Purpose. Residential *zoning districts* create, maintain, and promote various housing opportunities for individual households and lifestyles, and maintain the desired physical character of the City's existing neighborhoods. While the districts primarily accommodate residential *uses*, some non-residential *uses* that are compatible with the residential neighborhoods may be allowed.
- B. Development Standards. In addition to **Section 106-1.8** above and **Article 2** of the Planning and Engineering Design Standards (PEDS) in **Chapter 107**, the regulations specific to residential land *uses*, shall also apply and govern the design of a development.
- C. Residential Density Ranges. Each project/development may assume the minimum gross residential density. A higher. Requesting gross residential density higher than the existing entitlement, per the residential zoning district, may be permitted with a Type 3 rezoning application district based on the criteria outlined in **Section 104-1.11** of the LDO. ~~The development shall exceed the required standards for a to meet the intent of a variety of housing opportunities, have a generous amount of well-designed and functional open space, and have a creative design around environmentally sensitive features.~~
- D. New recorded plats shall comply with the regulations of Chapter 108 and the PEDS, Volume 1 for *buffering* and transitioning design requirements.

Comment [AB4]: From Tiffany & Bosco:

Section 104-1.11 is too general on what constitutes and increase in the density to the higher gross densities...these should be quantifiable so as to explain to neighbors, stakeholders, Council members, etc. why the density is in the higher densities because a quantifiable goal was met to deserve the higher density

City Comment: This section has been revised

106-2.2 Rural Residential (RR)

- A. Purpose.** The Rural Residential (RR) *zoning district* provides areas for *single-family* homes on large *lots* in a rural setting and acts as an equivalent *zoning* for properties zoned RU-43 within the County prior to annexation by the City.
- B. Applicability and Density.** The (RR) *zoning district* reflect the Rural Development Type and is allowed in the Neighborhood Character area, and the Scenic Lands Development Sub Area in accordance with the *General Plan* with a maximum *net residential density* not to exceed one (1) *dwelling unit* per acre and a maximum of one (1) *dwelling unit* per *lot* of record.
- C. Development Standards.** **Table 106-2a** below identifies the required development standards for the Rural Residential (RR) *zoning district*.

Table 106-2a - Rural Residential (RR) Zoning district	
Min Lot Area (sf)	≥ 43,560
Min Lot Width	130
Min. Front setback (ft)	30
Min. Rear setback ¹ (ft)	30
Min. Side setback ¹ (ft)	20
Min. Street side setback ¹ (ft)	20
Max. Bldg. Height (ft)	30
Lot coverage	25%
Open space (% of gross acres of residential development) ²	10%
Notes: 1. Garage face and embellishments shall be <i>setback</i> a minimum of twenty-five (25) feet measured from the opposing property line except rear, <i>alley</i> loaded <i>garages</i> , which shall be <i>setback</i> nine feet (9') from edge of <i>alley</i> line 2. The City requires <i>open space</i> on a new subdivision; if recorded as metes and bounds or by a <i>minor land division</i> than <i>open space</i> will be required on each individual <i>lot</i> ; such as <i>open space</i> or trail easements	

106-2.3 Residential Low Density (R-1)

- A. Purpose.** The Residential Low Density (R-1) *zoning district* provides areas for *single-family* homes on varying *lot* sizes and a mix of densities together with *schools*, *parks*, and other public services necessary for suburban residential neighborhoods.

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- B. Applicability and Density.** The (R-1) zoning district reflects the Suburban Development Type and is allowed in the Neighborhood Character area in accordance with the General Plan. ~~The allowed gross residential density of a new development may range from one (1) to five (5) dwelling units per acre with a maximum of one (1) dwelling unit per lot of record.~~
- C. Development Standards.** Table 106-2b below identifies the required development standards for the Residential Low Density (R-1) zoning district.

Table 106-2b - Residential Low Density (R-1) Zoning district

Lot Categories	A	B	C	D	E	F
General Plan Compatibility	Suburban	Suburban	Suburban	Suburban and Rural	Rural	Rural
Min Lot Area (sf)	5,000 4950-7,999	8,000-11,999	12,000-17,999	18,000-27,999	28,000-43,559	≥ 43,560
Min Lot Width (sf)	45 ⁴	60	80	90	100	130
Min. Front setback ¹ (ft)	12	12	15	20	20	30
Max. Front setback (ft)	25	25	30	35		
Min. Rear setback ¹ (ft)	15	20	20	25	30	30
Min. Side setback ¹ (ft)	5 & 88/13 ²	5 & 108/15 ²	10 & 20 ²	10 & 15/25 ²	20	20
Min. Street side setback ¹ (ft)	15	15	15	15	20	20
Max. Bldg. Height (ft)	30	30	30	30	30	30
Max Lot coverage	45%	4045%	3540%	30%	30%	25%
Open space (% of gross area of residential development) ²³	20%	20%	20%	15%	15%	10%

Notes:

- Garage face and embellishments shall be setback a minimum of twenty-five (25) feet measured from any opposing property line; except rear alley loaded garages, which shall be setback ~~nine six~~ feet (69') from edge of alley line.
- ~~Minimum side setback: one side / total side setbacks on a lot.~~
- The City requires open space on a development/subdivision basis rather than on a lot-by-lot basis.
- ~~New blocks with any Residential lots that are less than fifty feet (50') wide shall have vehicular access from an alley~~

Comment [AB5]: From Tiffany & Bosco:

45' x 110' is a popular lot size among many valley developers. That minimum lot size 4,950

City Comment: Revised the regulations per stakeholder comments

Comment [AB6]: From Tiffany & Bosco:

All highlighted (A-D in Min. Side setback) are "Confusing"

City Comment: Revised the regulations per stakeholder comments

Comment [AB7]: From Tiffany & Bosco:

The alley requirement is placating the fire and sanitation depts. non-flexibility with the large size of their trucks. Smaller lots, smaller streets are sustainable growth the City should strive for...the fire dept. standards for truck movement defeat the purpose for less impervious surface and heat island effect...

This issue needs to be discussed at the next stockholder's meeting.

City Comment: Revised the regulations per stakeholder comments

106-2.4 Residential Medium Density (R-2)

- A. Purpose.** The Residential Medium Density (R-2) zoning district allows for a variety of housing opportunities including detached and attached buildings that single-family dwellings, two-family dwellings, and three-family dwellings together with schools, parks, and public services necessary for an urban and suburban

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residential environment. While the district primarily accommodates residential *uses*, nonresidential *uses* that help to support, and are compatible with, residential neighborhoods may also be allowed when compatible with adjoining neighborhoods.

- B. Applicability and Density.** The (R-2) *zoning district* is allowed in the Neighborhood Character area in accordance with the *General Plan*. ~~The allowed gross residential density of a new development may range from five to eight (5-8) dwelling units per acre with a maximum of three (3) dwelling units per lot of record. Minimum lot area is four thousand square feet per dwelling unit (4,000 sf/du), except lots in Column A are permitted one dwelling unit (1 du) as shown in Table 106-2c below.~~
- C. Development Standards.** **Table 106-2c** below identifies the required development standards for the Residential Medium Density (R-2) *zoning district*.

Table 106-2c - Residential Medium Density (R-2) Zoning district

Lot Categories	A ⁴	B ⁴	C ⁴	D ⁴
<i>General Plan</i> Compatibility	Urban	Suburban	Suburban	Suburban
<u>Min Lot Area (sf)</u>	3,500- 4,949 4,999	4,949 5,000- 7,999	8,000-11,999	≥12,000
Min Lot Width (sf)	40- ⁶	45- ⁶	70	80
Min. <i>Front setback</i> ¹ (ft)	10	12	12	15
Max. <i>Front setback</i> (ft)	25	25	25	30
Min. <i>Rear setback</i> ¹ (ft)	10	15	20	20
Min. <i>Side setback</i> ¹⁻² (ft)	5² & 7/12³	5² & 8/13³	5 & 108/15	108/20
Min. <i>Street side setback</i> ¹ (ft)	10	10	10	10
Max. Bldg. Height (ft)	30	30	30	30
Lot Area per Dwelling unit (sf)	3,500	3,500	3,500	3,500
Open space(% of gross acres of residential development) ^{5,3}	25%	20%	20%	20%

Notes:

1. *Garage* face and embellishments shall be *setback* a minimum of twenty-five (25) feet measured from any opposing property line, except rear *alley* loaded *garages*, which shall be *setback* nine feet (9') from *alley* edge line.
2. ~~Minimum side setback: one (1) side / total side setbacks on a lot~~
3. May be reduced to 0' *setback* for *Single-family dwellings* as *attached building* and separated by a *common wall* along the property line. End units must maintain the ~~total combined larger setback~~
4. ~~Maximum of three (3) dwelling units per lot of record. Minimum lot area of four thousand square feet per dwelling unit (4,000 sf/du), except lots in Column A are permitted one dwelling unit (1 du).~~
5. The City requires *open space* on a subdivision or development site basis rather than on a *lot-by-lot* basis
6. ~~New blocks with any Residential lots that are less than fifty feet (50') wide shall have vehicular access from an alley~~

Comment [AB8]: From Tiffany & Bosco:

Min. Side Setback both A and B were labeled as "Confusing".

City Comment: Revised the regulations per stakeholder comments

Comment [AB9]: From Tiffany & Bosco:

Alley access needs to be removed as a requirement...

This needs to be discussed at next stakeholders' meeting

City Comment: This now is being deleted since the alley access is now optional. A development standard/cross-section will be required when alleys are provided.

To balance the developer request for narrow lots that accommodate cost savings and housing affordability with the long-term conflicts/problems when a subdivision is oversaturated with narrow lots, regulations will be clarified in Chapter 108-Land Divisions (since that's when lots are created).

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106-2.5 Residential High Density (R-3)

- A. Purpose.** The Residential High Density (R-3) *zoning district* is to provide for the development of high density residential *uses* in areas of the City where adequate *semipublic features* and services exist with capacity to serve the area. The district is designed to create a high quality environment by incorporating design excellence as well as substantial recreational and aesthetic *amenities*.
- B. Applicability and Density.** The (R-3) *zoning district* reflects the Urban Development Type and is allowed in the Neighborhood Character area in accordance with the *General Plan*. *Multi-family* residential shall have a minimum of four (4) *dwelling units* per *lot* and a *net residential density* of more than eight (8) *dwelling units* per acre. The minimum *lot* size for R-3 *zoning* is one (1) acre.
- C. Development Standards.**
- Table 106-2d** below identifies the required development standards for the Residential High Density (R-3) *zoning district*.

Table 106-2d - Residential High Density (R-3) Zoning district			
Net Density (du/ac)	8-11.9	12-14.9	15+
Min. <i>Setback</i> to Arterial ROW (ft) ²	20	20	20
Min. <i>Setback</i> to Collector and Local ROW (ft) ²	15	15	15
Min. <i>Setback Adjacent</i> to Residential Zoning (ft)	10	15	20
Min. <i>Setback Adjacent</i> to Non-Residential Zoning (ft)	20	20	20
Max. Bldg. Height ¹ (ft)	45	50	60
<i>Open space</i> (sf/du)	150	150	150
Notes: - The <i>height</i> of any <i>structure</i>, or portions thereof, shall not exceed thirty feet (30') in <i>height</i> measured at the <i>setback</i> line when <i>adjacent</i> to <i>Single-family, Two-family, Three-family development parcels</i>. The <i>height</i> of the <i>accessory structure</i> may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum <i>height</i> equal to the <i>zoning</i> <i>Setback</i> may be reduced to 10' along Collector or Local <i>right-of-way</i> for units that open to the <i>street</i> and exclude a perimeter wall			

- All projects shall provide one hundred and fifty square feet (150 sf) of on-site *open space* per *dwelling unit*, which shall include surfacing and safety features such as lighting, and *amenities* that enable residents to *use* the *open space*. Acceptable types of *open space* are listed below.
 - Common *open space* (excluding *setbacks*) with a minimum dimension of fifteen feet (15') in any direction that is accessible to all *dwelling units* by sidewalks or local paths. The space shall be

oriented maximize afternoon shade, unless site conditions such as topography warrant waiving this requirement by the Community Development Director or Designee.

- b. Individual balconies or patios (excluding front stoops) may be *used* for up to twenty-five percent (25%) of the required *open space*. To qualify as *open space*, balconies or patios must be at least forty square feet (40 sf) with no dimension less than five feet (5').
- c. Rooftop decks and terraces may be *used* to meet up to fifty percent (50%) of the required *open space*, provided the space provides *amenities* such as seating areas, barbeques, fireplaces, recreational spaces, shade and landscaping.
- d. On-site indoor recreation areas may be *used* to meet up to twenty-five percent (25%) of the required *open space* provided the space is designed for communal *use* by all residents and provides space for entertaining, gathering, or exercise equipment and fitness activities.
- e. Environmentally sensitive areas may count toward *open space* requirements if integrated into the site design to be visible and usable by residents with features such as trails and benches. Sensitive or critical areas meeting these requirements may count for up to fifty percent (50%) of the required *open space*.

The section below is from Article 9 of Chapter 108 of the LDO and relates to the discussions about incorporating the PUD overlay as a tool applicants may use to request deviations from the some regulations. The intent is to provide desired flexibility for developers to address unique constraints facing a project.

ARTICLE 9 – OVERLAY ZONING DISTRICTS

106-9.1 Planned Unit Development (P) Overlay

- ~~A. The City utilized a Planned Unit Development (PUD) overlay zoning district prior to the adoption of this Ordinance. The PUD overlay zoning designation now serves only to preserve the governing entitlement documents adopted by City Council for each PUD. Existing PADs and PUDs may have individual development standards, land uses, and densities that supersede the zoning standards contained herein at the time of the adoption of this Ordinance. Any zoning standard contained herein this Ordinance shall apply that is not explicitly identified in a PUD.~~
- A. Purpose. The planned unit development (PUD) overlay zoning district facilitates development by permitting flexibility to accommodate creative and imaginative designs that may not be possible under conventional regulations. It is intended to accommodate site constraints and unique circumstances that may include topography or environmentally sensitive lands.
- B. Applicability. The PUD overlay zoning district is permitted in all Character Areas as set forth in the General Plan. A PUD overlay zoning district provides for the establishment of distinct regulations as adopted by the city council. A PUD overlay may be applied to any zoning district in the City of Surprise, except for the Surprise Heritage District (SHD), Traditional Neighborhood Development (TND), or on any individual residential dwellings. Where a provision in a PUD overlay zoning district varies from this Ordinance, the provisions in the PUD overlay zoning district shall govern.
- C. Rationale. A application may request deviations from regulations in this Ordinance, as permitted in this section. The proposal shall identify the various constraints associated with site and demonstrate how the design meets the following guiding objectives of a PUD overlay zoning district
1. Development enriches the whole community through creating a unique sense of place for the residents within the PUD overlay zoning district as well as those in surrounding neighborhoods.
 2. Provide for a variety of coordinated and compatible land uses through innovative site planning.

3. Create a higher standard of development than would be accomplished through the development of individual parcels through conventional zoning regulations.
4. Planned and integrated comprehensive transportation systems for pedestrian and vehicular traffic as outlined in this Ordinance, which may include provisions for mass transportation and roadways, bicycle or equestrian paths, pedestrian walkways and other similar transportation facilities to meet the site conditions.
5. Preserve existing *environmentally sensitive lands* that exceeds the minimum open space area required in the ordinance and provide for and well-designed open space *amenities*.
6. Fulfills the goals, objectives, and policies of the General Plan as well as specific plans for city areas that may include, but are not limited to cultural, educational, medical, and/or recreational facilities.
7. Provide for a variety of housing types, employment opportunities, and commercial services to achieve a balanced community for families of a wide variety of ages, sizes, and levels of income.
8. Site structures to take maximum advantage of the natural and man-made environment, provide view corridors, and minimize adverse environmental impact on surrounding areas during the development stages.
9. Avoid premature or inappropriate development that would result in incompatible uses or would create traffic and public service demands that exceed the capacity of existing or planned facilities.
10. All standards set forth in an approved PUD document shall carry the full force of law.

D. Permitted uses.

1. All *uses* shall comply with the underlying zoning district.

E. General regulations and permitted deviations.

1. The PUD Overlay District may establish alternate development standards (except lot area per dwelling unit) for those found in Chapter 106 and Chapter 109. Standards developed through the PUD Overlay District rezoning process shall be appropriate to the location and context for the site for which the project is proposed. Standards created through the PUD Overlay should also assist in the fulfillment of the goals, objectives, and policies in the General Plan. Approval of the standards is based on the site plan provided as part of the PUD.

2. All PUD districts shall otherwise adhere to the regulations established in this Ordinance. Any PUD overlay zoning districts containing standards that do not adhere to Chapter 106 or signage standards found in Chapter 109 shall be identified at the time of PUD zoning approval and shall be set forth in the development plan.

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The excerpt below is from Article 2 of Chapter 108 of the LDO and relates to the discussions about platting and developing narrow lot residential subdivisions.

The narrow lot regulations are included in the Lot Planning Section of the LDO since the platting process is where narrow lots are actually created. The regulations intend to provide desired flexibility for developers that need narrow lots in the subdivisions. During earlier discussions, stakeholders told the City that narrow lots are only needed to compute lot yield and complete certain block lengths.

The regulation also follow direction from Planning and Zoning Commission and City Council to address the negative consequences from narrow lot subdivisions. The intent is to also create new subdivisions that offer more lot diversity than a plat with nearly identical, homogenous lots.

The redline text reflects changes made to the last draft published in December 2019.

CHAPTER 108 - LAND DIVISION AND SUBDIVISION REGULATIONS

ARTICLE 1 – GENERAL PROCESS AND OVERVIEW

ARTICLE 2 – REPORTS, PLANS, AND DESIGN STANDARDS

108-2.4 Circulation Design Standards.

C. Types of Streets.

3. ~~Alley~~. ~~Alleys~~ in traditionally designed residential subdivisions are encouraged and shall be designed and arranged to provide a means of easement placement and access to lots. The ~~alley~~ shall contain the following characteristics
 - a. Minimum *right-of-way* or easement width of twenty feet (20');
 - b. A twelve-foot (12') wide paved surface centered in the *right-of-way*, with pavement material, texture, pattern and strength selected to accommodate automobiles, garbage disposal *trucks* (when garbage pick-up is planned at the rear of the property), pedestrians, and bicycles;
 - c. A four-foot (4') wide ~~well~~-landscaped strips located on either side of the paved area of the *alley*. Landscaped strips shall contain a combination of trees and shrubbery and architectural lighting consistent with the character of the neighborhood. The placement, type, height and spacing of landscape and lighting shall comply with the landscape and lighting standards set forth in this Ordinance;

Comment [JM10]: Alleys are no longer required. When chosen as a circulation option, this standard will be applied. The measurements may be moved to Vol 2 of the PEDS as a cross-section with Surprise Standard Detail.

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- d. Opaque fencing along the rear property line *abutting* the *alley* line shall not exceed four feet (4') in height, except *view fences* may be permitted up to six feet (6') in height;
- e. Ribbon curbs (no gutters) to permit natural recharge of groundwater shall be required; except or unless, because of drainage conditions, additional engineered measures are required by the city manager or designee to facilitate stormwater runoff and drainage;
- f. No parking shall be permitted on an *alley* unless *parking bays* or pull outs *adjacent* to *garages* have been included and approved as part of the rear lane design; and
- g. When the *alley* is also *used* to collect garbage, storage bins containing trash for pick-up shall be placed on a designated surface integrated into the design of the *landscape strip*, and that are easily accessible by waste removal vehicles.

108-2.5 Lot Planning

F. Narrow Lot Subdivisions. Subdivisions with a homogenous design of lot widths narrower than fifty feet (50') cause numerous long-term conflicts and constraints for city services, design standards, parking, and quality of pedestrian movement over the lifespan of the neighborhood. In order to mitigate these problems, the following restrictions in lot design apply to residential subdivisions in zoning districts that permit any given lot to be narrower than fifty-feet (50') wide.

1. Up to ten percent (10%) of the lots within a new final plat may be less than fifty feet (50') wide. No more two such lots shall *abut* one another.
2. Up to twenty-five percent (25%) of lots within a final plat may be less than fifty feet (50') wide, if at least 1 mitigating design is included in the plat.
3. Up to fifty percent (50%) of the lots within a final plat may be less than fifty feet (50') wide if alleys as outlined in **Sec 108-2.4.C** are incorporated in the plat design.
4. **Mitigating** factors that may be incorporated into the design of the plat include but are not limited to single-car driveways and garages, open carports, shared driveways, public parking areas within one-eighth mile (1/8 mi) of every lot. The Community Development Director or designee may modify or vary the strict provisions of this section in such a manner that intent is maintained with such modification.

Comment [JM11]: This list is a design standard and may be moved to Vol 1 of the PEDS after the stakeholder discussions

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CHAPTER 101 - ADMINISTRATIVE PROVISIONS

ARTICLE 1 – IN GENERAL

101-1.1 TITLE and Effect

- A. Part II of the City of Surprise Municipal Code shall be known as and may be cited as the Surprise Land Development Ordinance (LDO) and may be referred to herein as “this code”, “this Ordinance”, or the “LDO”.
- B. The Surprise LDO shall be effective on _____

101-1.2 Authority

- A. The Surprise LDO is adopted pursuant to the authority contained in the Arizona Revised Statutes (A.R.S.) Title 9, Arizona Revised Statutes (“A.R.S.”), and Chapter 4, Articles 6 and 7, and general laws in order to conserve and promote the public health, safety, and general welfare of the present and future citizens of the City of Surprise.
- B. All ordinances or portions of ordinances adopted before the effective date of the LDO, with the exception of vested Planned Area Developments (PAD) zoning districts, in conflict with this Ordinance, or inconsistent with the regulations of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.
- C. Approved and vested Planned Area Developments (PAD) zoning districts that have not expired may retain entitlements, densities, plats, and regulations specifically granted in the adopting ordinance(s). It is the intent that the LDO shall supersede any reference to standardized regulations associated with the previous land development ordinances. Where a provision in a PAD zoning district varies from this Ordinance, the provisions in the PAD zoning district shall govern. All land uses, development standards and regulations within an approved PAD shall supersede the LDO. When a development standard is silent in the PAD, the intent is that there is no restriction and not that new LDO restrictions supersede.
- D. The establishment of new PAD zoning districts is not permitted. Requests to amend an existing PAD is permitted and processed as rezoning application.

Commented [AB1]: From Tiffany and Bosco – add verbiage.

City Comment: Suggested language has been reviewed and revised.

101-1.3 Purpose and Applicability

- A. The purpose of this Ordinance is to implement the goals and policies of the *General Plan* and other related plans and documents of the City by providing the minimum requirements to ensure consistency and compatibility between the *General Plan* and the *Zoning districts*, particularly in the following ways:

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1. Providing for a range of *uses* and intensities ~~with orderly growth and development~~ by dividing the City into specific *zoning districts* to promote ~~orderly growth and~~ efficient *use* of land resources and ensure compatibility between land *uses*.
2. Direct growth with priority to those areas where infrastructure and urban services already exist or can be economically provided.
3. Ensuring the protection of the natural, historic, economic, cultural, and scenic resources of the City by establishing standards regulating the *use* and physical development of land.
4. Promoting development that further protects the public's investment in *multimodal* transportation and infrastructure, recreation, *open space*, and other *public facilities*.
5. Promoting a high level of quality in the design and function of both new and existing development in accordance with the Planning and Engineering Design Standards (PEDS).
6. Promoting safety from fire, flood, and other natural or man-made disasters.
7. Providing for coordination of land *uses* with, other municipalities, counties, the state, regional associations, and other agencies, as appropriate, especially with regard to resources and facilities that extend beyond municipal boundaries or have a direct impact on that municipality.
8. Providing for efficient review of development proposals, to clarify the approval process.
9. Providing for procedures that respond uniformly and consistently to development proposals.
10. Promote the conservation of natural resources and energy by encouraging techniques such as *building* orientation and *site planning*, energy-efficient *building* construction, use of active and passive solar energy systems, on-site transportation management, and other energy and natural resource saving technologies into development projects.

- B. The land *use* regulations and general development standards provided herein shall be applicable to and govern the development and *use*, whether new or existing, of all *buildings, structures* and land within the corporate limits of the City of Surprise.

101-1.4 Interpretation

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- A. Interpretation and application of the provisions of this Ordinance shall be regarded as the basic and minimum requirements for the protection of public health, safety, and welfare. Whenever any provision of this Ordinance or any provision of any other applicable law, rule, contract, resolution or regulation of the City, state agency, or the federal government contains certain standards, covering the same subject matter, the more restrictive requirement(s) or higher standard(s) shall control.
- B. This Ordinance also is not intended to interfere with, abrogate, or annul any private agreements between *persons*, such as easements, deeds, covenants, except that if this Ordinance imposes higher standards or a greater restriction on land, *buildings* or *structures* than an otherwise applicable provision of a law, ordinance, or a private agreement, the provisions of this Ordinance shall prevail.
- C. This Ordinance, upon its adoption, amends and supersedes the text of all other zoning ordinances previously adopted by the City, except where an earlier zoning ordinance is to apply pursuant to a [Planned Area Development \(PAD\) zoning](#) Development Agreement or other land development agreement that expressly requires such.
- D. In case of any difference of meaning or implication between the text of this Ordinance and any figure or graphic, the text shall control.

Commented [AB2]: From Tiffany & Bosco

Unless within a PAD. PAD's are written with a certain set of development standards. New/updated development standards within the LDO shouldn't automatically be applied to a long standing, established PAD.

City Comment: The regulations and entitlements within the PAD will be maintained within the LDO

Commented [AB3]: From Tiffany & Bosco:

Good verbiage and clear

101-1.5 Severability Clause

- A. It is declared to be the intention of the City that the provisions of the LDO are separable in accordance with the following:
 - 1. If any court of competent jurisdiction shall adjudge any provision of Part II of the Surprise Municipal Code to be invalid, such judgment shall not affect any other provisions of the LDO not specifically included in said judgment.
 - 2. If any court of competent jurisdiction shall adjudge invalid the application of any provision of Part II of the Surprise Municipal Code to a particular property, *building* or other *structure*, such judgment shall not affect the application of said provision to any other property, *building* or *structure* not specifically included in said judgment.

101-1.6 Permits and Approvals

- A. No development activity shall occur on any property within the City until all applicable reviews, permits, approvals, and certificates have been issued and approved by the staff and/or officials with the authority to act upon said action.

ARTICLE 2 – RULES OF INTERPRETATION AND GLOSSARY OF TERMS

101-2.1 Rules for Measurement

- A. Measuring Distances. All distances are measured along a horizontal plane not by following the topography or slope of the land.
- B. Calculations: When any requirement of this Ordinance results in a fraction of a unit, that fraction will be disregarded and rounded to the nearest whole number to apply the more restrictive regulation.

101-2.2 Glossary of Terms

- A. General Terms. For the purpose of carrying out the intent of this Ordinance, all words shall have their normal and customary meanings, unless specifically defined as follows:
 - 1. The word “day” shall mean calendar day for calculation of time, unless specifically defined otherwise.
 - 2. Words used in the present tense include the future, words used in the singular include the plural, and words used in the plural include the singular, except where the natural construction of the writing indicates otherwise.
 - 3. The words “shall” and “will” are mandatory and the word “may” or “optional” is permissive.
 - 4. Words or phrases are expressed using *italics* shall assume the meaning as ascribed in within the LDO. Words or phrases not expressed in italics shall assume the common meaning of the word or phrase.
 - 5. In case of any difference of meaning or implication between the text of this Ordinance and any figure or graphic, the text shall control
- B. Abbreviations. The following abbreviations and/or acronyms shall have the following meaning:

ADA Americans with Disabilities Act

ADEQ Arizona Department of Environmental Quality

ARS Arizona Revised Statutes

CD Community Development

CIP Capital Improvement Plan

LDO Land Development Ordinance

Commented [AB4]: From Tiffany & Bosco:
or optional depending on the circumstances

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PAD Planned Area Development

PEDS Planning and Engineering Design Standards

TUP Temporary use Permit

~~ARS Arizona Revised Statutes~~

~~PEDS Planning and Engineering Design Standards~~

~~CD Community Development~~

- C. Definitions. The following additional words and phrases shall, for the purpose of this Ordinance, have the following meanings:

A

Abandon: The discontinuation of use for more than ninety (90) unless a particular timeline is identified.

Abandoned or Inoperable Motor Vehicle: A motor vehicle or any major portion thereof that is unlicensed and is incapable of movement under its own power and will remain so without major repair, including but not limited to repair of the differential, transmission, head, engine block, or oil pan.

Abut: A property having a common boundary or *lot line* not separated by a *street*.

Access: A place, way, or means for entry to or exit from a property, *structure*, or building.

Accessory: A *structure, building, or use* that is customarily incidental and subordinate to the principal *structure, building, or use*.

Adjacent: To lie near, border on, not distant or far from, or near but not necessarily touching or *abutting*.

Adult Foster Care Home: A residential setting that provides room and board and adult foster care services for at least one and no more than four (1-4) adults who are participants in the Arizona long-term care system or contracts for services with the United States Department of Veterans Affairs and in which the sponsor or the manager resides with the residents and integrates the residents who are receiving adult foster care into that person's *family*.

Agricultural Animals: *Agricultural animals*, whether kept and maintained for production and sale, *family food production*, education, or for personal enjoyment, are classified below:

1. Livestock: horses, donkeys and mules, miniature horses, cattle, sheep, goats, ox, or other similar domesticated *farm or ranch* animal.
2. Rodent: rabbits, chinchillas, and other similar mammals.

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3. Fowl: chickens, ducks, turkeys, pigeons, ostriches, peacocks and other similar birds.
4. Bees: honeybees

Agricultural Facility: *Agricultural facilities* shall include, but are not limited to: cotton gins, other than those gins that manufacture or process by-products; the storage, mixing and/or blending, sale, and distribution of *agricultural* chemicals, but not the manufacture thereof; custom meat processing plants including slaughtering, butchering, and temporary storage of products, but not including rendering or refining of by-products; storage of offal, tanning or storage of hides, and wholesale or retail sales; *agricultural buildings* for the storage of hay, grain, or other horticultural products and large scale breeding and keeping of poultry or livestock and maintenance of specialized agriculture machinery and equipment.

Agricultural Operation: *Farming*, including plowing, tillage, cropping, and installation of best management practices, seeding, cultivating, or harvesting for the production of food and fiber products, wholesale landscape nursery stock, and the breeding, boarding, and pasturing of *agricultural animals* (Also known as *Farming or ranching*).

Alley: A permanent thoroughfare providing a secondary means of access to *abutting* lots.

Alter: To change or cause to change in character or composition the structural elements, *use*, or other features of a *building* or site that requires a permit under this Ordinance or the *Building Code*.

Amendment: A change in the wording, application, or substance of this Ordinance or the Surprise *General Plan*, or any change, deletion, or addition in the *zoning district* boundaries or classifications of the *zoning* map.

Amenity: A natural or created feature that enhances the aesthetic quality, visual appeal, activity, or attractiveness of an area.

Amusement or Theme Park: An outdoor facility, which may include *structures* and *buildings*, where there are various devices for entertainment, including, but not limited to, rides, booths for the conduct of games or sale of items, and *buildings* for shows and entertainment.

Ancillary Use: A *use* that is incidental to and customary associated with the *primary uses* is located on the same *lot* or *parcel* as the *primary uses*.

Animal Boarding Facility: Any *structure*, land, or combination thereof *used*, designed, or arranged for the boarding, breeding, or care of household pets, but excluding livestock.

Animal Clinic: Any facility maintained or used by a licensed veterinarian to provide preventative medical care, minor and preventative procedures, and short-term boarding for animals.

Animal Hospital: Any full-service facility maintained or used by a licensed veterinarian with *in-hospital* capabilities, services, and machines for diagnostic procedures to provide medical care and short-term boarding for animals.

Animal Shelter: A facility used for the confinement, maintenance, safekeeping, and control of animals that are found by a citizen or come into the custody of the animal enforcement officer

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and that is owned, operated, or maintained by a public body, or organization devoted to the welfare, protection, and humane treatment of animals.

Apartment: A residential *dwelling*; a type of *multi-family dwelling unit*.

Applicant: The *owner* or their authorized agent submitting any type of *development* application on behalf of the *owner* and who is authorized to receive any notices on their behalf for any action taken by the city regarding the development application.

Archaeological Resource: Any material remains of past human life or activities that are of historic or pre-historic significance. Such material includes, but is not limited to, pottery, basketry, bottles, weapons, weapon projectiles, tools, *structures* or portions of *structures*, pit houses, cultural landscapes, rock paintings, rock carvings, intaglios, graves, skeletal remains, or any piece of any of the foregoing items (see *cultural resource*).

Area, Gross: The total sum of square footage or acreage within a *parcel* or development.

Area, Net: The specific square footage or acreage within a *parcel* or development, excluding any land *used* or to be *used* as *rights-of-way*

As-Built: A survey, construction, and/or engineering plans prepared after the completion of construction, by the engineer of record, in such a manner as to accurately identify and depict the location of all on-site improvements, *off-site* and *right-of-way* improvements which includes but is not limited to all *structures*, parking facilities, *retention* areas, curbs, gutters, sidewalks, and utilities.

Assisted Living Center: An *assisted living facility* that provides resident rooms or resident units to eleven (11) or more residents.

Assisted Living Facility: A *residential care institution*, including an *adult foster care home*, that provides or contracts to provide *supervisory care services*, *personal care services*, or directed care services on a continuous basis.

Assisted Living Home: An *assisted living facility* conducted within a *single-family dwelling unit* that provides resident rooms to ten (10) or fewer residents.

Athletic Center: See *Fitness Center*.

Authorized Agent: A *person* with powers as a duly authorized representative has the authority to sign contracts, permits, permit applications, monitoring results and other documents in the company's name and otherwise bind the company.

Auto Salvage Yard: A *junkyard* primarily containing inoperable vehicles.

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Bar/Nightclub: A *business* primarily devoted to the on-site serving and consumption of alcoholic beverages licensed (Series 6 or 7 licenses) by the proper State agencies and City departments where the service of food and providing of entertainment may be *ancillary*.

Bed and Breakfast: A *single-family dwelling* in which the *owners* or occupants of the *dwelling* provide, for compensation, short term lodging and meals for guests, occupying not more than five (5) guest rooms, located within the same principal *dwelling* or *accessory dwelling unit*. Any *dwelling* in which more than five (5) guest rooms are provided shall be deemed a *hotel*.

Berm: A mound of earth that is used to shield, *screen*, or *buffer* undesirable views, separate incompatible land *uses*, provide visual and landscape interest, decrease noise, or control the direction of water flow.

Block: Land bounded by *streets*, or by a combination of *streets*, public *parks*, cemeteries, other *rights-of-way*, or boundary lines of municipalities.

Buffer: The technique of providing landscape or other improvements on land set aside or in a *buffer area* used to separate different intensities and types of land *use*.

Buffer Area: An area of land that separates incompatible land *uses* and is utilized to mitigate any potentially negative impacts.

Building: Any *structure* having a roof that is supported by poles, columns, and/or walls for the housing and/or enclosure of *persons*, animals, or personal property.

Building, Attached: A *building* having one (1) or more *common wall* with another *building* when the *primary uses* of each *building* is independent of the other and when no interior entry exists between *buildings*.

Building, Detached: A *building* having no *common wall* or structural connection with another *building*.

Building Envelope: That area of a *lot* lying between the *front, rear, and side setback* lines available for construction.

Building Height: The vertical distance from the lowest contact at *grade* of the *building* to the highest point of roofline or *parapet*.

Building Permit: A fee based document issued by the City provided by an authoritative body with the purpose of granting permission to do work on a regulated *building* in compliance with City *building codes*.

Business: *Engaging* in the purchase, sale, barter, or exchange of goods, wares, merchandise, or service; the maintenance or operation of *offices* or recreational or amusement enterprises.

C

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Cabinet or Carpenter Shop, Millwork and Wood Product Manufacturing: A *business* that specializes in a craftsman trade which processes wood materials to form end-user products used in the construction or maintenance of *buildings* or creates furniture and a variety of other objects.

Caliper: The size of a tree as determined by the diameter which is measured using a fixed arm scale and movable arm tool.

Campground: Any area of land specifically designed and designated to temporarily accommodate two (2) or more camping parties, including cabins, tents, *recreational vehicles* or other camping outfits.

Carport: A roofed *structure* not more than seventy-five percent (75%) enclosed by walls and attached to the main *building* for the purpose of providing shelter for one (1) or more motor vehicles.

Catering Service: An establishment where the preparation of food and meals on the premises, are delivered to another location for consumption, not including food *manufacturing*. *Catering Services* may be a *primary uses* or *ancillary* to a *restaurant*.

Cemetery: Land utilized for the burial of the dead (human and animal) and dedicated for *cemetery* purposes, including crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such *cemetery*.

Civic Use: Is a *Community Facility* developed for cultural, educational, or institutional purposes for the *public* and *semipublic use*, typically arranged in a manner that is *pedestrian friendly* or focused around a central plaza or *open space* with *amenities* for the public to sit, gather, or attend events; may also include civic or governmental facilities such as fire stations, libraries, *places of assembly*, or *schools* with public *parks*.

Change of Use: A formal change of a *building's* classification *use* or principal land *use* on a *lot* from one (1) type to another.

Clinic: A facility that provides medical, dental, psychiatric, or surgical service for sick or injured patients (human and/or animal) exclusively on an out-patient basis, including urgent care treatment, diagnostic services, training, and administration.

Club, Private: An association which owns, hires or leases a *building*, or a portion thereof, and the use of such premises (including but not limited to *uses* allowed in the same *zoning district*) being restricted to *persons* who are bona fide members paying annual dues and their bona fide guests; excluding membership based retail *businesses*.

Cluster Development/Subdivision: The development technique that concentrates *buildings/lots* on a portion of the development site to allow the remaining land to be permanently used for recreation, preserving *open space*, and/or conservation of *environmentally sensitive features* and where possible and practical, support connectivity.

Commerce Center: A development designed as a group of *buildings* and *uses* planned with shared circulation, parking, utilities, drainage, and landscaping that is unified through *open space*,

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pedestrian friendly connections, and architectural style regardless of the number of *parcels* or *pad sites*.

Common Area: An outdoor area that is designed and developed as shared *use* and *pedestrian friendly*, including but not limited to features such as *parks* plazas, terraces, courtyards, patios, stormwater *retention*, *multimodal* paths, and trails.

Common Wall: A dividing partition between two (2) contiguous *buildings* or between two (2) *adjacent lots* shared by the neighboring occupants.

Community Facility: A noncommercial *use* established primarily for the benefit and service of the population of the community in which it is located (typically includes social, entertainment, athletic, or recreational *uses* and may also include *business office* associated with the community such but not limited to Homeowners Association or *apartment rental office*).

Community Garden: Land gardened collectively by a group of people. Gardening may include, but is not limited to, all types of horticulture such as flowers, vegetable or field crops, and orchards containing berry, bush or tree crops.

Community Open Space System: The community's *parks*, playgrounds, active and passive recreational areas, natural features, and *environmentally sensitive features* that collectively provide a continuous and integrated system of *open space*.

Compatibility: The avoidance of placing physical impact land *uses* that are known to or might happen to generate odors, noise, dust, excessive light and glare, *adjacent* to, or in close proximity of, more *sensitive lands* already located in an area.

~~**Complete Streets:** A *right-of-way* system that is designed and operated to enable safe, attractive and comfortable *access* and travel for all users. Pedestrians, bicyclists, transit riders, and motorists of all ages and abilities are able to safely and comfortably move along and across a complete street and are given equal space, consideration and safety issues. Complete streets also create a sense of place and improve social interaction as they encourage walking, biking and transit as viable transportation options.~~

Conditional Use Permit (CUP): A use permit required as legal authorization for certain *uses* to be considered an *entitled*, *permitted use* in a particular *zoning district*.

Construction Plan: The maps or drawings showing the specific location and design of improvements to be installed on a parcel or in a subdivision accompanying a *recorded plat* and in accordance with the requirements of the City of Surprise as a condition of the approval of the *plat*.

Construction Trailer: A factory-assembled *structure* or *structures* exceeding eight feet in width, originally equipped with the necessary service connections, and originally made so as to be readily movable as a unit or units on its (their) own running gear and designed to be used as an *office* without a permanent foundation, whether or not said running gear has been removed. (commonly known as a mobile *office*)

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Contractor's Yards: Outdoor storage of materials, equipment, and surplus goods associated with services provided by related *business*, including but not limited to construction, landscaping, air conditioning, plumbing, and/or remodeling services.

Correctional Facility: A public *building* used for the confinement of people convicted of crimes.

Cottage Industry: A small *business*, owned and operated by the residential occupant, in a residential area conducted within the *dwelling* or in an *accessory building*. The *business* may have employees and customers but must be clearly incidental and secondary to the *use* of the property for *single-family* residential purposes.

Cul-De-Sac: A *local street* with only one (1) outlet and having an appropriate terminus for the safe and convenient reversal of traffic movement.

Cultural Resources: An aspect of a cultural system that is valued by or significantly representative of a culture, or that contains significant information about a culture.

Curb Extension: Generally rounded extensions of a curb located at a *street* intersection that narrow the *street* by widening the sidewalk and/or the *landscape strip* in order to make pedestrian *street* crossings shorter and easier, and to provide a visual narrowing along the *roadway* to help increase driver awareness and slow the movement of traffic in heavy pedestrian areas.

Curb Separated Sidewalk: A sidewalk that is detached from the *street* by a *landscape strip* that is measured from the back of the *street* curb and runs continuously along the length of the *street*.

Cut: The removal of soil, rock, or other materials from a location which shapes and lowers the *grade* at the location.

D

Day Care Center: A *use* where care, supervision, and guidance are provided for pay for five or more minor or adult *persons* unrelated to the proprietor subject to the requirements of the State of Arizona.

Deep Root Barrier: A mechanical barrier that redirects tree root growth downward, eliminating the surface rooting that damages hardscapes such as sidewalks, driveways, and *street* paving.

Density, Gross Residential: The number of residential *dwelling units* per *gross area* of land (du/ac).

Density, Net Residential: The average number of residential *dwelling units* per acre of land for residential only purposes, including *parks*, *open space*, and recreational areas, but excluding any land *used* or to be *used* as arterial *rights-of-way*, *school/public facility* reservations, and nonresidential *uses*. For calculating *net residential density*, the following formula shall apply:

$$D = \frac{du}{A - (c+i+s+a)}$$

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Where: D = Residential density

du = Total number of *dwelling units* in project

A = *Gross area* (acres)

c = *Net area* of commercial land (acres)

i = *Net area* of industrial land (acres)

s = *Net area* of school/public facility reservations (acres)

a = *Net area of arterial rights-of-way* (acres)

Density Transfer: Permitted unused allowable *dwelling units* in one (1) area to be relocated in another area of the same development or an approved *off-site* development, commonly known as *Transfer of Density and Development Rights (TDR)*.

Developer: The *owner* or representative of the *owner* of land proposed to be developed and/or subdivided.

Development: Any man-made change to improve or *alter* real property, including but not limited to *buildings* or other *structures*, mining, dredging, *filling*, grading, paving, excavation or drilling operations.

Development Parcel: A portion of land within an overall master *site plan* or master planned development that includes one (1) or more *lots* with a specific *net residential density*, characteristic, and/or *zoning district*; excluding a *parcel* or *lot* outside of a master planned development.

Donation Bin: Any container, storage unit, or *structure*, other than a primary *building* or *accessory building(s)* that is used for the collection of charitable or for-profit donated items from the general public, including but not limited to *clothing*, household goods, toys, books, and newspapers.

Drive-Through: An *accessory facility* for an establishment that provides service and/or goods at a window or door that the customer drives past without being required to leave the vehicle.

Drive Aisle: The travel way by which cars enter and depart *parking spaces*.

Duplex: See *Dwelling, two-family*

Dwelling: A *building* or portion thereof that contains one (1) *dwelling unit* that is occupied primarily for residential living purposes but not including *hotels*, *motels*, *mobile homes* or *RV's*.

1. **Dwelling, Live-Work:** A *building*, or portion thereof, or a group of *buildings* that combines a *dwelling unit* with the work space (*office*, commercial, or retail) for *uses* permitted in the *zoning district* in which the unit is located; more than a *home occupation*.

Commented [AB5]: From Tiffany & Bosco:

Recommend not including this in the formula. If property owner as part of zoning case needs to dedicated extremely wide ROW for arterial, their pre-dedication land area should be figured in the density calc

Commented [JM6R5]: Gross density incorporates all land prior to ROW dedication

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2. **Dwelling(s), Multi-Family:** A *building* or *lot* containing four (4) or more *dwelling units* used for residential occupancy by four (4) or more families living independently of each other; includes the general term '*multi-family*' (commonly known as *Apartments*).
3. **Dwelling, Single-family:** One (1) *dwelling unit* on a single *lot* of record; includes the general term '*single-family*'
4. **Dwelling, Two-family:** A *building* or *lot* containing two (2) *dwelling units* used for residential occupancy by two (2) families living independently of each other (commonly known as *Duplex*).
5. **Dwelling, Three-family:** A *building* or *lot* containing three (3) *dwelling units* used for residential occupancy by three (3) families living independently of each other (commonly known as *Triplex*).
6. **Dwelling Unit:** A single unit as a whole *building* or portion thereof, providing complete independent living facilities for one (1) or more *persons*, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
7. **Dwelling Unit, Accessory (ADU):** A secondary *dwelling unit* independent of the primary *dwelling unit* on the same property; provided it meets specific standards.

E

Elevation: The front, rear or side façade of a *building* showing the relationship of the site *grade* to floor level, often depicted on a scale drawing that includes such features as design, construction materials, height, dimensions, windows and doors.

Entertainment Establishment, Indoors: An establishment that provides participant or spectator recreation to the general public that may include ancillary *uses* such as retail and *restaurants*, but excluding public *park* and recreation facilities. Entertainment *uses* typically includes but are not limited to roller rink, rock/climbing gym, bowling alley, pool hall, movie theaters, arcade games.

Entertainment Establishment, Outdoors: An establishment that provides participant or spectator recreation to the general public that may include ancillary *uses* such as retail and *restaurants*, but excluding public *park* and recreation facilities. Entertainment *uses* typically includes but are not limited to typically go-cart track, batting cages, miniature golf, paintball course, drive-in theaters, and disc golf.

Environmental Buffer Area: An area of land alongside and/or surrounding a protected or conserved *environmentally sensitive feature* or *cultural resource* in which human activity is restricted to research and maintenance of the feature or resource in order to mitigate negative impacts of edge effects on the land or wildlife.

Environmental Inventory Plan: Development plan rooted in an integrated conservation design approach that identifies, locates, and inventories all ~~of~~ the *environmentally sensitive feature(s)*,

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cultural resource(s), and *environmental buffer area(s)* within and *adjacent* to a proposed development site.

Environmentally Sensitive Feature: Elements in the landscape that play a particularly large role in sustaining the natural environment and ecosystem and supporting wildlife and plant diversity, but at the same time are especially sensitive to degradation such as: *hillside development areas; habitat; protected native plants; significant rock outcroppings; significant stands of vegetation; ridgelines; steep slopes; water features; and wildlife corridors*. Includes the general term 'environmentally sensitive' and 'environmentally sensitive lands'

Equestrian Center: Commercial horse, donkey, and/or mule facilities including: horse *ranches*, boarding *stables*, riding schools and academies, and horse exhibition facilities. This land use includes barns, *stables*, corrals, and paddocks *accessory* and incidental to the above *uses*.

F

Factory-Built Building: A multi-sectional unit manufactured *off-site* in accordance ~~to~~^{with} the Uniform Building Code (UBC) and/or International Building Code (IBC), as adopted by the City, that when joined together forms a *building* or *dwelling unit*.

Fairgrounds: A developed *use* including but not limited to: *agricultural* related *buildings*, animal shows and judging, carnivals, circuses, community meeting or recreational *buildings* and *uses*, concerts, food booths and stands, games, rides, rodeos, sales and auctions, that may include *recreational vehicle* overnight parking and camping areas.

Family: A group of people living together as a single housekeeping unit, within a single *dwelling unit* as distinguished from a group occupying a *hotel, motel, club, dormitory, fraternity, sorority, lodging house* or *nursing care institution*.

Farm: See *Agricultural operations*.

Farm Stand: An establishment only for the sale of fruits, vegetables, flowers, containerized house plants, eggs, honey, dates, nuts, and other *agricultural* food products that are grown and/or produced on-site.

Fence: An artificially constructed barrier of wood, stone, masonry, metal or combination of materials erected to *screen, separate, protect, confine, or enclose*; not including landscaping or other natural growth. The term *fence* shall include all *walls*, except those as part of *building*.

Fence Return: The portion of a *fence* parallel or approximately parallel to the front line that is between the *dwelling* and *side lot line*.

Fill: Soil, rock or other material, deposited at a location by man that raises the *grade* at that location.

Financial Assurance: A form of security including a cash deposit, 3rd party trust, an irrevocable letter of credit, of funds in escrow in an amount and form satisfactory to the City Attorney and

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meeting the requirements expressed elsewhere in this Ordinance and/or Surprise Municipal Code.

Fitness Club: Establishments that provides exercise facilities, including but not limited to running, jogging, aerobics, weight lifting, sports courts, and swimming, and may also include locker rooms, showers, massage rooms, saunas and related *accessory uses* (commonly known as *Athletic or Health Club*).

Fleet-Based Services: Passenger transportation services, local delivery services, medical transport, and other *businesses* that rely on fleets of 3 or more vehicles. This classification includes parking, dispatching, and *offices* for *uses* such as but not limited to taxicab and limousine operations, ambulance services, non-emergency medical transport, local messenger and document delivery services, home cleaning services, and similar *businesses*. This classification does not include towing operations or taxi or delivery services with 2 or fewer fleet vehicles on-site.

Floodplain: Any land area susceptible to being inundated by water from any source. It may or may not include a *floodway*.

Floodway, One Hundred-Year: The channel of a river or other watercourse and the *adjacent* land areas which must be kept free of encroachment in order to carry and discharge the 100-year flood without substantial increases in flood height.

Freight Depot/Distribution Center: A location or facility for the receipt, transfer, short-term storage, and dispatching of goods transported by *truck* or rail. Included in the *use* type would be express or other mail and package distribution facilities, including such facilities operated by the U.S. Post Office and includes related administrative *offices*, fueling facilities, dispatch operations and loading facilities.

Frontage: That side of a *structure, building, or lot* abutting on a *right-of-way* ~~used for legal access~~.

Funeral Home/Mortuary: An establishment providing services such as preparing the human dead for burial and arranging and managing funerals, and may include limited caretaker facilities, excluding a *cemetery*, crematorium, and columbarium.

G

Gallery: A room or *structure* in which original works of art or limited editions of original art are bought, sold, loaned, appraised, or exhibited to the general public.

Garage: A *building* or portion thereof, designed for the storage of vehicles, boats, and/or trailers and is located on the same property as the *dwelling unit* it serves.

General Plan: The comprehensive plan pursuant to A.R.S. §9-461.05, providing for the future growth and improvement of the City of Surprise and for the general location of *streets, schools* and recreation areas, public *building* sites, and other physical development, and including any part of such plan separately adopted and any *amendment* to such plan, or parts thereof.

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Grade: The surface of the ground, paving or sidewalk at any point *abutting* a *structure* or *fence/wall*.

Group Home: A single *dwelling unit* shared as their primary residence by handicapped and/or elderly *persons* living together as a single housekeeping unit in which staff *persons* provide on-site care, meals, supervision, and other support services for the residents. Group homes shall not include *assisted living facilities*, *nursing care facilities*, shelter care facilities, recovery homes, *correctional facilities*, or homes for the developmentally disabled as regulated by the Arizona Revised Statutes

H

Habitat: Land area that supports plant or animal species protected by the federal Endangered Species Act and/or other federal or Arizona laws or regulations.

Health Care Institution: An establishment that provides *personal care services* for health maintenance, diagnosis or treatment of human diseases, pain, injury, deformity, or physical condition.

Health Club: See *Fitness Club*.

Hillside: Those lands where the natural terrain has an average cross slope of ten percent (10%) or greater. However, a ten (10%) percent or greater slope, created by a natural wash on land that otherwise would not be classified as *hillside* land shall be exempt from the *hillside* regulations.

Home Occupation: A *business* activity conducted in whole or part and is clearly an *accessory* or incidental *use* and subordinate to a *dwelling unit*.

Hospital: An institution providing primary health services and medical or surgical care, primarily inpatient, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities providing such institution is operated by, or treatment is given, under direct supervision of a persons licensed to practice medicine by the State of Arizona.

Hotel or Motel: A *building* or portion thereof, or a group of *buildings*, in which lodging accommodations are provided and offered to transient guests for compensation and may not serve as a *dwelling unit* or a *person's* primary residence.

I

Impound Lot: A *lot* or *parcel* used for the storage of vehicles that have been towed.

Indoor Shooting/Archery Range: Any *building*, or portion therein, where there are facilities for the firing of handguns, rifles, other firearms, or arrows inside.

Ingress/Egress: The location of entry and exit to a *structure* or property.

Infill: New development which is placed within an existing and already developed site or area.

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Integrated Conservation Design: A development concept that considers site characteristics, natural features, and layout in the larger context of the site and its surrounding *parcels*. *Integrated conservation design* is intended to preserve important and unique natural features such as *hillside development areas* and *steep slopes*, *wildlife corridors*, natural *habitat*, and *cultural resources* that are known and those that may be discovered on the site as well as conservation of community view corridors, and the required *open space* per the *zoning district*.

J

Junkyard: Any *lot* or *parcel*, *structure*, or *building* used in whole or in part for the storage, processing, reuse, resale, or disposal of personal property, but not including a landfill, transfer station, or other solid waste disposal site

K

Kennel: Any *lot* or premise with an enclosed, controlled area, inaccessible to other animals, in which a *person* keeps, harbors or maintains five or more dogs under controlled conditions; does not include *Animal Boarding Facility*, *Animal Hospitals and/or Clinics*, or *Animal Shelter*.

L

Laboratory: See *Research Facility*

Landscape Strip: The landscaped area between sidewalk and curb along a *public street*, parking *lot*, or driveway (commonly known as *Park Strip*).

Loading Area: The area separate from *drive aisles* or *parking spaces*, and is used for the receipt or distribution of material or merchandise by vehicles.

Lot: A single piece of property, including a *parcel* of land, shown in the records of the Maricopa County Assessor's Office, to be *used* pursuant to all City requirements for the development. For specific types of lots see definitions below and Figures 101-2a.

1. **Lot, Corner:** A *lot* at a junction of and fronting on two (2) or more intersecting *streets*.
2. **Lot, Flag:** A *lot* with street frontage limited to the width of the drive aisle so that the building envelope is back from the street behind another lot (commonly known as panhandle) with the buildable area of the lot set back from the street behind another lot, with limited street frontage.
3. **Lot, Interior:** A *lot* other than a corner or *through lot*.
4. **Lot, Irregular:** Nonrectangular lots, lots with three sides or more than four sides, and other nonstandard lots that require special measurement techniques in order to

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achieve the purpose of setback requirements (commonly known as cul-de-sac, pie, reverse pie, and/or triangular).

5. **Lot, Key:** A lot where the *side lot line abuts* the rear lot line of a corner lot.

56. **Lot, Through:** A lot having street frontage on two (2) parallel or approximately parallel streets, (commonly known as double frontage).

Lot Coverage: The percentage of the lot area covered by a building and/or other allowed roofed structure used for protection or shielding from the elements or weather.

Lot Depth: The ~~horizontal~~ distance between the front lot line and the rear lot line of a lot of a line measured at the midpoint of and a right angle to the front lot line ~~and running between the front lot line and the rear lot line of a lot.~~

Lot Line: The boundary that sets the border of a lot. (commonly known as a property line). For specific application of specific lot lines see the definitions below and Figures 101-2a.

1. **Lot Line, Front:** The ~~narrowest lot line abutting~~ separating the lot from the right-of-way. In the case of corner lots,

a. In the case of an interior lot or through lot, a line separating the lot from the street

b. In the case of a corner lot, the front lot line separating the narrowest street frontage of the lot from the street. For square, corner lots, the front shall be determined by Community Development Director or Designee.

c. In the case of flag lots, the front lot line shall be the line closest to perpendicular to the street on which the lot accesses, unless determined otherwise by the Community Development Director or Designee

d. In the case of irregular shape lots (see Figure 101-2a), the front lot line shall follow the right of way line

2. **Lot Line, Rear:** ~~The A lot line which is opposite and most distant from the front lot line. An and, in the case of an irregular or triangular shaped lot may have more than one (1) rear lot line or;~~ a line ten feet in length within the lot, parallel to and at the maximum distance from the chord of front lot line.

3. **Lot Line, Side:** Any lot line that is not a front lot line or a rear lot line.

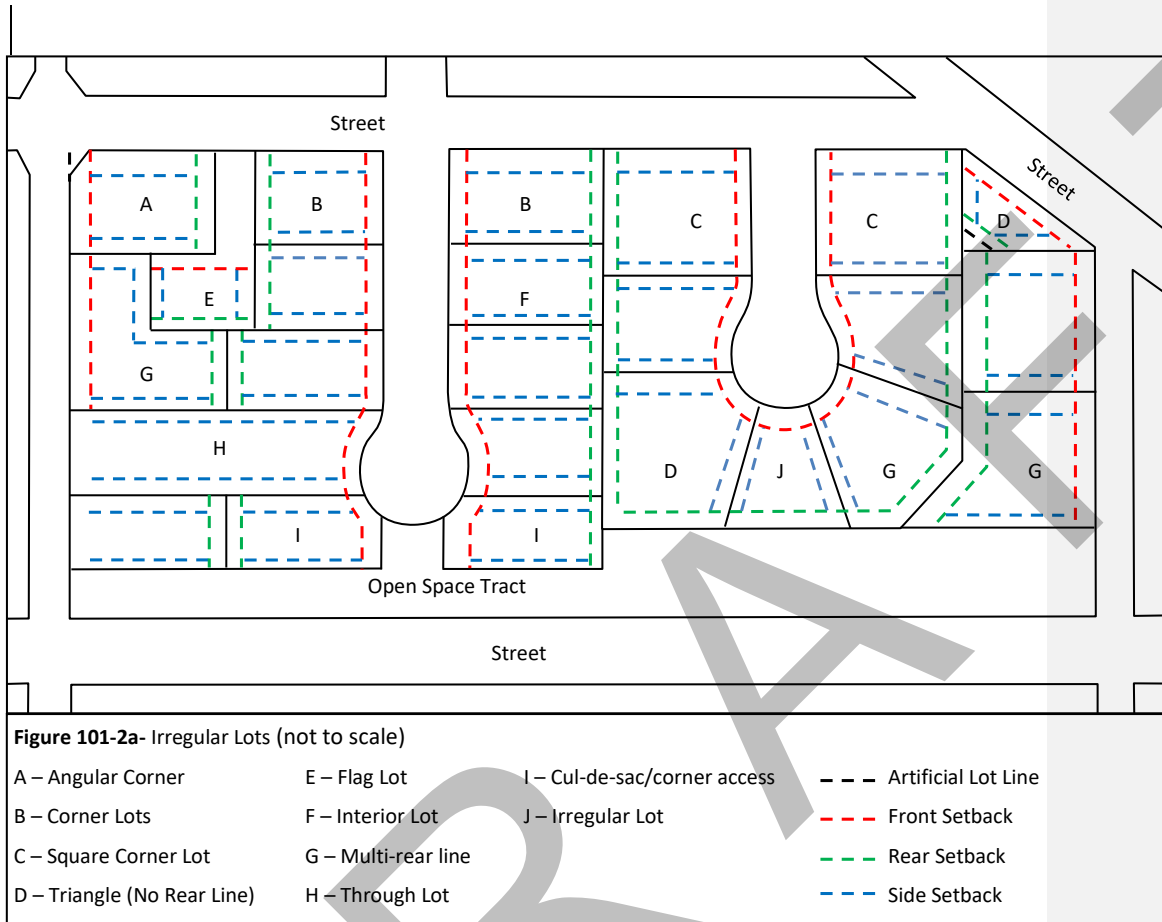
Lot Line Adjustment: A minor revision to lot lines between two (2) or more existing lots, tracts or parcels but is not dividing property.

Lot Width: The distance as measured in a straight line, between side lot lines as measured along the minimum front setback.

Commented [AB7]: From HBACA:

This definition can be problematic as applied to pie shaped lots and may require a rear yard setback for a side yard lot line.

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M

Manufactured Home: A residential *dwelling unit* built in accordance with and certified as a *manufactured home* under the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976, and the laws of the State of Arizona Office of Manufacture Housing.

Manufacturing: The creation of products either with machinery or by hand according to an organized plan and with a division of labor. Typical *manufacturing uses*, which may be conducted indoor or outdoor based on the *zoning district*, include but are not limited to general processing and fabrication of biotechnical, cabinet and carpentry, computers and electronics, food production, metal, paper, plastics and/or wood products.

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Map of Dedication: A legal instrument prepared by a registered civil engineer and a registered land surveyor that may be used to dedicate *right-of-way*, drainage, flood control, utilities, emergency or service vehicle *access*, or other public uses; not to be used to create *lots*, *parcels*, or tracts owned, or to be owned, by any person not a public agency.

Medical Marijuana Dispensary: A not-for-profit entity defined in A.R.S. § 36-2801(11), that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells, dispenses, or otherwise provides medical marijuana or related supplies and educational materials to cardholders as defined in A.R.S. § 36-2801(2).

Medical Marijuana Dispensary Off-Site Cultivation Facility: An enclosed, locked facility where marijuana is cultivated by a *medical marijuana dispensary* as referenced in A.R.S. § 36-2804(B)(1)(b)(ii).

Medical Marijuana Infusion Facility: A facility that incorporates medical marijuana into consumable/edible goods by the means of cooking or blending.

Medical Office (Health Care Facility): A *building* or portion thereof that provides outpatient *personal care services* in the form of medical services, medical imaging and testing *clinics*, *nursing services*, behavioral health services, health *screening* services, other health-related services, *supervisory care services*, or directed care services; including but not limited to medical *offices*, walk-in *clinics*, outpatient surgical facility, outpatient facility, and urgent care. *Medical Office* excludes *hospitals*, trauma centers with ambulatory services, *laboratory* and research facilities, and all facilities for medical marijuana.

Microbrewery/Distillery/Winery: A *business* primarily devoted to the on-site producing and serving and consumption of alcoholic beverages licensed (Series 3, 13, and/or 18 licenses) by the proper State agencies and City departments where the service of food, retail sales, and providing of entertainment may be *ancillary*.

Minor Land Division: The division of improved or unimproved land or lands within the city for the purpose of financing, sale, or lease, whether immediate or future, into three (3) or less lots, tracts, or parcels of land with no public dedication of property.

Mixed Use: A *building* or *lot* that contains more than one (1) type of land *use* by integrating residential with non-residential *uses*, planned as a whole that functionally share vehicular and pedestrian *access* and *parking areas*.

Mining and Mineral Extraction: The extraction of sand, gravel or other material from the land in the amount of four hundred cubic yards (400 y³) or more and the removal thereof from the site.

Mobile Home: A residential *dwelling* that was fabricated or built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (effective June 15, 1976).

Mobile Vending: A *person* or entity that provides services or retail sales from within a vehicle, trailer, or stand that is intended to be temporary, or is capable of being moved from one (1) location to another.

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Model Home: A dwelling unit used initially for display purposes which typifies the units that will be constructed in the subdivision and may incorporate sales or rental offices for the subdivision prior to residential occupancy.

Motel: Also known as a hotel.

Multimodal: Means of traveling within or through a community ~~to by a combination that includes automobiles,~~ buses, trolley, rail, bicycles, pedestrian friendly walkways and path and trail systems, and/or any other means ~~of moving persons and goods by a surface, overhead or underground means of transportation in additional typical vehicular traffic.~~

N

New Construction: Structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in this chapter.

Nonconforming Lot: A parcel of land that does not conform to an established, such as but not limited to having minimum area or dimensions less than required in the district in which it is located.

Nonconforming Structures: A structure, or portion thereof that does not conform to an established district or district regulation applicable to where the structure is located.

Nonconforming Uses: A land use that does not conform to this Ordinance or General Plan provisions that govern the land.

Noxious Matter: Material capable of causing injury to living organisms by chemical reaction or capable of causing detrimental effects on the physical or economic well-being of individuals.

Nursing Care Facility: A residential care institution provides inpatient beds or resident beds and nursing services to persons who need continuous nursing services but who do not require a hospital or direct daily treatment from a physician. (commonly known as nursing home)

Nursing Services: Those services that pertain to the curative, restorative, and preventive aspects of treatment and care that are performed at the direction of a physician by or under the supervision of a registered nurse licensed in this state.

O

Off-Site: Any structure or use located outside the property of the primary uses.

Office: A building, or portion thereof, used for conducting the affairs of a business, profession, service industry, or government and internal storage of supplies customary and incidental to the use.

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Open Space: Land and/or water areas, improved or unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment as active and passive recreational areas or for environmental, scenic, stormwater management, or conservation purposes.

Open Space, Active: Land and water areas specifically designed as an activity-based recreational area to include but not limited to boating, water sports, sports fields, golf courses, local and community *parks* having picnic, playground, recreational and support components and pedestrian, hiking, bicycle and equestrian trails.

Open Space, Passive: Land and water areas that are either partially improved, undeveloped or in a natural state that are intended for scenic, environmental, conservation, and/or resource protection; and include but not limited to such resource-based activities as nature study, nature trails, and any other activities requiring a natural condition that cannot easily be duplicated by human actions.

Ordinance: Any legislative action of a local government, which has the force of law, including any *amendment* or repeal of any ordinance.

Original Lot: Any existing *lot*, *parcel*, tract of land or combination thereof identified in the official records of the Maricopa County Recorder as of the annexation of the property into the corporate limits of the city or on December 24, 1986, whichever is later.

Outdoor Lighting: Artificial illuminating device that includes the complete lighting unit of a *lamp* or *lamps* and ballast(s) (when applicable) together with the parts designed to distribute the light, to position and protect the *lamps*, and to connect the *lamps* to the power supply; whether permanent or portable, a device used for illumination or advertisement including, but are not limited to, search, spot or flood lights for *buildings* and *structures*, recreational areas, parking *lot* lighting, landscape lighting, *signage* and *street* lighting..

1. **Adaptive CONTROLS:** Devices such as motion sensors, timers and dimmers used in concert with *outdoor lighting* equipment to vary the intensity or duration of operation of lighting.
2. **Ambient Light Level:** The general overall level of background lighting in an area.
3. **Bulb or Lamp:** The source of electric light; to be distinguished from the whole assembly (see luminaire). *Lamp* often is used to denote the bulb and its housing.
4. **Cut-Off Angle of a Luminaire:** The angle, measured up from the nadir (i.e. straight down), between the vertical axis and the first line of sight at which the bare source (the bulb or *lamp*) is not visible.
5. **Direct Illumination:** Illumination resulting from light emitted directly from a *lamp* or *luminaire*, not light diffused through translucent *signs* or reflected from other surfaces (such as the ground, *building* faces, or artistic *structure*).
6. **Fixture:** The assembly that holds the *lamp* in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

Commented [AB8]: From HBACA:

The definition of open space, including the definitions of active open space and passive open space, do not specifically allow retention to be included in the requirements. The definition should be revised in each section to include retention spaces.

City Comment: The term 'stormwater management' has been added

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7. **Floodlight:** A *fixture* designed to “flood” a well-defined area with light.
8. **Full Cut-Off:** Attribute of a *luminaire* from which no light is emitted by the *fixture*, either directly from the *lamp* or indirectly from the *fixture*, at or above a horizontal plane drawn through the highest light-emitting portion of the *luminaire* and no more than 10% of the *lamp*’s intensity is emitted at or above an angle 10° below that horizontal plane, at all lateral angles around the *luminaire*. A *full cut-off luminaire*, by definition, also is “fully shielded.”
9. **Fully Shielded Luminaire:** A *luminaire* constructed and installed in such a manner that all light emitted by the *luminaire*, either directly from the *lamp* or a diffusing element, or indirectly by reflection or refraction from any part of the *luminaire*, is projected below the horizontal plane through the *luminaire*’s lowest light-emitting part.
10. **HID Lamp:** In a discharge *lamp*, the emitted energy (light) is produced by the passage of an electric current through a gas. High-intensity discharge (HID) include *metal halide* and high-pressure sodium *lamps*. Other discharge *lamps* are low pressure sodium (LPS) and fluorescent. Some such *lamps* have internal coatings to convert some of the ultraviolet energy emitted by the gas discharge into visual output.
11. **High Pressure Sodium (HPS) Lamp:** A *HID lamp* where radiation is produced as a “point source” from sodium vapor at relatively high partial pressures (100 torr) commonly used in *street* lighting; emits an amber color.
12. **LED:** Light emitting diode.
13. **Light Spill:** Unwanted spillage of light onto *adjacent* areas and may affect sensitive receptors particularly residential properties and ecological sites.
14. **Light Trespass:** Excessive light that spills onto *adjacent* property, typically produced by stray light coming from *street* lighting *fixtures*, illuminated *signage* and other *outdoor lighting* sources.
15. **Low-Pressure Sodium (LPS) Lamp:** A *HID lamp* where the light is produced as a “tube source” by radiation from sodium vapor at a relatively low partial pressure (about 0.001 torr) commonly used in *street* lighting; emits a monochromatic light.
16. **Lumen:** A measurement of the total amount of ambient light emitted by a source.
17. **Metal Halide Lamp:** An *HID lamp* where the light source is produced by radiation from metal-halide vapors commonly used for *street* lighting; emits a good quality white light.
18. **Nit:** The industry standard for measuring the specific light intensity (brightness) of Electronic Messaging Center (EMC) *signs* or one (1) candela per square meter.
19. **Partially Shielded:** *Fixtures* that are shielded in such a manner that the bottom edge of the shield is below the plane of the center line of the *lamp* reducing light above the horizontal.

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20. **Photometry:** The quantitative measurement of light level and distribution.
21. **Shield:** An opaque material permanently installed and/or attached that blocks the transmission or emission of light as a means of controlling or directing the light emitted from an *outdoor lighting fixture* to provide for *full cut-off* photometric performance.
22. **Spotlight:** A *fixture* designed to light only a small, well-defined area.
23. **Stray Light:** Emitted light that falls away from the area where it is needed or wanted (see also *Light trespass*).
24. **Temporary Lighting:** Lighting that is intended for uses that, by their nature are of limited duration, e.g. holiday decorations, civic events or construction projects.
25. **Wallpack:** A *luminaire*, typically affixed to the side of a *structure*, used for area lighting or security lighting.

Out Parcel: See *Pad site*.

Outdoor Display Area: Any land *used* or occupied for the display of sample goods, materials, or merchandise outside.

Outdoor Sales Area: Any land *used* or occupied for viewing by and direct access for customer of any goods, materials, or merchandise for purpose of retail or wholesale buying, selling, or renting.

Outdoor Storage/Use: Any land *used* or occupied for the storage goods, materials, or merchandise outside or conducting any *use* outside.

Owner: Any person, group of *persons*, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be *subdivided* under this Ordinance.

P

Pad Site: A freestanding *lot* located within a larger development and typically requires shared vehicle *access* from the *street* and coordinated architectural and site design elements (commonly known as *Out Parcel*).

Parapet: That part of any wall extending above the roof line that generally runs around the perimeter of a flat roof *building* at the roofline.

Parcel: Any legally described *lot* created by a partition, subdivision, deed, or other instrument recorded with the appropriate recorder.

Parcel Assemblage: A combination of land within the city which results in the assemblage of improved or unimproved land for the purpose of financing, sale, or lease, whether immediate or

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future, from three (3) or less *lots*, tracts, or *parcels* of land with no public dedication of property, into a single property.

Park and Ride: An *off-street parking* facility designed or intended to provide peripheral collection and storage of vehicles to accommodate transit centers where *persons* then board a train, bus, or other multi passenger mode of transportation.

Park: Any public or private land available for recreational, educational, cultural, or aesthetic *uses*, including but not limited to fountains, playground, public art, outdoor amphitheater and performance pad, splash pad, sport courts/fields, and non-commercial disc golf.

Parking Area: Any land area containing one (1) or more *parking space*.

Parking Bay: A paved *parking area* used for *alleys* or on-street parking on local residential *streets*; typically bound by *traffic calming* devices such as bulb outs, chicanes, or curb extensions.

Parking Space: Any land area designated and used for parking of one (1) motor vehicle.

Parking, Off-Street: A *parking space* or *area* on a property that is not in the *right-of-way* or an *alley*.

Parking Structure: Any *structure*, except those defined herein as a *garage*, used for the storage of motor vehicles.

Party Wall: See *common wall*.

Pedestrian Friendly: An environment in which conflict between the automobile and pedestrian is minimized or eliminated through the provision of a comprehensive means of vehicular-separated pedestrian travel that is fast, attractive and comfortable for a wide range of age and abilities groups; and by the design of *buildings* and other *uses* in a manner that is sensitive to the needs of the pedestrian.

Perimeter Street: Any *street* that *abuts* an existing development or the land to be *subdivided*.

Personal Care Services: Assistance with activities of daily living that can be performed by *persons* without professional skills or professional training and includes the coordination or provision of intermittent *nursing services* and the administration of medications and treatments by a nurse who is licensed pursuant to A.R.S. Title 32, Chapter 15 or as otherwise provided by law.

Personal Services: *Businesses* offering non-medical services directly to the customer that may include customary and incidental retail sales, including but not limited to barber shops, beauty shops, nail salons, and tailors.

Persons: Includes any individual or group of individuals, corporations, partnerships, associations, or any other organized group of *persons*, including state and local governments and agencies thereof.

Place of Assembly: A *building* or a portion of a *building* used for people to gather for regularly scheduled programming, including, but not limited to, dance halls, public meeting halls, conference center meeting and exhibit rooms, indoor auction houses, and live action theaters.

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Place of Worship: Any *building* or portion thereof, *used* for nonprofit purposes by an established religious organization where such *building* is primarily intended to be *used* for worship. The term includes, but is not necessarily limited to, church, temple, synagogue, and mosque.

Plant Nursery: The *use* of land, *buildings*, or *structures* for the growth, *outdoor display areas*, and/or *outdoor sales area* of flowers, plants, shrubs, trees and may include the sale of commonly used materials such as containers and fountains, soil, rock, bark, or mulch materials.

Plat: A map, survey, plan or *replat* certified by a licensed, registered land survey containing a description of the *subdivided* land with ties to permanent monuments that provides for changes in land *use* or *ownership*.

1. **Final Plat:** A final map of a subdivision, including supporting data, in substantial conformance to an approved *preliminary plat* and all conditions placed upon it by the City Council, prepared by a registered land surveyor, in accordance with this Ordinance and the Arizona Revised Statutes.
2. **Preliminary Plat:** An initial map, including supporting data, recommended by the Planning and Zoning Commission and approved by the City Council, indicating a proposed subdivision design, prepared by a registered civil engineer and a registered land surveyor, in accordance with this Ordinance and the Arizona Revised Statutes. A preliminary *site plan* for a condominium development shall be considered a *preliminary plat*.
3. **Recorded Plat:** A *final plat* bearing all of the certificates of approval required by this Ordinance and the Arizona Revised Statutes and duly recorded in the Maricopa County Recorder's Office.
4. **Replat:** A *plat* for the purpose of reverting previously *subdivided* acreage to *unsubdivided* acreage, or; for the purpose of vacating *rights-of-way* previously dedicated to the public and *abandoned* under procedures prescribed by the City Code, or; for the purpose of vacating or re-describing *lot* or *parcel* boundaries previously recorded.

Portable Storage Container: A device in the shape of a rectangular solid; constructed of metal, consisting of four (4) vertical walls, a floor and a ceiling and in which at least one (1) vertical end is designed as a door and not permanently affixed to the ground. Portable storage containers include devices initially designed to facilitate the shipping of containerized cargo and constructed entirely of steel in a manner consistent with ISO 6346, and are being reused to facilitate secure storage, but not designed as a *building* or habitable space as defined in the City of Surprise *Building Code* unless converted through the permit process.

Printing Plant: A commercial printing operation involving a process that is considered printing, imprinting, reproducing, or duplicating images and using printing methods including but not limited to offset printing, lithography, web offset, flexographic, and *screen* process printing.

Property Line: see *lot line*

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Protected Development Right: The right to undertake and complete the development and *use* of property under the terms and conditions of a Protected Development Right Plan, without compliance with subsequent changes in *zoning* regulations and development standards during the term of the Protected Development Right, except as provided by A.R.S. §9-1204.

Protected Development Right Plan: A development plan identified as a Protected Development Right Plan at the time of the *Landowner's* submission that, if approved by the Council, grants to the *Landowner* a Protected Development Right to undertake and complete development and *use* of the property as shown thereon for a specified period of time.

Protected Native Plants: Those species of plants that are native to Arizona which are to be conserved and protected due to their value as *habitat* as specifically listed in Chapter 104; Table 104-2a of this Ordinance.

Public: Having two definitions:

1. Resources, conveniences, facilities, or similar that is open to, enjoyed and *used* by, and/or maintained for the general public
2. Anything owned or operated by the federal government, state government, or any political subdivision.

Public Facility: Any facility, including, but not limited to *structures, buildings, property, recreation areas, civic uses, and streets*, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity or a private organization that contributes to the municipal infrastructure system.

Public Feature: Any resources, conveniences, facilities or benefits continuously offered to the general public for their *use* and/or enjoyment, with or without charge (e.g., restrooms, information displays, public telephones, rain shelters, drinking fountains, etc.)

Public Improvement: Any drainage ditch, *right-of-way, sidewalk, pedestrian way, tree, lawn, off-street parking area*, or other facility for which the City of Surprise may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement where the responsibility rests with the City of Surprise.

Q

Qualifying Commercial and/or Industrial Developments: New or expanding developments that are legally established and in conformance with the regulations of this Ordinance that will occupy vacant in-fill *parcels* or replace dilapidated *buildings*.

R

Ranch: A *Lot*, or portion thereof, designed and *used* for the breeding and raising of horses and large *agricultural animals*; but not an *agricultural operation*.

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Recovery Residence (commonly known as Sober Living, Addiction Recovery Homes): A residential setting that provides alcohol-free or drug-free housing for *persons* who need or find benefit in a supervised living environment that provides *structure* and some level of guidance, behavioral health services, and in-house recovery programs.

Recreational Vehicle (RV): A vehicular type portable *structure*, which can be towed, hauled or driven, primarily designed as temporary living accommodation for recreational, camping, and travel *use* and not designed for permanent residential or commercial purposes that: contains its own motive power, or drawn by another vehicle or is mounted on another vehicle.

Recreational Vehicle (RV), Park Model: A *Recreational vehicle* built on a single chassis, mounted on wheels, has a gross trailer area not exceeding 400 square feet in the set -up mode, and is certified by the manufacturer as complying with the ANSI A119.5 ~~standards~~standards for recreational *park* trailer.

Recreational Vehicle (RV) Park: An integrated land-lease development, in accordance with the provisions of this Ordinance, where *recreational vehicles* are used for temporary living or vacation purposes.

Recycling Collection Facility: A *lot* or *structure*, or portions thereof, where the public may donate, redeem, or sell recyclable materials with limited processing activities.

Recycling Processing: Baling, briquetting, cleaning, compacting, crushing, flattening, grinding, mechanical sorting, *remanufacturing*, shredding, and/or preparation for shipment of recyclable materials.

Recycling Processing Facility: A *structure* or enclosed space *used* for the collection and processing of recyclable materials for shipment.

Recycling Reverse Vending Machines: An automated mechanical device which accepts at least one (1) or more type of empty beverage containers including, but not limited to aluminum cans, glass and plastic bottles, and issues a cash refund or a redeemable credit slip.

Repair Service Establishment: An establishment primarily engaged in repairing for household appliances and other personal property including, but not limited to, shoe, jewelry, computers, cellphones, and watch; excluding automotive or heavy equipment.

Research Facility: A *building*, or portion thereof, that is *used* for research, development, and/or testing laboratories that shall not violate any odor, dust, smoke, gas, noise, radiation, vibration, or similar pollution standard as specified herein, excluding mass fabrication, or any *manufacturing*, processing, or sale of products. (commonly known as *Laboratory*)

Residential Care Institution: A *health care institution* other than a *hospital* that provides resident beds or residential units, *supervisory care services*, *personal care services*, behavioral health services, directed care services or health-related services for *persons* who do not need continuous *nursing services*.

Restaurant: A commercial establishment where food and beverages are primarily prepared, served, and/or consumed on the premises.

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Restaurant, Convenience/Take Out: A small scale *restaurant* which primarily utilizes window and/or counter service allowing customers to pick up food for on or off-premise consumption. Typical establishments include but not limited to coffee, juices, or sodas shops, bagel or donut eatery, or lunch cafes.

Retention: A stormwater storage facility that stores surface runoff.

Ridgelines: Prominent topographic features connecting a series of major and minor hills, peaks or mountains; often used by raptors to orient, nest and/or catch thermals while migrating.

Right-of-Way (ROW): A designated or otherwise legally established strip of land occupied or intended to be occupied by a *street*, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, trees, or for another special *use*.

Roadway: That portion of a *street* or *alley right-of-way* that is improved and intended for driving or parking.

S

School: An institution providing regular academic instruction traditionally associated with a program of study at the primary, secondary, and tertiary levels equivalent to or greater than standards prescribed by the State Board of Education or the State Board of Regents.

School, Vocational: *Schools* offering instruction in the technical, commercial or trade skills, such as real estate *schools*, *business* colleges, electronic *schools*, automotive and aircraft technician *schools* and similar commercial establishments.

Screening: A solid or nearly solid barrier (i.e., *wall*, *fence*, landscaping) constructed or installed for the purpose of visual separation to shield, protect or obscure.

Self-Storage Facility: A property *building used* for renting or leasing individual storage spaces in which the renters or lessees customarily store and remove their own personal property on a self-service basis. Front *office* may include *ancillary* retail sales.

Semipublic: Resources, conveniences, facilities, or similar that is open to, enjoyed and *used* by, and/or maintained for the authorized members; such as residents using a neighborhood or community association facility, guests within the lodgings such as *hotels/motels*, or members of a *fitness club*.

Sensitive Lands: Land that encompasses wildlife *habitats* and corridors, wash corridors that replenish local groundwater, *archaeological resource* sites, unique plant environments, and scenic vistas.

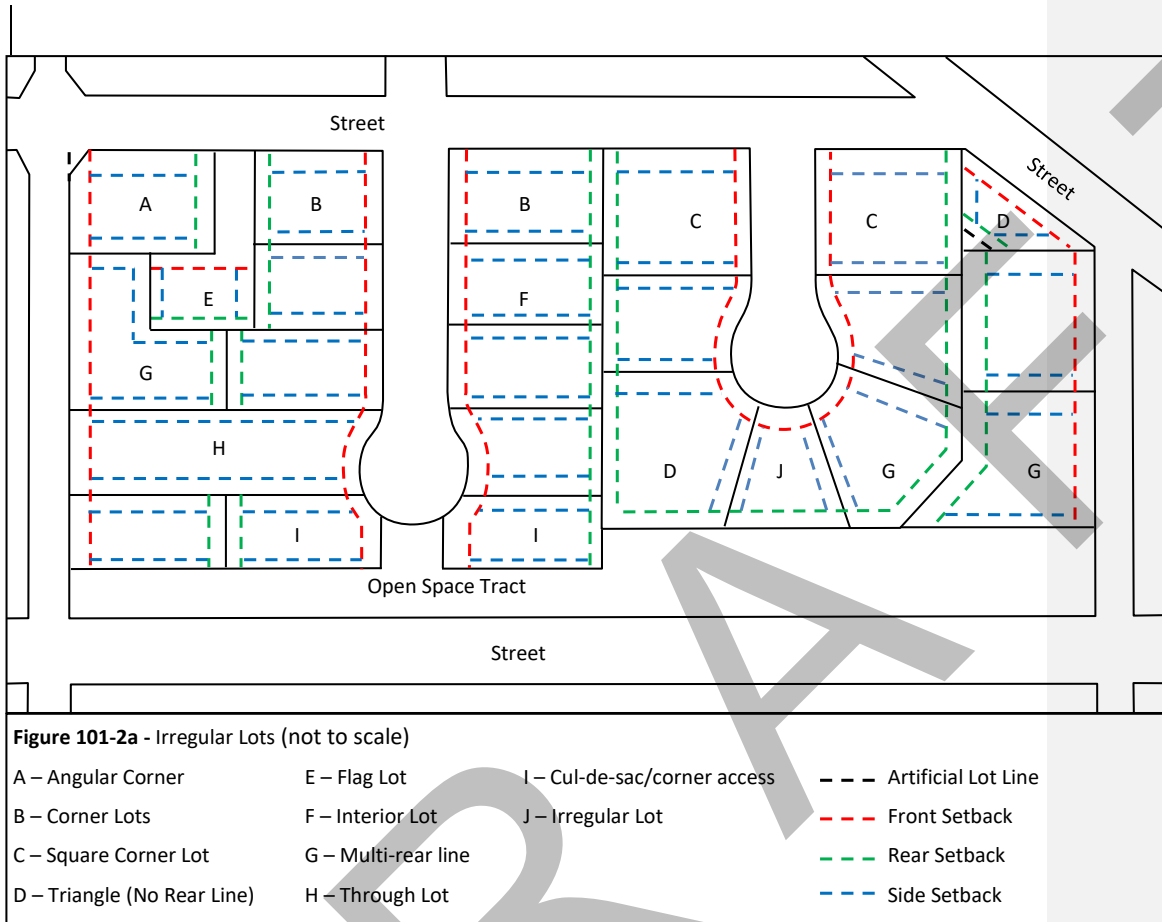
Service Call Establishment: An establishment that provides *off-site* professional services at the customer's location dispatched from the *business' office* or *home occupation* location, such as but not limited to pest control, catering services, electrician, personal services, or plumbing.

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Setback: The minimum distance by which any *structure* must be separated from *right-of-way* or *lot line*. For specific application of specific setbacks see the definitions below and Figures 101-2c.

1. **Setback, Front:** The minimum setback line parallel to the *Front Lot line*.
 - a. In the case of an interior lot or through lot, the *front setback* shall follow the *front lot line*
 - b. In the case of a corner lot with a curved or angular ROW line, the *front setback* may extend along an extending artificial *front lot line* in an attempt to make a rectangular lot.
 - c. In the case of *flag* lots, the *front lot line* shall be the line closest to perpendicular to the street on which the lot accesses, unless determined otherwise by the director
 - d. In the case of irregular shape lots (see **Figure 101-2a**), the *front lot line* shall follow the right of way line
 - e. In the case of cul-de-sac and corner access lots, the *front setback* shall extend along the shortest, abutting lot line.
2. **Setback, Rear:** The minimum setback line parallel to the *Rear lot line*.
3. **Setback, Side:** The minimum setback line parallel to any *Side lot line* between the *front* and *rear setbacks*.
4. **Setback, Street Side:** The minimum setback line parallel to the *Side lot line* that *abuts* a *right-of-way* between the *front* and *rear setbacks*.

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Sewer: Any sewer line owned and maintained by the city, whether or not installed by the city.

Sewer System: Any sewer system, whether treatment plant, septic tank or lagoon, designed with a sewer collection system to be used by a legally constituted association of property owners. The system may or may not be a public system.

Sexually Oriented Business: This term is synonymous with “adult oriented business” and means an adult arcade, adult bookstore, adult cabaret, adult motel, adult novelty store, adult theater, adult motion picture theater, adult video store, escort agency, nude model studio, or sexual encounter center.

1. **Adult Arcade:** Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration or electronically, electrically, or mechanically controlled still or motion picture machines, projectors,

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video or laser disc players, or other image-producing devices are regularly maintained to show images to five or fewer *persons* per machine at any one (1) time, and where the images so displayed are distinguished or characterized by their emphasis upon matters depicting, describing or exhibiting *specified sexual activities* or *specified anatomical areas*.

2. **Adult Bookstore, Adult Novelty Store or Adult Video Store:** A commercial establishment that has as a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior *business* or advertising, or maintains a substantial section of its sales or display space for sale or rental for any form of consideration any of the following:
 - a. Books, magazines, periodicals or other printed matter, or photographs, films, computer simulations, holograms, motion pictures, video reproductions, compact discs, slides, or other visual representations, which are characterized by their emphasis upon the depiction, description, exhibition or display of *specified sexual activities* or *specified anatomical areas*; or
 - b. Instruments, devices, or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of the user or others.
3. **Adult Cabaret:** A *nightclub, bar, restaurant*, or similar commercial establishment that regularly features:
 - a. *Persons* who appear in a state of nudity or semi-nude; or
 - b. Live performances that are characterized by the exposure of *specified anatomical areas* or by *specified sexual activities*; or
 - c. Films, motion pictures, computer simulations, holograms, video cassettes, slides, or other photographic reproductions, which are characterized by the depiction, description, exhibition or display of *specified sexual activities* or *specified anatomical areas*.
4. **Adult Motel:** A *hotel, motel*, or similar commercial establishment that:
 - a. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, computer simulations, holograms, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction, description, exhibition or display of *specified sexual activities* or *specified anatomical areas*; and has a sign visible from the public *right-of-way* that advertises the availability of this adult type of photographic reproductions; and, either
 - b. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

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- c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
5. **Adult Motion Picture Theater:** A commercial establishment where, for any form of consideration, films, holograms, computer simulations, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown that are characterized by the depiction or description of *specified sexual activities* or *specified anatomical areas*.
6. **Adult Theater:** A theater, concert hall, auditorium, or similar commercial establishment that regularly features *persons* who appear nude or semi-nude, or in live performances characterized by the exposure of *specified anatomical areas* or by *specified sexual activities*.
7. **Adult Video Store:** See *Adult Bookstore, Adult Novelty Store or Adult Store*.
8. **Escort:** A *person* who, for consideration, and for another person, agrees or offers to act as a companion, guide, date or to privately model lingerie or to privately perform a striptease.
9. **Escort Agency:** A *person* or *business* establishment that furnishes offers to furnish, or advertises to furnish escorts as one of its primary *business* purposes for a fee, tip, or other consideration.
10. **Nude, Nudity or a State of Nudity:** The showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.
11. **Nude Model Studio:** Any place where a *person* (or *persons*) who appears semi-nude, in a state of nudity or displays “specified anatomical areas” and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other *persons* who pay money or any form of consideration. A nude model studio does not mean a modeling class, or the facility for such class, operated:
 - a. By a proprietary *school* licensed by the State of Arizona; a college, junior college, or university supported entirely or partly by taxation;
 - b. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.
 - c. That has no sign visible from the exterior of the *structure* and no other advertising that indicates a nude or semi-nude person is available for viewing.
12. **Semi-Nude or in a Semi-Nude Condition:** The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human

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female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed in whole or in part.

13. **Sexual Encounter Center:** A *business* or commercial enterprise that, as one (1) of its principal *business* purposes, offers for any form of consideration: a place where two (2) or more *persons* may congregate, associate, or consort for the purpose of *specified sexual activities*. The definition of sexual encounter center or any *sexually oriented businesses* shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.
14. **Specified Anatomical Areas:** Human genitals in a state of sexual arousal.
 - a. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
 - b. Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.
15. **Specified Sexual Activities:** Any of the following:
 - a. The fondling or other erotic touching of human genitals, pubic region, anus, or female breasts;
 - b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
 - c. Excretory functions as part of, or in connection with, any of the activities set forth in subdivisions (1) through (2) above.

Shared Parking and Loading: Two (2) or more land *uses* (such as a retail store, *office*, *restaurant*, or other similar *user*) using the same, undivided *parking area* and *loading areas* rather than each designed with their own.

Shelter Care Facility: A *residential care institution* where short-term services including, but not limited to, temporary lodging, meals, and counseling, are provided to individuals and groups such as the homeless, pregnant teenagers, victims of domestic violence, neglected children,

Showroom/Sales Office: A *building* or portion thereof where merchandise is exhibited or where samples are displayed and the sale of services and related products are conducted, excluding storage of retail goods or service merchandise. Typical *uses* include but are not limited to flooring, decor, remodeling services, and other contractors. *Showrooms/sales offices* may be *ancillary* within another *use* or as a *primary use*.

Sign and/or Signage: See Chapter 108 for all definitions related to *signs* and/or *signage*.

Significant Rock Outcroppings: Any surface rock formation having an area of 500 square feet or larger or any surface rock formation having a height greater than ten (10) feet from the surrounding *grade*.

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Significant Stand of Vegetation: A single native or protected tree or cactus that is of a height greater than 25 feet, or three (3) or more trees or cacti located within a radius of fifteen (15) feet from each other each having a height greater than eighteen (18) feet.

Site Plan: A drawing showing the accurate location of all *structures, streets, alleys, and parking areas* existing and proposed on subject property or any other information as may be required by the City of Surprise Procedural Manual.

Small Subdivision: The division of land within the City which results in improved or unimproved land or lands for the purpose of financing, sale, or lease, whether immediate or future, consisting of four (4) to ten (10) *lots, tracts, or parcels* of land with all *lots* complying with the size requirements of the *zoning district* within which they are located.

Stable: A *lot or buildings, corals, pens and other ancillary features* uses that may also include boarding of horses and limited livestock, breeding or training programs, or arenas; private *stables* are for use of the owner or occupant of the *lot* and commercial *stables* are where horses are kept for remuneration, hire or sale.

Steep Slopes: Unimproved land, *parcel*, or tract of land, where the existing natural terrain has an average cross-slope of fifteen (15%) percent or greater and where the natural state of such should be left undeveloped and conserved as *open space*.

Street: A general term used to describe a paved *right-of-way*, municipally or privately owned, serving as a means of travel, usually affording the principal means of *access* to *abutting* property.

1. **Street, Arterial (major and minor):** Streets designed to carry large amounts of traffic across or through the city and designated as such by the *Surprise General Plan*.
2. **Street, Collector:** A *street* connecting local residential *streets* to each other, to community facilities and to *arterial streets*.
3. **Street, Dead-End:** A *street* or a portion of a *street* with only one (1) vehicular-traffic outlet.
4. **Street, Local:** A *street* intended to serve and provide *access* exclusively to the properties *abutting* thereon, and not connecting with other *streets* in such a manner as to encourage through traffic.
4. **Street, Private:** Any *street* that is not dedicated to the public and is to be maintained by a private entity.
5. **Street, Public:** Any *street* which has been dedicated or is otherwise publicly owned by the city.
6. **Street, Service:** A *street* running parallel to a freeway, expressway or other *roadway*, and serving *abutting* properties. (commonly known as frontage road)

Streetscape: A design term referring to all the elements between the *buildings* on either side of the *street* that, as a group, define the general appearance of a *block* or group of *blocks* with respect to the *structures, setbacks from rights-of-way, open space, landscaping, public art,*

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lighting, *signage*, paving materials, *street furnishings* and other elements that contribute to the overall character and image of a city *block*.

Street Frontage: Any *lot line* separating a *parcel* from a *street*.

Street Furnishings: All items that are placed within or *abutting* the public *right-of-way* for both an aesthetic and functional purpose, including, but not necessarily limited to, benches, bus shelters, trash receptacles, plant containers, kiosk *signs*, *lighting fixtures*, tree grates and guards, bicycle racks, bollards, fountains and public art.

Structural Alteration: Any change in the supporting members of a *building*, such as bearing walls or partitions, columns, beams or girders, or any change in the exterior walls or the roof.

Structure: Anything constructed or erected with a permanently secured location on the ground or attached to something having a permanently secured location on the ground.

Substantial Improvement: Any repair, reconstruction, or improvement of a *structure*, excluding those solely necessary to assure safe living conditions or any *alteration* of a *structure* listed on the National Register of Historic Places, the cost of which equals or exceeds 50 percent of the market value of the *structure* either:

1. Before the improvement is started; or
2. If the *structure* has been damaged and is being restored, the value before the damage occurred.

Subdivide: The act of dividing land into two (2) or more parts by *platting*, or by metes and bounds description, into tracts of less than 36 acres for the purpose of sale, lease, *building* purposes, or subdivision.

Subdivider: The individual, firm, corporation, or partnership, association, limited liability company, syndicate, trust or other legal entity that files the application and initiates proceedings for the subdivision of land in accordance with the provisions of this Ordinance and statutes of the State of Arizona; except that an individual serving as representative for such legal entity is not a *developer*; and said *developer* need not be the *owner* of the property as defined by this Ordinance. The City Council may itself prepare or have prepared a *plat* for the subdivision of land under municipal *ownership*. (see also *Developer*)

Subdivision: Improved or unimproved land or lands divided for the purpose of financing, sale, lease, or conveyance whether immediate or future; excluding *minor land divisions*

Supervisory Care Services: General supervision, including daily awareness of resident functioning and continuing needs the ability to intervene in a crisis, and assistance in the self-administration of prescribed medications.

T

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Temporary Improvement: Improvements built and maintained by a *subdivider* during construction of the subdivision and prior to release of the performance bond.

Temporary Use Permit (TUP): A *use* permit required for activities that may be appropriate on an interim basis without requiring full compliance with the development standards of the *zoning use* district in which the property is located or by which the city may permit seasonal or transient *uses* not otherwise permitted.

Townhouse: A type of residential *dwelling* that is often, but not necessarily, an attached product type (see also *dwelling*).

Traffic Calming: A technique or method of reducing traffic speeds and/or neighborhood cut-through traffic volumes that utilizes changes in *street* alignment, installation of barriers, and other physical measures.

Triplex: See *Three-family Dwelling*.

Truck: A vehicle weighing 18,000 or more pounds, or a combination of vehicles weighing in excess of 26,000 pounds, or a box *truck* or semi-trailer cab.

U

Urban Development: any land developed in an industrial, retail commercial, office/institutional/civic/public use, and/or residential development having an overall minimum density of one dwelling unit per gross acre or greater

Use: The employment or occupation of a *building, structure*, or land for a *person's* service, benefit, or enjoyment.

1. **Use, Permitted:** A *use* which has a lawfully established right in a particular district or districts or has been granted legal authorization, such as but not limited to a *Conditional use Permit (CUP)*, and which conforms to all requirements, regulations, and performance standards of such district(s).
2. **Use, Primary:** A land *use* that is the predominant, principal, or major *use* of the *lot* on which it is located.
3. **Use, Temporary:** A *use* established for a fixed period of time with the intent to discontinue such *use* upon the expiration of the time period as regulated by this Ordinance.

Utility, Public: Any agency under public franchise or *ownership*, or under certificate of convenience and necessity that provides the public with electric, gas, heat, communication, rail transportation, water, sewage collection, or other similar service.

Utility Services: Service to the public of water, *sewer*, electric, gas, communications, cable television, drainage, flood control, or other facilities, owned and operated by any person, firm, corporation, municipal department or board, duly authorized by State or Municipal regulations.

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The foregoing shall be deemed to include facilities and appurtenances to the above uses but shall not include *public utility* treatment and generating plants or *offices*.

V

Variance: A modification or variation of the development standards in Chapter 106 of the LDO as applied to a specific piece of property. Dimensional *Variances* only may be allowed; no *Variance* regarding *use* of property shall be permitted; no *Variance* decreasing *lot* area requirements shall be allowed.

Vehicle Fueling Station: A convenience *use* having pumps and storage tanks or other facilities from which gasoline, diesel or *alternative* fuels are dispensed into motor vehicles. (commonly known as *gas stations* or *fueling stations*)

Vehicle Sales and Leasing: The *use* of any *building*, land area, or other premises with *display and sales areas* of new or used automobiles, *trucks*, trailers, or *recreational vehicles* and including any warranty repair work and other *repair service* conducted as an *accessory use*.

Vehicle Service, Major Repair: The *alteration*, rebuilding, reconditioning, upholstery, and collision service, including body, frame, or fender repair or painting of vehicles.

Vehicle Service, Minor Repair: Servicing of motor vehicles including tire repair, battery changing, engine rebuilding and transmission repair, storage of merchandise and supplies related to the servicing of motor vehicles, sale of lubricants, automobile washing and lubrication but not including any operation specified under "*Vehicle service, major repair*".

View Fence: A *fence* that is constructed in a manner that allows for a clear view of an area beyond the *fence* from any angle.

Visibility Triangle: The area at the intersection of *streets* in which a motorist's view must remain free from any visual obstruction.

W

Wall: A *fence* made of a solid material such as CMU block, stone, bricks, or river rock; except those as part of a *building*.

Warehouse/Distribution: An enclosed *building* designed and used primarily for the storage and/or delivery of goods and materials

Water Features: Includes those features as listed and defined below:

1. **Floodplains:** The area along a perennial or ephemeral stream or river that fills with water periodically. *Floodplains* can include *riparian areas* and sometimes have a distinct vegetative community that includes water-loving plants; may also be

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characterized simply by dry river or streambeds (refer to Maricopa County Flood Control District).

2. **Riparian Areas:** The ecosystem located along a perennial or ephemeral wash or river. Usually characterized by water-intensive plants/trees, *riparian areas* run parallel to *streams* and *ivers*.
3. **Rivers/Streams:** The lowest point within a watershed where water moves downstream. *Streams* and *ivers* in Maricopa County can be perennial or ephemeral.
4. **Springs/Seeps:** Fixed locations where groundwater emerges from the earth perennially or ephemeral. These features usually have a distinct water-loving plant community associated with them which can include mesic grasses, reeds, rushes, sedges, cattails and a variety of shrubs and trees.
5. **Wetlands:** An area that is saturated by water perennially or seasonally and has a distinct vegetation community associated with water. The term *wetlands* encompasses both the aquatic environment associated with the water saturated area and the distinct vegetative community around the periphery which can be characterized by mesic grasses, reeds, rushes, sedges and/or cattails.

Water Supply, Assurance (100 Years): A written statement from Arizona Department of Water Resources, that states the water supply and flows are adequate and in accordance with City and State requirements and provide evidence that it meets the Arizona Department of Water Resources requirements for a one hundred (100) year assured supply.

Wholesale Shopping. An establishment or place of *business* primarily engaged in selling and/or distributing merchandise to other *businesses* other than the direct to the consumer, excluding bulk merchandise, direct to the consumer *businesses*.

Wildlife Corridors: Pathways or *habitat* linkages which permit animal movement between *habitat* areas, provide escape routes, or travel paths as they wander through their home ranges in search of food, water, mates, or other needs and as may be further defined by the Arizona Game and Fish Department.

Wireless Communication Facility: Any facility that transmits and/or receives signals by electromagnetic or optical means, including *antennas*, microwave dishes, horns, or similar types of equipment, *towers* or similar *structures* supporting such equipment, and equipment *buildings* but not direct-to-home satellite services.

1. **Alternative Tower Structure:** An innovative wireless *tower* design, such as a clock *tower*, grain silo, bell *tower*, false chimney, steeple, light pole, flag pole, windmill, and similar design mounting *structures*, that camouflage or *conceal* the presence of wireless *antennas* or *towers*. *Alternative tower structures* may also include utilization of a traffic signal *streetlight* pole or similar *structure*, or freestanding *structure* within a public *right-of-way* as approved by the city manager or designee on a case-by-case basis.

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2. **Amateur Radio Antenna:** A freestanding or *building-mounted structure*, including any base, *tower* or pole, *antenna*, and appurtenances, intended for airway communications purposes by a *person* holding a valid amateur radio (HAM) license issued by the Federal Telecommunications Commission (FCC).
3. **Antenna:** Communications equipment that transmits or receives electromagnetic radio frequency signals and that is used in providing wireless services.
4. **Backhaul:** The connection from a *wireless facility base station* to the core network of the internet.
5. **Base Station:** The *structure* or equipment at a fixed location that enables wireless communications licensed or authorized by the FCC, between user equipment and a communications network. The term does not encompass a *tower* or *monopole* as defined herein or any equipment associated with a *tower* or *monopole*:
 - a. The term includes, but is not limited to; equipment associated with wireless communications services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services.
 - b. The term includes, but is not limited to, radio transceivers, *antenna*, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed *antenna* systems and *small cell networks*).
 - c. The term includes any *structure* other than a *tower* or *monopole* that, at the time the relevant *wireless facility* application is filed with the city, supports or houses equipment, and that has been reviewed and approved under the applicable *zoning* or siting process, or under another state, county or local regulatory review process, even if the *structure* was not built for the sole or primary purpose of providing such support.
 - d. The term does not include any *structure* that, at the time the relevant *wireless facility* application is filed with the city, does not support or house equipment described in subsections (a) and/or (b) above.
6. **Cellular on Wheels (COW):** A mobile cell site that consists of a cellular *antenna tower* and electronic radio transceiver equipment on a *truck* or a trailer designed to be part of a cellular network and temporary in nature.
7. **Colocation:** To install, mount, maintain, modify, operate, or replace *wireless facilities* on, within, or *adjacent* to a *wireless support structure* or utility pole.
 - a. **Colocation, Major:** A *colocation* of a *wireless facility* where the proposed *wireless facility* equipment exceeds ten feet above the supporting *structure* and/or exceeds 50 feet above *grade*.

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- b. **Colocation, Minor:** A colocation of a wireless facility where the proposed wireless facility equipment does not exceed ten feet above the supporting structure and does not exceed 50 feet above grade.
8. **Conceal or Concealment:** Wireless facilities designed or disguised to look like something other than a wireless facility or base station (see also *Alternative tower structure*).
9. **Microcell:** A device that is connected to aerial facilities and used solely for transmitting, processing, and receiving voice and data wireless telecommunications services, without any associated ground mounted equipment. The device is often referred to as an "ASME" (aerial strand mounted equipment).
10. **Monopole:** A wireless support structure composed of a single spire used to support communications equipment and having no guy wires or ground anchors. A monopole shall not be greater than 40 inches in diameter at grade and shall have all of the wireless facilities mounted on the pole and wiring contained inside of the pole; includes monopalms, monocactus, monopines, and monobroadleaf wireless towers.
11. **Rooftop Mounted Wireless Facility:** A wireless facility with the antennas located on the roof of a building or on top of a structure and consisting of antennas, support structures, and accessory equipment which are adequately screened so as not to appear as stand-alone devices above the top of the roof line.
12. **Small Cell Network:** A collection of interrelated small cell facilities designed to deliver personal wireless services.
13. **Small Wireless Facility ("SWF"):** A wireless facility that meets both of the following qualifications:
- a. All antennas are located inside an antenna enclosure of no more than six cubic feet in volume or, in the case of antennas that have exposed elements, the antennas and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and
- b. All other wireless equipment associated with the facility is cumulatively not more than 28 cubic feet in volume or 50 cubic feet in volume if the equipment was ground mounted before the effective date of this Ordinance. The following types of associated ancillary equipment are not included in the calculation of equipment volume pursuant to this subsection:
- (1) An electric meter.
 - (2) Concealment elements.
 - (3) A telecommunications demarcation box.
 - (4) Grounding equipment.
 - (5) A power transfer switch.

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- (6) A cutoff switch.
 - (7) Vertical cable runs for the connection of power and other services.
- 14. **Structure Mounted Wireless Facility:** A *wireless facility* with the *antennas* located on the wall or roof of a *building* or on the side or top of a *structure*, including *colocation* on an existing freestanding *wireless facility* and consisting of *antennas*, support *structures*, and *accessory* equipment.
- 15. **Transmission Equipment:** Equipment that facilitates transmission for any wireless communication service licensed or authorized by the FCC, including, but not limited to, radio transceivers, *antennas*, coaxial or fiber-optic cable, and regular and back-up power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave *backhaul*.
- 16. **Tower:** Any *structure* built for the sole or primary purpose of supporting any *antennas* and their associated facilities, licensed or authorized by the FCC, such as *structures* that are constructed for wireless communications services, including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave *backhaul*, and the associated site.
- 17. **Wireless Facility:**
 - a. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including both of the following:
 - (1) Equipment associated with wireless communications.
 - (2) Radio transceivers, *antennas*, coaxial or fiber optic cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration.
 - b. Includes *SWFs*.
 - c. Does not include the *structure* or improvements on, under, or within which the equipment is collocated, wireline *backhaul* facilities, coaxial or fiber-optic cable that is between *wireless support structures* or utility poles, or coaxial or fiber-optic cable that is otherwise not immediately *adjacent* to, or directly associated with, an *antenna*.
 - d. Does not include Wi-Fi radio equipment described in A.R.S. § 9-506(I) or *microcell* equipment described in A.R.S. § 9-584(E).

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18. **Wireless Facility Monopole Modification, Major:** A modification of an existing *wireless facility monopole* where the proposed *monopole* and *base station* exceeds the greater of either:
 - a. An increase in height of the *tower* greater than ten feet (10'); or
 - b. An increase of *base station* area greater than ten percent (10%) of the existing facility.
19. **Wireless Facility Monopole Modification, Minor:** A modification of an existing *wireless facility monopole* where the proposed *monopole* and *base station* does not exceed the greater of either:
 - a. An increase in height of the *monopole* less than ten feet (10'); or
 - b. An increase of *base station* area less than ten percent of the existing facility.
20. **Wireless Support Structure:** A freestanding *structure* such as a *monopole*, a *tower* (either guyed or self-supporting), a sign or billboard, or any other existing or proposed *structure* designed to support, or capable of supporting *wireless facilities*. It does not include a utility pole.

Wrecking Yard: See *junkyard*.

X

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Y

Yard: An open area of a residential *lot* that is at *grade* level between the *dwelling* and the adjoining *lot lines*, except as otherwise provided in this Ordinance

1. **Yard, Front:** A *yard* extending between two (2) *side lot lines* and the depth of which is the distance between the ~~*front lot line street*~~ and the primary *building* and *fence return*, when present. The required front yard area is the area of the front yard that is bound by the side and front lot lines and the front setback line.
2. **Yard, Rear:** A *yard* extending between two (2) *side lot lines* and the depth of which is the distance between the *rear lot line* and the primary *building*. The required rear yard area is the area of the rear yard bound by the side and rear lot lines and the rear setback line.

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3. **Yard, Side:** A yard extending between the *fence return* or *front yard* and *rear yard* and the depth of which is the distance between the *side lot line* and the primary *building*. The required *side yard* area is the area of the *side yard* that is bound by the *front* and *rear yards* and *side lot lines*.
4. **Yard, Street Side:** A *side yard* which is along the *side lot line* that *abuts* a *street*.

Z

Zoning: The dividing of the City into districts or zones and the establishment of regulations for governing the *use*, placement, spacing, and size of land and *structures* within each zone or district.

Zoning Administrator: The staff position of the Community Development Director or designee.

Zoning District: A portion of the City within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

CHAPTER 102 - REVIEW PROCESS AND APPLICATIONS

ARTICLE 1 – IN GENERAL

102-1.1 Purpose

- A. The purpose of this section is to establish standardized decision-making procedures for reviewing development applications within the City of Surprise. It enables the City, the *applicant*, and all interested parties to reasonably review applications, and participate in the local decision-making process in a timely and effective way. More specifically, this section is intended to:
1. Assure prompt review of development applications through the application of clear and specific standards.
 2. Provide opportunities for public review and comment on development applications that may have an impact on the community.
 3. Establish procedures to determine whether development applications are consistent with applicable codes, policies, regulations, and standards

102-1.2 Applicability

- A. The provisions of this section shall apply to all proposed development projects within the City's municipal boundaries.

102-1.3 Development Procedures Manual

- A. The Development Procedures Manual is the consolidation of the Community Development Department requirements for the various procedure types and development applications including: the application forms, submittal checklists for the various application types, specific procedural steps, review timelines, necessary approvals, and communication expectations.
- B. All development applications in the City of Surprise shall follow the requirements outlined in the Development Procedures Manual, which is available online or may be picked up at the Development Services Counter.

102-1.4 Concurrent Review

- A. When a development proposal requires more than one (1) application for the approval of a given development, multiple applications may be submitted for concurrent review. If the applications are not submitted concurrently, the subsequent applications may not be submitted until previous applications have completed the review procedures, unless this provision is waived by the Community Development Director or designee.

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- B. When more than one (1) application is submitted for a given development, and those applications are subject to different types of procedure, then all of the applications are conditioned to the highest type of procedure that applies to any of the applications; however, each development application shall be only subject to the relevant criteria applicable to that particular development application. For example, a development proposal for a *preliminary plat* (a Type 2 procedure) and *rezoning* of the property (a Type 3 procedure) shall be wholly dependent upon the approval of the Type 3 application, but the Type 2 portion of the development proposal shall be decided according to the relevant approval criteria applicable to the Type 2 application.

Commented [AB9]: From HBACA:

We received feedback that some were interpreting this section to require a more restrictive review process when applications are submitted concurrently versus if the applications were submitted separately. If this is not the City's intention, then this section should be revised for additional clarity.

City Comment: If the project is submitted concurrently, this ensures that each review is comprehensive, and modifications are consistently applied to each part of the project. A site plan will stop at P&Z while a plat and rezone are decided by City Council. However, the Site Plan will be subject to the approval of the plat and rezone.

102-1.5 Exempt Activities

- A. The following development activities are exempt from the procedural requirements of this chapter:
1. Landscaping or landscape *alterations*, unless such landscaping or *alterations* would require approval pursuant to this Chapter for *Site plan* Review or modify or violate an approved *site plan, plat*, or a condition of approval.
 2. Emergency repair or maintenance of public or private *buildings, structures*, landscaping, or utilities.
 3. A change of any legally-established *use* except if the *change of use* requires an *amendment* to the approved *site plan*, such as increased parking requirements, or additional approvals, such as an *Conditional use Permit* or *Conditional use Permit*.
 4. *Building permits* required pursuant to the City-adopted building code for construction not requiring a development application.
 5. On-site utility permits not obtained in conjunction with a specific development application, including but not limited to *sewer* hook-ups, water hook-ups, *right-of-way* permits, grading permits, and fire department permits.
 6. *Business Licenses*.
 7. Sign permits; except for Comprehensive Sign Program approval.

102-1.6 Expiration of Approvals

- A. All approvals, excluding *Temporary use Permits*, shall expire one (1) year after the date of approval unless vested by means of recorded *Final plat*, commencement of construction, or establishment of the allowed *use*. An extension may be granted

Commented [AB10]: From HBACA:

We do not believe the process for getting an extension has been clearly defined. We would like to see the City include an administrative process which allows for a letter request to extend for another year without terms or conditions.

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by the Community Development Director, but will be contingent upon subsequent applications listed herein and/or permit activity. The request for an extension shall be made in writing prior to the above-mentioned expiration.

DRAFT

ARTICLE 2 – PROCEDURE TYPES AND SUBMITTALS

102-2.1 Procedure Types

- A.** All development applications shall be decided by using one (1) of the procedure types listed in this Chapter. The procedure type assigned to each application governs the requirements of a public meeting, public hearing, public outreach, public notifications, and the authoritative body, except to the extent otherwise required by applicable state or federal law.
1. **Type 1.** This procedure is for interpretative and administrative applications without a public outreach process, public meeting, or public hearing required. Type 1 applications are processed as administrative review decisions by the Community Development Director. Decisions by the Community Development Director may be appealed to either the Board of Adjustment or the Planning and Zoning Commission as outlined in **Table 102-2a**.
 2. **Type 2.** This procedure is for applications that only require a public meeting and therefore only require the limited public outreach of posting the meeting agenda, unless otherwise indicated in the following table. Type 2 applications are administrative actions. Applications where the approval authority lies with the Planning and Zoning Commission may be appealed to the City Council as outlined in **Table 102.2a**. Applications where the approval authority lies with the City Council may be appealed in a manner prescribed by law.
 3. **Type 3.** This procedure is for applications that generally are legislative in nature requiring a public hearing per A.R.S § 9-462.04 and require Public Notice in the form of “Agenda Posting”, “Newspaper Publication”, “Letter by 1st Class Mail”, and “Site Posting” according to this Chapter. Decisions of the City Council or Board of Adjustment regarding Type 3 applications may be appealed in a manner prescribed by law.
- B.** The following **Table 102-2a** describes the level of public outreach required, decision-making authority, and the appeal authority for the applications processed and the approvals that may be granted under this Ordinance.

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Table 102-2a: Application Type, Procedure, and Decision Authority Summary

	Public Outreach				Community Development Director	Planning and Zoning Commission	City Council	Board of Adjustment
	Agenda Posting	Notice Letter & Newspaper	Neighborhood Meeting	Site Posting				
Type 1 Applications								
Zoning Interpretation					D			A
Site Plan Amendment (minor)					D	A		
Minor land division / Parcel assemblage					D		A	
Conditional use Permits					D			A
Temporary use Permits					D	A		
Home Product Review					D	A		
Corrective Plat					D		A	
PEDS Deviation/Waiver					D	A		
Slope Category Analysis Waiver					D	A		
Administrative Waiver/Extension					D	A		
Type 2 Applications								
Site Plan Review	X				R	D	A	
Site Plan Amendment (major)	X				R	D	A	
Protected Development Rights Plans	X				R	R	D	
Final plats	X				R		D	
Original Townsite Incentive	X				R		D	
Development Agreement	X				R		D	
Hillside Cut & Fill Waiver	X			X	R	D		
Contiguity/Congruency Waiver	X				R		D	
Type 3 Applications								
General Plan Amendments	X	X	X	X	R	R	D	
Specific Area Plan Requests	X	X	X	X	R	R	D	
Rezoning Requests	X	X	X	X	R	R	D	
LDO Text Amendments	X	X ⁽¹⁾	X		R	R	D	
Conditional use Permits	X	X	X	X	R	D	A	
Comprehensive Sign Program	X	X	X	X	R	R	D	
Preliminary plats	X		X	X	R	R	D	
Variances Requests	X	X		X	R			D
Annexation	X	X	X	X	R		D	
Key: X = Required (1) = 1 st Class Letter not required R = Reviews and recommends action to decision-making body D = Decision-making body A = Appeal authority								

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102-2.2 Submittal Process

- A. Pre-Application Meetings. The Surprise Community Development Department offers multiple pre-application meetings for the purpose of acquainting City and other agency staff with a sufficient level of detail about the proposed development. The intent is to enable staff to advise the *applicant* as to the applicable City requirements and to identify issues and concerns in advance of a formal application. These meetings are not intended to be a comprehensive review of all the potential issues relating to a development proposal.
1. **Due Diligence Meeting.** This is an optional pre-application meeting for proposed projects that are in the most basic phase of development. This meeting may be used by prospective buyers and/or *developers* in order to better measure the feasibility of a proposed project with informal discussions to identify potential points of conflicts and gain an understand of specific public objectives.
 2. **Concept Review Meeting.** This is a required pre-application meeting for all proposed projects prior to making a formal application submittal. This meeting will include the City's complete development review team in order to determine the required submittal checklist, Development Application, and Procedure Type.
 3. **Concept Review Waiver.** The Community Development Director or designee may waive the Concept Review meeting only if the proposal is determined to be relatively simple (e.g. has few, if any, development-related issues), or it involves subsequent phases of an existing approved development where requirements are known, or an application is substantially similar to a prior proposal affecting the same property.
- B. Formal Application Submittal. Following the Concept Review meeting, the *applicant* shall submit, to the Surprise Community Development Department, a completed City application, all the requested plans and information, required studies and reports, and the required fees. The City may, at its discretion, request additional materials and/or studies if found necessary to adequately review the application. Staff will verify completeness of all applications; review will not begin until submittal materials are fully complete.

ARTICLE 3 – PUBLIC OUTREACH AND PUBLIC NOTIFICATION

102-3.1 Public Outreach

- A. When public outreach is required, it will involve one (1) or more of the following forms depending on the procedure type or complexity of a project (see **Table 102-2a**). Pursuant to A.R.S., *General Plan Amendments* and *Rezoning* for land that is located within the vicinity of a military airport or *ancillary* military facility have additional notification requirements. *(For more detailed content and process requirements on the notification types listed below refer to the Development Procedures Manual).*

1. Legal ad
2. Mail-out
3. Site Posting
4. Neighborhood Meeting

- B. The Public Outreach Process. Although it is not intended to produce complete consensus on all applications the intent of any form of public outreach is to:

1. Ensure that *applicants* pursue early and effective public participation in conjunction with their applications, giving them the opportunity to understand and potentially mitigate any real or perceived impacts their application may have on the community;
2. Ensure the public and neighboring property *owners* have adequate opportunity to learn about applications that may affect them at an early stage in the process; and
3. Facilitate ongoing communication between the *applicant* and interested public, neighbors, City staff, and elected officials throughout the application review process.

- C. The *applicant* shall provide a written report that describes the specific actions taken by the *applicant* to meet the Public Outreach requirements. The report shall be submitted to the City thirty (30) days prior to public hearing. If public outreach continues beyond that deadline, a supplemental report may be required prior the public hearing. *(For more detailed information on content requirements for the Public Outreach Report, refer to the Development Procedures Manual).*

102-3.2 Public Notification Methods

- A. Depending on the procedure type, one (1) or more of the following methods of public notification may be required.

Commented [AB11]: From Tiffany & Bosco:

It is 2020...no one reads the newspapers anymore...the City should remove this requirement.

Website or a development notice website should be created by the City or the applicant at time of submittal and figure a logical way to get the word on submittals, hearings, etc.

City Comment: This complies with A.R.S. 9-463.04 and the printed postings are typically posted on the newspaper's website.

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1. **Agenda Posting:** Posting the agenda at City Hall at least twenty-four (24) hours prior to a public meeting (Type 2 Procedure) and/or a public hearing (Type 3 Procedure), in accordance with Arizona open meeting law.
2. **Legal Ad:** In a newspaper of general circulation in the City of Surprise, a Public Notice shall be published at least fifteen (15) days for all other applications, prior to the public hearing.
3. **Mail-out by 1st Class Mail:** An informational letter mail, to all real property owners and the head of any homeowners association or registered neighborhood within a 300-foot (300') radius of the *parcel* boundaries and any other potentially affected citizens as determined by the Community Development Director or designee at least or at least fifteen (15) days for all other applications, prior to the public hearing.
4. **Site Posting:** When proposed development requires Public Notice in the form of Site Posting, the *applicant* shall be responsible for posting the subject property (*see Procedures Manual for examples*).
 - a. Posting shall be in no less than two (2) on-site locations, no less than fifteen (15) days prior to the meeting/hearing; annexations require three (3) locations. For large sites, sites with multiple *street frontages*, sites with no *street frontages*, and modified locations may be approved by the Community Development Director.
 - b. A completed Affidavit of Site Posting form, which includes a minimum of two (2) photographs of each installed sign together with a map showing the locations of the site postings.
 - c. The *applicant* shall remove all *signage* and submit a completed affidavit of removal within seven (7) days after the date of the final public meeting/hearing.
4. **Content of Public Notice.** When required a public notice in the form of "Newspaper Publication", "Letter by 1st Class Mail", or "Site Posting" of the proposed project will include the following:
 1. The project case number;
 2. The name of the *applicant* requesting the action;
 3. The date, time and location of Neighborhood Meeting, when required;
 4. A vicinity map of the project location;
 5. A brief description of the request;
 6. The date, time and location of upcoming public hearing(s) or meeting(s);

Commented [AB12]: From Tiffany & Bosco:

Same legal ad comment...(**102-3.1 a**) has the city ever surveyed anyone to find out if they heard of the proposed hearing via the newspaper? I bet its less than 5%..

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7. A map of the project area.

102-3.2 Neighborhood Meetings

- A. This is conducted by the *applicant* and/or *developer*.
 1. A Neighborhood Meeting is required for all Type 3 Applications that require a public hearing, *Preliminary plats*, and other applications as determined during the Concept Review Meeting. All neighborhood meetings shall be scheduled at a time and publically accessible location near the project that provides reasonable opportunity for assemblage of *adjacent landowners*, other affected publics, and the *applicant* to discuss and express their respective views upon the development request. The *applicant* shall secure a time and location near the proposed project according to the following requirements:
 - a. Conducted by the *applicant*, *developer*, and/or property owner;
 - b. Held Monday through Thursday; shall not conflict with City Council or Zoning and Zoning Commission meetings;
 - c. Begin by 6pm and hosted for at least one (1) hour or more;
 - d. Provide safety, parking, lighting for meeting attendees;
 - e. Provide *signage* to guide attendees to the meeting according to the temporary *signage* and other regulations of Chapter 109.
 2. Public notice of the Neighborhood Meeting is required and shall include both “Newspaper Publication” and “Letter by 1st Class Mail” as outlined above. The notice shall also be transmitted to the planning agency of any *adjacent* municipalities and unincorporated areas of the county.

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ARTICLE 4 – TYPE 1 APPLICATION AND REQUESTS

102-4.1 Uses, Interpretations, and Administrative Decision

- A. The Community Development Director, pursuant to A.R.S. §9-462.05, is responsible for the administration of this Ordinance and may establish rules and procedures for the implementation of the LDO.
- B. The Community Development Director may not make changes in the specific *uses* permitted in any *zoning districts*, or make changes in the terms of the Ordinance; however, any *use* not appearing in this code which is similar to, and not more detrimental than the *uses* permitted herein, as determined by the Community Development Director, may be permitted based on a code interpretation and similar *use* ruling.
- C. The Community Development Director shall base his/her decision, to either approve or reject Type 1 applications and to prescribe such conditions as deemed necessary, on the definitions and other provisions contained in this Code, relevant city policy, and/or any applicable State or Federal law or case law.
- D. The Community Development Director may, at his/her discretion, refer a Type 1 application to the Commission for a decision.
- E. Code interpretations and similar *use* rulings shall be treated as a Substantive Policy Statement.

102-4.2 Minor Site Plan Amendment

- A. Minor Site Plan Amendments are requests to *alter* or modify an approved *site plan* described in Section **102-5.1** herein by no more than ten percent (10%) in comparison to the most recent *site plan* approved by Planning and Zoning Commission and/or City Council and which typically has no significant changes to infrastructure, *buildings* and *structures*, circulation, or grading and drainage. Provided the requested changes otherwise meet the requirements of the *zoning district* in which the property is located, modifications approved under a *Minor Amendment* may include, but are not limited to, an increase or decrease in floor area; *building height*; building *setbacks*; or, the number and location of *parking spaces* but not their size.

Commented [AB13]: From HBACA:

We received feedback that this is a good provision.

102-4.3 Minor land division/Plat Corrections

- A. Minimal changes to any existing *lot*, *parcel*, tract of land, or combination thereof in the form of *Minor land division*, *lot line adjustment*, *Parcel assemblage*, and *Plat Corrections* pursuant to **Chapter 108** of the LDO.

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102-4.4 Use Permits (Administrative and Temporary)

- A. Those *uses* that are allowed under a *Conditional use Permit* (AUP) and/or a *Temporary use Permit* (TUP) in either the Land use Matrix of **Table 106-1a** or in the Accessory use Matrix of **Table 106-1b**, of this LDO, shall be authorized by the Community Development Director.
- B. Conditional use Permit (AUP). Administrative uses are those uses that are generally compatible with the land *uses* permitted by right in a *zoning district*, but require individual review of their location, design and configuration and the imposition of conditions in order to ensure the appropriateness of the *use* at a particular location within a given *zoning district*.
- C. Temporary use Permit (TUP). Temporary *uses* allow for activities that may be appropriate, on an interim basis such as seasonal or transient *uses* not otherwise permitted. A *Temporary use Permit* shall be for a specific *use* on a specific property and not for a particular person or company. The Community Development Director, when reviewing applications, shall have the authority to require conditions of approval.
- D. Criteria. Approval of an AUP and/or TUP shall be based on the *applicant's* ability to demonstrate the following:
1. The proposed *use* will not be detrimental to health, safety, or general welfare of *persons* living or working in the vicinity, to *adjacent* property, to the neighborhood, or to the public in general;
 2. The proposed *use* conforms to the purposes, intent, and policies of the *General Plan* and any applicable area, neighborhood, or other plan adopted by the City Council;
 3. The proposed *use* conforms to the conditions, requirements, or standards of LDO and any other applicable local, state, or federal requirements;
 4. The proposed *use*, as conditioned, would not unreasonably interfere with the *use* and enjoyment of nearby properties.
- E. Validity Limit.
1. The *use Permit* shall be valid for the *use* for which the permit was granted for the length of time indicated on the permit as long as the *use* is in compliance with the conditions of approval and other applicable ordinances.
 2. Time extensions for a *Temporary use Permit* shall be processed in the same manner as the original permit.

102-4.5 Home Product Review

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- A. For any residential development that proposes to utilize, market, sell, and/or construct based off standard plans, an application for a Home Product Review shall be required to be submit to and approved by the Community Development Director (*see Procedures Manual for details on submittal requirements*).
- B. Approval of any Home Product Review application shall be based on the adherence to and compliance with the Planning Design Standards of the PEDS, and the *zoning district* in which the Home Product will be utilized.

102-4.6 Administrative Waivers

- A. PED Deviations and Waivers. Per **Section 107-1.2** of the LDO, the Community Development Director or City Engineer may approve a deviation to the standards or may approve, on a case-by-case basis, a waiver for a study, report, or an analysis that may otherwise be required by the PEDS.
- B. Slope Category Analysis Waivers. Per **Section 104-2.8.A.** of the LDO, applications seeking a waiver for the requirement to submit a Slope Category Analysis may be submitted to and approved by the Community Development Director or City Engineer.

Commented [AB14]: From HBACA:

(Refers to both A and B) We received feedback that this is a good provision.

102-4.7 Corrective Plat.

- A. Per **Section 108-3.2** of this Ordinance, an approved and recorded *final plat* may be corrected or amended.

102-4.8 PEDS Deviation/Waiver

- A. A *developer* may propose plans to deviate and exceed the design standards outlined in Volume 1 of the PEDS that are submitted to and approved by the Community Development Director or designee.

102-4.9 CD Director Waiver

- A. A description of this Community Development Director Waiver (and limited examples of why it would be used) needs to be included.

ARTICLE 5 – TYPE 2 APPLICATION AND REQUESTS

102-5.1 Site Plan Review

- A. Initial Site Plan. In order to first establish a design to develop a currently undeveloped property, or redevelop a property, a *Site Plan* Review shall be required to be approved for all development occurring within every *zoning district*; except for interior tenant improvements and *single-family* residential subdivisions, but not including Home Product Reviews (*see Procedures Manual for submittal requirements and process*).
- B. At the discretion of the Community Development Director, the *applicant* may be required to hold a neighborhood meeting if in the opinion of the Director the project may impact the *adjacent* neighborhood.
- C. Major Site Plan Amendment. Substantial *amendments* or modifications to an approved *site plan* shall be processed in the same manner as the original application. The cumulative effect of multiple minor *site plan amendments* that exceed the collective change greater than ten percent (10%) from the most recent *site plan* approved by Planning and Zoning Commission and/or City Council will require a Major *Site Plan Amendment*.
- D. Landscape Plan. A Landscape Plan is focused on plant palette, locations, and/or irrigation pursuant to Chapter 107. Landscape Plans may be approved concurrently with other applications or processed separately under a separate application.
- E. Validity Limits. Approval of a *site plan* or *amendments* thereto, shall run with the land and may continue to be valid upon a change of *ownership* of the site or *structure* for a period of two (2) years following the date of approval.

102-5.2 Protected Development Rights Plan

- A. For details on the specific processing (from pre-application, project construction, and acceptance of improvements) and the necessary submittal requirements and standards refer to the Planning and Engineering Design Standards (PEDS) and Chapter 108 of the LDO.

102-5.3 Original Townsite Incentive

- A. The Original Townsite Incentive, pursuant to **Chapter 111** of the LDO, is a request for financial incentives available as a means to encourage redevelopment within the area of Surprise known as the Original Townsite.

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102-5.4 Development Agreements

- A. A development *applicant* and the city may enter into a development agreement if it is agreed to be mutually beneficial by both parties. The requirements for participation in a development agreement shall comply with A.R.S. § 9-500.05. Entering such agreement is at the City's discretion and the burden is upon the *applicant*.
- B. A preliminary discussion regarding establishment of a development agreement will take place at the Concept Review Meeting. Subsequent discussions for the purpose of continued negotiations will be scheduled by the City as needed.
- C. Unless determined as impractical by the Community Development Director or designee, the development agreement shall be considered by City Council concurrent with consideration of the applicable rezone or *site plan*.

102-5.5 Appeals and Waivers

- A. Cut and Fill Waivers (Hillside Development Areas). Per **Section 104-2.8 C.** of the LDO, the Planning and Zoning Commission may, on a site-by-site basis, amend the development limitations outlined throughout the LDO.
- ~~B. Contiguity/Congruency Waiver. Per **Section 104-1.3.B. and C.** of the LDO, the City Council may consider an application to waive or make exceptions to these requirements.~~

102-5.6 Final plats

- A. The *final plat* stage of land division involves submittal, review and approval of the *final plat* that is in conformance with a *preliminary plat*, the improvement plans for all improvements required by this Ordinance and Council, and recording of the *plat* with the County Recorder. A *preliminary plat* approval may be used as an attachment to the Concept Review Waiver.

ARTICLE 6 – TYPE 3 APPLICATION AND REQUESTS

102-6.1 General Plan Amendments and Specific Area Plans

- A. *Amendments* or changes to the Surprise *General Plan* may be initiated by the City Council, Planning and Zoning Commission, Community Development Director, or by a property owner or the property owner's authorized representative. Any change to the maps or text of the *General Plan* is an *amendment* to the *General Plan*.
1. Major Amendment. An application for a Major *Amendment* to the *General Plan* must be filed prior to April 1st of the calendar year and must be heard by the City Council on the first available Council meeting in December of the calendar year the request was submitted. Any Major *Amendment* must first be submitted for Commission review and recommendation. Major *Amendments* shall require an affirmative vote of at least two-thirds (2/3) of the Council.
 2. Minor Amendment. A Minor *General Plan Amendment* may be submitted independently at any time during the calendar year or processed concurrently with a development or *rezoning* application subject to the procedures herein.
 3. Specific/Sub-Area Plans. Establishing and/or amending a Specific or Sub-Area Plan and its regulations shall be done in accordance with A.R.S. §9-461.06, the Development Procedures Manual, and the provisions described in the Surprise *General Plan*.
- B. In the event that an application for an *amendment* to the *General Plan*, or a Specific or Sub-Area Plan, is denied by the City Council, or that the application is withdrawn after the Planning and Zoning Commission hearing, the City shall not accept another application for the same plan and/or *amendment* within twelve (12) months after the date of withdrawal or Planning and Zoning Commission hearing unless the *applicant's* request is approved by a super majority three-fourths (¾) vote of the City Council.
- C. It shall be the burden of the party requesting the *General Plan Amendment* to prove that the change constitutes an improvement to the *General Plan*. It shall not be the burden of the City to provide a reason that an *amendment* should be denied.

102-6.2 Rezoning Requests and LDO Text Amendments

- A. In accordance with the provisions of Arizona Law (A.R.S. § 9-462.01, et. seq.), the City Council may amend the regulations and boundaries of *zoning districts* set forth in this Code whenever deemed necessary to best serve the public interest, and the health, comfort, convenience, safety, and general welfare of the city.

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- B. Applicability.** All applications for LDO text *amendments* and *rezoning* of property shall only be made through the adoption of an amending ordinance by the City Council; except for those guidelines and codes adopted herein by reference. Requests may be made as follows:
1. An application for a change in *zoning district* boundaries (*rezoning*) may be initiated by an *owner* of real property within the City and/or by that *owner's* authorized representative.
 2. An application for an *amendment* to the text of this LDO ordinance may be requested by any person.
 3. The Planning and Zoning Commission or the City Council, by its own motion at a public meeting, may also initiate such *amendments*.
- C. Criteria and Procedure.** The City, in accordance with A.R.S., and after following the public outreach outlined in **Table 102-2a** herein shall conduct the required public hearing(s) and cause the following to occur:
1. The Planning and Zoning Commission shall render a recommendation for: 1) approval, 2) approval with conditions, or 3) denial of the petitioned *rezoning* or *zoning* text *amendment*, which shall be forwarded to the Mayor and City Council in writing by the Community Development Department unless withdrawn in writing by the *applicant*.
 2. The City Council shall: 1) approve, 2) approve with conditions as the council deems applicable in order to fully carry out the provisions and intent of this Code, or 3) deny the *rezoning* or *zoning* text *amendment* request. Approval of a request to rezone land may not be enacted as an emergency measure, but shall become effective thirty (30) calendar days after City Council approval, unless a petition referring the matter to the voters is received prior to the 30th day in a manner consistent with ARS.
- D. Reversion.** The City may approve a change of zone which is conditioned upon a schedule for development of the specific *use* or *uses* for which *rezoning* is requested. If at the expiration of this period the property has not been improved for the *use* for which it was conditionally approved, the City may schedule a public hearing before the City Council to take action to extend or remove the development schedule, or determine compliance with the schedule for development, or take legislative action to cause the property to revert to its former *zoning* classification.

102-6.3 Conditional Use Permits

- A. Conditional use Permits (CUP)** are required for certain land *uses* that may be compatible with the other *uses* permitted by right in a *zoning district* but require individual review of their location, design, and configuration in order to ensure

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the appropriateness of the *use* at a particular location within a given *zoning district*.

- B.** Purpose. A *CUP* sets forth conditions to protect the public health, safety, and general welfare to assure that the purposes of the *General Plan* and this Ordinance of the Surprise Municipal Code and all other applicable city codes are maintained; without such a *use* has no legal authority.
- C.** Applicability. *uses* which may be subject to a *CUP* are those *uses* enumerated as “*CUP*” in either the Primary Land use Matrix of **Table 106-1a** or in the Accessory use Matrix of **Table 106-1b**.
- D.** Criteria. The burden of proof for satisfying the *CUP* requirements shall rest with the *applicant*. The approval or denial of *CUP* is discretionary with the final approval authority lying with the Surprise Planning and Zoning Commission. A decision to deny a proposed *CUP* shall not in any way be construed as a diminution of property values or a restraint of development rights.
1. Location and character of the *use* shall not burden or conflict with the established *uses* of surrounding area;
 2. The proposed *use* shall not impair the integrity or character of the community nor shall it be detrimental to the public health, safety or general welfare of the city;
 3. The proposed *use* shall conform to the goals and policies of the *General Plan*;
 4. The proposed *use* shall conform to the goals and policies of any specific district or plans for the area;
 5. The proposed *use* shall conform to any applicable *use* Specific Standards outlined in **Article 10, Chapter 106** of this Ordinance
 6. The proposed *use* shall conform to the development standards of the *zoning district* and shall take into account the following factors:
 - a. Site and *building* design;
 - b. Sensitivity to existing natural features;
 - c. Volume or character of traffic;
 - d. Circulation patterns;
 - e. Connectivity;
 - f. Parking and loading;
 - g. *Screening* and *buffering* of *uses*;

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- h. Landscaping;
 - i. Exterior lighting;
 - j. *Signage*;
 - k. Storm water *retention* and drainage;
 - l. Damage or nuisance arising from noise, smoke, odor, dust, vibration, or illumination;
 - m. A demonstrated need for such *use*.
- 7. The proposed *use* shall have adequate *ingress and egress* to property and proposed *structures*, pedestrian and vehicular circulation with particular reference to emergency service *access*;
- 8. Adequate utilities, *access* roads, drainage sanitation; and/or
- 9. Necessary facilities will be provided and the *use* will not contribute toward an overburdening of municipal services.
- E. **Validity Limit.** Approval of a *CUP* shall become effective immediately. The *CUP* shall become null and void if the *use* permit has not been exercised and the *use* established within twelve (12) months of the approval date. A *CUP* is exercised when the *use* has been established or when a *building permit* has been issued, construction commenced, and the *building permit* remains valid. A *CUP* may be granted for a specified period of time, determined by the City Council, as a term of conditions of the *use* permit.
- F. If such *use* is *abandoned* or discontinued for a period of ninety (90) consecutive days, it may not be reestablished unless reauthorized by the Planning and Zoning Commission.
- E. **Amendments to Conditional use Permits** shall be processed in the same manner as the original permit, except that Minor **Amendments** meeting the requirements of **Section 102-4.2** of this Ordinance may be authorized by the Community Development Director.

102-6.4 Comprehensive Sign Program

- A. **Applicability.** The purpose of Comprehensive Sign Programs is to provide a mechanism by which a specific set of sign criteria may be approved for a specific property or geographic area in a manner that is appropriate to the character of the community in which the Comprehensive Sign Program will apply.
- B. **Criteria.** Comprehensive Sign Programs must comply with regulations pursuant to this Ordinance.

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102-6.5 *Variances*

- A. Purpose. This section provides the potential for relief from the *zoning* development standards, but not to the *permitted uses*, densities, or guidelines, of this code. Notification for *Variance* requests shall follow the requirements set forth in A.R.S. §9-462.06 and the provisions outlined in this Chapter.
- B. Applicability. The granting of a *Variance* is not a right. It may be granted at the discretion of the Board of Adjustment only if the *applicant* establishes compliance with all hardship criteria established in A.R.S. §9-462.06 and the following hardship criteria:
1. There are existing special circumstances or conditions applicable to the property referred to in the application, including its size, shape, topography, location, or surroundings, to which the strict application of this Ordinance will deprive such property of privileges enjoyed by other properties of the same classification in the same *zoning district*.
 2. The above special circumstances or conditions are preexisting and are not created or self-imposed by the *owner* or *applicant*.
 3. The *Variance* is necessary for the preservation of substantial property rights. Without a *Variance*, the property cannot be used for purposes otherwise allowed in this *zoning district*.
 4. The *Variance* authorization will not be materially detrimental to *persons* residing or working in the vicinity, to *adjacent* property, or to the neighborhood or the public welfare.
 5. The *Variance* shall not constitute a grant of special privilege.
- C. Conditions of Approval. Any *Variance* granted may be subject to such conditions deemed applicable by the Board of Adjustment. *Variances* shall become void if the subject property does not conform to all conditions, requirements, and standards prescribed by the Board of Adjustment as a condition for approval of the *Variance*.
- D. Validity Limit. *Variance* approvals shall be void if an application for a *building permit* involving the *structure* that was the subject of the *Variance* has not been submitted within six (6) months of the granting of the *Variance* or within the time stipulated by the Board of Adjustment. An expiration of the *building permit* application will result in expiration of the *Variance*. A *Variance* that is not exercised within the time limits specified shall become null and void.

102-6.6 *Preliminary plats*

- A. The *preliminary plats* involve detailed land division planning. The submittal is reviewed by staff and presented to the Planning and Zoning Commission to give a

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recommendation of approval, approval with conditions, or denial of the *preliminary plat* by the City Council. The *applicant* shall provide the City with all information, outlined at the *preliminary plat* concept review meeting and the information listed in Chapter 108 of this Ordinance, essential to determine the character and general acceptability of the proposed development.

102-6.7 Annexation

- A. The City or a *developer* may propose the extension of incorporated City limits according to this Ordinance and **A.R.S. § 9-471**.

CHAPTER 103 - ENFORCEMENT

ARTICLE 1 – IN GENERAL

103-1.1 Purpose

- A. The purpose of this chapter is to establish the administrative and enforcement authority and the subsequent penalties for *persons* and/or properties found to be in violation of the Surprise Municipal Code Part 2 – Land Development Ordinance (LDO).

103-1.2 Enforcement Authority

- A. The Community Development Director or designee shall be responsible for the administration and enforcement of the LDO and his/her designee shall be responsible for the enforcement of the LDO to further the promotion of the public health, safety, and general welfare.
- B. The designee responsible for enforcement shall have authority to enter any *building, structure*, or premises or any part thereof, at any and all reasonable times in accordance with legal requirements governing administrative inspections of private property, for the purpose of performing official duties.
- C. It shall be the duty of the Police Department, Fire Department, Public Works Department, or any other City department to assist in the enforcement of the LDO when requested by the City Manager or designee.
- D. It shall be unlawful for any person to willfully interfere with, hinder, or obstruct enforcement personnel in the discharge of their duties.
- E. This Chapter shall be construed and enforced in conjunction with the various codes referenced in Chapter 105 of the LDO. In the event there is a conflict between the provisions of the various chapters of the LDO or the codes adopted by reference in the LDO, then the provisions of this chapter shall prevail.

103-1.3 Administrative Remedies

- A. Administrative remedies may include the withholding of plan approval, permits, certificates, or any other form of authorization or approval under the authority of the Community Development Director or designee as outlined by the Land Development Ordinance, which is Part 2 of the Surprise Municipal, after determination of any of the following:
 - (1) Any violation of the LDO; or

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- (2) Any violation of a condition, stipulation, or qualification of a permit, certificate, approval or other authorization previously granted by the City.
 - (2) Revocation of any plan approval, permit, certificate, or any other form of authorization or approval under the authority of the City manager or designee as outlined by the LDO after determination of any of the following:
 - a. There is departure from the plans, specifications, or conditions as required under terms of the permit; or
 - b. The permit was procured by false representation; or
 - c. The permit was issued in error; or
 - d. Any of the provisions of the LDO are being violated.
 - (3) Written notice of such revocation shall be served upon the *owner*, the *authorized agent* or contractor, or upon any person employed on the premise for which such permit was issued, or shall be posted in a prominent location; and, thereafter, no such construction shall proceed except to correct such violation or to comply with the order. Such order shall state the nature of the violation, the specific provision violated, and the date and time by which the violation must be corrected.
 - (4) The City may stop grading, construction, or work on any *building* or *structure* on any land on which there is an uncorrected violation of a provision of the LDO, or of a permit or other form of authorization issued hereunder.
 - (5) The City may seek a court ordered injunction or other equitable relief to stop any violation of the LDO or of a permit, certificate or other form of authorization granted hereunder.
 - (6) In accordance with this chapter, the codes referenced in Chapter 105, and A.R.S. § 9-499, the City may abate a violation of the Surprise Municipal Code Part 2 – the LDO.
 - (7) The City, at the direction of the City Manager or designee may prohibit, restrict, or revoke occupancy of any *building* by any person or entity in which there has been a failure to comply with any permit, plans, specifications, or conditions required under the terms of the permit or any plan or other approval of the City.
- B. In addition to any administrative penalties, any person who violates any provision of the LDO or any provision of any code referenced and adopted by the LDO; or who erects, constructs, *alters* or repairs a *building* or *structure* in violation of the approved construction documents, directive of the City manager or designee, or

of a permit or certificate issued under the provisions of any code adopted by the LDO, may be found guilty of a civil or criminal violation.

103-1.4 **Violations and Penalties**

- A. Violation. Any *building* or *structure* erected or maintained or any *use* of property in violation of this Ordinance shall be declared unlawful and a public nuisance, and the City Attorney shall immediately commence action, or proceedings for the abatement, removal and enjoinder thereof in the manner provided by law; and shall take such other actions to grant such relief as will abate or remove such *building* or *structure* or *use* of any property in violation of the LDO. It shall be the right and duty of every citizen to cooperate with the City officials in the enforcement of the regulations of the LDO.
- B. Penalties. Any person who violates any regulations of this LDO or violates or fails to comply with any order or regulation made may be found guilty of a misdemeanor and upon conviction shall be sentenced to a fine or imprisonment for a term not exceeding that established by the Municipal Court or by both. Every violator shall be deemed guilty of or responsible for a separate offense for each day the violation is permitted to exist.

103-1.5 **Nonconforming Uses and Structures**

- A. Any *use* of land, *building*, or *structure* legally existing at the time of the effective date of this section or *amendments* thereto, may be continued even though such *use* may not conform with the regulations or *amendments* thereto for the *zoning district* in which it is located.
- B. In the event that a *nonconforming use* of land, *building*, or *structure* is discontinued for a period of 90 consecutive days, any future *use* thereof shall be in compliance with this Ordinance.
- C. When any *nonconforming use* of any *structure* or land in any *zoning district* has been changed to a conforming *use*, it shall not thereafter be changed to any *nonconforming use*.
- D. In the event that a *nonconforming structure* is destroyed, the *structure* may be restored to its original *nonconforming* condition, provided:
 - (1) The cost of restoring the *structure* to its condition immediately prior to the event does not exceed 50 percent of the cost of reconstructing the entire *structure*; and,
 - (2) The cost of reconstruction is determined by three (3) state certified appraisers as required by the City Manager or designee; and,

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- (3) A *building permit* application is submitted within ninety (90) days from the date of the damage.
- (4) Expiration of a *building permit* application or approved *building permit* related to reconstruction of the *nonconforming use* will be considered a discontinuance of the *nonconforming use*.
- E. A *nonconforming structure* shall not be enlarged, extended, reconstructed, or structurally *altered* unless such *structure* and such enlargement, extension, reconstruction, or structural *alterations* conform to the LDO; however, nothing herein shall prohibit any reasonable repairs or *alterations* to such *structure*. When a *structure* has been declared unsafe by the City's Building Safety Division and/or Code Enforcement Division, it may be placed in a safe condition unless such condition was created as described in the aforementioned Subsection C.
- F. Normal maintenance of a *building* or other *structure* containing or related to a legal *nonconforming use* is permitted, including necessary structural repairs provided such structural repairs do not enlarge or intensify the *nonconforming use*.
- G. A legal *nonconforming use* shall not be changed except in conformance with the *use* requirements of the *zoning district* in which it is located.
- H. If, at the time of the enactment of this Ordinance, any *owner* of a *plot* of land consisting of one (1) or more *adjacent lots* in a legally established subdivision of record does not own sufficient contiguous land to enable conformity to the minimum *lot* size requirements, or does not have sufficient *lot* width to conform to the minimum *lot* width requirements, such *plot* of land may nevertheless be *used* as a *building site*. The dimensional requirements of the district in which the piece of land is located may be reduced by the smallest amount that will permit a *structure* of acceptable size to be built upon the *lot*, such reduction to be determined by the board of adjustment:
 - (1) In the RR or R1 zones, the reductions shall permit only a *single-family* residence.
 - (2) No *lot*, even though it may consist of one (1) or more *adjacent lots* in the same *ownership* at the time of passage of this Ordinance, shall be reduced in size so that *lot* width or *lot* area per *dwelling unit* or any other requirement is not maintained. This section shall not apply when a portion of a *lot* is acquired for a public purpose.

103-1.6

Transfer of Property

The sale and/or transfer of property that has been found to be in violation of the LDO shall not nullify the violation or stay the enforcement timeframes by which the violation is processed and compliance is required.

CHAPTER 104 - FUNDAMENTAL DEVELOPMENT REQUIREMENTS

ARTICLE 1 – IN GENERAL

104-1.1 Purpose and Intent

- A. The purpose of this Chapter is to accumulate fundamental development regulations and performance standards, which apply to any development, redevelopment and/or improvement of public and private property within the City rather than to repeat them several times. The standards and regulations set forth in this Chapter shall qualify or supplement, as the case may be, the regulations set forth elsewhere in this Ordinance.
- B. The following fundamental requirements are intended to be viewed in broad terms with the detailed provisions found within the specific policies, ordinances, plans and guidelines adopted by the City.

104-1.2 Unsuitable Sites

- A. No land shall be used, or *structure* erected if the City Engineer or authorized representative has determined that the land is unsuitable and likely to be harmful to the health, safety, and general welfare of the community. The types of features or physical aspects which may render land unsuitable include, but are not limited to, potential flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, low percolation rate or bearing strength, and/or erosion susceptibility.

104-1.3 Compliance with Other Plans, Regulations, and Contiguity

- A. The adopted plans, policies, regulations, standards, and guidelines listed below may qualify or supplement the regulations of this Ordinance. Each document may be updated or replaced periodically over time and used as a regulation when in effect at the time of a development application. , in effect at the time of application, and as may be periodically updated, shall qualify or supplement, as the case may be, the regulations of this Ordinance:
 - 1. Surprise General Plan 2035, hereinafter known as *General Plan*,
 - 2. Parks and Trails Master Plan,
 - 3. Integrated Water Master Plan Water Infrastructure July 2009,
 - 4. Integrated Water Master Plan Water Resources Update June 2015,
 - 5. Planning and Engineering Design Standards (PEDS),

Commented [AB15]: From Tiffany & Bosco:

I would suggest not listing these policies and master plans with a 'shall' determination...staff will interpret these provisions to mean that not only does the LDO enforce land use and zoning regs but also these regs and policies outside the LDO

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6. Building and Fire Codes,
7. Arts and Culture Master Plan,
8. Water and Wastewater Facility Guidelines April 2011,
9. SPA 2 Reclaimed Water and Recharge Master Plan Update September 2017,
10. Other plans adopted to guide development.

104-1.4 Urban Growth Principles

- A. Urban Growth ~~standards-principles~~ encourage and guide ~~the planning of~~ new development to locate ~~adjacent and/or contiguous to already existing developed~~ near urban development areas of the City, with the intent to achieve the following objectives:

1. The expansion of incorporated City limits and ~~contiguous~~ service areas through a timely and orderly annexation program.
2. The reinvestment in built-up areas of the City through the infill development process.
3. The preservation of rural characteristics, natural areas, and features.
4. The protection and preservation of environmentally sensitive features from the encroachment of urban development as required by Section 104-Article 2.
5. The promotion of the City's individual image, identity, and character through the extensive and enhanced trails for pedestrian multimodal connectivity.
6. The preservation of historical and cultural features.
7. Account for improved air quality and minimize non-commuter vehicle miles traveled.
- ~~(2) The efficient use, timely, and cost-effective extension of new City infrastructure and services.~~
- ~~(3) The physical connection and visual integration of new development with adjoining existing and proposed development.~~
- ~~(4) The reinvestment in built-up areas of the City through the infill development process.~~
- ~~(5) The preservation of rural characteristics, natural areas, and features.~~

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- ~~(6) The protection and preservation of environmentally sensitive features from the encroachment of urban development.~~
- ~~(7) The improvement of air quality by reducing vehicle miles traveled and by encouraging public transit and alternatives to private automobile use.~~
- ~~(8) A wide mix of housing types and greater diversity in both residential and nonresidential architecture.~~
- ~~(9) The promotion of the City's individual image, identity, and character through the extensive and enhanced use trails for pedestrian multimodal connectivity.~~
- ~~(10) The preservation of historical and cultural features.~~

B. Using the regulations within this Ordinance, a~~All new construction~~ and development within the City, including residential subdivisions or development having an overall *gross residential density* ~~of at least greater than~~ one dwelling unit per gross-acre (1 du/ac) or greater shall ~~meet the following minimum standards related to the required degree of contiguity, access, and availability of adequate public infrastructure.~~

1. Demonstrate efficient, timely, and cost-effective extension of new City infrastructure and services and cost-effective for the City's budget program.
2. Design for multimodal travel to nearby businesses and services as an alternative to private automobile use and accommodate public transit to existing or planned and funded route
- ~~31. At least one-sixth (1/6) of the proposed development's site boundaries shall be contiguous to, and have shared access and have multimodal connectivity with~~ between the proposed development's boundary and existing urban development. All such new uses and developments are shall be existing urban development. All such uses and developments are served by completed infrastructure, including paved streets, public sewer and water, storm water drainage and other utilities, as well as fire suppression consistent with the current City-adopted fire code. Said standards shall further apply to any developments petitioning to annex into the City.
- ~~2. If the development is an approved scheduled phase of an overall master development plan, which meets the contiguity requirement of this section, and if any portion of the development phase is within one-half mile (1/2 mi) of an existing urban development, then the specific development phase need not comply with the minimum contiguity requirement.~~
- ~~3. For purposes of this section, contiguity shall not be affected by the existence of a platted street or alley, a public or private right-of-way, a public or private transportation right of way or area, publicly owned open~~

Commented [AB16]: From HBACA:

We are very concerned that this requirement is overly restrictive and will stifle many important development opportunities within the City. There are going to be natural and financial obstacles to non-contiguous development, however, City regulations do not need to be an additional obstacle. There are examples of developments throughout the Valley that were once non-contiguous but have since become key components of the region's economy. Surprise should not eliminate the possibility of this type of growth. While there are still waivers and exceptions provided in this section, those types of waivers and exceptions are often far too unpredictable and time consuming to provide any type of relief from a general prohibition on this type of development. This section should be revised to provide more immediate flexibility.

In addition, we note that the term "urban development" in this section is undefined. We also received feedback that the terms "urban development" and "contiguity" are being used interchangeably and should be clarified.

Finally, we would like to note that one of the City's identified "urban growth principles" is "[a] wide mix of housing types and greater diversity in both residential and nonresidential architecture. "We think that this is a principle that the City should continue to strive for and is one of the great opportunities Surprise has to offer. However, we implore the City to constantly keep this principle in mind when proposed projects include entry-level housing and greater densities than what is currently being provided in Surprise.

City Comments: Regulations have been revised

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~~space, or a lake, reservoir, stream, wash or other natural or artificial waterway located immediately between the proposed development and existing urban development.~~

4. ~~Waiver/exceptions. The City council, City Manager, or his/her designee may waive or make exceptions to the contiguity requirements of this section provided a specific finding is made that the proposed development will:~~

a. ~~Substantially advance the implementation of the City's General Plan provisions regarding greater diversity in housing types and densities;~~

b. ~~Produce special benefits to the City in terms of large-scale open space dedication or preservation, completion of regional trail linkages, or substantially advance other primary open space and recreational goals contained in the City's General Plan; and/or~~

c. ~~Produce special benefits to the City in terms of a long-term economic development opportunity in accordance with the General Plan; or promote the infilling of an area with already existing noncontiguous urban-level development.~~

Commented [AB17]: From Tiffany & Bosco:

also include City Manager or his/her designee to allow waivers

104-1.5 Public Infrastructure Level of Service

- A. Every development within the City shall be adequately served by public infrastructure, facilities and services consistent with the City's adopted development standards and by other applicable federal, state, regional or county legislation.

- B. ~~No building permit~~ shall be issued unless such public infrastructure, facilities and services are in place, or commitments have been made to provide the required infrastructure and level of service standards described herein. No site-specific development plan or *building permit* shall be approved or issued that will reduce the level of service standards below the adopted level of service standards for the affected development.

Commented [AB18]: From Tiffany & Bosco:

What if it is just temporarily?

- C. The following level of service standards shall be used to review and approve proposed development and construction, and to determine if a development or construction project meets or exceeds the minimum requirements for adequate infrastructure, facilities, and services.

1. Americans with Disabilities Act (ADA). Infrastructure construction and improvements of facilities shall comply with the Americans with Disabilities Act.

2. **Community Circulation.** All new development projects and development phases therein, must have physically traversable and legally established *access* that is improved and connected to the City's existing, ~~improved~~ *multimodal* circulation system or to planned *multimodal* circulation improvements *for which funds have been appropriated*. Except for *model home* complexes, all required *multimodal* circulation infrastructure improvements shall be fully and completely installed and shall be operational and available to serve the new development phase(s) at the time the City issues the first certificate of occupancy for a *building permit* or final inspection.
3. **Water Quality and Wastewater Standards.** All water and wastewater infrastructure requirements shall be in compliance with all council adopted and/or approved water and wastewater plans, guidelines, reports and documents and any county, state or federal water quality regulations.
 - a. The development and installation of water supply facilities shall be adequate to provide high quality potable water from a public or community water supply source, and shall be constructed to conform to City standards and requirements set forth in the City-adopted engineering design standards, the water quality directives of the City, the Maricopa County Environmental Services Department, the State of Arizona Department of Environmental Quality, and the City-adopted Fire Code.
 - b. All developments must also be in compliance with all local, state, and federal regulations regarding aquifer recharge, erosion and sedimentation, storm drainage and runoff control, solid wastes, and hazardous substances.
 - c. No materials (organic or inorganic), compounds or chemicals, which can contaminate any water supply, interfere with bacterial process in *sewerage* treatment or otherwise cause emission of elements which are offensive or hazardous to the public health, safety, welfare or comfort shall be discharged at any point into any public *sewer*, private sewage disposal system or stream or into the ground, except in accordance with the standards approved by the Arizona State Department of Health and/or Environmental Quality or such governmental agency as may have jurisdiction over such activities.
4. **Drainage and Flooding.** Surface water from rooftops or *lots* shall not be allowed to drain onto *adjacent lots*. No *structure* or land shall hereafter be constructed, located, extended, converted, or *altered* within any flood hazard areas that would create a public nuisance or create a hazard to life or property.

Commented [AB19]: From HBACA:

"Multimodal" is defined as "traveling within or through a community to include automobile, buses, trolley, rail, bicycles, pedestrian friendly walkways and path and trail systems, and any other means of moving persons and goods by a surface, overhead or underground means of transportation." This is an extremely broad definition of multimodal. Given that this section requires connection to all existing or planned multimodal circulation improvements, the universe of the types of connections seems unlimited. If there is a plan for a rail system fifty years out, would a developer be required to connect to that system in advance?

This section is vague as to what will satisfy these requirements and should be refined to define the types of connections that must be established, particularly in a residential subdivision context.

Commented [AB20]: From Tiffany & Bosco:

Having other jurisdiction requirements in the zoning code is not useful

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- a. In the design of the development, every effort shall be made to utilize the natural slope of the land for the stormwater collection system.
 - b. The point in which natural drainage flows enter and exit a property prior to development shall remain the same after the property has been *altered* for the development.
 - c. Encroachment into a *floodway* shall be prohibited including but not limited to *fill, new construction*, substantial improvements, and other development, unless certification by an AZ registered professional Engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
5. Fire and emergency services and facilities. A certificate of occupancy nor final inspection for a specific development shall not be issued until such time that all necessary fire and emergency services and facilities, as required by the City to serve the development, are in place and operational. Each development phase or *building* therein shall provide paved sufficient *access*, adequate water source and pressure, and facilities for fire protection and suppression as required by the most current City adopted Fire Code. Where required by the City, the *developer* shall reserve a site(s) for a fire station facility unless approved by the Fire Marshal and/or Fire Chief.
6. Fire and Explosion Hazards. Disposal of waste materials by outdoor incineration on the premises shall require a burn permit from ADEQ. All storage of, and other activities involving inflammable and explosive materials shall be provided adequate safety devices against hazards of fire and explosion, together with adequate fire-fighting and fire suppression equipment and devices standard in industry. All storage of inflammable or explosive materials shall further comply with location requirements set forth by the Fire Department or as established by this or other City codes and ordinances.
7. Utilities. Utility services, including electrical, gas, telephone, cable, and any other dry utility, shall be provided underground and in accordance with City policies, guidelines and engineering development standards; as well as with utility companies' service rules and regulations for location and construction of utilities. The policies and procedures of the City shall prevail where policies and procedures regarding location, undergrounding, and *screening* of utilities differ between the City and utility company. Including all financial obligations, it shall be the *developer's* responsibility to plan, design, and coordinate the installation of utilities with applicable utility companies.

Commented [AB21]: From Tiffany & Bosco:

Provide a provision that states..."unless approved by the Fire Marshal and/or Fire Chief."

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8. Park, recreation, and open space facilities. A percentage of gross land area shall be required as *open space* for all new development with residential, mixed use, or commercial *zoning* as prescribed in **Chapter 106** of this Ordinance. The location, size, type, and design of *open space* and/or recreational facilities shall be in accordance with the *General Plan*, the City's adopted Parks and Trails Master Plan, and the PEDS (Chapter 107 of this Ordinance)
9. Public education facilities. If required by the *school* district, the *developer* of a subdivision shall reserve land within the proposed subdivision for a *school* site(s) to be acquired by the applicable *school* district. The provision of a site(s) for educational facilities shall comply with state legislative mandates, and with the location requirements of the applicable *school* district and the City.
10. Construction Standards and Testing specifications.
 - a. Construction and/or installation of public infrastructure shall meet and conform to the requirements, standard specifications, and codes as set forth by the City departments of community development, public works, and fire department. To the extent there is any inconsistency or discrepancy between standard specifications and codes for construction and/or installation with the provisions of this chapter, the more restrictive provision shall prevail.
 - b. Sampling and testing of materials and *laboratory* inspection of materials and processes shall be performed at the expense of the *developer*. Testing shall be in accordance with the City's standards specifications and codes. Any organization providing construction materials testing services must have an established in-house *laboratory* that meets the standards and requirements of the American Society for Testing and Materials.
11. Phasing of development. The construction of any planned development authorized under these provisions shall be undertaken to assure full completion of the development in accordance with the adopted ~~preliminary and final plan~~ rezoning, site plan, preliminary plat, or final plat.
 - a. Each phase of development shall be related to surrounding areas and available public facilities in such a manner that failure to proceed to subsequent phases of the approved development will not adversely affect those areas or facilities.
 - b. Each completed phase of development shall comply with all applicable standards set forth in ~~chapter 122~~ this Ordinance.

Commented [AB22]: From Tiffany & Bosco:

Again, using the word shall for a separate master plan/policy means the LDO is the enforcement tool for plans and policies outside the LDO

City Comment: This zoning code implements the GP and all new development must comply. The GP2035 is quite flexible in how to capitalize on existing washes, trails, and natural open space.

Commented [JM23]: Moved from Sec 122-28 of the SUDC with revisions

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- c. Infrastructure, as installed, shall be sufficient to accommodate each phase of the development.
- d. The first phase of the development shall ensure connectivity to active and passive recreation, parking, landscaping, pedestrian routes, residential areas, and open space for the master site plan. Residential and commercial development projects to be constructed in phases shall be planned, designed and platted so that each subsequent phase, when completed, will function independently in terms of its vehicular and pedestrian circulation system.
- e. For all projects less than 1,000 acres to be platted and constructed in phases, the minimum size of the first phase of development shall be equal to ten percent of the total gross land area designated and approved for development. For mixed-use development, residential, commercial and recreational uses shall be contained in the initial development phase.
- f. Prior to the applicant obtaining a building permit for permanent structures on the site, all streets that abut, traverse and/or connect with the first development phase, as well as all local streets platted for the first phase of development, shall be fully constructed in accordance with the street design standards provided in ~~chapter 122~~this Ordinance. Additional off-site improvements may be also required by the city manager or designee for the proposed phase.
- g. Prior to the applicant obtaining a building permit for permanent structures on the site, all utilities and drainage and erosion control measures that abut, serve and/or connect with the first development phase shall be fully installed in accordance with the engineering development standards.
- h. Prior to the applicant obtaining approval to construct any subsequent phase of development beyond the first approved phase of development, all streets, roads, alleyways, street lighting, utilities and active and/or passive recreation and open space areas platted in the first phase of development must be completed prior to commencing a second phase of development.

104-1.6 Air Quality Standards

- A. All development within the City shall comply with local, county, state, and federal air quality regulations governing air emissions including, but not limited to, those regulating odor, dust, fumes, gases or other emissions of *noxious matter*, toxic and/or corrosive, as well as suspended solid ~~or liquid particles~~.

Commented [AB24]: From Tiffany & Bosco:

So when does staff check for compliance with all of these and is City staff going to hold up projects if a county dust permit is not obtained?

Does a developer show all of these approvals prior to obtaining a permit?

City Comment: Provision retained from SUDC to demonstrate that This shows that the City does not have modified regulations

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- B. Dust and particulates. Prior to engaging in any earth moving on a site, a plan for controlling dust resulting from construction or other activities on the site shall be submitted by the *developer* at the time of application for a grading permit.
- C. Undeveloped areas that are proposed to be *used* for *buildings*, parking, driveways sidewalks and similar *uses* that have been either disturbed through the grading process or by a previous *use* shall be required to remove weeds, debris, and dilapidated *buildings* and may be required to install dustproof ground cover ahead of construction phase schedule to prevent the intrusion of unwanted dust or blowing debris from the site/*lot*.
- D. Odors. No *use* shall be operated so as to produce the emission of objectionable or offensive odors in such concentration as to be readily *perceptible* at any point at or beyond the *lot line* of the land on which the *use* is located. The guidelines, policies and standards established by the State of Arizona Department of Environmental Quality and Maricopa County Air Quality Department, as periodically updated, are adopted herewith by the City council as the guides and standards of the City for determining quantities of offensive odors. Special attention shall be given when placing land *uses* in the vicinity of wastewater treatment facilities.

Commented [AB25]: From Tiffany & Bosco:

Slippery slope with restaurants... again the enforcing of county standards within the LDO is not appropriate for city staff

City Comment: This is to show that the City does not have modified regulations

104-1.7 Noise and vibration standards.

- A. Noise restrictions. Land *uses* and/or activities shall not result in or generate any noise perceptible beyond the boundaries of the immediate site in violation of the noise regulations in the City Municipal Code.
- B. Vibration. Every *use* shall be so operated that the ground vibration inherently and recurrently generated by the *permitted use* is not discernable, at any point beyond the site property line, without instruments.
- C. Construction of *buildings* and equipment operations. Any construction or repair work, or operation of any construction-type equipment or device(s) within any residential zone or within any residential designation within a planned area development (PAD) zone shall be unlawful within the hours of 9:00pm to 5:00am, except when the work is associated with an emergency operation or *public improvement*, and subject to the provisions of this section and any noise control ordinances within the Surprise Municipal Code.
- D. Property maintenance. Any outdoor maintenance or cleaning of private property that includes but is not limited to sweepers, tree or weed trimmers, leaf blowers, and lawn mowers shall be unlawful within the hours of 9:00pm to 5:00am, except when the work is associated with an emergency operation or *public improvement*, and subject to the provisions of this section and any noise control ordinances within the Surprise Municipal Code.

Commented [AB26]: From Tiffany & Bosco:

again bars, restaurants, outdoor patios, car dealerships...many uses produce noises

City Comment: This is to show that the City does not have modified regulations

Commented [AB27]: From Tiffany & Bosco:

Inappropriate place for this provision...belongs in a nuisance ordinance not a zoning code

104-1.8 Glare and heat standards

- A. Glare and heat standards shall apply to all land development and shall regulate the use of building materials, large paved areas, *streets* and *street* widths and composition, sidewalks, exterior *lighting fixtures*, *building* orientations, *street* landscaping, and any other development components that could result in adverse reflected heat or harsh, bright light and/or reflections.
- B. All development shall be planned and designed so as to minimize the amount of heat and/or glare generated by a proposed *use* or activity by incorporating the following design standards:
 1. Use of Building Materials. Materials used in the construction of residential, retail commercial, *office*, industrial and institutional *buildings* shall be such so as not to produce intense glare or heat, whether direct or reflected, that is perceptible from any point along the *building* site's property lines.
 2. Large Paved Areas. Areas developed as large hard-surface plazas and parking *lots* shall be planned and designed to incorporate canopy trees, arbors or other landscape techniques to reduce radiant heat generated from paved services.
 3. Streets and Sidewalks. *Developers* shall plan, design, and install *streets* and ~~curb-separated~~ sidewalks in all residential and nonresidential development in accordance with the *street* and *streetscape* standards set forth in the PEDS.
 4. Exterior lighting. Public and private exterior lighting sources shall be placed in a manner so as not to cause *light spillover* or glare beyond the property line onto drivers, pedestrians and neighboring land *uses*. All exterior lighting shall be designed, located, installed, and maintained in accordance with the lighting standards and regulation provided in **Chapter 107** of this Ordinance.
 5. Glare. Any activity or *manufacturing* processes that create glare, such as but not limited to welding, shall be conducted within an enclosed *building* or be effectively *screened* from public view. If the source of the glare is proposed to be *screened* with plant material, then the *applicant* must demonstrate that the *screening* will be effective year-round.

Commented [AB28]: From HBACA:

This entire section is vague and subjective. For instance, please define "intense glare or heat" as used in Section B.1. Is there a standard for canopy trees in section B.2? There are existing standards which define light reflection, heat, etc. The City should seek to better define the hazards it is trying to avoid and the techniques for mitigating those hazards.

Commented [AB29]: From Tiffany & Bosco:

The more landscape islands we use to break up pavement, the more 24' wide minimum pavement area the City's fire and sanitation depts. require of pavement...this should be a broader discussion. Similar to the requirement (that I don't agree with) for alley's behind any lotting of 50 foot wide lots or lower. Adding an alley only adds more pavement in direct conflict with this provision of the ordinance.

Commented [AB30]: From Tiffany & Bosco:

Not everywhere will you have curb separated sidewalks. There should be an 'alternative equivalent' provision in the LDO for developers to present to the Planning Director other potential options

Commented [AB31]: From Tiffany & Bosco:

There is always going to spill over...

City Comment: Additional lighting restrictions are included in the LDO as to reduce light pollution as the City expands as directed by officials and the GP2035

104-1.9 Hazardous Materials Standards

- A. The following general hazardous material guidelines and standards shall apply to all development or redevelopment proposals containing the storage or manufacture of hazardous or toxic materials and having the potential to cause off-

site impacts as a result of the release or discharge of a hazardous material or toxic or noxious matter.

1. No land *use* activity shall, for any period of time, result in the discharge across the boundaries of a *lot* on which it is located, either by surface run-off or by underground plume, a hazardous, toxic, or *noxious matter* in such concentrations as to be detrimental to or endanger the public health, safety, or welfare.
 2. The release of any hazardous, toxic, or *noxious matter* shall not cause injury or damage to *persons*, land or the *use* of land, or render unclean the surface or underground waters of the City to the extent of being harmful to the public health or to animal or aquatic life, or to the *use* of such waters for domestic water supply, industrial purposes, recreation, or other legitimate and necessary *uses*.
 3. Any operation involving ionizing radiation such as the use of gamma rays, X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other atomic or nuclear particles, shall be permitted only in accordance with the codes, rules, and regulations of the Arizona State Department of Health Services.
 4. No person shall operate or cause to be operated for any purpose any planned or unplanned source of electromagnetic radiation, including overhead utility transmission lines, which does not comply with current federal, state, and local regulations governing the location of such sources.
 5. Electromagnetic radiation generated by operating sources in compliance with and the under the regulatory auspices of the Federal Communications Commission shall be deemed unlawful if such radiation causes abnormal degradation of performance of any electromagnetic receptor of quality and proper design. The determination of "abnormal degradation of performance" and of "quality and proper design" shall be made in accordance with good engineering principles and practices, and the standards of the American Institute of Electrical Engineers, the Institute of Radio Engineers and the Electronics Industries Association.
 6. No *use*, activity, or process shall be conducted in a manner that will release airborne hazardous materials.
- B. All development proposals and land *uses* that either manufacture or store a hazardous material or toxic or *noxious matter* shall include a Hazardous Materials Impact Analysis (HMIA). The HMIA shall provide the following information.
1. Information on the specific type of materials manufactured and/or stored on-site.

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2. The magnitude of impact such hazardous materials would have on the site and surrounding area in case of an accidental release of said materials was to occur.
3. The emergency procedures and containment plans and evacuation plans.
4. In addition to the above HMIA information also include the following information on the site development.
 - a. How the development shall be planned and designed to comply with all City fire, safety, and building codes regulating the use and storage of the hazardous materials.
 - b. How and what special features of the site such as topographical conditions, earthen *berms*, proximity siting to other *buildings* on the site or adjoining property, *building* design, and walls will be utilized to lessen the impact of hazardous material releases.

104-1.10 Open space Requirements and Hierarchy.

- A. Properties that are zoned residential, mixed used, and commercial shall be required to provide a percentage of the gross acreage as *open space*; as further specified in the tables in **Chapter 106** of this Ordinance.
- B. New residential subdivisions shall plan, design, and provide the required *open space* ~~for usage by the general public on a subdivision-wide basis rather than on a lot-by-lot basis that grants public access with the intent to maintain connectivity.~~ The following hierarchical layers identify the most appropriate and preferred location, intent, and design for the required *open space*:
 1. In locations that best protects the identified *environmentally sensitive features* and *cultural resources* on or *adjacent* to the property, and
 2. In those areas where there exists opportunities to create any connectivity to a regional network of *open space* and/or trail easements that could maximize the benefit to both the residents and wildlife, and
 3. In those areas where there exists an opportunity for connectivity to the trails and *open space* within *adjacent* developments, and
 4. In those areas that provide a convenient and central location for the most number of *dwelling units* within the development.

104-1.11 ~~Residential~~ Density ~~Ranges~~, Transfer of Density and Development Rights

Commented [AB32]: From HBACA:

Please define what you mean by "usage by the general public on a subdivision-wide basis." Is the City intending that all open space within a residential subdivision should be open and available for the general public regardless of whether the user lives within the subdivision? If so, we object to allowing the general public that did not pay for the construction and does not pay for the maintenance and operations of the open space being allowed to use the open space.

If the City moves forward with the requirement that anyone, regardless of address, may use the required open space, then the City must provide a development impact fee credit for the construction of any required open space. The argument against providing a development impact fee credit is that these types of amenities are not open to the public and therefore do not serve the same function as the infrastructure constructed with development impact fees. If the City were to adopt this requirement, that would no longer be the case. These amenities would now "substitute for or otherwise reduce the need for other similar facilities . . . for which development fees were assessed."⁸

⁸ A.R.S. § 9-463.05(B)(1).

City response: It is reasonable to include indemnity clause and allow public to pass along trails and paths and stop at internal HOA parks. This requirement is not intended to create and advertise them as public parks but remove unenforceable trespassing restrictions.

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- A. Residential Density Ranges. The residential zoning districts provide for a range in the permitted densities (refer to **Chapter 106** herein). ~~In order for a project to achieve approval at the higher end of the A project may request higher gross residential density than the existing entitlement based on the proposal's range, per the residential zoning district, the development shall be required to provide the community with a variety of housing opportunities, a more generous amount of open space, and a creative design around environmentally sensitive features. Each project shall assume the minimum gross residential density per zoning district and may achieve additional gross residential density up to the maximum per zoning district based on Using the regulations within this Ordinance, applicants must demonstrate meeting the intent of~~ the following hierarchy:
1. Connections made to existing regional network of *open space* and/or trails and to *adjacent* developments.
 2. Open space is functional in design for passive or active recreation and not dominated by narrow ~~more than slivers of~~ landscape tracts along the streets.
 3. ~~Provides a higher higher~~ Exceed the number of different housing types, floor plans, and varying lot sizes ~~then than~~ the minimum required per ~~the zoning district Chapter 108 of this Ordinance~~ and the PEDS.
 4. Circulation and street layout to accommodate ~~p~~ Pedestrian scaled personal services and neighborhood retail uses without the need for driving on arterial streets, with street frontage integrated into the neighborhood, designed to serve the daily needs of the residents of the immediate neighborhood.
 5. ~~Provides additional open space than the minimum required per the zoning district.~~
 56. Constructs and installs the amenities within the *community open space* system that are not covered by impact fees.
 67. Walkability in the multimodal design of the residential neighborhood including but not limited to *curb separated sidewalks*, bicycle paths and trails, fully protected bicycle lanes along collector and *arterial streets* if applicable.
 78. LEED level Neighborhood and dwelling units.
- B. Transfer of Density and Development Rights. The *transfer of density and development rights* shall not be an assumed right and must occur ~~with~~ the approval of the City Council. Approvals of a density and development rights transfer shall be made only upon a finding that the proposed transfer will not be detrimental to the intent of, and will advance the City's interest in, protecting

Commented [AB33]: From HBACA:

Overall, this section wants significant additional discussion and evaluation. See all notes.

In general, we have significant concerns with the proposed structure of these zoning districts. The basic concept being that each zoning district provides for a range of densities which can be increased by hitting certain enumerated criteria. As we explain in our cover letter, density and housing affordability are tremendously important to the economic vitality and overall health of a community. By conditioning

Commented [AB34]: From Tiffany & Bosco:

This is too general. Need to have quantifiable goals to hit in order for development community to understand what is needed for the higher end of the density range.

Commented [AB35]: From HBACA:

In general, we do not have objection to this proposal. However, we would note that there may be instances where compliance with this proposal is not possible

Commented [AB36]: From HBACA:

This is vague and subjective. "Sliver" is not defined. The City should revise for more clarity as to how much additional open space is required and how much additional density is granted.

Commented [AB37]: From HBACA:

Adding a higher number of different housing types and varying lot sizes may defeat the purpose of seeking out additional density, particularly as product gets denser. For

Commented [AB38]: From HBACA:

Again, this proposal occupies land which defeats the purpose of seeking additional density. Moreover, this proposal may largely be out of the control of the builder at the time density

Commented [AB39]: From HBACA:

Again, this proposal calls for occupying land which may defeat the purpose of seeking additional density. How much

Commented [AB40]: From Tiffany & Bosco:

Too general

Commented [AB41]: From HBACA:

See comments to Section 104-1.10 above.

Commented [AB42]: From HBACA:

See comments on "complete streets": (Notes from further down in their comments:

Commented [AB43]: From HBACA:

This may be difficult to achieve. We recommend an area above 10% as a percentage of the gross area of the site.

Commented [AB44]: From Tiffany & Bosco:

Is this provision only for contiguous parcels?

those lands with *environmentally sensitive features*, *cultural resources*, and larger tracts of *open space*.

1. Lands identified as having *environmentally sensitive features* and/or *cultural resources* along with the associated *buffer areas*, are eligible to transfer density and development rights from those lands provided the following:
 - a. All lands from which the density and development rights have been transferred from shall be concurrently rezoned to *Open space* Conservation (OS-1) or *Open space* Recreation (OS-2) depending upon the specific details of the site.
 - b. The portion of the development project that can receive *density transfer* shall have less sensitive environmental conditions than the land from which the density is transferred. Eligible receiving areas are any portions of the development project that do not contain slopes over ten (10%) percent, *environmentally sensitive features*, *cultural resources*, minor *water features* or major *water features*.
 - c. The *transfer of density* between slope bands/categories within a *hillside development area* shall only be allowed when transferring from a higher slope band to a lower slope band and may occur at a rate of 1:1 allowable *dwelling units* provided the maximum density within the receiving slope category/area is not exceeded; in which case the density must be transferred into next lower slope category or into a non-*hillside* area.
 - d. When all of the allowable *dwelling units* are transferred from a *hillside development area* above the ten percent (10%) slope line to a non-*hillside* area, resulting in a minimum fifty (50) acre undisturbed area above the ten percent (10%) slope line, and the resulting undisturbed area is zoned OS-1, the *density transfer* from the *hillside development area* to the non-*hillside* area may occur at a rate of 1:1.25 allowable *dwelling units*.
 - e. A density bonus may occur at a rate of 1:1.25 allowable *dwelling units* when transferring density and development rights from *water features* identified as and required for regional drainage facilities, as part of an approved City regional drainage and flood control plan developed by the City.
2. Lands without *environmentally sensitive features* or *cultural resources* may still be eligible for transferring density and development rights within a specific projects provided:
 - a. Density shall be limited to a rate of 1:1 allowable *dwelling units* when transferred for purposes of meeting the required *open space*

for a development provided those lands are over five (5) acres in size and zoned *Open space* Recreation (OS-2).

- b. The development is proposing to utilize a *cluster development* design and the resulting *open space* is twenty-five (25%) percent greater than the minimum required by the underling *zoning district*.
3. *Off-site Transfers. Density transfers* to noncontiguous *parcels* may be approved, in order to encourage the *transfer of density and development rights* from more sensitive areas to those that are less sensitive. Such transfers shall be limited to a rate of 1:0.75 allowable *dwelling units*. Such noncontiguous transfers shall be identified at the time the application is submitted to the City so that the property *owners* of the less *sensitive lands* may join in a single application with the property *owner* of more sensitive areas, and to transfer development potential from the more sensitive to the less sensitive areas without the need for a second *rezoning*.
4. The overall density of the development site shall not exceed the density permitted for the character area as set forth in the *General Plan* nor the applicable *zoning* requirements of this Ordinance.

104-1.12 Luke Air Force Base Compatibility

- A. The City is located within the vicinity of the Luke Air Force Base and Luke Auxiliary Field 1. The City and any development within high noise contours and accident potential zones as delineated on the City's *General Plan* shall comply with Arizona State Statutes to:
 1. Minimize conflict with high noise levels and hazards generated by aircraft and
 2. Provide additional notification to the public; and
 3. Create orderly, efficient, and functional development patterns that are compatible with the continued operation of Luke Air Force Base.

ARTICLE 2 – ENVIRONMENTALLY AND CULTURALLY SENSITIVE LANDS DEVELOPMENT STANDARDS

104-2.1 Applicability

- A. All properties north of State Route 74 (commonly known as Carefree Highway) and those other areas identified as Scenic Lands Development Sub Areas in the Surprise *General Plan* must comply with the processes, procedures, and regulations outlined herein in addition to any that may be developed specifically for those subareas.
- B. Elsewhere, when any portion of a development site, regardless of the acreage, *zoning*, or location within the City can be identified as having *environmentally sensitive features* or *cultural resources*, the entire development site shall be required to adhere to the following processes, procedures, and regulations:
 - 1. Develop an *Environmental Inventory Plan* and Report of the site;
 - 2. Utilize an *Integrated Conservation Design* approach in the design and development of the project; and
 - 3. Comply with the *Environmentally Sensitive Lands Standards* in the **PEDS - Chapter 5** and the standards outlined in the following sections.

104-2.2 Environmental Inventory Plan and Report

- A. An *Environmental Inventory Plan* and Report shall be submitted along with all development applications, including applications for *General Plan Amendments*, zone changes, *platting*, and *site planning*; except for a *single-family home on a lot* in a subdivision with an approved *Environmental Inventory Plan* on file with the City.
- B. The required *Environmental Inventory Plan* and Report shall identify the *environmentally sensitive feature(s)*, and *cultural resource(s)* that are to be conserved and protected within the proposed development and the *buffer area(s)* necessary to mitigate impacts to those features and resources from the development. Boundary determination shall be based upon the biological and ecological characterization of the *environmentally sensitive feature(s)* and the culturally sensitive nature of the land. Using maps, photos, and on-site evaluation, the *Environmental Inventory Plan* shall at a minimum identify and locate the following features and resources as well as others that may be found to be unique to the site:
 - 1. *Hillside development areas, steep and unstable slopes, and ridgelines.*
 - 2. *Habitat areas, wildlife corridors and movement areas.*

Commented [AB45]: From HBACA:

Page 79 to 80: Section 104-2.2 (Environmental Inventory Plan and Report)

We have general concerns about the requirements in this section which will require some additional study to determine the extent of the burden to comply with all the requirements of the Environmental Inventory Plan. This section may also require additional revision for clarity.

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- a. The wildlife *use* of the area showing the species of wildlife using the area, the times or seasons that the area is *used* by those species and the “value” (meaning feeding, watering, cover, nesting, roosting, perching) that the area provides for such wildlife species.
 - b. *Habitat* that supports federally endangered plant or animal species, Species of Greatest Conservation Need (SGCN) in Arizona, or *significant stands of protected native plant* species.
 - c. Any special features, such as *habitat*, breeding, and population patches.
 - d. Wildlife movement corridors.
3. *Protected native plant(s) and significant stands of vegetation.*
- a. An inventory of the pattern, species and location of *protected native plants* listed in **Table 104-2a** below as well as other on-site native vegetation that are five inches or greater in *caliper* or cacti that are three feet or greater in height or cacti that have reached their full height at maturity.

Commented [AB46]: From HBACA:

We received feedback that this requirement should be revised for clarity. For instance, when the City references “native” does that mean existing or indigenous?

City Comment: The term *protected native plant* is properly defined in Chapter 101, basically naturally grown in AZ

Table 104-2a - Protected Native Plants

Botanical Name	Common Name
TREES: (▲) Denotes trees which are indigenous to the Phoenix metropolitan area	
Acacia farnesiana or smalli	Sweet Acacia
Celtis pallida	Desert Hackberry
Cercidium floridum	▲ Blue Palo Verde
Cercidium microphyllum	▲ Foothill Palo Verde
Chilopsis linearis	Desert Willow
Juniperous species	Juniper
Olneya tesota	▲ Ironwood
Populus fremontii	Fremont Cottonwood
Prosopis velutina	▲ Velvet Mesquite
Cacti and Succulents	
Carnegiea gigantea	Saguaro
Ferocactus	Barrel Cactus
Fouquieria splendens	Ocotillo
Canotia holocantha	Crucifixion Thorn
Peniocereus Greggii	Desert Night-Blooming Cereus
Yucca elata	Soaptree Yucca

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4. *Water features* include *floodplains*, desert washes, *riparian areas*, *rivers/streams*, *springs/seeps*, and *wetlands*.
 - a. The boundary of any *wetlands* that might exist on the site and a description of the ecological functions and characteristics provided by those *wetlands*.
 - b. The bank and high water mark of any perennial stream, *floodway*, *floodplain*, wash, or swale on the site (identified by professional engineer).
5. *Archeological or cultural resources*.
 - a. An archeological records survey by the State Historic Preservation Office (SHPO) shall be conducted for the development site.
 - b. A complete on-site archeological assessment, by a qualified archeologist, shall be required if after the initial records check it is determined that:
 - (1) The proposed development site contains lands upon which an *archaeological resource* has been previously identified; and/or
 - (2) SHPO or the Arizona State Museum (ASM) determines that an on-site archeological study is needed due to known, but not formally identified/reported, *cultural resources* are likely present on the site or in the immediate vicinity.
 - (3) A previous SHPO survey has not been conducted for the site.
- C. The Environmentally Inventory Report shall provide a narrative description of the general archeological, biological and ecological functions provided by the *habitats*, *environmentally sensitive features* or *cultural resources*. The report shall also outline the specific mitigation measures to be utilized and the *buffer areas* necessary to protect the *habitats*, features, and resources on the proposed development site.
- D. In *Hillside Development Area*: In addition to the materials listed in **B** and **C above** a detailed Slope Category Analysis shall be required to be submitted for any site that contains slopes of ten (10%) percent or greater (Refer to **Section 104-2.8** for more details). Also, the report shall include a proper soil investigation by a licensed geologist or engineer to determine if any geological hazards or soil bearing provisions shall be required.
- E. Both the *Environmental Inventory Plan* and accompanying report shall be prepared by the *applicant's* design team of professionals with competence and registration or certification in the following area(s): urban planning, civil

engineering, wildlife biology, archeology, landscape (ASLA or certified nurseryman) and any other relevant disciplines as may be appropriate or necessary.

Section 104-2.3 Buffer Area Regulations

- A. An *environmental buffer area(s)* shall be required to protect the ecological and archeological character of any identified *environmentally sensitive feature(s)* and the integrity of any *cultural resource(s)* identified by the *Environmental Inventory Plan* for the development site. The proposed *buffer areas* shall be shown on the *Environmental Inventory Plan* and described by the accompanying report. Once approved by the City, these *buffer areas* shall be indicated on the final development plans and legally described on the *recorded plats*.
- B. These *buffer areas* may be multiple and noncontiguous and may be calculated toward the development's *open space* requirement only if the *buffer area* is zoned as *Open space Conservation (OS-1)* for preservation.
- C. The minimum width of any *buffer area* shall be seventy-five (75) feet as measured from the edge of the *environmentally sensitive feature(s)* or *cultural resource(s)* that is being protected. This width may be increased based upon the significance and sensitivity of the feature, *habitat*, or resource as determined by the City in conjunction with the *applicant's* design team professional qualified in the specific discipline in question. Reduced widths for the *buffer area* may be approved when along and *adjacent* to minor ephemeral desert washes.
- D. A designated *buffer area* shall be required for ridgeline protection which shall include the crest of any hill above the ten percent (10%) slope band as shown on the Slope Category Analysis, plus the land located within 300 horizontal feet on either side of the crest of the hill. No development shall intrude into this designated ridgeline protection area.
- E. No disturbance or construction activity shall occur within any *buffer area* and no person shall engage in any activity that will disturb, remove, *fill*, dredge, clear, destroy or *alter* any area, including *protected native plants* and *water features* within the *buffer area*, except for the following limited purposes:
 - 1. Mitigation of development activities.
 - 2. Restoration of previously disturbed or *degraded* areas or planned enhancement projects to benefit the natural ecological characteristics of the area, feature, or resource.
 - 3. Emergency public safety activities.
 - 4. Utility installations when such activities and installations cannot reasonably be located outside the *buffer area* or other nearby areas of development.

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5. Construction of a trail or pedestrian walkway that will provide public *access* for educational or passive recreational purposes provided that the trail or walkway is compatible with the ecological character or wildlife *use* of the natural *habitat*, feature, or resource.
 6. Construction or installation of recreational *amenities* such as benches, observation blinds, informational kiosk, trail marker/*signage* and similar items trails, often associated with passive activities such as hiking, photography, nature observation and environmental education programs, provided that such *amenities* are compatible with the ecological character or wildlife *use* of the natural *habitat*, feature, or resource.
 7. Limited construction necessary for *access*; but not including parking *lots* for trailheads.
- F. If the development causes any disturbance within a *buffer area* or to an *environmentally sensitive feature* or *cultural resource*, the *applicant/property owner* shall undertake restoration and mitigation measures to restore the damaged area or lost resources on-site and, if applicable, to those *adjacent off-site* areas or resources. Any such mitigation or restoration measures shall be at least equal in value (ecological, biological, culturally) to the loss suffered because of the disturbance, and shall be based upon mitigation and restoration plans and reports approved by the City's Community Development Director. Any existing *protected native plants* that are destroyed shall be replaced with native vegetation in like kind, size, and density.

Section 104-2.4 Construction Mitigation Measures

- A. Protective measures shall be required to be in place prior to, and remain for the duration of, the development and construction of the project. The following shall be required to ensure protection of the *habitats*, *environmentally sensitive features*, *cultural resources*, and the associated *buffer areas*:
1. Limits of Development (LOD). The precise LOD shall be delineated on the development plan and/or *recorded plat* to identify those areas of the project site where no land disturbance activities can occur during the construction of the project. The location of the LOD line(s) shall consider and account for all construction activities including but not limited to, *ingress/egress* to the project site and all necessary staging and operational areas.
 2. Barrier fence. Prior to the issuance of a grading or *building permit*, and prior to any disturbance activities the limits of development (LOD) shall be clearly staked in the field, with visible plastic fencing, in conformance to the approved development/*site plan*. In locations where such fencing is physically impossible the use of visible roping may be approved. The

disturbance limit boundaries shall be established and staked by an Arizona-registered land surveyor. Appropriate warning *signs* in English and Spanish shall also be posted at least every 100 linear feet on the required fencing. Such fencing and *signage* shall be maintained in place throughout the grading/construction process and shall only be removed after a final inspection or Certificate of Occupancy has been issued by the City. The *fenced* and/or roped area shall include all previously disturbed areas and all areas intended to be disturbed. There shall be no disturbance outside the *fenced* area.

3. Construction Timing. Construction shall be organized and timed to minimize the disturbance of sensitive or specially valued species occupying or using on-site and *adjacent* natural *habitats* or features.

Section 104-2.5 Development Regulations for Specific Environmental Features

A. Lands with *habitat areas*, *wildlife corridors* and movement areas.

1. If the *Environmental Inventory Plan* and Report identifies a *habitat* for a wildlife species classified as a sensitive or Species of Greatest Conservation Need (SGCN) in Arizona or by federal agencies as "threatened" or "endangered", then the development plan shall include provisions to ensure that the *habitat* is protected. Any such natural *habitat*, feature, *sensitive land* area and the *adjacent buffer area*, established for the use or survival of any such species, shall not be disturbed or diminished and, to the maximum extent feasible, such *habitat* shall be enhanced.
2. If the development site contains *wildlife corridors* and movement areas that connect to other *off-site* natural *habitats*, features or similar *sensitive land* areas, the development plan shall preserve such natural connections. Such corridors and movement areas shall be designed and constructed to allow for the continuance of existing wildlife movement between natural *habitats*, features or *sensitive land* areas and to enhance the opportunity for the establishment of new connections between other areas for the movement of wildlife.
3. *Fences* along *roadways*, within wildlife movement areas, *wildlife corridors*, and within *open space*, environmentally/culturally sensitive areas, and *buffer areas* shall be designed to allow for safe and controlled wildlife permeability.

B. Lands with *protected native plants* and/or *significant stand(s) of vegetation*.

1. Those plants which must be disturbed due to construction are required to be salvaged unless the *applicant* can demonstrate how conditions such as poor health or orientation make successful relocation impossible. Salvaged

Commented [AB47]: From Tiffany & Bosco:

Who determines what is a wildlife corridor?

City Comment: A general study was conducted prior to the adoption of the General Plan 2035. A more thorough study will be conducted with AZ Game & Fish but has not been formally planned yet.

plants are to be replanted within the project to the greatest extent possible.

2. Any project which affects any indigenous plant from the specified *protected native plant* List is required to submit a Native Plant Preservation Plan detailing the existing location and proposed treatment of each protected plant. Protected plants should, at the most optimal situation, remain in place.
3. Native Sonoran Desert vegetation should not be pruned or removed from areas identified as Natural *Open space* or *buffer areas* unless demonstrated to the City that a health, safety or welfare issue exists. This includes removal of dead trees or cacti.

C. Lands with *water features*.

1. For proposed developments that will disturb any existing *water feature* of one-quarter acre (1/4 ac) or greater, the *developer* must provide to the City a written statement from the U.S. Army Corps of Engineers that the development plan fully complies with all applicable federal regulations as established in the Federal Clean Water Act. The *developer* shall also provide to the City written statements from such other governmental agencies having jurisdiction that the development plan fully complies with all applicable federal, state and county environmental regulations. Such written statements shall be provided prior to the scheduling of a public hearing and/or approval for the project.
2. A copy of an approved permit required pursuant to Section 404 of the federal Clean Water Act, if required for the development, shall be submitted to the City prior to issuance of any excavation or grading permit or *final plat* approval.
3. If a development site contains an existing *water feature*, the development plan shall include such enhancements and restoration measures as necessary to provide a reasonable wildlife *habitat* and to improve the aesthetic quality of areas along the high water mark that are in transition, and that are subject to erosion. The development plan shall also include a design for uniform and ecologically and aesthetically compatible treatment of *lots* or *tracts* that are proposed to surround the *water feature*. Erosion control protection and landscaping plans shall be provided for *parcels adjacent* to the high-water mark.
4. *Water rights*. No development plan shall be approved which would have the effect of injuring or diminishing any water supply determined to be an *environmentally sensitive feature*. The creation of new *water features* shall comply with all City Water Resource Management regulations.

104-2.6 Land Disturbance Regulations

- A. Whenever the City requires, erosion control, and bank stabilization of *floodways*, washes, swales and streams, the *use* of native vegetation and nonstructural control techniques shall be utilized for such purpose. The *use* of native vegetation shall be the principal means of channel and bank stabilization. The *use* of riprap, concrete, gunite or other similar hard-surface materials for channel and bank stabilization shall be restricted to locations where the *use* of vegetation techniques is not reasonably feasible.
- B. All stormwater drainage shall utilize nonstructural control techniques to the greatest extent possible and shall provide for safe and controlled wildlife permeability and connectivity through these corridors by using the following methods:
1. Limitation of land disturbance and grading.
 2. Maintenance of vegetated *buffers* and natural vegetation.
 3. Minimization of impervious surfaces.
 4. Use of terraces, contoured landscapes, runoff spreaders, grass or rock-lined waterways.
 5. Use of infiltration devices.
 6. Use of recharge basins, seepage pits, dry wells, seepage beds or ditches, porous pavement, and/or drains.
- C. All exposed *fill* in the disturbed area shall be contained behind retaining walls or covered with a natural rock veneer and treated with an aging agent and landscaped with indigenous plant material.

104-2.7 Transition Standards

- A. If the project contains or *abuts* a publicly owned natural area, the development plan shall be designed so that it will be compatible with the environmental management of the public property. In order to achieve this, the development plan shall include measures such as:
1. Appropriate non-vehicular *access* to the natural area from or through the development, and
 2. *Setbacks* or *open space* tracts to provide a transition between the development and the natural area, and

3. Educational *signage* or printed information regarding the natural values, management needs, and potential conflicts associated with living in close proximity to a natural area.
- B. Development plans containing or *abuts* a publicly owned natural area shall include such easements and *rights-of-way* necessary to allow appropriate non-vehicular public *access*, unless such *access* is deemed to be unnecessary and undesirable. Any such *access* requirement or dedication shall be credited towards the *open space* requirements of the development. If the development site contains any privately owned natural area, any *access* provided to such area, whether for private or public *use*, shall be designed and managed in such manner as to minimize the disturbance of existing wildlife using such area.

104-2.8 Hillside Development Area Regulations.

- A. Slope Category Analysis.
 1. The Slope Category Analysis shall include a topographic map, at a scale not less than two hundred (200) feet to the inch, that identifies the different slope bands that exist on the development site in the below categories of slopes. The slope analysis shall be prepared at two (2) foot intervals for slopes less than ten (10%) percent and at five (5) foot intervals for slopes over ten (10%) percent and in a graphic (color coded) method that describes the following range of slope categories:
 - a. 0 to 10% slopes (non-hillside)
 - b. 10% to 15% slopes (hillside development area)
 - c. 15% to 20% slopes
 - d. 20% to 25% slopes
 - e. 25% to 30% slopes
 - f. 30% to 35% slopes
 - g. 35% to 40% slopes
 - h. 40% and Over
 2. All contour lines shall be extended onto the *adjacent* properties, a minimum of fifty feet or to a greater distance if necessary, to establish the overall slope of the land.
 3. As part of the Slope Category Analysis and mapping include the location of *ridgelines* and *significant rock outcroppings* and indicate the location and dimensions of the *buffer areas* around or along the perimeter of those

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protected *environmentally sensitive features*. Include information on the location and mitigation measures proposed for those unstable *slopes* on the site.

4. *Applicants* seeking a waiver for the requirements for a Slope Category Analysis may submit a written waiver request to the Community Development Director along with an explanation of why a waiver is warranted and shall include such supporting materials as follows:
 - a. Site photographs;
 - b. Site specific topography information;
 - c. All other such information which may provide information on the request.

B. *Gross Residential Density* Limitations: The maximum number of *lots* into which land located in a *hillside development area* may be *subdivided* shall be the sum of the number of *lots* allowed in each slope category of land as shown in **TABLE 104-2.b** below.

Table 104-2b – Hillside Gross Residential Density Allocation	
Slope of Land/Lot	Maximum Number of Lots Per Gross Acre
0% to 10%	Underlying Zoning
10% to 15%	1.30 *
15% to 20%	1.00 *
20% to 25%	0.70
25% to 30%	0.50
30% to 35%	0.30
35% to 40%	0.20
40% and Over	0.10
Notes: * The allowable gross <i>residential density</i> of these slope categories may exceed the Maximum Number of <i>Lots</i> shown above when density is transferred from a higher slope category (refer to Section 104-1.10 for details). In no case shall the <i>gross residential density</i> exceed the sum of the number of <i>lots</i> allowed by the <i>zoning district</i> and in no case shall units be transferred to a location of higher elevation within the project.	

C. Land Disturbance Regulations.

1. Grading for utility lines, including water and *sewer* lines and lateral lines, electric, gas, telephone and cable services shall be restored to the natural *grade* and revegetated with native plant material as listed in **Appendix B** of the **PEDS**.
2. Mass grading shall not be permitted in any *hillside development area*.

3. Raw spill slopes are prohibited.
4. Vegetation shall be reestablished on all exposed *fill* slopes, *cut* slopes, utility lines, driveway(s), and *graded* surfaces, except for cosmetic landscaping *abutting buildings* in accordance with the landscape standards in **Chapter 107** of this Ordinance pursuant to an approved landscape plan. All surplus excavated material shall be removed from the *lot* prior to any final inspection or the issuance of the Certificate of Occupancy. All *cut* and *fill* areas visible from *off-site* locations shall be treated with a natural staining or aging agent to match *adjacent* areas of the property.
5. The total combined maximum height of any *fill* and/or the depth of any *cut*, including grading for the construction of public or *private streets* or any subsequent grading, along with the establishment of any *building* site or driveway shall be ten (10) feet, as measured from natural *grade*, regardless of whether the *fill* or *cut* is retained, un-retained, or a combination thereof. These limitations may be amended on a site-by-site basis by the Planning and Zoning Commission. However, the Community Development Director may approve unexposed basement *cuts* exceeding the maximum ten foot depth if all of the following criteria are met:
 - a. The *building* site shall not be *graded* so as to create a flat, visible pad surrounding the main residential *structure*.
 - b. All portions of the *cut* in excess of ten feet shall be completely *screened* from view and retained by *building* walls, or retaining walls in the case of light wells.
 - c. Natural *grade* shall be reestablished in accordance with the "*Building height*" definition in Chapter 101 of this Ordinance.
 - d. The total depth of *cut* shall not exceed 24 feet at any point (refer to detail in Chapter 5 of the PEDS).
6. Any un-retained *fill* slope, if allowed, shall have a minimum three feet horizontal to every one foot (1') vertical *fill*. The maximum slope of *fill* grading for *roadway* construction shall be at the discretion of the City Engineer.
7. Maximum steepness of exposed *cut* slopes is dependent on the stability of the material excavated.

D. Architectural Standards.

1. For development within the *hillside development areas*, the height of *structures* shall be determined by the following three (3) sub-sections and not by the *zoning district* regulations that apply to *lots* or *parcels* outside the *hillside development area*.

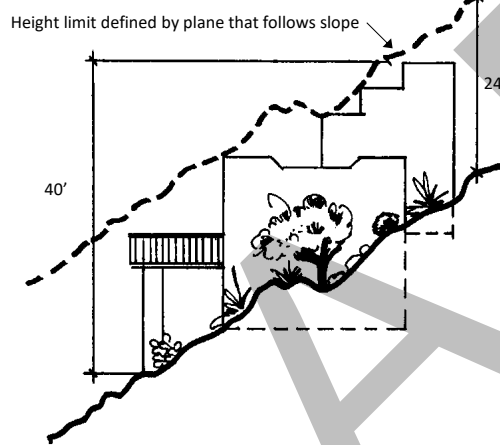
- a. The height of a *building or structure* is limited to a twenty-four foot (24') imaginary plane that parallels the existing pre-development natural *grade*, as measured vertically from any point under the *building* (see **Figure 104-2a** below). The subterranean portion of the *structure* is not included in the total height calculation provided that at least half (½) of the volume of the subterranean portion of the *structure* is below natural *grade*.

Commented [AB48]: From Tiffany & Bosco:

Why 24 feet? Why not 30 feet? where do the 24 foot max height originate from?

City Comment: This is carried over from the SUDC

Figure 104-2a – Building height in Hillside Development



- b. In the case where the natural *grade* has been *cut* and is not restored back against the *building*, no exposed face in any vertical plane shall exceed a twenty-four (24') foot height measured from the lowest, finished *grade*.
- c. The maximum overall height of the *building or structure*, including chimneys and *accessory structures*, shall not exceed forty feet (40') from the highest point of the *building* to natural *grade* at the lowest point *adjacent* to the *building structure* or column (see **FIGURE 104-2a** above).

Section 104-2.9 Archeological or Cultural resources

A. Development Standards and Construction Process

1. Any *developer* whose land has been identified as requiring an archaeological assessment shall adhere to the following standards and procedures:
 - a. An archaeological assessment and survey shall be performed by a qualified archaeologist before any grading or other ground

- modification takes place. If cultural features or remains are found, testing and data recovery shall be completed as per Arizona Revised Statutes.
- b. *Landowner(s)* must enter into an agreement to ensure the proper method for conserving or repatriating any remains and/or artifacts founds at the site.
 - c. Copies of final clearance reports from the State Historic Preservation Office (SHPO) shall be submitted to the City prior to construction work commencing.
2. In the event evidence of a significant historic, pre-historic or archeological nature is unearthed during construction on a site proposed for development, all work on the site shall be halted immediately, and the appropriate state agency (i.e. Arizona State Museum (ASM), SHPO) shall be contacted, additionally a professional archeologist shall be retained by the *developer* to confirm or deny the evidence, as well as the extent of land coverage of the find.
 3. In the event evidence that is unearthed is determined to be of archeological significance, the *developer* shall be required to make arrangements to either remove the archeological find from the site using acceptable archeological standards and practices, or restore the site to its original condition and set aside the area as *open space*. Documentation of the ASM or SHPO and the archeologist's findings and recommendations shall be submitted to the City.
 4. If during construction, human remains and associated burial items are discovered, ground disturbing activities in the vicinity of the discovery shall cease, the discovery site shall be secured, and the Arizona State Museum shall be immediately notified as required under Arizona Revised Statutes.
 5. As indicated by the *Environmental Inventory Plan* those areas deemed important as *cultural resource* sites shall be preserved as closely as possible in their natural state and integrated into the development in a manner that makes such land areas part of the development's overall *community open space system*.

ARTICLE 3 – STORMWATER MANAGEMENT

104-3.1 Purpose of Provisions.

- A. The area of the City south and west of Grand Avenue prior to *urban development* was predominantly irrigated *farms*. Presently there are two (2) major systems for conveyance of stormwater to the Agua Fria River via drainage channels located along the west side of Reems Rd and the Loop 303. Understanding these drainage patterns necessitates special attention in order to control stormwater collection and *retention*.

104-3.2 Applicability.

- A. Each subdivision shall provide storm drainage facilities and appurtenances as required by the engineering development standards; as well as by all current City storm drainage master plans, design criteria, and construction standards and requirements.
- B. All required storm drainage infrastructure shall be constructed and in place and available to serve the new development in accordance with an approved storm drainage master plan, an erosion control report, and utility plans.
- C. For projects involving the issuance of only one (1) *building permit* and certificate of occupancy, the installation and acceptance of the certification of the drainage facilities shall be required prior to the issuance of the certificate of occupancy.

104-3.3 Plan and Report.

- A. Conceptual stormwater collection and *retention* plans shall be submitted with a *preliminary plat* or site development plan and approved prior to the approval of such *plat* or plan. The plan shall include, but not be limited to, the following:
 - 1. Method of collection (surface and/or subsurface);
 - 2. Depth, side slopes and area of *retention*;
 - 3. Calculations of volume held and required;
 - 4. High water elevation;
 - 5. Method of disposal of water within 36 hours;
 - 6. Any other data to form a complete plan.
- B. A final drainage report must be submitted with the final plans showing compliance with the conceptual drainage plan, and shall be received and approved by the City engineer.

104-3.4 Development Regulations.

- A. All water from a 100-year storm of a two-hour duration which falls within the area being developed, including the respective one-half (1/2) of all *abutting streets* (whether or not it is a dedicated *street* which may exist by an improvement district and owned by the City), shall be retained within the boundaries of the developed land. No *retention* shall be allowed in public *rights-of-way*. The method of collection and *retention* shall be approved by the department of public works. The method of *retention* calculation, drainage flows and removal of stormwater within thirty-six (36) hours shall conform to **Section 104-3.5**.
- B. Two or more *developers* are encouraged to join together to provide a common *retention* facility. A letter of agreement signed by all *developers* participating in the common *retention area* must be presented to the department of public works, and the *recorded plat* shall indicate that the *retention area* is a joint facility. The joint *retention area* must meet all criteria as a single area.
- C. All *retention* basins shall have a design capacity to preclude a water depth in excess of three feet resulting from a 100-year, two-hour storm. The depth of *retention* basins shall be measured from the lowest *adjacent* top of the curb. In no event shall stormwater stand in the *retention* basins longer than thirty-six (36) hours. Drywells shall be required for any depth of *retention* in excess of one foot (1') and for *retention* basins that have a volume greater than one thousand cubic feet (1,000 f³). Basin bottom percolation shall not be used to reduce the volume used for drywell requirement calculations. Bleed-off pipes are not allowed.
- D. No *retention* basins will be controlled or owned by the City unless dedicated as part of the City's *park* and *community open space system*. Non-dedicated *retention* basins shall be maintained by the *owner*. All non-dedicated *retention* basin areas shall be designated as easement areas for *retention* purposes and shall have a recorded restrictive covenant requiring perpetual maintenance.
- E. Curbed *local streets* shall be designed and constructed to carry the stormwater runoff from a ten-year storm between curbs. Curbed collector and *arterial streets* shall be designed and constructed with no curb overtopping and to maintain one (1) dry twelve-foot (12') minimum driving lane in each direction. No inverted crown *streets*, of any type, shall be permitted. When peak flows from the designated storm exceed the *street* capacity, open area drainage and *retention* systems shall be designed to carry the excess stormwater. The rational methods shall be used to determine peak flows. Fifteen minutes' maximum may be used for the time of concentration for the runoff across the *lots*.
- F. Peak flows from a 50-year storm shall be carried within the cross section between *buildings* (*front setbacks* and *streets*). The finish floor elevation of all *buildings* shall be above the 100-year storm. All finished floors shall be a minimum elevation of 14 inches above the low outfall of the site according to the Surprise Development Directives.

- G. For nonresidential areas the required landscaping areas within the parking *lots* may serve as *retention areas* utilizing LID methods to convey storm water to these areas. In residential areas the *parking areas* may not hold *retention* volume.
- H. The City shall not be responsible for the design, performance, operation or maintenance of the *retention* basin.
- I. The property *owner* of a single *lot* of one acre (1 ac) or smaller will be excluded from the requirements to provide on-site *retention*.

104-3.5 Retention Calculations, Drainage Flows, and Dry Wells.

- A. Formula. *Retention* calculation shall be submitted as follows:

Total volume required = (intensity for the 100-year, two-hour storm event from the Drainage Design Manual for Maricopa County, Volume I, and Surprise Development Directives) × (drainage area) × (average runoff coefficient)
- B. Runoff factors. The runoff factor used in computations must be justified by a typical cross section or actual area calculation. Refer to the Drainage Design Manual for Maricopa County to determine the runoff coefficients.
- C. Dry wells. Infiltration into the dry well cannot be considered to reduce the size of the *retention area*. The property *owner* of record shall be responsible for the design, performance, operation or maintenance of dry wells used with on-site *retention*. A dry well maintenance program shall be submitted for each dry well and documentation of maintenance performed on each dry well shall be submitted to the City engineer on an annual basis. A percolation rate of 0.5 cfs (or less, if required by the City engineer) per drywell over a 36-hour period shall be used in calculating the number of drywells.

104-3.6 Right of City to Drain Basin.

- A. It is unlawful for any person owning or controlling a *retention* basin to permit stormwater to stand therein longer than thirty-six (36) hours. In addition to any penalty provided by law, should the person owning or controlling any privately owned and maintained basin fail, neglect or refuse to drain said *retention* basin within thirty-six (36) hours, as required in **Section 104-3.4**, it shall be the right of the City upon the authorization of the water services director, or appointed designee, to enter upon the privately owned *retention* basin property and take such action as may reasonably be necessary to drain said basin. The draining of said basin shall be at the expense of the property *owner* of record or person controlling such property.

104-3.7 Assessment of Costs for Drainage.

- A. Upon completion of the work, public works director or designee shall prepare or cause to be prepared, a verified statement of account of the actual cost of draining of said basin, the date the work was completed, and the *street* address and the legal description of the property on which said work was done, including five percent for inspection and other incidental costs in connection therewith and shall serve a duplicate copy of such verified statement upon the property *owner* of record or person controlling such property in the manner prescribed in **Section 104-3.9**.

104-3.8 Appeal to Council.

- A. The property *owner* of record or person controlling such property shall have 30 days from the date of service upon him of the assessment to appeal in writing to the council from the amount of the assessment as contained in the verified statement. If an appeal is not filed with the City council within such 30-day period, the amount of the assessment, as determined by the public works director, shall become final and binding. If an appeal is taken, the council shall, at its next regular meeting, hear and determine the appeal and may affirm the amount of the assessment, modify the amount thereof, or determine that no assessment at all shall be made. The decision of the council shall be final and binding on all *persons*.

104-3.9 Service of Notice.

- A. Notice shall be personally served on the *owner* or person controlling such property in the manner provided in rule 4(d) of the Arizona Rules of Civil Procedure, or mailed to the *owner* or person controlling such property at his last known address by certified or registered mail, or the address to which the tax bills for the property were last mailed. If the *owner* does not reside on such property, a duplicate notice shall also be sent to him by certified or registered mail at his last known address.

104-3.10 Lien for Drainage of Basin.

- A. If no appeal is taken from the amount of the assessment, or if an appeal is taken and the council has affirmed or modified the amount of the assessment, the original assessment or the assessment as so modified shall be recorded in the *office* of the county recorder and, from the date of its recording, shall be a lien on the *lot* or tract of land until paid. Such liens shall be subject to and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. A sale of the property to satisfy a lien obtained under the provisions of this section shall be made upon judgment of foreclosure or order of sale. The City shall have the right to bring an action to enforce the lien in a court of competent

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jurisdiction at any time after the recording of the assessment, but failure to enforce the lien by such action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording thereof. A prior assessment for the purposes provided in this section shall not be a bar to a subsequent assessment for such purposes, and any number of liens on the same *lot* or tract of land may be enforced in the same action.

ARTICLE 4 – NATIONAL FLOOD INSURANCE PROGRAM (NFIP)

104-4.1 Floodplain Administrator.

- A. The City of Surprise elects not to assume the responsibility of *floodplain* management from the flood control district of Maricopa County as provided for in A.R.S. §§ 48-3609; 48-3610. The City engineer is designated as the NFIP [National Flood Insurance Program] Floodplain Administrator for the City, is responsible for coordinating with the Flood Control District of Maricopa County, and will serve as the community point of contact on NFIP issues for county, state and federal officials.

104-4.2 Flood Insurance Studies Adopted by Reference.

- A. Those public records entitled "Flood Insurance Study for Maricopa County, Arizona and Incorporated Areas" dated October 16, 2013 with accompanying FIRMs dated October 16, 2013 and all subsequent *amendments* and/or revisions, copies of which shall be kept on file in the *office* of the City clerk, are hereby adopted by reference as the basis for establishing the special flood hazard areas in the City of Surprise. The special flood hazard areas documented in the FIS and FIRMs are the minimum area of applicability of the *floodplain* management regulations and may be supplemented by studies for other areas as allowed in the regulations.

104-4.3 Floodplain Regulations Adopted by Reference.

- A. That public record designated as the "*Floodplain* Regulations for Maricopa County" dated June 25, 2014 and all subsequent *amendments* and/or revisions, copies of which shall be kept on file in the *office* of the City clerk, is hereby adopted as the legal basis for implementing *floodplain* management in this community.

CHAPTER 105 – BUILDING AND BUILDING REGULATIONS

ARTICLE 1 – IN GENERAL

105-1 Removal of rubbish, trash, weeds, filth, debris and dilapidated structures.

- A. The *owner*, lessee or occupant of property shall remove rubbish, trash, weeds or other accumulation of filth, debris or dilapidated *structures* which constitute a hazard to public health and safety from *buildings*, grounds, *lots*, contiguous sidewalks, *streets* and *alleys*.
- B. Upon failure to comply with a violation notice by the city, the responsible party shall correct the violation. In the event the violation is not corrected, the violation is considered a public nuisance that may be abated. This remedy is in addition to any other remedy.

105-2 - 105-18 Reserved.

ARTICLE 2 – TECHNICAL CODES

DIVISION 1 GENERALLY

105-19 Construction codes. The following codes and appendices as published by the International Code Council, and the *amendments* to those codes, as adopted by ordinance, are hereby adopted as amended and declared to be public records. At least three copies of each code and its corresponding *amendments*, if any, shall be filed in the city clerk's *office* and kept available for public use and inspection.

- A. 2012 International *Building* Code.
- B. 2012 International Residential Code.
- C. 2012 International Electrical Code.
- D. 2012 International Mechanical Code.
- E. 2012 International Plumbing Code.
- F. 2012 International Fuel Gas Code.
- G. 2012 International Energy Conservation Code.
- H. 2006 International Property Maintenance Code.
- I. 2012 International Existing *Building* Code.
- J. 2012 International Fire Code.

A certain public record entitled "2016 *Amendments* to the 2012 International Codes," dated September 20, 2016, specifically amends the 2012 *building* code, residential code, mechanical code, plumbing code, fuel gas code, energy conservation code, existing *building* code, and fire code.

State Law reference — Adoption by reference, A.R.S. § 9-801 et seq.; state plumbing code, A.R.S. § 41-619.

105-20 Interpretation of language.

Wherever the word "city" or "town" is used in any code adopted by this article, such word shall be held to refer to the city.

105-21 Code references.

All references to the International *Zoning* Code are hereby deleted in all of the codes adopted by this article.

105-22 Copies on file.

At least three copies of each code adopted by reference in section 105-19, including three copies of any revisions or *amendments* thereto, shall be filed in the *office* of the city clerk and shall be available for public use and inspection.

105-23 Administration and enforcement; conflict of laws.

The administrative authority for enforcement of this article shall be vested in the city manager or such delegate as the city manager may authorize or appoint. This article shall be construed and enforced in conjunction with chapter 125. In the event there is a conflict between the provisions of this article or the codes adopted by this article and any other provision of this Code, then the provisions of this article or the codes adopted by this article shall prevail.

105-24 Extensions and improvements.

Extensions and improvements shall be in accordance with the city's specifications and standards and approved by the city.

105-25 Penalties for violations.

Any person who violates any provision of this article or any provision of any code adopted by this article; or who erects, constructs, *alters* or repairs a *building* or *structure* in violation of the approved construction documents or directive of the *building* official, or of a permit or certificate issued under the provisions of any code adopted by this article, shall be guilty of a civil or criminal violation.

105-26 – 105-53 Reserved.

DIVISION 2 RESERVED

105-54 – 105-89 Reserved.

ARTICLE 3 – RENTAL ACCOUNTABILITY

105-90 General Provisions

This article shall be known as the "Surprise Rental Accountability Ordinance" and may be cited as such.

105-91 Purpose and Scope

The purpose of this article is to promote the health, safety, and welfare of the citizens of Surprise, Arizona, by providing for accountability of property *owners* for slum conditions and criminal conduct. This article shall apply to all *buildings* and *structures* within the City of Surprise without regard to their use or date of construction or *alteration*.

105-92 Definitions. For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them in this section:

"Managing Agent" means a *person*, corporation, partnership or limited liability company that is authorized by the *owner* to operate and manage the property.

"Residential Rental Property" means property that is *used* solely as leased or rented property for residential purposes. If the property is a space rental *mobile home park* or a *recreational vehicle park*, "residential rental property" includes the rental space that is leased or rented by the *owner* of that rental space but does not include the *mobile home* or *recreational vehicle* that serves as the actual *dwelling*, if the *dwelling* is owned and occupied by the tenant of the rental space and not by the *owner* of the rental space.

"Responsible Party" means an *owner*, occupant, lessor, lessee, manager, licensee or other person having control over a *structure* or *parcel* of land; and in the case where the demolition of a *structure* is proposed as a means of abatement, any lien holder whose interest is recorded in the official records of the Maricopa County Recorder's Office.

"Slum Property" means residential rental property that has deteriorated or is in a state of disrepair and that manifests one (1) or more of the following conditions that are a danger to the health or safety of the public:

- (1) Hazardous electrical systems or gas connections.
- (2) Lack of safe, rapid egress.
- (3) Accumulations of human or animal waste, medical or biological waste, gaseous or combustible materials, dangerous or corrosive liquids, flammable or explosive materials or drug paraphernalia.

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- (4) Structurally unsound exterior surfaces, roof, walls, doors, floors, stairwells, porches or railings.
- (5) Lack of potable water, adequate sanitation facilities, and adequate water or waste pipe connections.

105-93 Community Development Director—Duties, Appeals

- A. It shall be the duty and responsibility of the Community Development Director to administer the provisions of this article; and, pursuant to this duty, the community development director is authorized to make safe any *structure* in whole or in part, which in the opinion of the community development director, is an imminent threat to the health or safety of any person or *persons* due to the conditions of such *structure*, or to abate any nuisance established herein.
- B. No person shall, by threat or use of violence or physical force or by any other act that can be reasonably anticipated to cause physical harm to any person, including the perpetrator, intentionally obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city who is lawfully and constitutionally engaged in the enforcement or execution of the provisions of this article.
- C. Appeals of designation of slum property:
 - (1) An appeal to a civil hearing officer may be made by filing a written request at the *office* of the code enforcement division within 35 days from the date of the notice of violation.
 - (2) Appeal application form. Appeals to a civil hearing officer shall be made on an application form supplied by the city. The application for appeal shall contain the grounds for appeal, the relief sought and the appellant's mailing address.

Commented [AB49]: From Tiffany & Bosco:

Shouldn't this call be from the Building Commissioner or Building Official?

City Comment: The CD Director acts as Building Official for Surprise

State Law reference— A.R.S. § 33-1905.

105-94 Rules and Regulations

The community development director is authorized to make rules and regulations necessary to carry out the provisions of this article.

105-95 Authority and Inspections

- A. The city is authorized to make inspections of property to determine compliance with the provisions of this article as allowable by law.

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- B. An inspector may expand the scope of any inspection to include other City Code violations noted during inspection.
- C. If upon inspection, one (1) or more violations of the city's adopted property maintenance code exist, the *owner* or responsible party will be required to correct all violations within a reasonable amount of time.
 - (1) In the event that the *building, dwelling or dwelling unit* is unoccupied or becomes unoccupied, future occupancy will be prohibited until a compliance letter is issued by the city. Upon receipt of a written request by the *owner* or responsible party, the city will re-inspect for the purpose of re-occupancy within a reasonable time.

State Law Reference— A.R.S. §§ 33-1904, 9-1302 and 1303.

105-96 Specified Unlawful Activities—General Penalty

Wherever in this article an act is prohibited or declared unlawful, and wherever in this article the doing of any act is required or the failure to do any act is declared unlawful, the violation of any such provisions of this article is a misdemeanor, punishable by a fine or imprisonment. Officers of any corporation or partners of any firm who is the responsible party pursuant to this article, which is found to have violated any provision of this article, shall be individually subject to fine and/or imprisonment.

105-97 Jurisdiction of Court

- A. Jurisdiction of all proceedings to enforce the provisions of this article shall be in the Municipal Court of the City of Surprise.
- B. Civil actions to enforce this article may be adjudicated by a judge or court hearing officer.
- C. The Municipal Court of the City of Surprise shall have jurisdiction to issue orders permitting the city to abate conditions that constitute a violation of the provisions of this article.

105-98 Prosecution of Civil or Criminal Action

The provisions of §§ 2-233 through 2-237 of the Surprise Municipal Code shall apply to this article.

105-99 Registration of Residential Rental Property

- A. An *owner* of residential rental property shall maintain with the Maricopa County Assessor information required by this section in a manner to be determined by the Maricopa County Assessor.
- B. An *owner* of residential rental property who lives outside this state shall designate and record with the assessor a statutory agent who lives in this state and who will accept legal service on behalf of the *owner*. The *owner* shall designate the agent in a manner to be determined by the Maricopa County Assessor.
- C. Residential rental property shall not be occupied if the information required by this section is not on file with the Maricopa County Assessor.
- D. All records, files and documents that are required by this section are public records.
- E. A *person* who fails to comply with any provision of this subsection is responsible for a civil infraction and shall be assessed a civil penalty.
- F. Notwithstanding subsection (e) of this section, if a *person* complies within ten days after receiving the complaint that notices the violation, the court shall dismiss the complaint and shall not impose a civil penalty.
- G. Nothing in this section shall be construed to prohibit criminal prosecution of the violations of this section in addition to enforcement of any civil penalties.

State Law Reference — A.R.S. § 33-1902.

105-100 Abatement of Slum Property

All *buildings* or portions thereof which are determined after inspection by the community development director to be slum properties as defined in this article are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures allowable by law.

105-101 Designation of Slum Property; Recordation

- A. A residential rental property may be designated as a slum property if it meets all of the following:
 - (1) The definition of slum property, and
 - (2) Has three or more of the conditions or defects described in the city's adopted Property Maintenance Code at the time of the inspection, and

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- (3) The conditions or defects set forth in a notice of violation provided per the city's adopted Property Maintenance Code have not been remedied within the time set forth in the notice of violation, and
- (4) No proper and timely appeal of the notice of violation has been filed.

- B. Where designation of a property as a slum is appropriate pursuant to subsection (a), the community development director shall designate a slum property by filing in the Office of the Maricopa County Recorder a certificate describing the property and certifying that the property is a slum property and that the *owner* has been so notified. Whenever the corrections ordered thereafter have been completed or the *building* demolished so that it no longer exists as a slum property, the community development director shall file a new certificate with the Maricopa County Recorder certifying that all required corrections have been made and that the property is no longer a slum property.

105-102 Notice of Designation

In addition to any notice provided pursuant to this article, a designation of slum property shall contain a warning stating that any residential rental property designated as a slum property is subject to the provisions of Title 33, Chapter 17, of the Arizona Revised Statutes providing for penalties, the appointment of a temporary receiver, annual inspections and payment of costs for inspections.

State Law reference — A.R.S. §§ 33-1903 and 1904.

105-103 Appointment of Temporary Receiver, Property Management Firm and Recovery of Costs

In addition to other remedies provided in the Surprise Municipal Code for the abatement of slum property, the community development director is authorized to seek the appointment of a temporary receiver, require hiring of a property management firm and recovery of costs. Recovery of costs may be collected through any legally permissible means, including fees for inspections, the placement of a lien or assessment on the property.

State Law reference — A.R.S. §§ 33-1903, 1906 and 9-1305.

105-104 – 105-106 Reserved.

105-107 Penalties for Violations.

Any person who violates any provision of this article or any provision of any code adopted by this article shall be guilty of a civil or criminal violation.

105-108 Suspension or Revocation of Business License; Hearing; Appeal

Pursuant to Chapter 26 of the Surprise Municipal Code a *business* license may be denied, suspended or revoked for fraud, misrepresentation, or false statement in the application for license or in the course of conducting *business*; or by conducting a *business* in violation of any city or county ordinance or state law. All such denials, suspensions or revocations of any *business* license shall be administered under Chapter 26 of the Surprise Municipal Code.

105-109 Preferred Rental Property Program

- A. Rental properties in the city that meet the requirements of this chapter, and that satisfy three of the following criteria, shall be eligible for the preferred rental property program:
- (1) *Owner*, manager, or leasing agent, at least once every three years, attends: a crime free training program offered in any Arizona political jurisdictions; or landlord tenant training offered by a non-profit organization or an Arizona Department of Real Estate Certified real estate *school*;
 - (2) Use the crime free lease or lease addendum for all tenants;
 - (3) Conducts background checks on all prospective tenants;
 - (4) Is a certified crime free or Arizona Multihousing Association Five Star program property or the American Rental Property *Owners* and Landlords Association (ARPOLA) Crime-Free Program;
 - (5) The residential rental property is located in a ~~home owners~~*homeowners'* association or *apartment* community that participates in the Surprise Neighborhood Watch Program.

CHAPTER 106 - ZONING AND USE STANDARDS**ARTICLE 1 – IN GENERAL****106-1.1 Zoning Classification**

- A. In accordance with the authority granted in A.R.S. §9-462.01B in order to classify and regulate the *use* of land, *buildings* and *structures*, and to regulate the open areas around and between the *buildings* and *structures*, and to regulate the density of *dwelling units*, the City is hereby divided into the *zoning districts* and overlay districts as incorporated herein **TABLE 106-1a** below:

Table 106-1a Land Development Ordinance (LDO) Zoning districts and Density		
Symbol	District Name	Gross Residential Density/Lot Area per Dwelling Unit (sf) Dwelling Units ratios
RR	Residential Rural	1 du/ae43,560 sf/du
R-1	Residential Low Density	Up to max. 5 du/ae4,950 sf/du
R-2	Residential Medium Density	5-8 du/ae4,000 sf/du
R-3	Residential High Density	Min. 8 du/ae
SHD-RO	Surprise Heritage District-Residential Overlay	Overall 8 du/ac
SHD-CO	Surprise Heritage District-Commercial Overlay	Overall 10 du-ac
TND-R	Traditional Neighborhood Development-Residential	Overall 8 du/ac
TND-C	Traditional Neighborhood Development-Commercial	
TND-MU	Traditional Neighborhood Development-Mixed use	Max. 18 du/ac
TND-OS	Traditional Neighborhood Development-Open space	
MU-1	Mixed use Medium Density	8 du/ac
MU-2	Mixed use High Density	Min. 8 du/ac
MU-3	Mixed use Resort	8-20 du/ac
C-O	Office Commercial	
C-1	Neighborhood Commercial	
C-2	Community Commercial	
C-3	Regional Commercial	
BP	Business Park	
I-1	Light Industrial	
I-2	General Industrial	
I-3	Heavy Industrial	
OS-1	Open space Conservation	
OS-2	Open space Recreation	

Commented [AB50]: From HBACA:

Pages 108 to 154: Chapter 106 (Zoning and Use Standards)

The HBACA believes that this Chapter warrants additional discussion and study. Aside from the density designations commented on above, the zoning districts themselves need additional study and discussion.

The City needs to revisit the lot specification and dimensions within each zoning area. For example, within the same zoning district you could have different development standards based on the size of the lot. Moreover, the City currently does not have several of these lot specifications such as lot coverage and minimum and maximum front yard setbacks. The City should examine whether it needs to add these standards. During the stakeholder meeting, we heard from some that the absence of these standards is a reason why builders like building in Surprise. The City should not discount those types of comments.

The City is proposing that for all lots less than 50' wide alley garage access must be provided. This requirement is overly prescriptive and contrary to homeowners' wants and desires. If the City is concerned about solid waste disposal, there are other alternatives that can be examined to mitigate this concern. For instance, in a multifamily context, dumpsters are a way to mitigate solid waste collection issues. In addition, although alley loaded garages have been used by builders in the past, these are not widely considered to be desirable features for home buyers. Alleys are ripe for crime, safety issues, and sanitary issues such as dumping. In fact, the City of Phoenix has undertaken a project to close existing alleys to fight blight and crime.⁹ While the City may see these as desirable amenities today, effective planning would consider how these amenities will evolve over time. If the City has specific concerns about subdivision layout and design, the City should leave it to the builder and developer to determine the appropriate way to address the City's concern.

Finally, we would like to note that the City should reconsider the elimination of any new PUDs. At the stakeholder meeting, there was extensive discussion of the need for PUDs given the uniqueness of land and the inherent challenges in working with neighborhood groups to overcome objections to new development. The City articulated its desire to provide more flexibility in the general zoning process to eliminate the need for PUDs. As we have outlined in this comment letter, the current draft falls short of achieving that goal. Surprise is currently thriving. Without this tool to overcome unique challenges of each project, that environment may dissipate. The City should avoid this result and continue to refine its draft zoning ordinance and continue to work with the development community to allow for the use of PUDs as a needed development tool.

Commented [AB51]: From Tiffany & Bosco:

In theory these residential districts provide for flexibility for developers and create a conforming residential density based on the new residential land use designations for the General plan.

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PF	Public Facilities	
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- B.** *Zoning districts*, and the *uses* and/or development standards associated with said districts, may be added or deleted upon the recommendation of the Planning and Zoning Commission and approval by the City Council by the Text *Amendment* process set forth in **Chapter 102** of the Land Development Ordinance (LDO).
- C.** The City utilized a Planned Area Development (PAD) *zoning district* prior to the adoption of this Ordinance. The PAD *zoning* designation now serves only to preserve the governing entitlement documents adopted by City Council for each PAD at the time of the adoption of this Ordinance. Existing PADs may have individual development standards, land *uses*, and densities that supersede the *zoning* standards contained within this Ordinance. Any *zoning* standard contained within this Ordinance shall apply that is not explicitly identified in a PAD. General references to *zoning districts* within previous City of Surprise *zoning* codes shall follow the conversion chart listed in **Table 106-1b** of this chapter.
- D.** Standards and regulations such as, but not limited to, *lot size*, *building height*, *residential densities*, and *setbacks* herein, assure compatibility of properties within a district; protect the quality of the environment from nuisances associated with certain *uses* or constructions; and provide adequate *open space* for privacy, light, air, connectivity, and green space.

Commented [AB52]: I don't necessarily agree. Many development standards are not included in PAD's because that particular development standard was not important or germane to the approval/denial/stipulations of a particular PAD.

This issue should be discussed at the next stakeholder meeting.

106-1.2 Establishment of Zoning Map

- A.** The boundaries of the various *zoning districts* are established and are shown on a map entitled "Zoning Map of Surprise, Arizona" (Zoning Map), which is attached to this Ordinance and made a part hereto.
- B.** Any change of *zoning district* for a particular property will be memorialized in a City Council approved ordinance that incorporates a map *amendment* depiction.
- C.** In the event that the map becomes damaged, destroyed, or lost, the City Council shall adopt a new *zoning* map consistent with the latest backup and/or all available records pertaining to its adoption or *amendment* that will supersede the previous map.
- D.** City staff shall update the *zoning* map upon the effective date of the adopting Ordinance of a *zoning* change. City staff may also correct drafting and clerical errors or omissions, but corrections shall not have the effect of amending the official zones established.
- E.** Where uncertainty exists with respect to any of the boundaries of the *Zoning districts* as shown on the Zoning Map, the following rules shall apply:

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1. *Zoning* boundaries shall be extended from the *abutting parcel* and indicated as following the center lines of *street*, highway, or railroad *rights-of-way* or such lines extended, such center lines or such lines extended shall be construed to be the boundaries;
2. Where *zoning* boundaries are indicated as approximately following the corporate limit line of the City, such corporate limit line shall be construed to be such boundaries;
3. Where *zoning* boundaries are indicated as approximately following property lines or such lines extended, such property lines or such lines extended shall be construed to be such boundaries;
4. No *zoning* boundary line shall hereinafter be established to divide one (1) *lot* into two (2) or more zones;
5. Where any public *right-of-way* is officially vacated or *abandon*, the *zoning districts* applied to the *abutting* properties shall thereafter extend to the former centerline of the vacated or *abandon right-of-way*; and
6. If determination of boundary cannot be resolved through reference to the preceding rules, the *Zoning administrator* shall determine the location of the district boundary.

106-1.3 Conversion Chart

- A. The following conversion table (**Table 106-1b**) compares the previous terminology used for the *zoning district* classifications from previous City of Surprise development regulations to the *zoning* classifications and regulations established by this Ordinance listed in **Section 106-1.1 (Table 106-1a)** above. Only those *zoning* districts that existed at the time of adoption of the prior regulations that are being changed by this Ordinance appear in the table.

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Table 106-1b Conversion Table of Zoning Districts Nomenclature

Title 17 and 1986 Code		Surprise Unified Development Code (SUDC)		Land Development Ordinance (LDO)	
Symbol	District Name	Symbol	District Name	Symbol	District Name
R1-43	Single-family Residential	RR or RE	Residential Ranch or Residential Estate	RR	Rural Residential
R1-18	Single-family Residential	RL-2	Residential Low Density	RR	Residential Low Density
		RL-3	Residential Low Density		
R1-8	Single-family Residential	RL-4	Residential Low Density		
R1-5	Single-family Residential	RL-5	Residential Low Density		
R-2	Multi-family Residential	RM	Residential Medium Density	R-2	Residential Medium Density
R-3	Multi-family Residential	RH	Residential High Density	R-3	Residential High Density
		RC	Residential Cluster		(district eliminated)
		CS	Countryside Center		(district eliminated)
		PUD PAD	Planned Unit Development Planned Area Development	PUD PAD	(both districts eliminated for any future use)
		MU	Mixed use	MU-1	Mixed use Medium Density
				MU-2	Mixed used High Density
C-1	Neighborhood Commercial	CN	Neighborhood Commercial	C-1	Neighborhood Commercial
C-2	Community Commercial	CC	Community Commercial	C-2	Community Commercial
C-3	General Commercial	CR	Regional Commercial	C-3	Regional Commercial
		C-RS	Resort Commercial	MU-3	Mixed use Resort
		BP	Business Park	BP	Business Park
I-1	Light Industrial	IP	Industrial Performance	I-1	Light Industrial
I-2	Heavy Industrial	IG	Industrial General	I-2	General Industrial
I-3	Landfill and Mineral Extraction	ILM	Industrial Land Mineral Extraction	I-3	Heavy Industrial
GU	Governmental use	PF	Public Facilities	PF	Public Facilities

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106-1.4 Establishment of Land Uses

- A. The Land use Matrix (**Table 106-1c**) describes allowed primary land uses within the different *Zoning districts* and overlay *Zoning districts* on the basis of common functional characteristics and land use compatibility. The symbolism used in **Table 106-1c** is defined as follows:
1. “P” designates that the use is permitted by right.
 2. “AUP” designates that the use is permitted with an “Conditional use Permit” as well as any use specific standards per Article 10 of this chapter herein; processed as a Type 1 development application (see **Chapter 102**).
 3. “CUP” designates that the use is permitted with a “Conditional use Permit” as well as any use specific standards per Article 10 of this chapter herein; processed as a Type 3 development application (see **Chapter 102**).
 4. “(blank space)” a blank space designates that the use is not permitted.
- B. The Accessory use Matrix (**Table 106-1d**) further describes *accessory structures* and land uses that may be allowed *accessory* to the legal *primary uses* within the different *Zoning districts* and overlay *Zoning districts*. The symbolism used in **Table 106-1d** is the same as those defined in **Section 106-1.4 A.** above.
- C. The Zoning administrator shall determine if uses not expressly listed in **Tables 106-1c** and **106-1d** are significantly similar or dissimilar to particular uses:
1. Uses that are found to be similar shall meet the same requirements as the related use listed in this section.
 2. Uses that are found to be dissimilar, yet appropriate, shall require a text amendment processed in accordance with **Chapter 102**.
 3. Uses that are not listed in this section and are found to be dissimilar and inappropriate shall be prohibited.

106-1.5 Specifically Prohibited Uses

- A. The following uses are either inappropriate or dissimilar from any allowed uses as listed in **Table No. 106-1c** below and therefore are specifically prohibited in the City. When annexation of lands that have such land uses occurs and those uses are lawfully occurring, those uses may not prevent such annexation but will be considered to be legal non-conforming uses upon annexation.
1. Rendering or refining of animal by-products or the storage of offal, tanning or hides.

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2. Concentrated animal feeding operations (CAFO); dairies; livestock and fowl production facilities.
3. *Junkyard, auto salvage yard, or wrecking yard.*

106-1.6 Regulations within Zones

- A. Within each of the zones the *use*, location, *height*, and size of *buildings* and *structures*, the *use* of land the size of *lots*, *yards*, *setbacks*, *open spaces*, and the *density* of population are regulated as set forth in the following Articles of this Chapter, and elsewhere in this Ordinance. Any *site plan*, *structure*, *building*, or *use* that is not in compliance with these regulations is a violation of this Ordinance.

106-1.7 Development Standards and Encroachments

- A. Setbacks. *Setbacks* shall not include any *structures*, *parking spaces*, or *drive aisles*; except as listed herein and/or other sections of this Ordinance.
1. Driveways, *ingress/egress* aisles.
 2. Landscaping, trails, and *multimodal* paths.
 3. Outdoor dining, when allowed.
 4. Utility meters and mechanical equipment.
 5. *Accessory uses* identified in **Table 106-1d** and regulated in Article 10 of this chapter.
 6. Additional design features as regulated in the PEDS and other chapters of this Ordinance (for example: posts, *fences*, *walls*, mailboxes, floodlights, authorized lights for illuminating *parking areas*, and other features) as determined by the Community Development Director or designee.
- B. Height Limits. Maximum *height* limitations are measured to the highest rooflines and/or *parapets* necessary to *screen* mechanical equipment.
1. Chimneys, church steeples, and other appurtenances (such as spires and flues) may be erected at a *height* exceeding the maximum *height* requirements.
 2. Mechanical penthouses and elevator and stair towers (for *multi-family* and nonresidential *buildings* only) may exceed the maximum requirements by no more than ten feet (10').

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- C. Lot coverage. Measured by the total square footage of *structures* used for protection or shielding from the elements or weather divided by the square footage of the *lot*.
- D. Encroachments. To further clarify the *setback* requirements, the following exceptions shall be considered as permitted encroachments for *setback* requirements in all zoning districts as described in this article and elsewhere in this chapter:
1. Terraces, uncovered porches, *platforms*, exposed ramps, and all other ornamental features that do not extend more than three feet above the *adjacent natural grade* may project into the minimum *setback* but shall be at least three feet (3') from the *adjacent lot line* or one foot (1') from any existing or proposed *access drive*;
 2. Sills, belt courses, cornices, eaves, lintels, gutters, awnings, and all other ornamental features may project five feet (5') into the *setbacks*, but shall be at least three feet (3') from any *adjacent lot line*;
 3. Chimneys may project two feet (2') into the minimum *setback*, but shall be at least three feet (3') from any *lot line*; and
 4. Attached covered porches, canopies, and awnings projecting over windows may extend into any minimum *rear setback* by a maximum of five feet (5'), but shall be at least three feet (3') from the *adjacent right-of-way (ROW)* or *lot line*, provided the required *side yard setbacks* are met;

106-1.8 Compliance with Other Provisions

- A. Planning and Engineering Design Standards (PEDS) as referenced in **Chapter 107, Article 1**. The Articles within the PEDS shall apply where applicable, based on the specific *zoning* and *land use*, and ~~shall will~~ govern the general site design and development, *open space* design, circulation design ~~for complete streets~~, landscape and *streetscape* design, and *building* form and architecture of a development in addition to those listed below.
- B. Use Specific Standards. Those *land uses* listed in **Table 106-1c** and **Table 106-1d** that have specific *use* standards associated with them shall comply with the specific standards outlined in **Article 10** herein as well as to the PEDS in **Chapter 107**.
- C. Parking Regulations. In addition to the PEDS, the parking regulations in **Chapter 107, Article 4** herein shall apply.
- D. Landscaping Regulations. All landscaping associated with development shall comply with the PEDS and **Chapter 107, Article 2** herein.

Commented [AB53]: From: Angela Carmitchell Taylor Morrison (Email Title: FW City of Surprise Code Update - Stakeholder Comments)

oLot Coverage: as I shared in the meeting last month, strict lot coverage constraints end up being a HOA management issue when homeowners want to add accessory buildings. Furthermore, setbacks should dictate what is allowed on a lot. I understand from our discussion, the City's lot coverage issues usually surfaces with large lots. Basically, property owners wanting to build on every square foot of a lot. I understand the City acknowledged in the meeting that smaller lots on traditional subdivisions should be held to setbacks and unreasonably low lot coverage ratios should be avoided. One suggestion for resolving is to have a separate lot coverage between the main home and accessory buildings. We appreciate the City of Surprise continuing to be flexible with reasonable lot coverage ratios because this has a direct livability factor for our homeowners.

oMin. Side Set-backs 8'/13' and 8'/15': we understand the City receives consistent complaints from homeowners not being able to access backyards for pool construction; therefore, the City is proposing to increase the side setbacks that provide access gates on small lots. With the rising cost of labor, land and trades, the future affordability of homes is a serious factor both homebuilders and municipalities face. Consequently, we strongly believe the City should still allow a 5'/5' setbacks and take each individual project into consideration. For instance, if a project such as the westside of Sycamore Farms has a community pool, then having small lots with 5'/5' setbacks should be allowed. Additionally, I have spoken with pool contractors such as Rondo Pools who stated they need a 3.5' space to access the backyard with a Bobcat. Therefore, a 5' setback will allow for pools to be constructed well after the home is built. Is there another reason why the City is wanting to increase the side setbacks?

Commented [AB54]: From Angela Carmitchell, Taylor Morrison (Email Title: FW City of Surprise Code Update - Stakeholder Comments)

**Not 100% sure where this comment belongs, but appears to be within this section based on her comments.

oNew Zoning District - Traditional Neighborhood Development ("TND"): City Planning Staff wants to reduce the number of PAD's and PAD amendments. The goal with TND is to implement reoccurring modifications into the City ordinance which is consistently being requested in PAD's. The City believes this new zoning district will limit the need for deviation requests and future PAD's/Amendments because City Staff will have the authority to "administratively approve" variances within 10% to 15% of Standards. This would apply to property that does not have an existing PAD; therefore, this would not apply to a project like Sycamore Farms with an existing PAD. Our concern with this change is that Masterplans Communities will likely need some form of deviation and we believe it is unrealistic to not have a PAD as an option. We appreciate the City continuing to provide a PAD as a zoning option.

Commented [AB55]: From Tiffany & Bosco:

Again using the word 'shall' for design standards...standards are directive methods to build something, but not the only way.

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- E. Outdoor lighting. All outdoor lighting shall comply with the PEDS and **Chapter 107, Article 3** herein.
- F. Environmentally Sensitive Land Regulations. All development, regardless of zoning or use of the land, on lands that are determined to contain *environmentally sensitive features* or that contain *cultural resources* shall comply with **Chapter 104, Article 2** herein and **Chapter 5** of the PEDS.
- G. Land Division and Subdivision Regulations. The additional regulations governing the division of land in **Chapter 108** herein shall apply.
- H. Signage. All signage proposed shall comply with **Chapter 109** herein.
- I. Life Safety Codes. All life safety codes as adopted per **Chapter 105** herein.

Commented [AB56]: From Angela Carmitchell, Taylor Morrison
(Email Title: FW: City of Surprise Code Update - Stakeholder
Comments)

oSignage: developers should be able to implement signage locations and schematic design allowed into a PAD for a master plan or CSP. Often it is difficult to pull traffic into a community. If the City is contemplating the size of the letters on the monuments to be restricted, we respectfully request the City allow means for flexibility and larger letters for Masterplan Communities.

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Table 106-1c- Land Use Matrix for All Zoning Districts

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Table 106-1c- Land Use Matrix for All Zoning Districts

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Table 106-1d – Accessory Land Use Matrix for All Zoning Districts

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ARTICLE 2 – RESIDENTIAL ZONING DISTRICTS

106-2.1 General Standards

- A. **Purpose.** Residential *zoning districts* create, maintain, and promote various housing opportunities for individual households and lifestyles, and maintain the desired physical character of the City's existing neighborhoods. While the districts primarily accommodate residential *uses*, some non-residential *uses* that are compatible with the residential neighborhoods may be allowed.
- B. **Development Standards.** In addition to **Section 106-1.8** above and **Article 2** of the Planning and Engineering Design Standards (PEDS) in **Chapter 107**, the regulations specific to residential land *uses*, shall also apply and govern the design of a development.
- C. **Residential Density Ranges.** ~~Each project/development may assume the minimum gross residential density. A higher. Requesting gross residential density higher than the existing entitlement, per the residential zoning district,~~ may be permitted with a Type 3 rezoning application district based on the criteria outlined in **Section 104-1.11** of the LDO. ~~The development shall exceed the required standards for a to meet the intent of a~~ variety of housing opportunities, ~~have a generous amount of well-designed and functional~~ open space, and have a creative design around environmentally sensitive features.
- D. New recorded plats shall comply with the regulations of Chapter 108 and the PEDS, Volume 1 for *buffering* and transitioning design requirements.

Commented [AB57]: From Tiffany & Bosco:

Section 104-1.11 is too general on what constitutes and increase in the density to the higher gross densities...these should be quantifiable so as to explain to neighbors, stakeholders, Council members, etc. why the density is in the higher densities because a quantifiable goal was met to deserve the higher density

City Comment: This section has been revised

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106-2.2 Rural Residential (RR)

- A. Purpose.** The Rural Residential (RR) *zoning district* provides areas for *single-family* homes on large *lots* in a rural setting and acts as an equivalent *zoning* for properties zoned RU-43 within the County prior to annexation by the City.
- B. Applicability and Density.** The (RR) *zoning district* reflect the Rural Development Type and is allowed in the Neighborhood Character area, and the Scenic Lands Development Sub Area in accordance with the *General Plan* with a maximum *net residential density* not to exceed one (1) *dwelling unit* per acre and a maximum of one (1) *dwelling unit* per lot of record.
- C. Development Standards.** **Table 106-2a** below identifies the required development standards for the Rural Residential (RR) *zoning district*.

Table 106-2a - Rural Residential (RR) Zoning district

Min Lot Area (sf)	≥ 43,560
Min Lot Width	130
Min. Front setback (ft)	30
Min. Rear setback ¹ (ft)	30
Min. Side setback ¹ (ft)	20
Min. Street side setback ¹ (ft)	20
Max. Bldg. Height (ft)	30
Lot coverage	25%
Open space (% of gross acres of residential development) ²	10%

Notes:

1. *Garage* face and embellishments shall be *setback* a minimum of twenty-five (25) feet measured from the opposing property line except rear, *alley* loaded *garages*, which shall be *setback* nine feet (9') from edge of *alley* line
2. The City requires *open space* on a new subdivision; if recorded as metes and bounds or by a *minor land division* than *open space* will be required on each individual *lot*; such as *open space* or trail easements

106-2.3 Residential Low Density (R-1)

- A. Purpose.** The Residential Low Density (R-1) *zoning district* provides areas for *single-family* homes on varying *lot* sizes and a mix of densities together with *schools*, *parks*, and other public services necessary for suburban residential neighborhoods.
- B. Applicability and Density.** The (R-1) *zoning district* reflects the Suburban Development Type and is allowed in the Neighborhood Character area in accordance with the *General Plan*. ~~The allowed gross residential density of a new~~

Commented [AB58]: From Pulte Homes:

Alley Requirements in R-1 and R-2 Districts: Sections 106-2.3 and 106-2.4; Tables 106-2b and 106-2c.

While the Draft LDO provides for some narrower lot widths than the SUDC, it requires alley access for lots less than 50' wide in the R-1 and R-2 districts. Alleys are not common in new residential projects, and this requirement would impact cost of development and project design, as well as increase City maintenance costs. Pulte has developed attractive 30' product that reduces garage dominance but would not be possible with an alley loading requirement.
*See Attachment A. (This is page 5-11 in their comments doc.)

In this market, per front foot costs are frequently above \$1,000 and require a certain scale for project viability. With the LDO's 20' minimum alley ROW width (see Sec. 108-2.4.C.3.a), the alley would increase the land needed for a 110' deep lot by approximately 8%. An alley requirement would force tough choices trading off lot depth or open space, and would make it less feasible to develop smaller scale projects with less than 50' wide lots. Alternative equivalents for trash pick-up and street parking could be handled in other ways. Phoenix struggles to address alleys that were components of most developments in the 60's and 70's, as they are difficult to abandon later and become an attractive nuisance raising safety concerns.

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development may range from one (1) to five (5) dwelling units per acre with a maximum of one (1) dwelling unit per lot of record.

- C. Development Standards. Table 106-2b below identifies the required development standards for the Residential Low Density (R-1) zoning district.

Table 106-2b - Residential Low Density (R-1) Zoning district						
Lot Categories	A	B	C	D	E	F
General Plan Compatibility	Suburban	Suburban	Suburban	Suburban and Rural	Rural	Rural
Min Lot Area (sf)	5,000-4,950-7,999	8,000-11,999	12,000-17,999	18,000-27,999	28,000-43,559	≥ 43,560
Min Lot Width (sf)	45 ⁴	60	80	90	100	130
Min. Front setback ¹ (ft)	12	12	15	20	20	30
Max. Front setback (ft)	25	25	30	35		
Min. Rear setback ¹ (ft)	15	20	20	25	30	30
Min. Side setback ¹ (ft)	5 & 88/13 ³	5 & 108/15 ³	10 & 20 ³	10 & 15/25 ³	20	20
Min. Street side setback ¹ (ft)	15	15	15	15	20	20
Max. Bldg. Height (ft)	30	30	30	30	30	30
Max Lot coverage	45%	40-45%	35-40%	30%	30%	25%
Open space (% of gross area of residential development) ³	20%	20%	20%	15%	15%	10%

Notes:

- Garage face and embellishments shall be setback a minimum of twenty-five (25) feet measured from any opposing property line; except rear alley loaded garages, which shall be setback nine-six feet (6'9") from edge of alley line.
- Minimum side setback: one side / total side setbacks on a lot.
- The City requires open space on a development/subdivision basis rather than on a lot-by-lot basis.
- New blocks with any Residential lots that are less than fifty feet (50') wide shall have vehicular access from an alley.

106-2.4 Residential Medium Density (R-2)

- A. Purpose. The Residential Medium Density (R-2) zoning district allows for a variety of housing opportunities including detached and attached buildings that single-family dwellings, two-family dwellings, and three-family dwellings together with schools, parks, and public services necessary for an urban and suburban residential environment. While the district primarily accommodates residential uses, nonresidential uses that help to support, and are compatible with, residential neighborhoods may also be allowed when compatible with adjoining neighborhoods.

Commented [AB59]: From Tiffany & Bosco:

45' x 110' is a popular lot size among many valley developers. That minimum lot size 4,950

City Comment: Revised the regulations per stakeholder comments

Commented [AB60]: From Tiffany & Bosco:

All highlighted (A-D in Min. Side setback) are "Confusing"

City Comment: Revised the regulations per stakeholder comments

Commented [AB61]: From Tiffany & Bosco:

The alley requirement is placating the fire and sanitation depts. non-flexibility with the large size of their trucks. Smaller lots, smaller streets are sustainable growth the City should strive for...the fire dept. standards for truck movement defeat the purpose for less impervious surface and heat island effect...

This issue needs to be discussed at the next stockholder's meeting.

City Comment: Revised the regulations per stakeholder comments

Commented [AB62]: From: Pulte Homes

Lot Size and Density in R-1 and R-2 Zoning Districts: Sections 106-2.1, 106-2.3, 106-2.4, and 104-1.11.A.

The Draft LDO's approach to low and medium density residential districts is to assign a range of densities to each district. In particular, R-1 allows 1-5 du/acre and R-2 allows 5-8 du/acre, with certain bonus features listed in Section 104.1-11.A (e.g., open space, amenities, LEED, and variation in lot sizes) required to exceed the minimum density in the district. **We are concerned that as drafted this bonus approach is too vague to allow for certainty in project planning.** With reference to the R-1 district, there is a substantial difference between 1 du/acre and 5 du/acre, but it is unclear how much additional density may be obtained by providing any particular bonus feature or any combination of features.

We suggest this approach be revised to provide more certainty as to the density increase available from specific bonus features and/or creating more zoning districts with narrower ranges of permitted density or minimums rather than ranges. For example, other jurisdictions have implemented various forms of a point system that permits specific density increases for implementation of each specified project feature. In addition, the point system could provide for specified decreases in lot size in exchange for implementing certain project features – which may be needed as an alternative if the LDO does not include a robust PUD tool. In any event, such a point system should be clearly defined and provide density increases, and potentially lot size variations, commensurate with developers' investment in open space preservation and other project features sought by the City.

The Draft LDO's approach of **providing a density range for zoning districts rather than a minimum density could also cause a disconnect between lot sizes and project densities.** In particular, the 3,500-4,999 sf lot size is listed in the development standards table for the R-2 district, which requires a density range of 5-8 du/acre, but not the R-1 district, which allows densities below 5 du/acre. The smallest lot listed in R-1 is 5,000 sf. As such, the Draft LDO would preclude a project with a 4 du/acre density and significant open space above minimum requirements (such as to accommodate a natural feature like a wash) from developing lots of less than 5,000 sf. This unintended consequence is another example of why a PUD tool is necessary.

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- B. Applicability and Density. The (R-2) *zoning district* is allowed in the Neighborhood Character area in accordance with the *General Plan*. ~~The allowed gross residential density of a new development may range from five to eight (5-8) dwelling units per acre with a maximum of three (3) dwelling units per lot of record. Minimum lot area is four thousand square feet per dwelling unit (4,000 sf/du), except lots in Column A are permitted one dwelling unit (1 du) as shown in Table 106-2c below.~~
- C. Development Standards. Table 106-2c below identifies the required development standards for the Residential Medium Density (R-2) *zoning district*.

Table 106-2c - Residential Medium Density (R-2) Zoning district

Lot Categories	A ⁴	B ⁴	C ⁴	D ⁴
General Plan Compatibility	Urban	Suburban	Suburban	Suburban
Min Lot Area (sf)	3,500- 4,949,999	4,949,000- 7,999	8,000-11,999	≥12,000
Min Lot Width (sf)	40 ⁶	45 ⁶	70	80
Min. Front setback ¹ (ft)	10	12	12	15
Max. Front setback (ft)	25	25	25	30
Min. Rear setback ¹ (ft)	10	15	20	20
Min. Side setback ¹⁻² (ft)	5² & 7/12³	5² & 8/13³	5 & 108/15	108/20
Min. Street side setback ¹ (ft)	10	10	10	10
Max. Bldg. Height (ft)	30	30	30	30
Lot Area per Dwelling unit (sf)	3,500	3,500	3,500	3,500
Open space(% of gross acres of residential development) ⁵	25%	20%	20%	20%

Notes:

- Garage face and embellishments shall be *setback* a minimum of twenty-five (25) feet measured from any opposing property line, except rear *alley* loaded *garages*, which shall be *setback* nine feet (9') from *alley* edge line.
- ~~Minimum side setback: one (1) side / total side setbacks on a lot~~
- ~~May be reduced to 0' setback for Single-family dwellings as attached building and separated by a common wall along the property line. End units must maintain the total combined larger setback~~
- ~~Maximum of three (3) dwelling units per lot of record. Minimum lot area of four thousand square feet per dwelling unit (4,000 sf/du), except lots in Column A are permitted one dwelling unit (1 du).~~
- The City requires *open space* on a subdivision or development site basis rather than on a *lot-by-lot* basis
- ~~New blocks with any Residential lots that are less than fifty feet (50') wide shall have vehicular access from an alley~~

Commented [AB63]: From Tiffany & Bosco:

They highlighted "6" in both A and B under Min Lot Width.

Commented [AB64]: From Tiffany & Bosco:

Min. Side Setback both A and B were labeled as "Confusing".

Commented [AB65]: From Tiffany & Bosco:

Alley access needs to be removed as a requirement...

This needs to be discussed at next stakeholders' meeting
City Comment: This now is being deleted since the alley access is now optional. A development standard/cross-section will be required when alleys are provided.

To balance the developer request for narrow lots that accommodate cost savings and housing affordability with the long-term conflicts/problems when a subdivision is oversaturated with narrow lots, regulations will be clarified in Chapter 108-Land Divisions (since that's when lots are created).

106-2.5 Residential High Density (R-3)

- A. Purpose. The Residential High Density (R-3) *zoning district* is to provide for the development of high-density residential *uses* in areas of the City where adequate *semipublic features* and services exist with capacity to serve the area. The district

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is designed to create a high-quality environment by incorporating design excellence as well as substantial recreational and aesthetic *amenities*.

- B. Applicability—and Density. The (R-3) *zoning district* reflects the Urban Development Type and is allowed in the Neighborhood Character area in accordance with the *General Plan*. *Multi-family* residential shall have a minimum of four (4) *dwelling units* per *lot* and a *net residential density* of more than eight (8) *dwelling units* per acre. The minimum *lot* size for R-3 *zoning* is one (1) acre.
- C. Development Standards.
1. **Table 106-2d** below identifies the required development standards for the Residential High Density (R-3) *zoning district*.

Table 106-2d - Residential High Density (R-3) Zoning district			
Net Density (du/ac)	8-11.9	12-14.9	15+
Min. <i>Setback</i> to Arterial ROW (ft) ²	20	20	20
Min. <i>Setback</i> to Collector and Local ROW (ft) ²	15	15	15
Min. <i>Setback Adjacent</i> to Residential <i>Zoning</i> (ft)	10	15	20
Min. <i>Setback Adjacent</i> to Non-Residential <i>Zoning</i> (ft)	20	20	20
Max. Bldg. <i>Height</i> ¹ (ft)	45	50	60
<i>Open space</i> (sf/du)	150	150	150
Notes:			
1. The <i>height</i> of any <i>structure</i> , or portions thereof, shall not exceed thirty feet (30') in <i>height</i> measured at the <i>setback</i> line when <i>adjacent</i> to <i>Single-family</i> , <i>Two-family</i> , <i>Three-family development parcels</i> . The <i>height</i> of the <i>accessory structure</i> may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum <i>height</i> equal to the <i>zoning</i>			
2. <i>Setback</i> may be reduced to 10' along Collector or Local <i>right-of-way</i> for units that open to the <i>street</i> and exclude a perimeter wall			

Commented [AB66]: From Tiffany & Bosco:

Why at three family development parcels?

City Comment: the design for three-family parcels will be similar to SFR. Height limitations are for our edge buildings, abutting against the homes.

2. All projects shall provide one hundred and fifty square feet (150 sf) of on-site *open space* per *dwelling unit*, which shall include surfacing and safety features such as lighting, and *amenities* that enable residents to *use* the *open space*. Acceptable types of *open space* are listed below.
 - a. Common *open space* (excluding *setbacks*) with a minimum dimension of fifteen feet (15') in any direction that is accessible to all *dwelling units* by sidewalks or local paths. The space shall be oriented maximize afternoon shade, unless site conditions such as topography warrant waiving this requirement by the Community Development Director or Designee.
 - b. Individual balconies or patios (excluding front stoops) may be *used* for up to twenty-five percent (25%) of the required *open space*. To

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qualify as *open space*, balconies or patios must be at least forty square feet (40 sf) with no dimension less than five feet (5').

- c. Rooftop decks and terraces may be *used* to meet up to fifty percent (50%) of the required *open space*, provided the space provides *amenities* such as seating areas, barbeques, fireplaces, recreational spaces, shade and landscaping.
- d. On-site indoor recreation areas may be *used* to meet up to twenty-five percent (25%) of the required *open space* provided the space is designed for communal *use* by all residents and provides space for entertaining, gathering, or exercise equipment and fitness activities.
- e. Environmentally sensitive areas may count toward *open space* requirements if integrated into the site design to be visible and usable by residents with features such as trails and benches. Sensitive or critical areas meeting these requirements may count for up to fifty percent (50%) of the required *open space*.

ARTICLE 3 – SURPRISE HERITAGE DISTRICT (SHD) ZONING DISTRICTS

106-3.1 General Standards.

- A. SHD Description. The “Surprise Heritage District” (“SHD”) is the area bounded by Bell Road on the north, Greenway Road on the south, El Mirage Road on the east and Dysart Road on the west.
- B. Purpose. The SHD overlay *zoning districts* enhance and protect the historic character of the Original Town Site (“OTS”) while providing *infill* opportunities and encouraging redevelopment for both residential and commercial *uses* that further reflect the scale and cultural character of this historic neighborhood.
- C. Establishment of *Zoning districts*. The SHD *zoning district* is an umbrella district that is applicable to all properties within this geographic area and includes either the *zoning* regulations and standards present on the property at the time the SHD *zoning* was adopted or one (1) of the overlay *zoning districts* specifically associated with the SHD *Zoning district* as further described below:
1. SHD-RO: This residential overlay (RO) is ~~designed to preserve, protect and enhance the types of permits~~ *uses* allowed as shown in **Table No. 106-1c** and **Table 106-1d** ~~that are.~~ Designs should be indicative of historic residential neighborhoods and the small scale *cottage industry uses* that are pedestrian-oriented and support the residents and allow for them to live, work, and play within their neighborhood. Limited commercial *uses* and *multi-family uses* shall be designed to match the scale, massing, and appearance of the *single-family* neighborhood may be appropriate on ~~adequate~~ adequately sized *infill parcels*. Commercial *structures* are limited to three thousand square feet (3000sf). A minimum of five thousand square feet (5000sf) of *lot* area per *dwelling unit* (5000sf/du) is required for all residential *lots*. *Gross residential density* for the SHD-RO *zoning district* shall be compliant with the Suburban Development Type in the *General Plan* for up to eight (8) *dwelling units* per acre.
 2. SHD-CO: This commercial overlay (RO) ~~is designed to provide the types of permits~~ *uses* allowed as shown in **Table No. 106-1c** and **Table 106-1d** in **Article 1** of this Chapter ~~and.~~ Designs should promote the local arts and culture as well as *business* opportunities that are compatible with and supportive of the Residential Overlay. A mix of neighborhood-scale commercial, retail, *entertainment establishments*, *live-work buildings*, and *mixed use* development shall be the primary land *uses*. Commercial *uses* shall be limited to forty-five thousand square feet (45000sf). *Multi-family* complexes may also be permitted within this overlay district if appropriately located at the fringes of the district to serve as a *buffer* to the *adjacent* residential neighborhood. A minimum of four thousand square feet of *lot* area per *dwelling unit* (4000sf/du) is required for allowed *multi-family* and *mixed use* developments. *Gross residential density* for the

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SHD-CO *zoning district* shall be compliant with the *Mixed use* Residential and Commercial Development Types in the *General Plan* for up to ten (10) *dwelling units* per acre.

D. Development Incentives. Development that is zoned one (1) of the SHD overlay *zoning districts* shall be eligible for any of the following incentives:

1. New *mixed use* projects and *multi-family* projects may be reduced to three thousand square feet of *lot* area per *dwelling unit* (3000sf/du) when the development provides recreational facilities, community space, and connectivity to existing *adjacent* developments and the greater neighborhood.
2. In lieu of providing on-site parking, participation in a joint *use parking lot* project or a parking improvement district shall be permitted.

106-3.2 Design and Development Standards in the SHD Zoning district.

A. Design Standards.

1. These Design Standards shall apply to any and all new development in the SHD and supersede any conflicting design standards in other parts of this Ordinance. The regulations specific to commercial and *mixed use* land uses, in **Article 3** of the **PEDS**, may apply to the design of new non-residential development when not in conflict with those outlined herein.
2. Prior to any permits being issued for new development, or renovation of an existing *building*, the architectural, site, and landscape plans shall be reviewed by Development Services for adherence to these Design Standards, in addition to other adopted regulations.
3. Plants and landscape materials shall be low water *use*, drought-tolerant plants as delineated in **Appendix C** of the **PEDS**. All areas of bare soil shall be covered with grass, drought tolerant plantings, or decomposed granite to discourage weeds and to control dust. Edible citrus and nut trees are also permitted. All landscaping shall be well-maintained with diseased and/or dead plant material removed and replaced promptly.
4. Trellis work, open front porches, and *cloth* shade sails will not be counted as part of the *lot coverage* allowance.
5. Architectural features of all *buildings* and *structures* shall reflect the historical character of Phoenix-valley architecture from the 1880's to the 1950's. These architectural features shall be present on all *elevations*.

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- a. Residential architectural designs include but are not limited to Bungalow (Classical, California, and Craftsman), Spanish Colonial Revival, California Ranch, Southwest Style, and Pueblo Revival.
- b. All *new construction* should include features and embellishments that were prominent in historical architecture to avoid bland, monotone styles. The features include but are not limited to:
 - (1) Projections and reveals; back and side porches on residential *structures*; varied roof and cornice lines; doors, windows, and window treatments such as shutters, awnings, and lintels; and traditional brick or river rock wainscoting, other architectural features such as porte-cocheres, *garage* doors, dormers, chimneys, and patios.
 - (2) *Building* materials, textures, roof treatments and pitches, *building heights*, *building* mass, and proportions indicative of historical Phoenix-valley architecture.
6. An open and covered porch on the front elevation for all new *single-family* residential development shall be required as a means to help create a pedestrian scale connection to the *street*, permit interaction with neighbors, enhance citizen Block Watch programs, and enhance the sense of neighborhood. *Building* orientation shall consider the existing environmental conditions and solar orientation.
7. Although not required, residential *fences* may be built to a *height* not exceeding six (6') feet in a *side* or *rear yard* or thirty-six (36") inches in a *front yard*. The *fence* material shall be compatible with the design style and material of the main *structure*, preferably masonry, wrought iron, or painted wood. The *use* of chain link fencing (with or without slats) is prohibited.
8. All non-residential land *uses*, excluding *parks*, that *abut* residential properties are required to provide visual *screening* from those residences by an opaque fence/wall or landscaping of approved drought-tolerant plant materials in combination with a wall. This *screening* shall include *accessory uses*, *loading areas*, and trash receptacles. The *use* of concertina wire is prohibited when *adjacent* to a public *right-of-way*.
9. On-site *retention* shall be required for all non-residential properties, all *multi-family* residential properties, and residential properties with more than one (1) *single-family dwelling*. Rainwater harvesting for plant irrigation is encouraged.
10. A color palette of earth tones shall be the predominate colors used. The use of accent colors is encouraged to provide a festive and lively *streetscape*. Accent color, contrasting the primary wall color, should be

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used to accent entryways and special architectural and trim elements (i.e. columns, trellises, lintels, sills, door and window frames, cornices, and moldings).

11. Roof-mounted mechanical equipment shall be *screened* from public view and designed to appear as an integral part of the *building*, with the exception of solar panels. Mechanical equipment, propane tanks, water filters, coolers and air conditioning units, and similar utility equipment installed at *grade* or wall mounted shall be *screened* from public view.
12. Assembly *uses* over 5,000 square feet and *multi-family dwellings* shall adhere to the following *use-specific* standards:
 - a. The residential development shall have a *building frontage* presence to the neighborhood *street* rather than primarily facing a parking lot. The front entry shall include a walkway to the *street* or surrounding neighborhood.
 - b. All multi-story *buildings* shall have unified and stylistic design elements present on all sides of the *building(s)*. A variety of massing and *building heights* and stepping rooflines are strongly encouraged. Straight rooflines should be minimized by using offsets, differing *heights*, stepping, or different orientations to produce variety within a development.
 - c. A color palette of earth tones shall be the predominate color used. The use of accent colors is encouraged to provide a festive and lively *streetscape*. Accent color, different from the dominate wall color, should be used to accent entryways and special architectural features of a *building*.
 - d. The required *off-street parking spaces* shall be located in the rear, to the side, or beneath the *structures* with cars recessed one-half (1/2) level to avoid interrupting the rhythm of the established *streetscape*, to make land on site available for gardens and courtyards rather than for surface parking, and to provide a pedestrian level connection to the neighborhood.
 - e. Mechanical equipment and similar utility devices, whether at *grade* or roof mounted, shall be *screened* from public view and designed to appear as an integral part of the *building*, with the exception of solar panels. The mechanical equipment *screening* shall be included in the overall allowed *building height*. Mechanical equipment shall be treated to be non-reflective. Electrical meters, service components, and SES cabinets should be *screened* from public view or designed to appear as an integral part of the *building*.

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- f. Reflective *building* materials are prohibited. Metallic surfaces, including roof materials, shall be treated to be non-reflective.
- g. The *use* of metal or corrugated metal as the primary *building* material is prohibited; it may however be *used* as an architectural accent or decorative element.
- h. The *building* materials of a project shall be durable, require low maintenance, and be of the same or higher quality as surrounding developments. The city strongly encourages all new *buildings* to meet LEED (Leadership in Energy and Environmental Design) certification standards and *building* sites to utilize low impact development (LID) technologies.
- i. All *buildings* shall harmonize architecturally with the residential character of the neighborhood.
- j. Assembly *uses* may be required to provide a traffic study, depending on the specific location.

B. Development Standards.

1. Existing *mobile homes* and *manufactured homes* that are not in compliance with the use-specific standards of **Section 106-10.24** herein as of the effective date of this Ordinance shall be considered as legal non-conforming *structures*. However, the existing *mobile home* or *manufactured home* may be replaced in its' entirety with a conventional site-built home or with a *manufactured home* that complies with the *use* specific standards outlined in **Section 106-10.24** herein.
2. The development standards shown in **Table 106-3a** and **Table 106-3b** below are applicable to all properties within the SHD. These tables identify the development standards for properties zoned into one (1) of the overlay zones.

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Table 106-3a – SHD - Residential Overlay Zoning (SHD-RO)

	Commercial	Single-family, Two-family, Three-family	Multi-family Residential
Min. Lot Area (sf)	5,000		15,000
Min. Lot Area (sf/du)		5,000	5,000
Min. Front setback (ft)	15	12 ^{2, 3}	15 ^{2, 3}
Max. Front setback (ft)	30	30 ⁴	30 ⁴
Min. Side setback (ft)	10	5 w/ 10 total ^{1, 3}	20 ³
Min. Rear setback (ft)	12	12 ³	20 ³
Max. Bldg. Height (ft)	30	30	35
Lot coverage %		65%	65%

Notes:

1. May be reduced to 0' setback for *Single-family dwellings* as attached to and separated by a *common wall* along the property line. End units shall maintain the total combined setback.
2. A covered front porch may encroach into the *front setback* by up to five feet (5').
3. *Garage doors/embellishments* shall be setback a minimum of twenty feet (25') measured from the opposing property line, except rear, *alley* loaded *garages*, which shall be setback nine feet (9') from the *alley* edge line.
4. Measured from the primary *dwelling*, excluding front porch.

Table 106-3b – SHD – Commercial Overlay Zoning (SHD-CO)

	Commercial Overlay
Front setback (ft)	15
Side setback (ft)	10
Rear setback (ft)	10
Max. Bldg. Height (ft)	35 ¹
Min. Lot Area (sf)/DU	2000-4000 sf/du

Notes:

1. *Mixed use buildings* that include vertically integrated residential have a max *height* of forty-five feet (45')

ARTICLE 4 – TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND) ZONING DISTRICTS

106-4.1 General.

- A. **Purpose.** The purpose of the Traditional Neighborhood Development (“TND”) *zoning district* is to provide *alternative zoning district* beyond the typical single *use* residential *zoning* category. The TND *zoning district* is a hard zone that is ready-made for master planned communities. Consistent and predictable development standards, a specific list of permitted land *uses*, and basic design standards are outlined in this Article and throughout the PEDS to ensure a well-designed and walkable multi-use development. This district provides flexibility to create a sense of place, allows a mix of land *uses* and blended densities, and allows different *building* types to create neighborhoods that are more economically, socially, and environmentally sustainable than would otherwise be obtainable through conventional *zoning* and development methods.
- B. **Intent.** The intent is to provide for a sustainable development pattern that can reduce trip demand; provide a wide variety of residential *uses* to accommodate diverse *family* sizes, age groups, and income levels; promote a specific range of commercial *uses* focused on meeting the daily needs of the residents while being compatible with and integrated into the residential neighborhoods; promote walkability and a healthy lifestyle; create more viable self-sustaining neighborhoods where people can live, work, and play; and achieve design excellence that will enhance the unique character and setting of the City of Surprise.
- C. **General Provisions.**
1. The TND *zoning district* may be appropriate for land that is within the Surprise *General Plan* Neighborhood Character Area and may incorporate both suburban and urban residential development types.
 2. The minimum land area for TND *zoning* shall be 320 contiguous acres; all under single *ownership* or unified control and planned as a single comprehensive and complete development. For the purposes of this Ordinance “contiguous” means sharing a common boundary for not less than three hundred feet (300’), exclusive of *rights-of-way*.
 3. The TND *zoning district* allows a phased development with multiple land *use parcels* and a mix of land *uses*.
 4. All land *uses* shall comply with the Land *use* Matrix in **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.
 5. Any residentially designated *lot* within a residential *development parcel* may be *used* for a non-residential land *use* (limited to those *uses*

Commented [AB67]: From Tiffany & Bosco:

PAD/PUD Hybrid zoning district should still be provided as an option within the list of zoning districts. Not all unique parcels in the City will meet the 320 minimum acreage threshold; not all parcels have then need for commercial or mixed use and there needs to be a mechanism to work on design of zoning based on neighborhood outreach and political issues that are unforeseen in a stagnant zoning ordinance.

City Comment: The PAD was used as a “carte blanche” zoning district instead of a full master planned community. TND project is intentionally large (a half section) to ensure the full mixture of land uses can be met. It is not meant to be a residential, single use zoning district.

The PUD will be retained/revise to accommodate hard zoned parcels and projects with site constraints that would make conventional standards nearly impossible to meet.

Commented [AB68]: From Pulte Homes:

Traditional Neighborhood Development (“TND”) District: Section 106.4-1.

The TND district is intended to accommodate master planned communities and allows for some flexibility in development standards. It requires a minimum of 320 acres with a mix of uses and prohibits gated communities. As noted above, (106.9-1) we strongly encourage inclusion of the PUD overlay tool in the LDO, which would allow flexibility for residential only projects and projects of any size. In addition, we are concerned that the blanket prohibition of gated communities in the TND district is too rigid. While we recognize the need for connectivity in master planned communities, there is market demand for gated residential projects, and these should be accommodated where appropriate within the TND district.

City Comment: The TND project is intentionally large (a half section) to ensure the full mixture of land uses can be met. It is not meant to be a residential, single use zoning district.

The PUD will be retained/revise to accommodate hard zoned parcels and projects with site constraints that would make conventional standards nearly impossible to meet

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delineated in **Table 106-1c**) only if the *lot* fronts onto a *collector street*; provided the maximum *building* size is limited to 5,000 square feet.

6. Gated developments and age qualified/restricted communities are prohibited within all TND projects.
7. In addition to the other provisions, as listed in **Section 106-1.8** herein, the TND *zoning district* is intended to work in conjunction with the TND specific standards outlined throughout the PEDS.

Commented [AB69]: From Tiffany & Bosco:

Why? What about a senior care home or facility that encompasses a campus like setting?

City Comment: The complete integration of community living, connectivity, and open space/trails is undermined by gated communities

106-4.2 Establishment of TND Zoning districts.

- A. The TND *zoning district* shall be applied to all properties within the specific geographic area of the development and in conjunction with one (1) of the overlay zones and associated regulations identified in this Section.
- B. The overlay zones indicate the proposed future land *uses* that are anticipated for the different *development parcels* that are shown on the “TND Plan of Development,” but the definitive boundaries are not confirmed until the *platting* process is completed. The overlay zones associated with TND *zoning district* are described below:

1. **TND-R:** This Residential overlay is for those *development parcels* that are predominately designated for residential and the other neighborhood oriented land *uses* listed in **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.
2. **TND-C:** This Commercial overlay is for those *development parcels* that are predominately designated for commercial land *uses* listed in **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.
3. **TND-MU:** This *Mixed use* overlay is for those *development parcels* that are designated for *mixed use* by vertically or horizontally integrating residential with commercial land *uses* listed in **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.
4. **TND-OS:** This *Open space* overlay is for those *development parcels* that are designated as *open space*, to be retained in perpetuity as such, per the percentages required for the particular TND development. *uses* shall be limited to those listed in **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.

Commented [AB70]: From Tiffany & Bosco:

Land uses, but what about development standards? are development standards from the new LDO or can they crafted by the developer?

City Comment: The current draft intends that the development standards are consistent and transparent from one TND development to the next.

C. Required Mixture of Land Uses.

1. All TND developments will be required to provide a mixture of land *uses* that include residential, commercial, *mixed use*, and *open space*. **Table**

Commented [AB71]: From Tiffany & Bosco:

Again, PAD/PUD allows smaller development with similar flexibility but without the requirements of mixed use... sometimes mixed use is unattainable.

City Comment: This zoning district is intended to for a full mixture of uses as a master planned community. Flexibility for residential only subdivisions can be accomplished with other tools.

The PUD will be retained/revised to accommodate hard zoned parcels and projects with site constraints that would make conventional standards nearly impossible to meet

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106-4a below identifies the specific ratios for the required land uses based on the approved number of *dwelling units* in the overall TND project.

2. The target *gross residential density* for a new TND development is eight *dwelling units* per acre (8du/ac) with the opportunity for greater or fewer *lot* yield being approved by the City Council based on the overall design and quality of the project, its walkability and overall connectivity, the interface of its various components, and the integration of the project into the overall community (refer to **Section 106-2.1C**).
3. Residential neighborhoods shall be laid out providing different housing types and varying *lot* sizes interspersed on the same *street* within the same subdivision, to prevent creating homogenous subdivisions filled with repetitive housing types. Every residential *development parcel* shall provide a minimum of three (3) distinctly different *lot* sizes; providing:
 - a. A minimum of two thousand square foot (2,000 sf) differential in *lot* area in combination with;
 - b. A *lot* width differential of at least twenty (20) feet; and
 - c. No one (1) *lot* size shall comprise more than sixty percent (60%) of the total number of residential *lots* within a single *development parcel*.
4. Each TND development shall have at least one (1) main *civic use* (excluding utility land uses), such as but not limited to a, public library, community center, museum, live performance theater, ~~or~~ multi-generational recreation center, or equivalent type use as approved by the Planning Director. The square footage or area of this *civic use* may be calculated as a percentage of the required ratio of commercial land use (not to exceed five (5%) of the required commercial ratio).

Commented [AB72]: From Tiffany & Bosco:

There is no negotiating any of these provisions? Not advisable.

City Comment: This provision is intentional to ensure housing diversity within a development parcel. Uniform, homogenous projects do to fully implement the goals and policies of the General Plan

Commented [AB73]: From Tiffany & Bosco - added verbiage.

City Comment: added language included

Table 106-4a - Required Mix of Land Uses –Ratios for TND Zoning District

Gross area	TND Total Dwelling units ^{1,2,3}	Commercial ⁴	Mixed use ^{4,5}	Open space ¹
320 acres (min.)	Approved with TND rezoning	0.0125 ac/du	0.023 ac/du	0.03 ac/du
Notes: 1. Gross area of the whole TND project. 2. Typical single-family detached residential may be developed up to a maximum gross residential density of 8du/ac. Any gross residential density greater than 8du/ac shall be developed as an attached building product, shared court, shared cluster, mansion apartment, rowhouse/townhouse, apartment, or mixed use residential units. 3. The net residential density of any one (1) platted residential lot or a mixed use development parcel within the TND may be increased, up to a maximum of 18du/ac, if approved by the City Council. 4. Provided specific restrictions are met (see Section 106-4.1.C.5. above) a residentially platted lot may be used for a commercial or mixed use land use that is listed in Table 106-1c herein. 5. Not required for TND projects with an overall gross residential density of less than 4 du/ac.				

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5. Golf course(s) (not including disc golf courses) may be calculated as *open space* up to a maximum of ~~forty-five~~ percent (~~40~~50%) of the total required *open space* for a TND development. In order to be credited as *open space* the golf course must be designed so that at least fifty percent (50%) of the course is visible to the public from and along public trails or *rights-of-way*.

Commented [AB74]: From Tiffany & Bosco:

If 50% is visible then 50% should be counted towards the open space requirement.

City Comment: percentage adjustment has been made

106-4.3 Review and Process.

A. Procedures.

1. A "TND Plan of Development" shall be submitted as part the *rezoning* process pursuant to **Chapter 102** of this Ordinance. The TND Plan of Development is the compilation of exhibits that demonstrate compliance with all requirements of this Ordinance; which at a minimum shall include the following.
 - a. A Master Development Plan Map that identifies the size and location of each *development parcel*.
 - b. Each *development parcel* shall be labeled with one (1) of the overlay *zoning districts* outlined in **Section 106-4.2B**.
2. The final approved TND Plan of Development, which will govern the development progress of a specific TND project, shall reflect the project's acreage, approved *lot* yield, and land *use* ratios approved by the City.
3. *Platting* of the individual subdivisions within the TND boundary will still be required and shall comply with the PEDS and other design standards as referenced and outlined in **Chapter 107** and the Land Division and Subdivision Regulations in **Chapter 108** of this Ordinance.
4. *Parcels* within a TND development that are proposed for any multiple-*building apartment* complex, *mixed use* development, *civic use*, or a commercial development project shall require *Site plan* Review.
5. The specific overlay boundary lines and associated land *uses* (per **Table 106-1c**) along with the blended *lot* sizes for the residential *parcel(s)* shall be identified at the time of either the *site plan* approval or the *preliminary plat* and recorded on the *final plat*. The *gross residential density* for each residential and *mixed use development parcel* shall be in accordance with the approved TND Plan of Development.
6. At the time of *Final plat* recordation, or approval of the *site plan* if no subdivision is required, the overlay *zoning* boundaries are administratively set for the *development parcel*. The City shall monitor each TND development, from the approval of the TND Plan of Development through the *platting* stage, and then at the *building permit* stage to ensure that the

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land *use* mixture agreed upon through the initial *rezoning* process and the required variety of *lot* sizes and housing types is maintained. The City shall amend the official Surprise *Zoning* Map to reflect the approved “TND Plan of Development” and overlay *zoning* boundaries at each stage.

B. Amendments.

1. A Council approved TND Plan of Development may be amended administratively for the following circumstances
 - a. Up to a ten percent (10%) transfer (increase or decrease) in the allowed quantity of *dwelling units* between *development parcels* within the TND;
 - b. Up to a ten percent (10%) increase or decrease to the overall *gross residential density* of the TND as compared to the City Council approval;
 - c. Up to a ten percent (10%) shift in the individual *development parcel gross area* or configuration, as compared to the City Council approval.
2. Requests for an administrative *amendment* shall require the following:
 - a. The master *developer*, or the specific *applicant* if the master *developer* is no longer involved in the project, shall provide the City with a “Revised TND Plan of Development” that reflects any and all administratively approved *alterations* to date.
 - b. No further applications for *plats*, *site plans*, or *building permits* shall be submitted to the City until after the administrative *amendment* request has been determined; and if approved, a new “Revised TND Plan of Development” showing the latest approved *amendment* has been submitted back to the City.
3. Administrative *amendment* to the TND Plan of Development shall not be allowed if:
 - a. Any *amendment* would require backbone infrastructure (water and wastewater) *upsizing*, or change the parameters for the master drainage design, or change the amount or intent of the *open space* component of the TND as compared to the initial approval.
4. Any *alteration* to the “TND Plan of Development” that exceeds the limits set for administrative approval, as listed above shall require City Council action as a TND *Amendment*.

C. Incentives.

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1. The TND *zoning district* complies with the Neighborhood Character Area of the *General Plan* by allowing a variety of residential Development Types and specific supportive commercial. Additionally, the ratios *used* for defining the mix of required land *uses*, delineated in **Table 106-4a**, are based on *dwelling unit* and population as described in the *General Plan*. Thus a *General Plan Amendment* should not be required, provided all other provisions of the Surprise *General Plan* are satisfied.
2. After the TND *Zoning* and the associated TND Plan of Development is approved by the City, through the public hearing process, further *rezoning* of the individual *development parcels* will not be necessary provided development adheres to the approved TND Plan of Development.
3. The City allows for certain infrastructure improvements within the public *right-of-way* to be calculated as *open space* if certain *amenities* are provided or design aspects are utilized (see the PEDS in **Chapter 107** for specific details).
4. The TND Residential (TND-R) overlay is the only *zoning district* where the “shared court” (commonly known as 4-packs and 5-packs), “shared cluster”, “mansion *apartment*”, or rowhouse/townhome housing products are permitted to be utilized in the city (see **PEDS, Sec.2.5D** for specific details).

106-4.4 Development Standards.

- A. The specific development standards for the TND *zoning district* are outlined in **Table 106-4b** and **Table 106-4c** below. Each *lot*, regardless of the product type or land *use*, shall adhere to the development standards outlined in the following tables.
 1. All *multi-family* projects shall provide one hundred and fifty square feet (150 sf) of on-site *open space* per *dwelling unit*, which shall include surfacing and safety features such as lighting, and *amenities* that enable residents to *use* the *open space*. Acceptable types of *open space* are listed below.
 - a. Common *open space* (excluding *setbacks*) with a minimum dimension of fifteen feet (15') in any direction that is accessible to all *dwelling units* by sidewalks or local paths. The space shall be oriented maximize afternoon shade, unless site conditions such as topography warrant waiving this requirement by the Community Development Director or Designee.
 - b. Individual balconies or patios (excluding front stoops) may be *used* for up to twenty-five percent (25%) of the required *open space*. To

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qualify as *open space*, balconies or patios must be at least forty square feet (40 sf) with no dimension less than five feet (5').

- c. Rooftop decks and terraces may be *used* to meet up to fifty percent (50%) of the required *open space*, provided the space provides *amenities* such as seating areas, barbeques, fireplaces, recreational spaces, shade and landscaping.
 - d. On-site indoor recreation areas may be *used* to meet up to twenty-five percent (25%) of the required *open space* provided the space is designed for communal *use* by all residents and provides space for entertaining, gathering, or exercise equipment and fitness activities.
 - e. Environmentally sensitive areas may count toward *open space* requirements if integrated into the site design to be visible and usable by residents with features such as trails and benches. Sensitive or critical areas meeting these requirements may count for up to fifty percent (50%) of the required *open space*.
- B. These development standards shall be the same for any and all TND *Zoning districts* approved by the City and shall be applied consistently throughout the City wherever the TND *Zoning district* has been approved. Deviations or refinements to these specific Development Standards will not be permitted or considered by the city, except through the *Variance* process pursuant to **Chapter 102** of this Ordinance.
- C. All *development parcels* shall adhere to the approved TND Plan of Development.

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Table 106-4b – Development Standards for TND-R Parcels

Lot Categories	A	B ¹	C ¹	D ¹	E ¹	F ⁸	G ⁸
Min. Lot Area (square feet)	3,000 - 4,999	5,000 - 7,999	8,000 - 11,999	12,000 - 17,999	18,000 and over	Multi-family 16,000	Commercial & MU 16,000
Min Lot Width (sf)	40- ⁹	50- ⁹	70	80	90	N/A	N/A
Min. Front setback (ft)	10 ^{2,6}	12 ^{2,6}	15 ^{2,6}	25 ⁵	30 ⁵	15	15
Max. Front setback (ft)	N/A	N/A	N/A	N/A	N/A	25	25
Min. Side setback (ft)	7/12 ^{3,4}	8/15 ^{3,4}	8/15 ³	8/20 ³	10/25 ³	10	10
Min. Rear setback (ft)	10	15 ⁶	20 ⁶	25	30	20	15
Max. Bldg. Height (ft)	30	30	30	30	30	45 ⁷	35 ⁷
Lot coverage %	60%	50%	50%	50%	40%	60%	60%

Notes:

1. Minimum lot area of four thousand square feet per dwelling unit (4,000 sf/du); except lots in column A are permitted one (1) dwelling unit.
2. Garage face and embellishments shall be setback a minimum of twenty-five feet (25') measured from any opposing property line; except rear alley loaded garages, which shall be setback nine feet (9') from alley edge line.
3. Minimum side setback: one (1) side / aggregate side setbacks on same lot.
4. May be reduced to zero feet (0') setback for single-family dwellings as attached building and separated by common wall along property line. End units must maintain total combined setback.
5. A covered front porch may encroach closer to the street by up to eight (8') feet.
6. A covered front porch may encroach into the setback by up to five (5') feet.
7. The height of any structure, or portions thereof, shall not exceed thirty feet (30') in height measured at the setback line when adjacent to Single-family or Two-family lots. The height of the structure may increase at a ratio of one-foot (1') vertical for every one-foot setback horizontally (1':1'), as measured relative to the property line, to the maximum allowed height.
8. Minimum lot area of twenty-five hundred square feet per dwelling unit (2,500 sf/du).

~~9. New blocks with any residential lots that are less than fifty feet (50') wide shall have vehicular access from an alley~~

Commented [AB75]: From Tiffany & Bosco:

They highlighted "9"

Commented [AB76]: From Tiffany & Bosco:

Same comment...no alley requirement...

This needs to be discussed at the next stakeholders' meeting

City Comment: This now is being deleted since the alley access is now optional. A development standard/cross-section will be required when alleys are provided.

To balance the developer request for narrow lots that accommodate cost savings and housing affordability with the long-term conflicts/problems when a subdivision is oversaturated with narrow lots, regulations will be clarified in Chapter 108-Land Divisions (since that's when lots are created).

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Table 106-4c – Additional Development Standards

	TND-C	TND-MU ¹	TND-OS
Min. Lot Area (sf)	6,000	16,000	N/A
Min Lot Area per Dwelling unit (sf/du)	N/A	2,000	N/A
Min. Setback to Arterial ROW (ft) ¹	20	20	15
Min. Setback to Collector and Local ROW (ft) ¹	15 ²	20 ²	15
Min. Setback Adjacent to Residential Zoning (ft) ¹	10 ³	10 ³	15
Min. Setback Adjacent to Non-Residential Zoning (ft)	15	20	15
Max. Bldg. Height (ft) ⁴	40	45	35

Notes:

1. Setbacks shall not include any parking spaces or drive aisles except ingress and egress.
2. Setback may be reduced to ten feet (10') for units that open to the street and exclude a perimeter wall
3. Setback increased to twenty feet (20') from single-family residential.
4. The height of any structure, or portions thereof, shall not exceed thirty feet (30') in height measured at the setback line when adjacent to Single-family, Two-family, Three-family development parcels. The height of the accessory structure may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum height equal to the zoning

ARTICLE 5 – MIXED USE ZONING DISTRICTS

106-5.1 General.

- A. Purpose. The *Mixed use zoning districts* are designed to provide an integration of residential with commercial activities such as retail and service *uses, offices, public/semipublic features, recreational use and entertainment establishments*. The purpose of these districts is to create an area with diverse housing options and lifestyle *amenities* that are incorporated with social, entertainment, and employment opportunities that creates economic and social vitality and provides flexibility in the design of new developments.
- B. Intent. It is intended for the *Mixed use zoning districts* to permit a wider variety of residential *uses* but a more specific range of commercial *uses* focused on meeting the daily needs of the residents while being compatible with and integrated into the residential neighborhoods. It is also the intent of these districts to create the *live-work-play* environment designed to promote a pedestrian scaled walkable development. All land *uses* shall comply with the Land use Matrix in **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.
- C. General Standards.
1. All development, regardless of the land use mix, shall comply with **Chapter 107** of this Ordinance and adhere to the Planning and Engineering Design Standards (PEDS) as applicable.
 2. A *mixed use* project may integrate allowed land *uses* either vertically within the same *building* and/or horizontally as separate but *adjacent uses* within the same *development parcel*. Horizontally integrated *mixed uses* shall be both physically and visually connected for pedestrian and vehicular *uses*.
 3. *Mixed use buildings* that contain residential *uses* may be asked to demonstrate, through a report from a qualified acoustical and/or environmental engineer, either that there are no negative impacts in residential livability or that the impacts can be mitigated through appropriate design.
 4. Vertically integrated *mixed use buildings* contain a residential component of some type above or adjacent to a in addition to any variety of permitted commercial *uses* ~~located on the ground floor~~.
 5. Horizontally integrated *mixed use* developments may have residential and commercial components in separate building that are ~~will be~~ designed to have:
 - a. A unifying architectural character (style, form, and material);
 - b. An integrated circulation system and parking concept;

Commented [AB77]: From Tiffany & Bosco:

Why does commercial use need to be on ground floor?

City Comment: This is common standard for cities without a 'high-rise' pattern in the community

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- c. An integration of different land *uses* and may include the *use* of vertically integrated *mixed use buildings*;
 - d. Designed as a pedestrian-oriented development.
- 6. A *mixed use* development may achieve an increased *net residential density*, up to twenty-five (25%) percent, when designated as a “receiving site” through the *Transfer of Development Rights (TDR)* regulations (refer to **Chapter 104** of this Ordinance for details on TDR).
- 7. A mix of residential and commercial occupancy shall be constructed in each stage of phased developments so that no single type of land *use* is exclusively developed at any time.
- 8. Within the *Mixed use zoning districts* there shall be no restriction on combining different allowed non-residential *uses* within the same *building* other than those imposed by *building* code (refer to **Chapter 105** of this Ordinance) and Arizona Revised Statutes.
- 9. All projects shall provide one hundred and fifty square feet (150 sf) of on-site usable *open space* per *dwelling unit*; unless otherwise indicated in the following MU development standards tables. Onsite *open space* shall include *amenities* and safety features that enable residents to *use* the *open space*. Acceptable types of *open space* are listed below and the design of such areas is further detailed in the PEDS (see Volume 1, Chapter 3).
 - a. Common *Open space* (excluding *setbacks*) with a minimum dimension of fifteen feet (15') in any direction that is accessible via sidewalks and local paths to all *dwelling units*. The space shall to be oriented maximize the afternoon shade, unless site conditions such as topography warrant waiving this requirement by the Community Development Director or Designee.
 - b. Individual balconies or patios (excluding front stoops) may be *used* for up to twenty-five percent (25%) of the required *open space*. To qualify as *open space*, balconies or patios must be at least forty square feet (40 sf) with no dimension less than five feet (5').
 - c. Rooftop decks and terraces may be *used* to meet up to fifty percent (50%) of the required *open space*.
 - d. On-site indoor fitness, entertainment, and/or recreation areas may be *used* to meet up to twenty-five percent (25%) of the required *open space*.
 - e. Environmentally sensitive areas may count toward *open space* requirements if integrated into the site design to be visible and usable by residents with passive features such as trails and

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benches. Sensitive or critical areas meeting these requirements may count for up to fifty percent (50%) of the required *open space*.

- D. Process. A Type 3 review is required to establish any of the *mixed use zoning districts*. All development within a *Mixed use zoning district* shall require a Type 2 *Site Plan Review* prior to the submittal for a *building* and/or grading permit. Some proposed *uses* may require a *Conditional use Permit* (see **Table 106-1c** and **Table 106-1d** in Article 1 herein for requirements).

106-5.2 Mixed Use Medium Density (MU-1).

- A. Purpose. The *Mixed use Medium Density (MU-1) zoning district* provides for the development of a vibrant suburban neighborhood setting through the integration of diverse housing opportunities and a limited range of commercial *uses* as an *amenity*, service, or *business* employment option for the residents within the neighborhood. Generally, the commercial *uses* shall be in keeping with the character and scale of the surrounding neighborhood.
- B. Applicability and Density.
1. The MU-1 *zoning district* may be applicable for land that is within the Neighborhood Character Area of the Surprise *General Plan*; as a suburban development type.
 2. MU-1 developments will be limited to locations at intersections or in conjunction with a *park, school, civic use*, or public space and shall have *building frontage* along collector *rights-of-way*.
 3. The maximum allowed *gross residential density* of a MU-1 development is eight *dwelling units* per acre (8 du/ac) with a minimum of four (4) *dwelling units* per *lot* of record.
- C. Diversity and Scale. MU-1 developments shall provide a mixture of both residential and non-residential *uses*.
1. Twenty-five to seventy-five percent (25-75%) of the total floor area within a MU-1 development shall be designed and constructed for residential occupancy.
 2. The ground floor of a vertically integrated *mixed use structure* shall be designed for commercial occupancy.
 3. Any individual *building* shall be limited to a maximum footprint of five thousand square feet (5000sf).
- D. Development Standards. **Table 106-5a** identifies the development standards required for the MU-1 *zoning district*.

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Table 106-5a - Mixed Use Medium Density (Mu-1) Zoning	
Min Development parcel Size (sf)	1 acre
Min. Lot Area per Dwelling unit (sf/du)- ⁴	5,500
Min. Setback to Arterial ROW (ft)	20
Min. Setback to Collector and Local ROW (ft) ¹	15
Min. Setback Adjacent to Residential Zoning (ft)	15
Min. Setback Adjacent to Non-Residential Zoning (ft) ₂	10
Max. Bldg. Height (ft) ³	45
Max individual building footprint (sf)	5000
Notes: 1. Setback may be reduced to ten feet (10') for units that open to the street and exclude a perimeter wall. 2. Setback may be reduced to five feet (5') when adjacent to other MU zoning districts 3. The height of any structure, or portions thereof, shall not exceed thirty feet (30') in height measured at the setback line when adjacent to RR, R-1, and R-2 zoning districts and established uses. The height of the accessory structure may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum height equal to the zoning 4. New blocks with any residential lots that are less than fifty feet (50') wide shall have vehicular access from an alley	

Commented [AB78]: From Tiffany & Bosco:

Same comment...no alley requirement...

This needs to be discussed at the next stakeholders' meeting

City Comment: This now is being deleted since the alley access is now optional. A development standard/cross-section will be required when alleys are provided.

To balance the developer request for narrow lots that accommodate cost savings and housing affordability with the long-term conflicts/problems when a subdivision is oversaturated with narrow lots, regulations will be clarified in Chapter 108-Land Divisions (since that's when lots are created).

106-5.3 Mixed Use High Density (MU-2).

- A. **Purpose.** The Mixed use High Density (MU-2) zoning district provides for the development of a vibrant urban residential setting with a range of high density and multi-family housing options mixed with employment and entertainment establishments.
- B. **Applicability and Density.**
 1. The MU-2 Zoning district may be applicable for land that is:
 - a. Within the Neighborhood Character Area of the Surprise General Plan; as an Urban Development Type.
 - b. Within the Commerce and Office Character Area of the Surprise General Plan.
 - c. Within the Transit Oriented Development District Sub-Area of the Surprise General Plan.
 2. MU-2 developments must have building frontage along a collector or arterial rights-of-way and be within a quarter (¼) mile of a transit node or transit corridor.

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3. The minimum *development parcel* size to request MU-2 *zoning* is one (1) acre. The allowed overall *gross residential density* of a MU-2 development is between eight and twenty *dwelling units* per acre (8-20 du/ac).

C. Diversity and Scale. MU-2 developments shall provide a mixture of both residential and non-residential *uses*.

1. All MU-2 developments shall be designed and constructed to a residential occupancy of twenty-five to seventy-five percent (25-75%) of the total floor area within a development.
2. The ground floor of all *mixed use structures* shall be designed for commercial occupancy; except residential *structures* in a horizontal *mixed use* plan.
3. Non-residential land *uses* shall be limited to a maximum tenant space of fifteen thousand square feet (15,000sf) when developed as a horizontal *mixed use* plan.
4. Any individual *building* shall be limited to a maximum footprint of thirty thousand square feet (30,000sf).

D. Development Standards. Table 106-5b below identifies the development standards required for the MU-2 *zoning district*.

Table 106-5b - Mixed Use High Density (MU-2) Zoning		
Lot Categories	A	B
Lot Area (sf/du)- ⁴	3,700-5,500	2000 minimum
Min. <i>Setback</i> to Arterial <i>ROW</i> (ft)	20	20
Min. <i>Setback</i> to Collector and Local <i>ROW</i> ¹	15	15
Min. <i>Setback Adjacent</i> to Residential <i>Zoning</i> (ft) ²	15	20
Min. <i>Setback Adjacent</i> to Non-Residential <i>Zoning</i> (ft) ³	20	20
Max. Bldg. <i>Height</i> (ft) ²	50	60
Max <i>Building Footprint</i> (sf)	30,000	30,000
Max non-residential Tenant Occupancy (sf)	15,000	15,000
Notes: 1. <i>Setback</i> may be reduced to 10' for units that open to the <i>street</i> and exclude a perimeter wall 2. The <i>height</i> of any <i>structure</i> , or portions thereof, shall not exceed thirty feet (30') in <i>height</i> measured at the <i>setback</i> line when <i>adjacent</i> to RR, R-1, and R-2 <i>zoning districts</i> and established <i>uses</i> . The <i>height</i> of the <i>accessory structure</i> may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum <i>height</i> equal to the <i>zoning</i> 3. <i>Setback</i> may be reduced to fifteen feet (15') when <i>adjacent</i> to other MU <i>zoning districts</i> 4. New blocks with any residential lots that are less than fifty feet (50') wide shall have vehicular access from an alley		

106-5.4 Mixed Use Resort (MU-3).

Commented [AB79]: From Tiffany & Bosco:

Same comment...no alley requirement...

This needs to be discussed at the next stakeholders' meeting

City Comment: This now is being deleted since the alley access is now optional. A development standard/cross-section will be required when alleys are provided.

To balance the developer request for narrow lots that accommodate cost savings and housing affordability with the long-term conflicts/problems when a subdivision is oversaturated with narrow lots, regulations will be clarified in Chapter 108-Land Divisions (since that's when lots are created).

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- A. Purpose. The *Mixed use* Resort (MU-3) *zoning district* provides for the development of resort areas into the natural environment and setting with *ancillary* recreational *amenities* as well as residential *cluster development*. This *zoning district* also allows limited commercial establishments that specifically cater to the needs of the tourist oriented trade and which are designed and located to be walkable from the resort area without interference to other daily functions of the surrounding community and other *uses* in the vicinity.
- B. Applicability and Density.
1. The MU-3 *Zoning district* may be applicable for land that is:
 - a. Within the Scenic Lands Development Sub Area of the Neighborhood Character Area, of the Surprise *General Plan*; as a rural development type.
 - b. Within the Commerce and Office Character Area of the Surprise *General Plan*; as a *mixed use* residential development type.
 2. The minimum *development parcel* size to request MU-3 *zoning* is twenty acres (20 ac). The allowed overall *gross residential density* of a MU-3 development is between eight and twenty *dwelling units* per acre (8-20 du/ac) when the resort development includes an *ancillary* residential component.
- C. Review and Process.
1. Procedures:
 - a. A Resort Master *Site Plan* (MSP) shall be submitted as part of the *rezoning* process pursuant to **Chapter 102** of this Ordinance. The Resort MSP is the compilation of exhibits that demonstrate compliance with all requirements of this Ordinance and shall identify the size and location of each allowed *development parcel* listed below.
 - (1) Residential. A residential *development parcel* does not require space designed for commercial occupancy but is meant for a variety of housing.
 - (2) Non-residential. A non-residential *development parcel* has no residential requirement associated with the land *uses* permitted in **Table 106-1c** and **Table 106-1d**.
 - (3) *Mixed use*. A *mixed use development parcel* incorporates *multi-family* housing with space designed for commercial occupancy. The ground floor of all *mixed use structures* shall be designed for commercial occupancy; except residential *structures* in a horizontal *mixed use site plan*.

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- b. *Development parcels* labeled as Residential will be *platted* as per **Chapter 108** of this Ordinance and shall comply with the PEDS and other design standards in **Chapter 107**.
 - c. A *Site Plan* Review will still be required for any multiple-building apartment complex, *mixed use*, or non-residential development.
- 2. *Amendments*: A Council approved Resort MSP may be amended administratively for the following circumstances:
 - a. Up to a ten percent (10%) transfer (increase or decrease) in the allowed quantity of *dwelling units* between *development parcels* with the Resort MSP;
 - b. Up to a ten percent (10%) increase or decrease to the *gross residential density* of the Resort MSP as compared to City Council approval;
 - c. Up to a ten percent (10%) shift in the individual *development parcel gross area* or configuration, as compared to City Council approval.
- 3. Requests for an administrative *amendment* shall require the following:
 - a. The master *developer*, or the specific *applicant* if the master *developer* is no longer involved in the project, shall provide the City with a “Revised Resort MSP” that reflects any and all administratively approved *alterations* to date.
 - b. No further applications for *plats*, *site plans*, or *building permits* shall be submitted to the City until after the administrative *amendment* request has been determined; and if approved, a new “Revised Resort MSP” showing the latest approved *amendment* has been submitted back to the City.
- 4. Administrative *amendment* to the Resort MSP shall not be allowed if:
 - a. Any *amendment* would require backbone infrastructure (water and wastewater) upsizing, or change the parameters for the master drainage design, or change the amount or intent of the *open space* component of the Resort MSP as compared to the initial approval.
- 5. Any *alteration* to the “Resort MSP” that exceeds the limits set for administrative approval, as listed above, shall require City Council action as a Resort MSP *Amendment*.

D. Development Standards.

- 1. The Resort MSP will comply with overall development standards shown in **Table 106-5c** related to the perimeter to the overall development.

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2. Each *development parcel* shall further comply with the development standards identified in **Table 106-5d** and **Table 106-5e** related to the internal development within the overall Resort MSP.
3. Each residential *lot* of record will be allowed a maximum of three (3) *dwelling units*, provided that said *lot* has a minimum *lot* area of three thousand five hundred square feet per *dwelling unit* (3,500 sf/du).
4. The individual *building* footprint for a *mixed use* or non-residential land *use* shall be limited to a maximum of thirty thousand square feet (30,000sf); excluding the main resort *structure* and *ancillary restaurant*.
5. Within the thirty thousand (30,000) *building* footprint limits, non-residential *uses* shall be further limited to fifteen thousand square feet (15,000 sf) per tenant.

**Table 106-5c – Mixed Use Resort (MU-3) Zoning
Overall Project Development Standards**

Min Resort MSP Project Size	20 acres
Gross Residential Density (du/ac)	8-20
Min. Setback to Arterial ROW	35
Min. Setback to Collector and Local ROW (ft)	20
Min. Setback Adjacent to Residential Zoning (ft)	45
Min. Setback Adjacent to Non-Residential Zoning (ft)	30
Net Open space (%)	30%

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**Table 106-5d – Mixed Use Resort (MU-3) Zoning
Residential Development Standards**

Lot Categories	A ¹	B ¹	C ¹
Lot Area (sf)	4,000-7,999	8,000-15,999	16,000-20,000
Min Lot Width (sf)	40 ⁶	60	80
Min. Front setback (ft)	12 ^{2, 3}	15 ^{2, 3}	15 ^{2, 3}
Max. Front setback (ft)	30 ⁴	30 ⁴	30 ⁴
Min. Side setback (ft)	5/10 total ^{2, 5}	5/10 total ^{2, 5}	10
Min. Rear setback (ft)	12 ²	12 ²	20 ²
Max. Bldg. Height (ft)	30	30	30
Lot coverage %	50	40	30

Notes:

- Maximum of three (3) *dwelling units* per lot of record, provided that said lot has a minimum lot area of three thousand five hundred square feet per *dwelling unit* (3,500 sf/du)
- Garage doors/embellishments* shall be *setback* a minimum of twenty feet (25') measured from the opposing property line, except rear, *alley* loaded *garages*, which shall be *setback* nine feet (9') from the *alley* edge line.
- A covered front porch may encroach closer to the *street* by up to five (5') feet.
- Measured from the primary *dwelling*, excluding front porch.
- Minimum *side setback*: one (1) side / total *side setbacks* on a lot. May be reduced to 0' *setback* for *Single-family dwellings* as *attached building* to and separated by a *common wall* along the property line. End units shall maintain the total combined *setback*.
- New blocks with any residential lots that are less than fifty feet (50') wide shall have vehicular access from an *alley*.

**Table 106-5e – Mixed Use Resort (MU-3) Zoning
Non-residential and Mixed Use Development Standards**

	Non-residential	Mixed use
Min Lot Area (sf)	20,000 (min)	20,000
Lot Area per dwelling unit (sf/du)	N/A	2,100 – 5,400
Min. Setback to Arterial ROW	15	20
Min. Setback to Collector and Local ROW (ft)	30	15 ¹
Min. Setback Adjacent to Residential Parcels (ft)	10	10
Min. Setback Adjacent to Non-Residential Zoning (ft)	12	20
Max. Bldg. Height (ft)	45 ²	50 ²

Notes:

- Setback* may be reduced to ten feet (10') along Collector or Local ROW for units that open to the *street* and exclude a perimeter wall
- The *height* of any *structure*, or portions thereof, shall not exceed thirty feet (30') in *height* measured at the *setback* line when *adjacent* to RR, R-1, and R-2 *zoning districts* and established *uses*. The *height* of the *accessory structure* may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum *height* equal to the *zoning district*

Commented [AB80]: From Tiffany & Bosco:

Same comment...no alley requirement...

This needs to be discussed at the next stakeholders' meeting

City Comment: This now is being deleted since the alley access is now optional. A development standard/cross-section will be required when alleys are provided.

To balance the developer request for narrow lots that accommodate cost savings and housing affordability with the long-term conflicts/problems when a subdivision is oversaturated with narrow lots, regulations will be clarified in Chapter 108-Land Divisions (since that's when lots are created).

ARTICLE 6 – COMMERCIAL ZONING DISTRICTS

106-6.1 General.

- A. Purpose. The Commercial *zoning districts* are intended to provide locations, standards and regulations for all varieties of retail shopping, service establishments, neighborhood convenience, entertainment, and *office uses* in a manner that is consistent with the *General Plan* while providing employment opportunities for existing and future residents of the City.
- B. Applicability and Intensity.
1. The commercial *zoning district(s)* may be applicable for land that is within the Neighborhood, Commerce and Office, and Employment Character Areas of the *General Plan*.
 2. The Commercial *zoning districts* listed below represent the different levels of allowed intensity of a development or land *use* in relation to the *building* size, scale, and overall impact on surrounding neighborhoods (i.e. corner store vs. traditional grocery store vs. typical big box with *outdoor display area*) as delineated in the Land *use* Matrix **Table 106-1c** in Article 1 of this Chapter.
 3. Outdoor *uses* such as dining, display, storage, *drive-through* facilities, entertainment *uses*, and sound systems may be allowed only in certain zones and under certain conditions as delineated in the *Accessory use* Matrix **Table 106-1d** in Article 1 of this Chapter.
- C. Process. A Type 3 review is required to establish a commercial *zoning district*. All development within a commercial *zoning district* shall require a Type 2 *Site Plan* Review prior to submittal for a *building* and/or grading permit. Some proposed *uses* may require a Type 3 review for *Conditional use Permits* per **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.

106-6.2. Establishment of Commercial Zoning districts.

- A. **Office Commercial (C-O):** The Office Commercial (C-O) *zoning district* provides for *offices* and services with smaller, supportive shops and dining.
1. The intent of the ~~OE~~**C-O** *zoning district* is to create an employment friendly environment by permitting an *office* and/or service *uses* that limit impact on and can be integrated within the residential neighborhood.
 2. Applicable in Rural, Suburban, Urban, and Community Commercial Development Types of the *General Plan*.
- AB.** **Neighborhood Commercial (C-1):** The Neighborhood Commercial (C-1) *zoning district* provides for the development of smaller shops, dining, recreation,

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entertainment, *offices*, and services in convenient locations to meet the daily needs of the immediate residential neighborhoods.

1. The intent of the C-1 *zoning district* is to create a *pedestrian friendly*, neighborhood environment by permitting a range of commercial, *office*, and/or service *uses* which are limited to a residential scale and integrated within the residential neighborhood.
2. The C-1 *zoning district* may be applicable to the Neighborhood (Rural and Suburban) and Commerce and Office (*Mixed use* Residential) Character Areas of the *General Plan*.

CB. Community Commercial (C-2): The Community Commercial (C-2) *zoning district* provides for retail, *office*, and service activities to satisfy the needs of the community with emphasis on shopping *commerce centers*, clustered *office commerce centers*, and medium sized commercial developments.

1. The intent of this district is to create a *pedestrian friendly*, neighborhood environment and discourage the sprawl of strip commercial development by assembling community-serving *businesses* and services in *commerce centers* rather than in a strip or linear pattern.
2. The C-2 *Zoning district* may be applicable for land that is within the Neighborhood (Suburban and Urban), Commerce and Office (*Office, Mixed use* and Regional Commercial), and Employment (*Business Park*) Character Areas of the *General Plan*; if the overall development meets the size and intensity guidelines outlined in the *General Plan*.

DC. Regional Commercial (C-3): The Regional Commercial (C-3) *zoning district* accommodates the development of large-scale planned commercial and *office* complexes that provide goods, recreation, entertainment, food, and services to regional trade areas.

1. The C-3 *zoning district* provides for a diversity of general *business* and commercial *uses* at a large *building* size, scale, and overall intensity. The C-3 *zoning district* shall emphasize safe and convenient pedestrian mobility in many forms, with planning that concentrates *parking areas* for trip reduction and accommodates internal vehicular traffic flow.
2. The C-3 *zoning district* may be applicable for land that is within the Commerce and Office (*Office* and Regional) Character Area of the *General Plan*.

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106-6.3 Commercial Development Standards.

1. Developments within a Commercial *zoning district(s)* shall comply with development standards shown in **Table 106-6a**.
2. Projects designed as *commerce center* will comply with overall development standards regarding perimeter *setbacks* from *abutting* developments.
3. *Pad sites* within a *commerce center* may have reduced *setbacks* along boundaries internal to the *site plan* if the whole development complies with parking and landscaping regulations. Approval by the Community Development Director or designee is required.

Table 106-6a - Commercial Zoning Districts

	C-O	C-1	C-2	C-3
Minimum <i>Lot Area</i> (sf)	12,000	12,000	18,000	90,000 ¹
Min. <i>Setback</i> to Arterial ROW	35	35	35 ^{5,6}	35 ^{5,6}
Min. <i>Setback</i> to Collector and Local ROW (ft)	15	20	20 ^{5,6}	20 ^{5,6}
Min. <i>Setback Adjacent</i> to Residential <i>Zoning</i> (ft)	20	20	30 ^{5,6}	45 ^{5,6}
Min. <i>Setback Adjacent</i> to Non-Residential <i>Zoning</i> (ft)	15	15	15 ^{5,6}	15 ^{5,6}
Max. Bldg. <i>Height</i> (ft)	30	35 ²	40 ²	45 ²
Max. size per <i>use/tenant</i> (sf) ³	5,000	5,000	45,000	No limit
Max size per <i>Commerce center</i> (ac) ⁴	10	10	20	No limit

Notes:

1. Minimum *lot area* may be reduced to eighteen thousand square feet (18,000 sf) for *pad sites* within a *commerce center* with a minimum size of ninety thousand square feet (90,000 sf)
2. The *height* of any *structure*, or portions thereof, shall not exceed thirty feet (30') in *height* measured at the *setback* line when *adjacent* to Rural Residential (RR), Residential Low Density (R-1), and Residential Medium Density (R-2) *zoning*. The *height* increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum *height* equal to the *zoning district*
3. Area combines the total square footage of the *use*, which may include but is not limited to the gross floor areas of the *building*, outdoor activities and dining areas (when allowed), storage areas, and all display or *sales areas*
4. Contain *uses* designed around common circulation, parking, and pedestrian connectivity, including but not limited to shared *access* or *access easements*
5. Projects designed as *commerce center* will comply with overall development standards regarding perimeter *setbacks* from *abutting* developments.
6. *Pad sites* within a *commerce center* may have reduced *setbacks* along boundaries internal to the *master site plan* if the whole development complies with parking and landscaping regulations. Approval by the Community Development Director or designee is required.

Commented [AB81]: From Tiffany & Bosco:

Regional centers should be allowed higher building heights for mixture of uses including residential

City Comment: This height has been increased from the SUDC standard of 35' maximum. Also, the inclusion of residential in a regional center would be under the Mixed Use zoning district, not the C-3 zoning district.

Commented [AB82]: From Tiffany & Bosco:

Ensure property development standards can be applied as a whole vs. applying the standard to each and every parcel/pad in a commercial development

ARTICLE 7 – EMPLOYMENT ZONING DISTRICTS

106-7.1 General.

- A. Purpose. The Employment *zoning districts* provide a wide range of employment *uses* to serve the needs of Surprise employers and residents. The standards for the Employment districts are intended to protect employment areas from incompatible *uses* as well as protecting *adjacent uses* from the potential adverse impact of the employment *uses* by establishing standards for compatibility and *screening*, and encouraging quality and variety in *building* and landscape design as further addressed in **Chapter 107** of this Ordinance.
- B. Intent. It is intended for the Employment *zoning districts* to permit a variety of both indoor and outdoor industrial *uses* focused on meeting the needs of the different employment sectors of the community while making certain to *buffer* surrounding land *uses* from the negative impacts that might come from such *uses*.
- C. Applicability and Intensity.
1. The Employment *zoning districts* shall be limited to land that is within the Employment Character Area of the Surprise *General Plan* at locations with appropriate *access* to major roads, transportation corridors, and the necessary utilities.
 2. The Employment *zoning districts* listed below represent the different levels of allowed intensity of a development or land *use* in relation to the *building* size, scale, and overall impact on surrounding neighborhoods and developments. All land *uses* shall comply with the Land *use* Matrix in **Table 106-1c** and **Table 106-1d** herein or otherwise is considered in violation of this code.
 3. The Employment *zoning districts* are intended to work in conjunction with and adhere to Articles 1 and 3 of the Planning and Engineering Design Standards (PEDS) of **Chapter 107** of this Ordinance in general, and any additional *Business Park* or Industrial specific standards outlined below.
- D. Review and Process. A Type 3 review is required to establish any of the employment *zoning districts*. All development within the *Business Park zoning district* or any of the Industrial *zoning districts* shall require a Type 2 *Site Plan* Review prior to the submittal for a *building* and/or grading permit. Some proposed *uses* may require a Type 3 review for *Conditional use Permits* as identified in **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.

106-7.2 Establishment of Employment Zoning districts.

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- A. Business Park (BP) Zoning district:** The *Business Park (BP) zoning district* provides for the development of integrated campus-style employment *uses* to serve technology, research and development, *office*, and product distribution along with limited retail and service *uses* primarily to serve the *business park uses*.
1. The standards for the *BP zoning district* are intended to establish and maintain high quality *site planning* and architecture in a landscaped setting to create an attractive and unified development character
 2. Projects within a *BP zoning district* shall develop in a campus-like setting that allows for a variety of *buildings* and sizes that interact through outdoor seating areas, shaded pathways and landscaped areas.
- B. Light Industrial (I-1) Zoning district:** The *Light Industrial zoning district* provides for a mix of industrial activities which have generally negative impacts on the community, and which may be incompatible with other *uses*.
1. Typical Industrial *uses* have limited retail or on-site consumer interaction.
 2. The *uses* permitted within the *I-1 zoning district* are intended to be indoor *uses* with restricted and limited outdoor operations and storage, see **Section 106-10.33**.
- C. General Industrial (I-2) Zoning district:** The *Light Industrial zoning district* provides for a mix of industrial activities requiring large land areas unencumbered by nearby residential or commercial development.
1. Typical Industrial *uses* have limited retail or on-site consumer interaction.
 2. The *uses* permitted within the *I-2 zoning district* are a variety of indoor *uses* with outdoor operations and storage, see **Section 106-10.33**.
- D. Heavy Industrial (I-3) Zoning district:** The *Heavy Industrial (I-3) Zoning district* provides for *uses* that require major earth moving activities suitable only in certain locations and may require land reclamation upon completion of the operation.

106-7.3 Development Standards.

- A.** All projects within the *BP zoning district* shall adhere to the development standards listed below:
1. There may be a combination of *warehousing, manufacturing and office use* under one (1) development provided all activities are conducted indoors and there is no *outdoor storage*.
 2. Developments shall be designed in a campus-like setting that allows for a variety of *buildings* and sizes that interact through outdoor seating areas, shaded pathways and landscaped areas.

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3. The minimum *parcel* size for requesting the BP *zoning district* is fifty acres (50ac).
- B.** All projects within the I-1, I-2, I-3 *Zoning districts* shall adhere to the development standards listed below:
1. Projects designed as *commerce center* will comply with overall development standards regarding perimeter *setbacks* from *abutting* developments.
 2. *Pad sites* within a *commerce center* may have reduced *setbacks* along boundaries internal to the *site plan* if the whole development complies with parking and landscaping regulations. Approval by the Community Development Director or designee is required.
 3. Within the indoor tenant space industrial *uses* may include *ancillary offices, showrooms/sales offices*, retail, and service *uses* (as shown in Table 106-1c) no greater than twenty-five percent (25%) of the gross floor area.
- C.** Developments in I-3 *zoning district* shall also adhere to the additional development standards listed below:
1. Primary *access* from an *arterial street* or *streets* specifically designed for intense heavy equipment *use*.
 2. Appropriate warning *signs* shall be installed upon the property indicating hazards and the type of hazards.
- D.** **Table 106-7a** below is specific to individual *lots* and identifies the dimensional standards required for the Employment *zoning districts*.

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Table 106-7a - Employment Zoning Districts

	BP	I-1	I-2	I-3
Minimum <i>Lot Area</i>	20 acres ⁶	20,000 sf	5 acres	40 acres
Min. <i>Setback</i> to Arterial <i>ROW</i>	35	35	35	50
Min. <i>Setback</i> to Collector and Local <i>ROW</i> (ft)	25	35	35	50
Min. <i>Setback Adjacent</i> to Residential <i>Zoning</i> (ft)	75 ¹	50 ²	75 ¹	150 ³
Min. <i>Setback Adjacent</i> to Non-Residential <i>Zoning</i> (ft) ⁴	15	15	25	50
Max. Bldg. <i>Height</i> (ft) ⁵	45	40	85	40

Notes:

1. May be reduced to fifteen feet (15') when the development provides a forty-five feet (45') or greater landscape *buffer "tract"* with a public *access* easement to allow paths or trails that may connect to the Surprise Open Trails system.
2. May be reduced to fifteen feet (15') when the development provides a thirty feet (30') or greater landscape *buffer "tract"* with a public *access* easement to allow paths or trails that may connect to the Surprise Open Trails system.
3. May be reduced to seventy-five feet (75') when the development provides a fifty feet (50') or greater landscape *buffer "tract"* with a public *access* easement to allow paths or trails that may connect to the Surprise Open Trails system.
4. *Setback* may be increased if *abutting a parcel* with OS-1 or OS-2 *zoning* that separates residential *zoning* by less than sixty feet (60')
5. *Buildings*, or portions thereof, shall be *setback* an additional one foot for every one foot (1':1') above thirty feet (30') in *height* when *adjacent* to Residential *zoning districts*.
6. Minimum *lot area* may be reduced to one (1) acre for *pad sites* within a *commerce center*

Commented [AB83]: From Tiffany & Bosco:

May want more flexibility on lot size as business model for standard lot sizes are changing/evolving

City Comment: BP zoning s currently written as a campus-like employment center. It is not meant to be a single-use, isolated project/development. When the campus is designed as a master site plan, it may be subdivided with pad sites within.

ARTICLE 8 – CIVIC ZONING DISTRICTS

106-8.1 General

- A. Purpose. The purpose of the civic *zoning districts* is to provide *zoning* criteria and development standards for those public land *uses* and facilities that are necessary to serve the community at large, conserve *environmentally sensitive features* and natural areas, or provide recreational *amenities* that enhance the quality of life for the residents of Surprise.
- B. Applicability and Intensity.
1. The civic *zoning districts* are appropriate for land in all character areas of the Surprise *General Plan*. The civic *zoning districts* have no minimum *lot* size
 2. As these civic districts are appropriate in all character areas they are likewise intended to work in conjunction with and adhere to all Articles of the Planning and Engineering Design Standards (PEDS) of **Chapter 107** of this Ordinance and any specific standards outlined below.
- C. Review and Process. A Type 3 review is required to establish any of the Civic *zoning districts*. All development within the Public Facilities or any of the Open Space *zoning districts* shall require a Type 2 *Site Plan* Review prior to application for a *building* and/or grading permit. Some proposed *uses* may require a Type 3 review for *Conditional use Permits* per **Table 106-1c** and **Table 106-1d** in **Article 1** of this Chapter.

106-8.2 Open space Conservation (OS-1) Zoning districts.

- A. Purpose. The purpose of the *Open space* Conservation (OS-1) *Zoning district* is to conserve, protect and enhance natural *open spaces* such as but not limited to: desert washes and flood plains; *environmentally sensitive lands*, wildlife *habitats*, and steep *hillsides*; historic or archeological sites; and *open space* lands within the community. The primary purpose of designating these areas is to raise the degree of assurance that designated *open space* for conservation will remain undeveloped while allowing limited passive recreational *uses* such as hiking, horseback riding, and bicycling in a natural setting.
- B. Development Standards.
1. Given the conservation purpose of this *zoning district* the minimum *parcel* size necessary to establish OS-1 *Zoning* is ten acres (10 ac) and shall follow the locational hierarchy identified in **Section 104-1.10** of this Ordinance.

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2. Private lands that are proposed to be zoned for OS-1 shall require the express written consent of the property owner(s).
3. Unpaved or paved trails or paths are permitted for *use* only by pedestrians, non-motorized vehicles, and horses (where specifically designated). Limited *access* is permitted for maintenance and emergency vehicles only. use of motorcycles all-terrain vehicles (ATVs) or off-highway vehicles (“OHVs”) is prohibited.
4. Picnic areas, sitting areas, scenic lookouts, shade *structures*, and restrooms may be permitted as *accessory uses*, subject to minimal disturbance and revegetation of the areas disturbed during construction of these *amenities*.
5. Drainage facilities and utility easements shall be revegetated to be consistent with the surrounding natural vegetation.
6. **Table 106-8a** below is specific to individual *parcels*, tracts, or *lots* and identifies the dimensional standards required for any proposed improvements within the OS-1 *Zoning district*.

Table 106-8a - Open space Conservation (OS-1) Zoning district

Min. Arterial, Collector, and Local ROW Setback (ft)	15
Adjacent to Residential Zoning (ft)	50
Adjacent to Non-Residential Zoning (ft)	15
Max. Bldg. Height (ft)	15

Commented [AB84]: From Tiffany & Bosco:

Not sure why open space requires a setback...not sure how that works.

City Comment: Despite being intended as passive recreation, buildings may be constructed to enhance the setting; such as restrooms, utility buildings, or other community facilities. Setbacks ensure they do not negatively impact abutting properties.

106-8.3 Open space Recreation (OS-2) Zoning district.

- A. Purpose. The purpose of the *Open space Recreation (OS-2) Zoning district* is to conserve and protect those lands agreed to be developed for recreational *uses* through the plan approval process. The primary purpose of designating these areas is to raise the degree of assurance that designated *open space* for recreational areas will be preserved as such as well as to further the goals and objectives of the Surprise *General Plan*.
- B. Development Standards.
 1. New residential subdivisions shall plan, design, and provide the required *open space* for usage by the general public on a subdivision-wide basis rather than on a *lot-by-lot* basis and shall follow the locational hierarchy identified in **Section 104-1.10** of this Ordinance.

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2. The minimum width of any *open space* area *used* for active recreation shall be thirty feet (30').
3. **Table 106-8b** below is specific to individual *parcels*, tracts, or *lots* and identifies the dimensional standards required for any allowed development within the OS-2 *Zoning district*

Table 106-8b - Open space Recreation (OS-2) Zoning district ¹	
Min. Arterial, Collector, and Local ROW Setback (ft)	15
Adjacent to Residential Zoning (ft) ²	15
Adjacent to Non-Residential Zoning (ft) ³	15
Max. Bldg. Height (ft) ⁴	35
Notes: 1. Setbacks shall not contain <i>drive aisle</i>, <i>parking spaces</i>, or <i>buildings</i>. Exceptions allowed for <i>ingress/egress</i> only, seating areas, patios, sidewalks/trails, bicycle parking, and pedestrian <i>amenities</i> 2. Used for whole length of any <i>lot line</i> that <i>abuts</i> any residential <i>zoning district</i> 3. Used for any <i>side lot line</i> that <i>abuts</i> any non-residential <i>zoning district</i> 4. Height may be increased by ten (10') (up to a max of sixty (60')) for each additional five feet (5') away from the <i>side</i> or <i>rear lot line</i>.	

106-8.4 Public Facilities (PF) Zoning district.

- A. **Purpose.** The purpose of the Public Facilities (PF) *zoning district* is to accommodate development on federal, state, county, and City of Surprise owned land for those land *uses* necessary to serve the needs of the community and/or protect the public health and safety.
- B. **Development Standards.**
 1. The PF *Zoning district* is intended to work in conjunction with and adhere to all Articles of the Planning and Engineering Design Standards (PEDS) in **Chapter 107** of this Ordinance.
 2. The dimensional standards required for the PF *zoning district* will be determined based on *use* and impact on surrounding developments as part of the *site plan* process.

ARTICLE 9 – OVERLAY ZONING DISTRICTS

106-9.1 Planned Unit Development (P) Overlay

- ~~A. The City utilized a Planned Unit Development (PUD) overlay zoning district prior to the adoption of this Ordinance. The PUD overlay zoning designation now serves only to preserve the governing entitlement documents adopted by City Council for each PUD. Existing PADs and PUDs may have individual development standards, land uses, and densities that supersede the zoning standards contained herein at the time of the adoption of this Ordinance. Any zoning standard contained herein this Ordinance shall apply that is not explicitly identified in a PUD.~~
- A. Purpose. The planned unit development (PUD) overlay zoning district facilitates development by permitting flexibility to accommodate creative and imaginative designs that may not be possible under conventional regulations. It is intended to accommodate site constraints and unique circumstances that may include topography or environmentally sensitive lands.
- B. Applicability. The PUD overlay zoning district is permitted in all Character Areas as set forth in the General Plan. A PUD overlay zoning district provides for the establishment of distinct regulations as adopted by the city council. A PUD overlay may be applied to any zoning district in the City of Surprise, except for the Surprise Heritage District (SHD), Traditional Neighborhood Development (TND), or on any individual residential dwellings. Where a provision in a PUD overlay zoning district varies from this Ordinance, the provisions in the PUD overlay zoning district shall govern.
- C. Rationale. A application may request deviations from regulations in this Ordinance, as permitted in this section. The proposal shall identify the various constraints associated with site and demonstrate how the design meets the following guiding objectives of a PUD overlay zoning district
1. Development enriches the whole community through creating a unique sense of place for the residents within the PUD overlay zoning district as well as those in surrounding neighborhoods.
 2. Provide for a variety of coordinated and compatible land uses through innovative site planning.
 3. Create a higher standard of development than would be accomplished through the development of individual parcels through conventional zoning regulations.
 4. Planned and integrated comprehensive transportation systems for pedestrian and vehicular traffic as outlined in this Ordinance, which may include provisions for mass transportation and roadways, bicycle or

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equestrian paths, pedestrian walkways and other similar transportation facilities to meet the site conditions.

5. Preserve existing environmentally sensitive lands that exceeds the minimum open space area required in the ordinance and provide for and well-designed open space amenities.
6. Fulfills the goals, objectives, and policies of the General Plan as well as specific plans for city areas that may include, but are not limited to cultural, educational, medical, and/or recreational facilities.
7. Provide for a variety of housing types, employment opportunities, and commercial services to achieve a balanced community for families of a wide variety of ages, sizes, and levels of income.
8. Site structures to take maximum advantage of the natural and man-made environment, provide view corridors, and minimize adverse environmental impact on surrounding areas during the development stages.
9. Avoid premature or inappropriate development that would result in incompatible uses or would create traffic and public service demands that exceed the capacity of existing or planned facilities.
10. All standards set forth in an approved PUD document shall carry the full force of law.

D. Permitted uses.

1. All uses shall comply with the underlying zoning district.

E. General regulations and permitted deviations.

1. The PUD Overlay District may establish alternate development standards (except lot area per dwelling unit) for those found in Chapter 106 and Chapter 109. Standards developed through the PUD Overlay District rezoning process shall be appropriate to the location and context for the site for which the project is proposed. Standards created through the PUD Overlay should also assist in the fulfillment of the goals, objectives, and policies in the General Plan. Approval of the standards is based on the site plan provided as part of the PUD.
2. All PUD districts shall otherwise adhere to the regulations established in this Ordinance. Any PUD overlay zoning districts containing standards that do not adhere to Chapter 106 or signage standards found in Chapter 109 shall be identified at the time of PUD zoning approval and shall be set forth in the development plan.

ARTICLE 10 – USE SPECIFIC STANDARDS

106-10.1 General Standards for all *use* Specific Development

- A. The *use* Specific Standards outlined in this Article set forth specific requirements that shall be met before approval may be given for a proposed development. These *use* Specific Standards incorporate requirements to address *uses* that require additional regulations to protect public health, safety, and welfare.
- B. Specific proposals for new development may be subject to more than one (1) set of standards and shall also comply with the requirements listed elsewhere in this Ordinance. In the case of conflict with a *zoning district*, *use* Specific Standards, or requirements of the Planning and Engineering Design Standards (“PEDs”) the more restrictive requirement shall apply; unless specifically provided to the contrary and clearly intended.
- C. Nothing in these provisions shall relieve any property *owner* or property *user* from satisfying any condition or requirement associated with a previous approval, special permit, conditional *use*, *Variance*, or other permit issued under any local, state, or federal ordinance or statute.

106-10.2 Accessory Dwelling Units (ADU).

- A. *Single-family* residential *uses* will be limited to only one (1) *accessory dwelling unit* (ADU) per *lot* of record in the RR, R-1 and R-2, SHD-RO, and TND-R *zoning districts*. A minor *site plan* review shall be required.
 - 1. New *accessory dwelling units* may not be constructed within the 65 DNL pursuant to A.R.S. §28-8481(E) after the adoption of this Ordinance.
- B. The ADU shall be located on the same *lot* as the *primary uses* and may not be sold or conveyed as a separate *dwelling unit* nor calculated as a separate *dwelling unit* for the purposes of determining *gross or net residential density*.
- C. An attached ADU shall have independent *access* and no direct, internal *access* to the *primary dwelling*. Detached ADUs shall not be located in the *front yard*.
- D. The design of any ADU shall respect the general *building* scale and architectural character of the *primary dwelling*, and placed to allow sharing of common space on the *lot*, such as driveways and *yards*.
- E. The ADU has a maximum area not to exceed fifty percent (50%) of the habitable space of the *primary dwelling unit* or eight hundred square feet (800 sf) of habitable space, whichever is less.
- F. The ADU shall not have separate utility services unless the *public utility* determines that a separate meter is required for safety reasons.

Commented [JM85]: City Comment: Retained from the SUDC and revised. Formerly known as Guest or Granny Flat

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- G.** One (1) additional *off-street parking space* is required for the *ADU*. Existing required *off-street parking* for the primary *dwelling* shall be maintained or replaced onsite.
- H.** Development Standards. **Table 106-10a** below identifies the dimensional standards required for an *ADU*.

Table 106-10a - Accessory dwelling units (ADU)

	Max ADU Size ¹	Building Separation ²	Setback (Front yard) ³	Setback (Side and/or Rear yard)	Height
Detached <i>ADU</i>	50% of primary <i>dwelling</i>	5'	Not permitted	5'	9' ^{4, 6}
Attached <i>ADU</i> ⁵	50% of primary <i>dwelling</i>	n/a	Same as <i>Zoning</i> min setbacks	Same as <i>Zoning</i> min setbacks	Same as <i>Zoning</i> allowed height

Notes:

1. Calculated by the floor area of the first floor of the principal *building*. Maximum area of *ADU* shall not exceed 800 sf if the primary *dwelling* exceeds 1600 sf.
2. May be increased as required by the *building* and/or fire codes.
3. The entrance to the *ADU* shall not face be visible from the *street*, except for entrances that do not have *access* from the ground level, such as entrances from balconies or decks. *Access* shall not create the appearance of a *two-family dwelling*.
4. The *height* of an *ADU structure* shall not exceed nine feet (9') as measured at the five-foot (5') *setback* line. The *height* of the *ADU structure* may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum *height* equal to the *zoning district* (See **Figure 106-10a** and **106-b**).
5. The *ADU* shall be connected to the primary *dwelling* by a common roof, covered passageway, or *common wall* without direct *access* to the primary *dwelling unit*.
6. On lots 30,000 sf or greater each *ADU* has a maximum *height* equal to the *zoning district* when constructed within the *building envelope*.

106-10.3 Accessory Uses and Structures.

- A.** All residential *accessory uses* (including *ADUs*), *buildings*, *structures*, and fencing shall be located on the same *lot* as the principal or main *use* and be at least five feet (5') from other *structure* or as required by the *building* and/or fire codes, except that fencing *used* to separate properties in a subdivision may straddle the common property line. *Accessory structures* in residential districts shall not be located within any easement.
- B.** An *accessory structure* that is exempt from the *building permit* requirement still must comply with any other provisions, code, or regulation adopted by the city.
- C.** No *accessory use*, *building*, or *structure* shall be constructed or developed on a *lot* prior to the establishment/construction of the *primary uses*, *building*, or *structure*; except for open-wire fencing on an otherwise undeveloped residential *lot* in the Rural Residential (RR) *Zoning district* or retaining walls associated with site development.

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- D. No *accessory building* shall at any time be *used* as a *dwelling unit*, unless specifically developed as an *ADU* in compliance with the standards outlined in **Section 106-10.2** above and otherwise complies with the applicable *building codes*.
- E. A *structure* shall not be considered *accessory* if it is connected to the principal *building* by a common roof *structure* or covered passageway, except an *ADU* may be connected to the primary *dwelling*.
- F. With the exception of attached *ADUs*, and decorative shade *structures* such as gazebos, pergolas, and arbors, a residential *accessory structure* shall not be located in the *front yard* of a residential *lot*; except in the *RR Zoning district*. *ADUs* and decorative shade *structures*, such as gazebos and arbors, may be in the *front yard*, but may not encroach into the minimum *front* or *side setbacks*.
- G. An *accessory structure* shall remain *accessory* to and under the same *ownership* as the *primary uses*, and shall not be *subdivided* or sold separately.
- H. No permit shall be issued for the construction of more than one (1) detached *garage accessory structure* for each *dwelling*.
- I. Apiaries may be permitted, provided the hives shall not be located closer than eighty feet (80') to any *dwelling*, *lot line*, or *right-of-way*.
- J. Development Standards. **Table 106-10b** below identifies the dimensional standards required for an *accessory structure*.

Table 106-10b - Accessory Structures

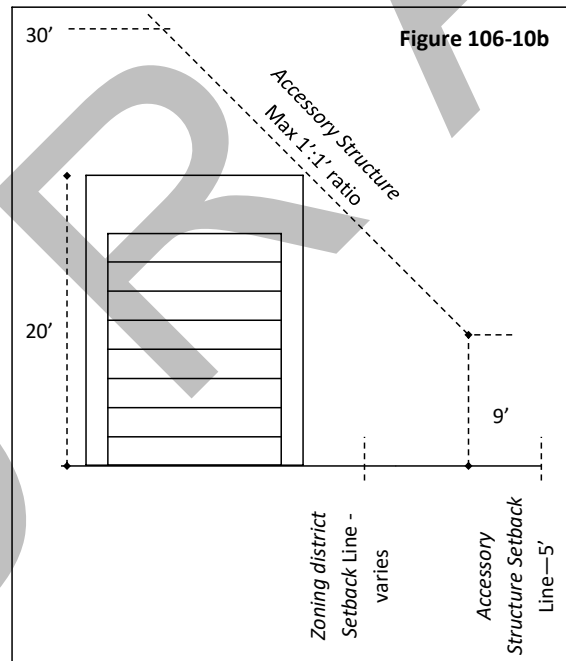
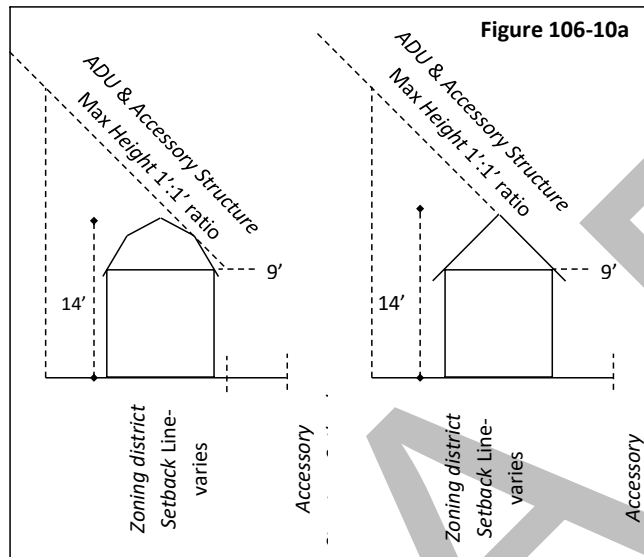
	Max Accessory Structure Size	Building Separation ²	Setback (Front yard)	Setback (Side and Rear yard)	Height
Shade Structures	400 sf	5'	Same as <i>Zoning min setbacks</i>	5'	9' ³
Other accessory structures	50% of primary dwelling ^{1, 4}	5'	Not allowed ⁷	5' ⁵	9' ^{3, 6}

Notes:

1. Calculated by the finished floor area of the first floor of the principal *building*. Maximum area of *accessory structure* shall not exceed 800sf if primary *dwelling* exceeds 1600 sf.
2. May be increased as required by the *building* and/or fire codes
3. The *height* of an *accessory structure* shall not exceed nine feet (9') as measured at the five-foot (5') *setback* line. The *height* of the *accessory structure* may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum *height* of fifteen feet (15') (See **Figures 106-10a 106-10b**)
4. On *lots* 30,000 sf or greater each *accessory structure* has a maximum area not to exceed 3,000 sf
5. *Fences* used to separate properties in a subdivision may straddle the common property line
6. On *lots* 30,000 sf or greater each *accessory structure* has a maximum *height* equal to the *zoning district* when constructed within the *building envelope*.
7. In *RR zoning districts*, *accessory structures* are permitted in the *front yard* when constructed within the *building envelope*.

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- K. Accessory structures for multi-family, mixed use, commercial, and employment projects shall be included as part of an approved *site plan* and comply with setbacks of the *zoning district*.



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106-10.4 Agricultural Animal Keeping.

- A. When allowed, the production and sale, boarding and/or breeding of *agricultural animals* for commercial purposes shall meet the provisions as outlined in **Section 106-10.5** below.
- B. The keeping of *agricultural animals* for non-commercial or personal use shall comply with **Chapter 10** of the Municipal Code.
- C. Apiaries may be permitted for beekeeping, provided the *structures* containing the hives shall not be located closer than eighty feet (80') to any *dwelling*, property line or *right-of-way*.
- D. No shows or other activities that would generate more vehicular traffic than is normal to an area with *single-family* residences are permitted unless the site has direct *access* to an arterial or *collector street*. Occasional shows may be allowed provided a *Temporary use Permit* is secured and adequate parking for such shows or other special events can be demonstrated.

106-10.5 Agricultural Operations and Facilities.

- A. *Agricultural operations* may be permitted provided the site is a minimum of forty (40 ac) acres.
- B. No commercial pen feeding or commercial feed/lots or the commercial feeding of garbage to animals shall be allowed.
- C. *Agricultural structures* for storage of and maintenance of specialized machinery and equipment shall not be located closer than 200 feet from any *lot line*.
- D. Open *outdoor storage* is limited to plants, bulk organic dirt, or packaged fertilizer.
- E. All *plant nursery* or greenhouse enclosures, for commercial and wholesale purposes, shall be located a minimum of fifty feet (50') from any *lot line*.
- F. Wholesale growing of plants, trees, bushes, flowers, vegetables, and other food crops, may include limited onsite retail sales as an *accessory use* provided the *sales areas* complies with the *Farm stand* regulations listed below.
- G. Application of pesticides shall comply with the *buffer* requirements of A.R.S. §3-365 for *schools*, *day cares*, and *adjacent residential uses*.
- H. A *Farm stand* may be permitted as an *accessory use* to *agricultural operations* for the purpose of selling produce or other products principally raised or produced on the premises. Exempt from the provisions in **Section 106-10.3**, the *Farm stand* shall be located and constructed to meet the following requirements:

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1. The stand shall be *setback* a minimum of thirty feet (30') from the nearest *right-of-way*.
 2. The stand shall be staked or anchored in such a way as to prevent movement into the *right-of-way*.
 3. The site has *access* and *off-street parking* shall be provided. When a stand is located *adjacent* to a *parkway*, *access* shall be from a frontage road or intersecting *roadway*. In no case shall *access* be allowed from a *parkway*.
 4. The *Farm stand* shall be of portable construction and shall be removed during the seasons when it is not in *use*.
 5. The *structure* shall not be more than ten feet (10') in *height* and not be more than four hundred square feet (400sf).
- I. Apiaries may be permitted, provided the hives shall not be located closer than eighty feet (80') to any *dwelling*, property line or *right-of-way*.
- J. In addition to this Section, keeping of animals shall comply with **Chapter 10** of the Surprise Municipal Code.

106-10.6 Airstrip, Private.

- A. Privately owned or operated airports or airstrips for the landing and take-off operations of aircraft and hang gliders; including any fixed-base operations shall be subject to the following requirements:
1. The land area shall be a minimum of twenty (20) acres.
 2. Landing areas and strips shall be *setback* a minimum of ~~300~~ three hundred feet ~~(300')~~ from any property line.
 3. All *buildings* and *structures* shall be a minimum of ~~100~~ one hundred feet ~~(100')~~ from any property line.
 4. Hours of operation for any fixed-base operation (FBO) shall not impact surrounding residential land *uses*.
 5. A minimum of one (1) *off-street parking space* per each hanger and/or tie-down space shall be required.
 6. Strobe lights shall be *used* only if no *alternative* lighting is permitted by federal regulation.
 7. Safety fencing, up to six ~~feet~~ (6') feet in *height* may be required around the fixed-base operations and/or landing strip areas.

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8. Must comply with all federal, state and local regulations, including licensing, and shall not interfere with any governmental or public airport operations.

106-10.7 Amateur Radio Antennas.

- A. Antennas Permitted. *Amateur radio antennas* and support structures are permitted in all residential zoning districts without a *Conditional use Permit* provided:
 1. *Antenna structures* do not exceed a maximum *height* of thirty-five feet (35') or the maximum *building height* of the *zoning district* in which such *structure* is located;
 2. *Tower* shall comply with *setback* standards for the *zoning district* in which it is located;
 3. Such *structures* shall not be located in the required *front setback*, in *front yard*, or in the *street side yard*;
 4. *Antennas*, including support *structures*, shall not extend beyond the property line;
 5. Not more than two (2) such *structures* may be erected per *lot* or *parcel*; and
 6. When a Federally Licensed Radio Amateur no longer occupies the subject property, the *antenna structure* shall be removed.
- B. In addition to the provisions outlined in **106-10.7.A** above, all *amateur radio antennas* that exceed thirty-five feet (35') in *height* shall require approval of a *Conditional use Permit* and shall adhere to the following:
 1. Such *antennas* shall be of telescoping design and lowered to a *height* of no more than the maximum *building height* of the *zoning district* in which such *structure* is located when not in *use*; and
 2. In no event shall an *amateur radio antenna* exceed the *height* of seventy-five feet (75').

106-10.8 Amusement/Theme Park.

- A. When allowed, permanent *public features* and *structures* shall be constructed.
- B. The *lot* area shall be a minimum of ten acres (10 ac).

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- C. The required *frontage* on a *public street* shall be at least four hundred feet 400 in length.
- D. All points of vehicular *access* shall be from arterial roads, except Fire-Medical may take *access* where appropriate.

106-10.9 Animal Hospital, Clinic, Shelter, or Boarding Facilities

- A. A report from a qualified acoustical and/or environmental engineer, either that there are no negative impacts on neighboring residential *uses* or that they can be mitigated through appropriate design may be required.
- B. The *building* construction methods shall incorporate soundproof barriers and be designed to properly eliminate odors, waste, and other contaminants to protect *adjacent* properties.
- C. Activities shall be located within a fully enclosed soundproof *building*. No outdoor boarding shall be permitted, except in the case of *animal hospital/clinics* that service large *agricultural animals*.
- D. Outdoor exercise areas may not be placed immediately *adjacent* to or within one hundred feet (100') of an *adjacent* residential *use* or residentially zoned property.

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106-10.10 Assisted Living Home.

- A. An *assisted living home* shall comply with the following requirements:
 - 1. Shall be licensed by the state and shall remain so licensed for as long as the *assisted living home* is in operation.
 - 2. An *assisted living home* shall not be located on a *lot* within one thousand two hundred feet (1,200'), measured by a straight line in any direction, from another *assisted living home*, as measured from property line to property line.
 - 3. The separation requirements shall not apply to *assisted living homes* separated by arterial roads.
 - 4. An *assisted living home* shall contain three hundred square feet (300 sf) of overall living space for each resident.
 - 5. Shall include the installation of an automatic fire sprinkler system.
 - 6. In the event that the state revokes or terminates a *person's* license to operate an *assisted living home*, then the person operating the *assisted living home* shall immediately inform the city of such revocation or termination of their license.

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- B.** The above regulations are not intended to apply to the following facilities, as defined by this Ordinance, provided the appropriate and/or required licensing by the state is obtained.
1. Group home as defined by A.R.S. § 36-551.
 2. Adult development home as defined by A.R.S. § 36-551.
 3. *Assisted living center.*
 4. *Residential care institutions* as defined by A.R.S. § 36-581.
 5. *Nursing care facility*
- C.** A *group home* or an *adult development home* shall not be permitted any *signage*, graphics, display, or other visual forms of identification, other than that permitted for a residential *dwelling*.

106-10.11 Bar/Nightclub

- A.** *Bars* and *nightclubs* shall comply with A.R.S. § 4-207 separation requirements.
- B.** A report from a qualified acoustical and/or environmental engineer, either that there are no negative impacts on neighboring residential *uses* or that they can be mitigated through appropriate design may be required.
- C.** Site locations and *site plan* design, such as but not limited to compatibility with *adjacent* neighborhoods and/or being developed within an established entertainment *commerce center*, shall be factors to be considered with the application for a *CUP*.

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106-10.12 Bed and Breakfast Establishment.

- A.** The *bed and breakfast* establishment shall be owner-occupied, and the guest rooms shall be part of the *single-family dwelling*.
- B.** No more than four (4) bedrooms per residence may be *used* for the *bed and breakfast* establishment.
- C.** A fire escape plan shall be developed and graphically displayed in each guest room. Such plan shall be filed with and approved by the city fire department.
- D.** Maximum guest stay at a *bed and breakfast* establishment is limited to thirty (30) consecutive days.
- E.** Meals may be served only to overnight guests and residents.

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- F. No *alterations* to the exterior of the residence that *alters* the residential character, except fire escapes, accessible entrances and other features may be added to protect public safety as required by the applicable life-safety codes.
- G. There shall be one (1) *off-street parking space* per rental room.

106-10.13 Cemetery.

- A. Cemeteries intended for human burial shall contain a minimum of ten acres (10'). Cemeteries intended for small animal burial shall contain a minimum of five acres (5'). Cemeteries shall be located on a collector or *arterial street*.
- B. The *cemetery* may include *accessory uses* and *structures* such as, but not limited to, a *business office*, chapel, columbarium, mausoleum, and equipment storage that are incidental to the operation of a *cemetery*. A crematorium is not an *accessory use*. *Accessory uses* and *structures* shall be set back at least fifty feet (50') from any property line.
- C. No required *setback* shall be occupied by graves. There shall be a minimum of a fifty-foot (50') landscaped *buffer* between the property line or *roadway right-of-way*; and any *building, structure*, or gravesite. The fifty-foot (50') *setback* shall not apply to roads designed for internal circulation within the *cemetery*.

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106-10.14 Community Gardens

- A. A *fence* shall be provided on the perimeter of the garden built to a *height* not to exceed six feet (6') along the *side* or *rear lot lines* or thirty-six inches (36") along the front property line. The *fence* material shall be compatible with the design style and material of all *structures*.
- B. The site shall be designed and maintained so that water and fertilizer will not drain to *adjacent* property or *right-of-way*.
- C. Hours of operation shall be limited to the hours between 6 a.m. and 8 p.m.
- D. Waste receptacles shall be provided and *screened* from neighboring properties. Refuse shall be removed so as not to be a nuisance.
- E. Composting equipment and containers, if provided, shall be specifically designed for that purpose and shall be located away from *adjacent* residences, *businesses*, and *parks* and *screened* from public view. Open composting piles are prohibited.
- F. Permitted *Buildings*:
 - 1. One (1) shed limited to two hundred square feet (200 sf) shall be permitted for the storage of any tools, fertilizers, equipment or other materials *used*

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in conjunction with the *community garden*. If provided it shall be adequately secured and meet *setback* requirements according to Section 106-10.3 of this article.

2. Greenhouses, limited to two hundred square feet (200 sf), may be permitted if constructed of glass or other transparent materials and situated in compliance with all required *setbacks* of the *zoning district* in which it is located.
- G. *Amenities* such as raised/accessible planter beds, rain barrels, picnic tables, benches, bike racks, and garden art may be permitted.
- H. The property shall be maintained in a neat and orderly fashion as required by the Surprise Property Maintenance Code.
- I. Outdoor retailing of fresh produce or flowers grown on the site is permitted with an *Conditional use Permit* in accordance with **Section 106-10.5H**.
- J. The *community garden signage* shall comply with the Chapter 109 of this Ordinance.
- K. If a *community garden* is no longer in operation or left fallow, for longer than one hundred-eighty (180) days, the site shall be returned to its original form, unless otherwise developed in accordance with this Ordinance. Any reestablishment of a *community garden* on the same site shall require processing and approval of a new *Conditional use Permit*.

106-10.15 Cottage Industry.

- A. Not more than forty-nine percent (49%) of the *dwelling unit* may be used for *cottage industry*. Up to one hundred ~~(100%)~~ percent (100%) of *accessory buildings* may be used for a *cottage industry*. carry
- B. The aggregate *building* area, including portions of the *dwelling* together with any and all *accessory buildings* used in conjunction with a *cottage industry*, shall be limited to four thousand square feet 4,000 (sf) or not more than sixty-five percent (65%) *lot coverage*, whichever is less.
- ~~C. The *cottage industry* use shall be limited to the first floor of the *dwelling*, *accessory buildings*, and outdoor areas of the *lot*.~~
- D. A *cottage industry* use that receives patrons, students, or any *business*-related individuals may only do so between the hours of 8:00 a.m. and 8:00 p.m.
- E. *Accessory buildings* and outdoor areas used for *cottage industry* purposes are intended to be limited to low intensity *uses* that produce or repair a product, and operate in such a way that they do not adversely affect *adjacent* properties. Parking and storage of *business* related commercial-rated vehicles, equipment,

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and products shall be limited to an enclosed *building* or within the *rear yard* and *screened* by an opaque *fence* or landscaping of approved drought-tolerant plant materials in combination with a fence.

- F. Outdoor dining *ancillary* to a *cottage industry*:
1. Shall not be located within the *front setback*, shall be a minimum of fifteen feet (15') from an *adjacent* residential use, and *screened* by a minimum three foot (3') high opaque *fence* or landscaping of approved drought-tolerant plant materials in combination with the barrier.
 2. Shall not be more than fifty percent (50%) of the *dwelling unit's* ground floor *gross area*.
 3. Shall not operate outside of the indoor *restaurant's* hours of operation.
- G. A *cottage industry use* may not change the character of the *structure* or *alter* the residential character of the neighborhood.
- H. Cottage industries may employ up to 5 employees in addition to those residing in the residence.
- I. *Signage* shall be limited and shall comply with the regulations outlined in **Chapter 109** of this Ordinance.

106-10.16 Day Care Center

- A. A minimum of seventy-five square feet (75') of *fenced* in outdoor play space per child shall be provided. *Fenced-in*, outdoor play space shall not include driveways, *parking areas* or land unsuited by virtue of other usage or natural features for children's play space.
- B. The minimum *lot* area shall be no less than six thousand square feet (6,000 sf) or the minimum required by the *zoning district* in which the *day care* facility is proposed, whichever requirement is greater.
- C. Access to the *day care* facility shall be by means of a collector or *arterial street*.
- D. A minimum of one (1) drop off space per every five (5) children or a maximum of five (5) spaces, located out of the main travel way, shall be provided. A five-foot (5') wide sidewalk running from the drop-off spaces to the *day care* entrance shall be provided.
- E. *Day care uses* as a *home occupation* are exempt from this Section and shall comply with **Section 106-10.22**.

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106-10.17 Donation bins.

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- A. A *Temporary Use Permit* (“TUP”) is required, subject to the following:
1. *Donation bins* may be placed with a TUP for up to twelve (12) months out of a calendar year with a TUP or prorated through the end of the calendar year.
 2. The TUP for any *donation bin* shall be renewed annually. Each renewal requires a new TUP application and fee. *Donation bin TUPs* shall be renewed within sixty (60) days prior to the first day of every calendar year. If an *applicant* submits for a TUP prior to the 60-day renewal period, the permit shall not exceed the duration of the current calendar year and the permit fees will be prorated.
 3. The property *owner* will control the TUP, and as such, the *owner* or *authorized agent* may rescind their authorization by submitting a cancellation request to the City in writing. At the request of the property *owner* or *authorized agent*, the permit will be revoked.
 4. The Community Development Director or designee may revoke the TUP issued under the provisions of this section when the TUP is issued in error or on the basis of incorrect, inaccurate, incomplete, or fraudulent information.
 5. Failure to comply with the requirements of this section may result in revocation of the TUP by the Community Development Director or designee.
 6. A *site plan* shall be submitted as part of the TUP process. The *site plan* shall indicate the proposed location of all bins on the specific site.
- B. Arizona state law regarding drop boxes will apply to *donation bins* as defined in this Ordinance.
- C. *Donation bins* within residential *zoning districts* may only be permitted in conjunction with *places of assembly* and other *public facilities*.
- D. Locational Standards:
1. *Donation bins* shall be located on a paved surface.
 2. *Donation bins* shall not be located within the *setbacks*, required landscaped areas, or within required *parking spaces*.
 3. *Donation bins* shall not obstruct pedestrian or vehicular circulation, or be located within the public *right-of-way*, *drive aisles*, fire lanes, loading zones, or any other location that may cause hazardous conditions, or constitute a threat to the public health, safety, and welfare.

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E. Size and Quantity Standards:

1. There shall be no more than one (1) *donation bin* on properties less than one acre (1 ac) in size, no more than two (2) *donation bins* on properties or *commerce centers* of one to three acres (3 ac) in size, and no more than four (4) *donation bins* on a *commerce center* greater than three acres in size. No more than two (2) *donation bins* shall be clustered together and located within one thousand feet (1,000') of any other *donation bin* within a *commerce center*.
2. *Donation bins* shall have a capacity no greater than seven cubic yards (7 c³).

F. Appearance Standards:

1. Each *donation bin* shall have a firmly closing lid.
2. Each *donation bin* shall be clearly marked to identify the specific items and materials requested to be collected for donation.
3. Each *donation bin* shall be clearly marked to identify the City of Surprise TUP permit number with contrasting paint. The numbers shall be a minimum of two inches (2") high and located on the deposit face of the *donation bin*.
4. The name and telephone number of the entity obtaining the TUP shall be affixed to the *donation bin* on an area no larger than one foot by one foot (1'x1').
5. If a *donation bin* is damaged or vandalized, it must be removed within five *business days* of discovery or notification. If there is a public health, safety, or welfare concern pursuant to the authority granted to the city, the *donation bin* must then be removed within 24 hours of discovery or notification.
6. It is the responsibility of the entity obtaining the *Temporary use Permit* to maintain the *donation bin* painted or otherwise un-rusted and un-dented and in good repair.
7. It is the joint responsibility of the property owner or *authorized agent* and the entity obtaining the *Temporary use Permit* to keep the area around the donation boxes free of litter and debris, and remove any graffiti within 24 hours of discovery or notification, whichever occurs first.

- G. All donated items must be collected and stored in the *donation bin* and all contents cleared no less than once a week. Any items or materials left outside of the *donation bin* shall be removed within 24 hours of discovery or notification, whichever occurs first.

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- H. This Ordinance authorizes the city and property *owner* to remove and dispose of any *donation bin* (including its contents) which is unauthorized, unpermitted, or is otherwise in violation of this Ordinance.

106-10.18 Drive-through Window/Facilities.

- A. *Drive-through* facilities shall be located a minimum of twenty-five feet (25') from a public *right-of-way* and a minimum of seventy-five feet (75') from a residential district.
- B. *Drive-through* aisles shall be clearly identified through the *use* of striping, landscaping, and *signage* and shall be designed to
1. Contain aisles that are a minimum eleven feet (11') wide. Any curved sections shall be a minimum of twelve feet (12') wide with a minimum radius of twenty-five feet (25') on curved section;
 2. Minimize the conflict between pedestrians, parking and the *building* entrance. Pedestrian walkways should not intersect the *drive-through* aisles, but where they do; they shall have a minimum of fifteen feet (15') clear visibility and be emphasized with enhanced paving. Appropriate pedestrian crossing *signs* shall be visible from both the vehicle *drive aisle* and the pedestrian walkway; and
 3. Be integrated with the on-site circulation of the larger development.
- C. *Drive-through* exits shall be directly onto a public *right-of-way* and shall be separated by fifteen feet (15') from a parallel, main *ingress/egress drive aisle* to avoid conflicts with other vehicular traffic.
- D. Each *drive-through* lane shall have the following minimum distances
1. Forty feet (40') between the entry point and the ordering facility (i.e. *restaurant* menu board, teller machine or ordering window)
 2. One hundred feet (100') between pick-up/service window and ordering facility or entry point if no ordering facility is present
- E. *Drive-through* speakers shall not be audible from the right-of way or *adjacent* residential *uses*. Additional landscaping, sound attenuation walls, or other mitigation measures may be required to reduce the sound level.
- F. *Drive-through* facilities shall orient pick-up/teller windows away from *adjacent* residential *uses* or from facing the arterial or *collector street*.
- G. *Drive-through* lanes shall be *screened* from the *right-of-way* and *adjacent uses* through the incorporation of a landscaped *berm* with continuous, dense landscaping at least four feet (4') in *height* to effectively *screened* the headlights

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of the vehicles in line. In cases when a *berm* may not be feasible because of space constraints, a *screen fence/wall* may be used in connection with landscaping.

- H. *Drive-through* facilities shall incorporate either an attached canopy over the *drive-through* window or teller area of the facility or plant shade trees within the landscape *screening* areas at the window location. The canopy shall not exceed fourteen feet (14') in *height*, measured from the ground to underside of the canopy. If canopy support pillars are *used*, they shall be finished with the same body and accent materials as the *primary building*. All *lighting fixtures* in the canopy area shall be fully recessed.
- I. The architecture of *drive-through* uses shall reflect the architecture of the *principal building*.

106-10.19 Equestrian Centers and Commercial Stables

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- A. Shall have a minimum site area of ten (10) acres unless the site is *adjacent* to equestrian trails in which case the minimum site area requirement may be less; to be determined on a case-by-case basis.
- B. All livestock *structures*, containment areas of facilities *used* for the stabling, storing, showing or training of livestock and for temporary manure storage shall be set back a minimum of one hundred feet (100') from any property line. Normal *setbacks* apply to all other *structures* and *uses*.
- C. An attendant must be in residence on the property.
- D. All activity and pasture areas shall be grassed, sprinkled or treated with regularly tilled organic soil mix for dust suppression.
- E. All livestock turnout areas and pens shall be enclosed with *fences* at least five feet in *height*. The design of these enclosures shall be shown on drawings submitted with the *Conditional use Permit* application.
- F. A specific plan for the physical containment and location of manure storage and/or disposal, which minimizes odor and fly impacts on *adjacent lots or parcels*, must be provided. The spreading and tilling of manure into the soil of the paddock, pasture or arena areas may be considered manure disposal.
- G. No shows or other activities that would generate more vehicular traffic than is normal to an area with *single-family* residences are permitted when located in a RR zone unless the site has immediate *access* to an arterial or *collector street*. Occasional small shows may be allowed per stipulations of the *Conditional use Permit* in other zones. A public address system or other means of outdoor amplification may be *used* as a convenience for announcements and administration during special equestrian events only.

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- H. Outdoor activity shall be limited to the hours of 6:00 a.m. and 10:00 p.m. daily.
- I. A minimum of one (1) *off-street parking space* shall be provided for each three stalls. Additional parking must be provided for shows or other special events.
- J. In the review for an *equestrian center*, commercial *stables*, and/or boarding *stables*, the City may also consider lighting, landscaping, *signage*, plan of operation, and neighborhood impact.

~~106-10.20~~ ~~Food Manufacturing~~

- ~~A. When subject to a CUP in the SHD-CO zoning district, manufacturing use may not exceed fifteen thousand square feet (15,000 sf).~~
- ~~B. May have on-site restaurant and retail combined as part of the establishment.~~

106-10.20 Farmer's Market

- A. The sales area shall be a minimum of 50 feet from any residential dwelling.
- B. Outdoor display of only fresh fruits and vegetables is permitted. Seasonal sales that require additional storage area may be permitted in accordance article V. Motor vehicles, including vans, trucks, semi-trucks, mobile homes, travel trailers, and other permanent or temporary structures shall not be used for storage or display purposes.

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106-10.21 Group Home

- A. No group home or *recovery residence* shall be located on a *lot* within 1,320 feet, measured by a straight line in any direction, from the *lot line* of another group home or *recovery residence*.
- B. Evidence of license, certification, or registration with the appropriate local, state or federal agency, if required by such local, state or federal agency.
- C. No identification from a *public street* shall be permitted by *signage*, graphics, display, or other visual means, except for *signage* otherwise permitted by **Chapter 109** herein.
- D. Compliance with all applicable *building*, fire and safety regulations. Such homes must be reviewed and approved by the community development department for *building* code and land *use* compliance prior to the *use* commencing.
- E. No exterior change that would *alter* the *building's* residential character shall be made to the exterior of the *building(s)* and the grounds.

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- F. The Community Development Department maintains authority to approve the location of any group home or *recovery residence*. An administrative record of all homes shall be maintained with the community development department.

106-10.22 Heliport.

- A. A heliport may be permitted as an *accessory use* for a *hospital*, medical facility, news station, emergency service, or similar *use*; with a *Conditional use Permit*.
- B. Helicopter landing pads shall be a minimum of 600 feet from all residentially zoned property or residential *uses*; and a minimum of 100 feet from property lines in all other *zoning districts*.
- C. All take-off, landing, and *parking areas* for helicopter landing facilities must be surfaced with a dust proof material.
- D. Evidence of Federal Aviation Administration approval of the air space and air traffic of the proposed operation and a planning report analyzing environmental impacts including, but not limited to, noise levels and mitigation, traffic generation, land *use* compatibility, number of daily operations, hours of operation, flight corridor, and the identification of any adverse impacts to the operation of other airports shall be approved and implemented prior to the issuance of any permit for a helicopter landing facility.

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106-10.23 Home Occupation.

- A. A *home occupation* shall be considered a permitted *accessory uses* in all residential *zoning districts* provided that they are operated and maintained to not interfere with the peace, quiet, and dignity of the property *owners* or neighbors, if it complies with the following standards and requirements:
1. The *use* of the *dwelling* as a *home occupation* location must be clearly incidental and subordinate to its *use* for residential purposes. A valid City *Business License* shall be required for all *home occupations*.
 2. All *home occupation* activities shall occur entirely within the residential *dwelling*, *garage*, or *accessory building* unless the Community Development Director or designee determines that the *business* activity conducted outside the *dwelling* is similar to noncommercial activities normally associated with *single-family* residences. Exceptions to this provision shall be made for swimming lessons or in-home day care.
 3. The *use* shall occupy no more than fifty percent (50%) of the gross floor area of the residence or four hundred square feet (400sf) of a *garage* or *accessory structure*.

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4. Employees shall be limited to *persons* residing in the *dwelling unit* immediate *family* members, or up to two (2) individuals who are not residents of the *dwelling unit* or immediate *family* members.
5. A *home occupation* that is authorized to receive patrons, students or any *business*-related individuals at the *home occupation* location may only do so between the hours of 8:00 a.m. and 8:00 p.m., unless further regulated by a *Conditional use Permit*.
6. There shall be no exterior displays, no *outdoor storage* visible from the *street* of equipment or goods, including equipment, materials, vehicles, trailers, or open *lot* storage.
7. The *home occupation* shall not produce offensive noise, vibration, smoke, electrical interference or fluctuation in *off-site* line voltages, dust, odors, heat or other nuisances discernable beyond the property lines or beyond the *common walls* if the *home occupation* is conducted within a multiple-*family* unit.
8. The *home occupation* shall not require *structural alterations* to the principal residence that would change the outside appearance of the principle residence or change the character of the property from that of a residential *use*.
9. The *home occupation* shall not involve the *use* of electrical or mechanical equipment that would change the fire rating of the *structure* or include storage of flammable, combustible, or explosive materials. The *home occupation* shall not *use* or create any hazardous waste.
10. The *home occupation* shall not require the installation of equipment or machinery creating utility demand, noise, fumes or other impacts in excess of equipment or machinery that is customarily found in a residential area.
11. On-site advertising for the *home occupation* is prohibited, except a Class I Temporary Sign as defined in **Chapter 109** of this Ordinance may be displayed during *business* hours within the property of the residence. Window areas must not purposely, intentionally or unintentionally be *used* as *display areas* or to offer merchandise for sale.
12. No pedestrian or vehicular traffic shall be generated by the *home occupation* in greater volumes than would normally be expected in a residential area.
13. No *home occupation* will be permitted which requires receipt or delivery of merchandise, goods or equipment by a large semi-tractor/trailer *truck* nor substantial retailing or wholesaling of stocks, supplies, or products conducted on the premises.

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14. No *home occupation* shall cause an increase in the *use* of any utilities (water, sewer, garbage, or electric) so that the combined total *use* for *dwelling* and *home occupation* purposes exceeds the average for residences in the neighborhood.
15. The *home occupation* shall not be conducted in such a manner or advertised in such a way as to attract consumer traffic or other nonresidential traffic. Advertisements that are displayed in any media, including telephone directories, may not give the *street* address of the *home occupation* location.
16. All vehicles of patrons or students of the *home occupation* must be *parked* in authorized parking locations either on the *lot* where the *home occupation* is located or in the public parking *adjacent* to the *home occupation* location.

B. In case of any question as to the suitability of a *home occupation*, the Community Development Director or designee shall determine which *uses* may be allowed as *home occupations*. The following are some examples of *uses*, which would be acceptable as *home occupations*, provided they comply with the above regulations: (this list is not all inclusive and listed *uses* do not automatically qualify as a *home occupation*)

1. Home *office uses* for *service call establishments*, *mobile vending*, professional occupations, and consulting services (accountant, architect, attorney, medical, dental, therapy, insurance or real estate) without client contact at the home.
2. Art studio that includes but is not limited to painting, sculpting, writing, or composing.
3. Home crafts such as jewelry making, pottery, weaving and rug making, woodworking, metal working, and home cooking and preserving
4. *Off-site* sales and/or the *use* of retail shipping services than would normally be expected in a residential area.
5. Music lessons, swim lessons, and tutoring with no more than four (4) *persons* at any a time.
6. In-home *day care* with no more than four (4) children or adults that are not related to the caregiver.
7. Services such as *catering*, dressmaking, sewing and tailoring services, (non-vehicular) *repair services*, door-to-door sales, and off-premise party sales without client contact at the home.
8. Telephone answering, message services, word processing and other computer applications.

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- C.** The following *uses* have a pronounced tendency, once started, to rapidly increase beyond the limits permitted for *home occupations* and thereby impair the *use* and value of a residentially zoned area for residential purposes. Therefore, the following *uses* shall not be permitted as *home occupations*: (this list is not all inclusive)
1. *Animal clinics, veterinary offices, and kennels or boarding facilities.*
 2. *Dance or gymnastic instruction, and photo studios.*
 3. *Medical, dental, physical therapy, or psychotherapy offices, ambulance services, and mortuary.*
 4. *Motor vehicle repair or paint shops, storage, restoration or conversion, engine repair or similar uses; except on a vehicle personally owned by the resident.*
 5. *Repair shops, machine shop, furniture refinishing and upholstering.*
 6. *Restaurants.*
 7. *Private schools with organized classes*
 8. *Stables or kennels for commercial purposes.*
 9. *Beauty shops and barber shops*
 10. *Contractor's yards*
 11. *Sales of weapons or ammunition, retail sales in general, banks, credit unions or payday lending*
- D.** Complaints by citizens or local residents may be cause for immediate termination of the *home occupation use* if appropriate measures cannot be undertaken to mitigate the complaint or violations. All complaints or violation of the above conditions shall be registered with, and reviewed by, the *Zoning administrator*.

106-10.24 Medical Hospitals.

- A.** The minimum *lot* area shall be five acres.
- B.** The minimum *lot frontage* shall be 300 feet or the minimum requirement of the district, whichever distance is greater.
- C.** Bio-hazardous waste incinerators with an allowable operating capacity equal to or less than 1,000 pounds per hour may be allowed as an *accessory* to a *hospital use* with the following *use* standards:

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1. An incinerator *use* shall be set back a minimum of 500 feet from any property line *abutting* a residential *zoning district* or *use*.
2. A *site plan* shall be provided illustrating how the operation functions including circulation routes and the locations, square footage, *height* and location of *buildings*, incinerator and storage areas.

106-10.25 Live-work Dwelling

- A. The maximum size of a development designed exclusively for *live-work* units shall be 3 acres.
- B. The living space must be occupied by the *business owner* of the work space and not separately leased.
- C. The work space shall be located within the *building frontage* and/or on the ground floor or may be permitted above the ground floor through a *CUP* process.
- D. The work space shall be limited to only the non-residential *permitted uses* for the specific *zoning district* as listed in **Table No. 106-1c** with a maximum work space size of 4,000 square feet and a maximum of two (2) employees in addition to the *family* members residing in the *dwelling unit*.
- E. A *live-work* unit should mirror the *adjacent* residential *structures* in mass and design to be compatible with the diverse neighborhood in which they are located.
- F. There shall be direct pedestrian *access* at the *street frontage* or near *grade* level to each individual *live-work* unit.
- G. A *live-work* unit that has employees or walk-in commercial trade (not just by appointment) shall be fully accessible and meet ADA requirements where these commercial activities occur.
- H. *Mixed use buildings* that contain residential *uses* may be asked to demonstrate, through a report from a qualified acoustical and/or environmental engineer, either that there are no negative impacts on residential livability or that they can be mitigated through appropriate design.

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106-10.26 Manufactured Homes.

- A. When permitted a *manufactured home* shall be designed and situated on the *lot* in a manner that assures similarity in exterior appearance and in keeping with, the architectural character of conventional site-built *dwellings* and the character of the surrounding neighborhood in general as required by the PEDS and with the additional specific standards outlined below.

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- B. All *manufactured homes* shall be required to meet the current HUD Code standards, be certified under the National Manufactured Housing Construction and Safety Standards Act of 1974, and comply with State of Arizona Office of Manufactured Housing regulations.
- C. A *manufactured home* shall be both multi-sectional in design and not constructed more than ten (10) years prior to the date of application for *building* installation permit.
- D. A *mobile home, recreational vehicle, or park model* is not a *manufactured home* and shall not be *used* as or considered to be a primary residential *dwelling*.
- E. Foundations. The *manufactured home* shall be pit set and placed on an excavated foundation with a permanent masonry stem wall. Skirting material is not permitted; rather the stem wall shall be treated to have the appearance of a foundation wall similar to conventional site built homes.
- F. Exterior Building Materials. Reflective *building* materials are prohibited. Metallic surfaces, including roof materials, shall be treated to be non-reflective. The *building* materials shall be durable, require low maintenance, and be of the same or higher quality as the surrounding site-built homes. Acceptable siding materials include: wood, stucco, brick, stone, or other masonry materials or any combination of these materials. Other *building* materials may be considered on a case-by-case basis provided they meet the codes and addendums adopted by the City of Surprise.
- G. Garage or Carports. The design and materials of any *garage or carport* shall be compatible with the design and materials of the main *structure*.
- H. Steps. If the *dwelling unit* has steps leading to the front entry the steps shall be attached to a permanent foundation and designed and constructed to compliment the architectural style of the *dwelling unit*.
- I. Anchor Ties. The *structure* shall be anchored to the ground, in accordance with engineered plans and/or approved *manufactured home* installation standards.

106-10.27 Medical Marijuana Uses.

- A. All medical marijuana *uses* shall comply with all regulations and laws pursuant to the Arizona Revised Statutes. The following provisions will not be construed as permitting any *use* or act which is otherwise prohibited or made punishable by law.
- B. A *medical marijuana dispensary facility, medical marijuana dispensary off-site cultivation location, and a medical marijuana infusion facility* shall:

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1. Be located in a permanent *building* and may not be located in a trailer, cargo container, storage unit, or motor vehicle.
 2. The *business* location shall not exceed a maximum size of 2,500 gross square feet.
 3. Not have a drive-thru service.
 3. Not emit dust, fumes, vapors or odors into the environment.
 4. Not provide *off-site* delivery of medical marijuana.
 5. Prohibit consumption of marijuana on the premises.
 6. Not have outdoor seating areas.
 7. Disposal of marijuana remnants, by-products, and/or infused products shall not to be placed within the facilities exterior refuse containers.
- C. A *medical marijuana dispensary*, *medical marijuana dispensary off-site cultivation*, and a *medical marijuana infusion facility* shall meet the following minimum separations, measured in a straight line from the boundary of the *parcel* containing the *medical marijuana dispensary*, *off-site cultivation*, or infusion location to the property boundary of the *parcel* containing any *uses* as listed below in (see **Table 106-10c**).
- D. A *medical marijuana dispensary off-site cultivation* location or a *medical marijuana infusion facility* not associated with a *medical marijuana dispensary* is prohibited.
- E. A *medical marijuana dispensary*, *off-site cultivation facility*, or an infusion facility lawfully operation is not rendered in violation of these provisions by the subsequent location of a *place of worship*, public or private primary or secondary school, public or private *day care*, preschool, kindergarten facility, public *park*, or playground closer than the separation distances outlined below in **Table 106-10c**.

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Table 106-106-10c - Separation Distances for any Medical Marijuana Facility

Land use	Dispensaries Off-site Cultivation Facilities Infusion Facilities
From any residentially zoned property	500 feet
From any <i>place of worship</i>	500 feet
From any <i>dwelling unit</i>	500 feet
From any public or private charter, primary, or secondary <i>school</i>	1,500 feet
From any public or private <i>day care</i> , preschool, or kindergarten facility	1,500 feet
From any public <i>park</i> or playground	1,500 feet
From any other medical marijuana facility of any type	3,000 feet
From any <i>sexually oriented business</i>	3,000 feet
From any residential substance abuse facility	3,000 feet

- F. Medical marijuana designated caregiver cultivation and qualifying patient cultivation locations shall further comply with the follow requirements:
1. Cultivation locations will be an enclosed, locked facility such as a closet, room, greenhouse or other *building* that does not exceed 50 square feet of cultivation space.
 2. Cultivation locations will not be visible from beyond the boundaries of the property on which the cultivation location is situated.
 3. Medical marijuana cultivation as an *accessory use* to the qualifying patient primary residence will only be permitted if the residence is located at least 25 miles from a *medical marijuana dispensary*.

106-10.28 Mining and Mineral Extraction

- A. Extraction and processing of minerals and natural resources, such as mines, quarries and gravel pits and including concrete or asphalt batch plants as an *accessory use* shall comply with the following standards:
1. No excavation or processing of excavated materials shall be permitted within thirty (30) feet to the exterior boundaries and within one hundred fifty (150) feet to any residential zoned property or existing residence.
 2. Material shall be excavated in such a manner so as to assure the

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convenient, efficient, and successful restoration of the land to hold to a minimum any adverse effects to *adjacent* and surrounding land as a result of piling or storing the overburden material.

3. Material shall be excavated in such a manner that leaves a minimum of two (2) feet of undisturbed sand, gravel, or soil over the entire excavation tract to provide a water bearing strata for any ground water; or more if the required geological report indicates that it is necessary.
4. The excavation operator shall maintain haul roads within the premise covered by the permit and the perimeter public roads in a dust-free condition.
5. The hours of operation, unless otherwise specified by the City, shall not be prior to 6AM or after 10PM unless the City grants special permission, for temporary expansion of the hours.
6. Operations shall be conducted in such a manner that excavated areas will not collect or permit stagnant water to remain therein.
7. The required development plan shall indicate compliance with the above standards and shall include the following topographic information at a minimum of 5 foot contour intervals:
 - a. pre-excavation contours;
 - b. proposed excavation contours;
 - c. degree of slope of banks for all excavations;
 - d. location of any *public facilities*, irrigation canals, ditches, or streambeds;
 - e. post excavation re-use and contours.

106-10.29 Model Home Complex

- A. A *site plan* shall be required of all *model home* complexes. All requirements, (e.g. *garage* conversions, temporary sales trailers, landscaping, *building permits*, inspections), related to the construction of a *model home* complex shall be satisfied before a certificate of occupancy shall be issued.
1. Sewage disposal lines and service stub to the *model home lot(s)* shall be installed and operable.
 2. The subdivision water mains and service stub to the *model home lot(s)* shall be installed and operable.

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3. Fire hydrants, as required by and in accordance with the City's Fire Code and the standards outlined in the PEDS, shall be installed and operable.
 4. *Streets* and *alley* improvements are complete.
- B.** The *model home* complex shall be *used* only to market homes being built in the subdivision or master development in which it is located. No *off-site* sales are allowed.
- C.** *Building permits* for the sales/construction *office* in a *model home*, sales trailer, or *construction trailer* within the *model home* complex can be processed before or concurrent with the *Model home* Complex application. These permits can also be processed after approval of the *model home* complex. The location and parking for trailers shall be included in the *site plan* for the *Model home* Complex application if they are to remain during the public *use* of the *model home* complex.
- D.** All *model home* complexes shall prominently display a map identifying all existing and planned land *uses* and *zoning* within the subdivision and within a mile of the boundary of the subdivisions. The map shall also include the location of any proposed *major arterials* or freeways said boundary area; and the type and location of any public or private trails that will be constructed through or *adjacent* to the subdivision. The map shall be colored and a minimum of 24 inches by 36 inches in size.
- E.** All *model home* complexes for residential developments must provide notice to prospective buyers and tenants that the project is located within the influence area of Luke Airforce Base and shall be subject to the requirements of Surprise Municipal Code regarding the display of the Surprise/Luke Notification Map.
- F.** Models shall be converted to a residential *use* when the last home in the development has been sold. The time limit does not apply to models located within *apartment* complexes or *manufactured home parks*, provided the residential character of the model is maintained. Prior to occupancy as a residential unit, the *model home* complex must remove any temporary parking, sales *office*, lighting, trap fencing, flagpoles, *signage*, and similar improvements and replace *garage* doors, *fences*, and driveways to those typically found within the residential neighborhood.
- G.** All site improvements shall be completed and the complex shall have adequate *access* per the adopted City International Fire Code.
- H.** *Outdoor storage* of construction materials, supplies, or equipment shall not be permitted.
- I.** Where *model homes* complexes consist of two (2) or more than homes, xeriscape landscaping techniques shall be *used* for a minimum of one-third (1/3) of the models.

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106-10.30 Plant Nursery

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- A. Retail *plant nursery*, providing all incidental equipment and supplies such as but not limited to soil, fertilizer and empty containers, shall be kept within a completely enclosed *building* or within an area enclosed on all sides by a solid *fence/wall* at least six feet in *height*. No goods, materials, or objects shall be stacked higher than the *fence/wall*.
- B. A minimum *setback* of fifty feet (50') from *abutting* residential *zoning district* shall be maintained for *structures* outlined above; except sales *display areas* for plants and other goods may be outdoors and within *setbacks*.
- C. Outdoor public address systems shall not be allowed.
- D. Only low-level lighting shall be allowed.

106-10.31 Outdoor Dining/Seating.

- A. Outdoor dining, patios, and seating areas must be associated and in conjunction with a *permitted use* that serves food and/or beverages for on-site consumption. For purposes of state liquor license spacing regulations the outdoor dining, patio, and seating areas shall be considered part of the premises.
- B. Outdoor dining/seating shall be limited to locations on private property and may encroach into *setbacks* up to ten feet (10') but shall be a minimum of five feet (5') from any property line and not within the public *right-of-way*.
- C. Outdoor dining/seating shall not obstruct sidewalk or trail pedestrian or bicycle traffic or create public health and safety hazards.
- D. Roof material covering an outdoor dining/seating area may be temporary, fixed, or retractable and shall be opaque. Awnings, canopies, or similar protective shelter must be fire-treated or nonflammable.
- E. Any definable decorative barrier element physically separating the outdoor dining/seating area from *adjacent* pedestrian traffic provided shall be handicapped accessible and not exceed forty inches (40") in *height*. The design and materials of such barrier element shall complement and be compatible to the architectural design of the primary *building* façade.
- F. Decorative/accent lighting may be incorporated into the outdoor dining/seating area, landscape, awning, or canopy and shall meet all City code requirements.

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106-10.32 Outdoor Display and Sales Areas.

- A.** When allowed as an *accessory use*, *outdoor display areas* for the sale, rental, or lease of new or *used* automobiles, *trucks*, boats, trailers, *recreational vehicles*, and *farm* and construction equipment may be permitted provided:
1. The maximum *display area*, which is *used* to highlight sale items excluding the sales *lot* area, shall not exceed ten percent (10%) of the total net *lot* area. Displays may encroach into *setbacks* up to ten feet (10') but shall be a minimum of ten feet (10') from any property line and not within the public *right-of-way*.
 2. All sales, repair, and rental activities are conducted within a *building*. Openings to service bays shall not face public *rights-of-way* and shall be designed to minimize the visual intrusion into adjoining properties.
 3. The *outdoor display areas* shall be included on an approved *site plan* and on a paved or other hard-surfaced area. Display *platforms* shall be a minimum of thirty feet (30') from other display *platforms*, not exceed four feet (4') in *height* and incorporate the design components of the primary *building* or landscape features.
 4. The sales or rental display of new or *used farm* and/or construction equipment shall have the equipment in the down and transportable position.
 5. The areas designated for the parking and/or storage (not *display area*) of all of the above vehicles and/or equipment shall be paved and properly *screened* with a *fence/wall*, hedge, or landscaped *berm* or combination thereof. Adequate *loading areas* must be allocated, specifically identified, and reserved on the site for the unloading of all such vehicles and equipment brought to the site by carriers.
 6. The installation and *use* of an outside public address or bell system is prohibited.
- B.** Other retail *businesses* may be permitted *outdoor display areas* as an *accessory use* provided:
1. The *outdoor display area* is only for merchandise sold on the property with the sale of the merchandise being conducted within the *business building*; no open *outdoor sales* shall be permitted.
 2. The *display area* is located on private property (not within the public *right-of-way*), not displayed within the landscaping areas, and does not displace any required parking for the *permitted uses*.
 3. The merchandise is displayed in a manner allowing for shopping with a clear walkway and displayed only during *business* hours with the

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merchandise being brought inside at the close of each *business* day, except for permanent *outdoor displays*.

4. The *outdoor display* shall be in a manner that presents a display vignette rather than lined-up and/or chained together, and has no *signage*, blinking lights, movable or audible aspects to the display.
5. The *display area* shall be limited to only twenty-five (25%) percent of the *business* store *frontage* and located within twenty-five feet (25') of the customer entrance.
6. Permanent *outdoor display areas* may be permitted as part of an approved *site plan* for C-3 Zoning districts.

106-10.33 Outdoor Storage and Use

- A. When allowed as an *accessory use*, *outdoor storage and use* areas may be permitted provided:
1. Permanent *outdoor storage and use* areas may be permitted as part of an approved *site plan*.
 2. *Outdoor storage* of materials and *use* areas are not permitted in the required *setbacks*.
 3. *Outdoor storage* of materials and *use* areas shall be *screened* from residential *uses* and any public *right-of-way*

106-10.34 Portable Carports.

- A. Portable *carports* may be permitted in all residential districts, subject to the following provisions.
1. Portable *carports* shall not be permanently anchored to concrete slabs or footings or otherwise anchored in a manner that would impede ready removal and portability; but shall be tied down in such a manner to prevent wind uplift.
 2. Portable *carports* shall remain open on four (4) sides and shall be limited to a maximum of two hundred square feet (200 sf) in size.
 3. Portable *carports* shall not be located in the *front yard* of a residential *lot*.
 4. Portable *carports* shall be limited to one (1) per *lot*.
 5. Portable *carports* shall not encroach into required *front* or *side setbacks* when adequate area and *access* otherwise exist.

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- B. If the *lot* size, area, *access*, or configuration limitations do not permit the installation of portable *carports* without encroaching into the required front, *side* or *rear yard setbacks*, the *Zoning administrator* may authorize encroachment into the *setback* by issuing a *Conditional Use Permit* pursuant to **Chapter 102** of this Ordinance.

106-10.35 Portable Storage Containers and Construction trailers.

Commented [JM111]: City Comment: Retained from the SUDC and revised

- A. The dimensions of a portable storage container shall not exceed 102 inches (eight feet, six inches) in *height* and 96 inches (eight feet) in width. Lengths may vary but shall not exceed 40 feet in length.
- B. The temporary placement of a portable storage container on any residential *lot* for the purpose of loading and unloading household contents shall be permitted for a period of time not exceeding seven days in a calendar year.
- C. In all non-residential districts, portable storage containers are permitted only in accordance with the following:
1. Portable storage containers may be a *temporary use* during the construction, remodeling, or redevelopment of permanent on-site *building* and facilities. In addition to specifying and limiting the number, size, location, and duration of the storage containers, the Community Development Director or designee may require additional measures to ensure compatibility with *adjacent land uses* such as increased *setbacks*, *screening*, landscaping, exterior materials and color.
 2. Portable storage containers may be an *accessory* to a *temporary use* such as a special events or temporary retail sale that is periodic, intermittent, or isochronal. In addition to specifying and limiting the number, size, location, and duration of the storage containers, the Community Development Director or designee may require additional measures to ensure compatibility with *adjacent land uses* such as increased *setbacks*, *screening*, landscaping, exterior materials and color.
 3. Portable storage containers shall not be located in landscape areas, *open space*, *retention basins*, *drive aisles*, fire lanes, required *parking spaces*, loading zones, or any other location that may cause hazardous conditions, constitute a threat to public safety, or create a condition detrimental to surrounding *land uses* and developments.
- D. *Construction trailer* shall be subject to the following requirements:
1. The *construction trailer* shall remain on site only for the duration of an active permit. *Abandon* trailers shall not be permitted on the site.

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2. The *construction trailer*, attendant parking and storage areas shall be located on site so as not to interfere with safe *ingress and egress* to developed areas or areas under construction.
3. The *construction trailer* shall be removed prior to issuance of a final certificate of occupancy.

106-10.36 Racetrack.

- A. Auto racetracks and Animal racetracks shall have the following requirements:
 1. The minimum *lot* size area shall be forty (40) acres.
 2. The site shall not be *adjacent* to *single-family* residential properties.
 3. All *buildings, structures*, and facilities associated with the activity shall be no closer than one hundred ~~100~~ feet (100') from any property line.
 4. A public address system or other means of outdoor amplification may be only during race hours or special events times.
- B. In addition to the standards listed in (A) above, animal racetracks shall have the following requirements:
 1. Exercise tracks for animal racetracks and any additional activity areas shall be maintained in non-dust condition at all times.
 2. A manure waste management plan and fly control plan shall be prepared.
 3. All *buildings* shall be maintained in a safe and healthy manner and applicable federal, state or local statute or ordinance.
- C. Other racetracks (e.g. bicycle, motocross) shall follow the requirements as outlined in (A) above with the exception that the minimum *lot* size may be reduced to ten (10) acres.

Commented [JM112]: City Comment: Retained from the SUDC and revised

106-10.37 Recreational Vehicle (RV) Park.

- A. A *recreational vehicle (RV) park* shall provide adequate *streets*, driveways, walkways, proper sanitary facilities, adequate fire protection, adequate water supply, adequate lighting, and adequate protection of surrounding properties. All *RV parks* shall be land-lease developments that comply with the following standards:
 1. No "*park model*", *manufactured homes*, or site built *dwelling units* shall be permitted except for that of the *owner/manager*.

Commented [JM113]: City Comment: Retained from the SUDC and revised

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2. *RV parks* shall be a minimum of ten (10) acres in size and all spaces shall be a minimum of 50 feet from the exterior *recreational vehicle park* exterior property lines
3. *RV parks* shall not be *used* as permanent residences except for that of the caretaker or manager. All *recreational vehicles* within an *RV park* shall display current license *plates/tags* and shall not be *parked* nor occupied for more than one hundred eighty (180) days per calendar year.
4. There shall be a maximum *net residential density* of twenty (20) spaces per net acre.
5. There shall be a minimum of twenty-five percent (25%) *open space* required within the development; excluding the *private streets*.
6. Dimensional requirements for each individual *RV* space are as follows:
 - a. Minimum of two thousand square feet (2,000sf)
 - b. Minimum *frontage/driveway* shall be fifteen feet (15') and space width shall be forty feet (40')
 - c. Minimum space length shall be fifty feet (50')
 - d. The following minimum *setbacks* for *RVs* shall be required for all individual *lots*:
 1. *Minimum front setback*: fifteen feet (15')
 2. *Minimum side and setback*: eight feet (8')
7. Each *park* must provide an adequate and easily identifiable *office* or registration area. The location of the *office* shall not interfere with the normal flow of traffic into and out of the *RV park*.
8. *RV park* developments shall be improved with paved *private streets* built to City specifications. *Private streets* shall be maintained by the private owner of the *RV park*.
9. No *RV* space within the *park* shall have direct *access* to a *public street* outside of the development.
10. An approved decorative perimeter *fence* shall be constructed around the entire *RV Park*.
11. Each designated space in the *park* shall have a concrete slab for the parking of only one (1) *RV* unit per space. There shall be no *RV* parking other than on the paved surface area within the designated space. The concrete slab shall directly connect to the paved *street* system of the *RV park*. A

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minimum of one (1) *off-street parking space* shall be provided on or *adjacent* to each space.

12. Each *RV* unit shall be equipped with wheels, which remain on the unit; however, the wheels may be blocked for stability.
13. No permanent room addition shall be attached to the *RV* unit nor shall the unit be attached to any permanent *structure*.
14. Recreational *amenities* such as a swimming pool, shuffle board, and tennis and/or social centers, which may be *used* for dancing, crafts, hobbies, games, meeting, banquets, and similar recreational *uses* shall be developed and may be of conventional construction.
15. Restroom and shower facilities shall be provided separately for men and for women. A common *use* laundry facility shall be provided at a ratio of one (1) washer and one (1) dryer for each twenty (20) spaces or fraction thereof.
16. Each *RV park* shall be master metered for both electric and water/*sewer* service. Individual lease spaces shall be developed with a hook-up to these utilities. If approved by the City, the *park* may be allowed some short-term lease spaces without utility hook-ups. Additionally, each development shall provide at least one (1) approved disposal site/pumping station for both water and *sewer* holding tanks for the *RV* units.

106-10.38 Recycling Operations and Facilities.

- A. Indoor *recycling collection facilities* will be subject to the following requirements:
 1. Will be located a minimum of 200 feet from any residential *zoning district*, measured by a straight line in any direction from property line to property line.
 2. Storage and operations will only be performed within an enclosed *building*.
 3. Processing operations are limited to cleaning, compacting, sorting, wire stripping, shearing, and baling.
- B. Outdoor *recycling collection facilities* will be subject to the following requirements:
 1. Will be located within I-1, I-2, or I-3 *zoning districts* and a minimum of 1,320 feet from any residential *zoning district*, measured by a straight line in any direction from property line to property line.
 2. Processing operations are limited to cleaning, compacting, sorting, wire stripping, shearing, and baling.

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3. All operations and storage, including all equipment *used* in conducting such *use*, other than parking, will only be conducted within an enclosed *building* or within an area enclosed by a minimum six-foot (6') high *screen wall*.
 4. Storage is not permitted above the *height* of the *screen wall*.
 5. All areas of the facility open to vehicular passage will be paved.
- C. Reverse vending machines will be subject to the following requirements:
1. Will be located a minimum of 200 feet from any residential *zoning district*, measured by a straight line in any direction from the reverse vending machine to any residential property line.
 2. Will occupy no more than 350 square feet of space.
 3. Will not reduce the number of required *parking spaces* for the hosting site.
 4. Will be clearly marked to identify the name and telephone number of the reverse vending machine *owner* and display a notice stating that no material will be left outside of the *building* or *recycling reverse vending machine*.
 5. Will be located a minimum of ~~100~~ one hundred feet (100') from any *right-of-way access point*.
- D. In addition to the standards listed in (B) above, *recycling processing facilities* will allow for other types of processing operations to occur.

106-10.39 Schools and Universities

- A. Pre-K through 12 *schools* shall be subject to the following requirements:
1. *School* sites shall not have public *access* directly from a *parkway* or arterial.
 2. *Building setbacks* shall be a minimum of 50 feet for front, side and *rear setbacks*.
 3. Maximum *lot coverage* shall be sixty (60%) percent.
 4. *Open space*, including play area, shall be a minimum of twenty-five (25%) percent.
 5. Designated and separate bus and parental drop off/pick up areas with separate pedestrian pathways shall be provided. The parental drop off/pick up area shall accommodate a minimum of five cars at a time. The bus drop off/pick up area shall accommodate a minimum of three buses at a time.

Commented [JM115]: City Comment: Retained from the SUDC and revised

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6. Special paving, brick, striping, or other methods shall be *used* for pathway areas that cross vehicular *use* areas.
 7. Dumpster and trash receptacles shall be *screened* and located a minimum of 75 feet from any residential property lines.
 8. All lighting shall be directed down and fully shielded. All *building* mounted lighting and freestanding pole mounted lighting shall be a maximum of 16 feet in *height* above *grade*. All pole lighting *adjacent* to residential districts shall be *setback* a minimum of 30 feet from the property line. All lighting, other than security, shall be turned off by 10:00 p.m., unless otherwise approved through a special event permit.
 9. Parking may be allowed in the *front setbacks* of the *lot* for *schools* on a *right-of-way* designated as a collector or greater. There shall be a three-foot high landscaped *berm* or *fence/wall* or combination thereof along the *street frontage* where parking occurs. On all other *street* classifications, parking shall be meet minimum *setbacks*. A minimum of 15 percent of all *parking areas* shall be landscaped. A twenty-foot (20') minimum landscaped *setback* shall be provided where parking is *adjacent* to residential districts.
 10. Security fencing of the campus and/or outdoor play areas shall be view fencing and shall allow for emergency vehicle *access*.
 11. All *buildings* shall be designed in accordance with the PEDS (see **Chapter 107** herein) and to be compatible with the surrounding residential neighborhood.
 12. New *schools* shall not be located in areas within the 65 DNL Noise Contours.
 13. *Off-site* improvements may be required to accommodate peak traffic volumes.
- B.** University, college or trade *schools* shall be subject to the following requirements:
1. *School* sites may have public *access* from a *parkway* or *major arterial*.
 2. The site shall have pedestrian and bicycle accessibility.
 3. Campus-like development site shall include a minimum of twenty-five (25%) percent *open space*.
 4. New *schools* shall not be located in areas within the 65 LDN Noise Contours.
 5. *School* sites shall provide adequate on-site parking or participate in the improvements of *off-site* parking facilities or *structure(s)* that would

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adequate serve student needs without impacting the surrounding neighborhoods or *uses*.

6. All *outdoor lighting* shall be directed down and fully shielded. All *building* mounted lighting and freestanding pole mounted lighting shall be a maximum of 16 feet in *height* above *grade*. All pole lighting *adjacent* to residential districts shall be *setback* a minimum of 30 feet from the property line.

106-10.40 Self-storage Facilities.

Commented [JM116]: City Comment: Retained from the SUDC and revised. Formerly known as mini-storage or mini-warehouse

- A. *Self-storage facilities* may be appropriate in the Neighborhood and Commerce and Office Character Areas of the *General Plan*, except are not permitted in the Transit-Oriented Development (TOD) and Scenic Lands Sub Areas.
- B. There are four different “types” of *self-storage facilities*; each with different land *use* needs and varying degrees of regulations.
 1. “Garage style” with single story *buildings* that allow customers to drive directly up to the front of each individual roll-up door storage unit/bay.
 2. “Multi-story/climate controlled” in a single *building* providing *access* to the individual units from an interior hallway within the *building*.
 3. “Parking style” allows *outdoor storage* of vehicles, boats, *RV*’s, and trailers. This type can be a standalone facility or combined with either the garage style or multi-story climate controlled facility.
 4. “Portable container” is the remote facility where small roll-off containers are stored after they have been delivered to and picked up from the customer’s location; with no public or customer *access* to the storage facility.
- C. *Self-storage facilities* are for storage purposes only. No on-site retail sales are permitted from a rented storage unit.
- D. Regardless of the “type” the minimum size of any storage facility site shall be one acre (1 ac). When the site is *adjacent* to a residential *zoning district* or a residential *use*, the site shall be limited to a maximum of two acres (2 ac).
- E. The site shall be contiguous to an arterial or collector road, although *access* may or may not be directly onto such arterial or collector, as determined through the review process.
- F. All *buildings* that are visible from a *public street* shall exhibit architectural enhancements, including variation of rooflines, *uses* of multiple material types, and color variations compatible with surrounding *uses* as set forth in the PEDS (see

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Chapter 107) herein. Architectural plans, including material and color samples, shall be submitted for review at the time of application.

- G. A minimum eight-foot (8') high masonry *wall* with architectural enhancements shall be provided around the perimeter of the property or storage area. When *adjacent* to a right-of way or public area, the perimeter wall or *building* wall will be designed in accordance with **item F** of this section.
- H. *Outdoor storage* shall be limited to boats, trailers, or *recreational vehicles*. The storage of these vehicles in conjunction with either the garage style or the “multi-story/climate controlled” storage facility shall be limited to a maximum fifteen percent (15%) of the net site area. All outdoor vehicle storage shall be located in the interior of the site and shall be *screened* from view from surrounding properties. Parking style and garage style storage facilities shall provide an eight foot (8') decorative view-obscuring *wall* to *screen* the entire storage area. There shall be no storage of *abandon*, damaged, or junked boats, trailers or *recreational vehicles* in any storage facility.
- I. Site Design for Garage style facilities:
 - 1. Each site shall provide a minimum of two (2) exits, one (1) of which may be for emergency vehicle *use* only.
 - 2. All driveways, parking, loading, and circulation areas shall be paved with concrete, asphalt, or similar material.
 - 3. All one-way driveways shall provide a fifteen-foot (15') travel lane. Signing and painting shall be *used* to designate traffic direction and parking.
 - 4. All two-way driveways shall meet the Surprise Standard Details in the PEDS.
 - 5. When the main driveway directly serves storage areas or cubicles, a ten-foot (10') wide parking lane shall be provided in addition to the travel lane(s).
 - 6. No garage style *self-storage building* shall be more than two hundred feet (200') long.
- J. The maximum *building height adjacent* to a residential *zoning district* or within fifty feet (50') of a residential *dwelling* shall be fourteen feet (14') in *height*. *Building height* may be increased one foot in *height* for every two feet of additional *setback* (1':2') to a maximum twenty-four feet (24') in *height* from finished *grade*. The maximum *building height adjacent* to a non-residential *zoning district* shall be a maximum of thirty-five feet (35') in *height* from finished *grade*.
- K. The required landscape areas shall be provided along all *street frontages* between the *street* and sidewalk, and within areas of the site visible from public view, including areas *adjacent* to all perimeter *fences/walls*.

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- L.** No hazardous or flammable materials shall be stored in a mini-storage development.
- M.** No auctions, commercial sales/rentals, garage sales, or other activities not consistent with the approved storage use shall be conducted on the premises.

106-10.41 Sexually Oriented Businesses (SOB).

Commented [JM117]: City Comment: Retained from the SUDC and revised

- A.** A *sexually oriented business* shall not be established or operated any closer to and shall maintain a separation from those *uses* as outlined in **Table 106-10d** below.
- B.** Such distances shall be measured between subject *lot lines* at their closest proximity on an aerial view without regard for intervening *structures*, topography, political boundaries, or other objects.
- C.** An *SOB* lawfully operating as a conforming *use* shall not be rendered a *nonconforming use* by the subsequent location of a residential district or residential *use*, or any of those *uses* previously listed in **Table 106-10.41a** above. If the *SOB use* is *abandoned* or the *business* license is not renewed, it becomes *nonconforming* and subject to the provisions herein.
- D.** Advertisements, displays or other promotional materials displaying or depicting “*specified anatomical areas*” or “*specific sexual activities*” shall not be shown or exhibited so as to be visible or audible to the public from *adjacent streets*, sidewalks or walkways or from other areas outside the establishment.
- E.** A map showing the particular property or properties for which the application is being requested and the *adjacent* properties, *buildings* and *structures*, land *uses*, and *public streets* and ways within a radius of 1,320 feet of the exterior boundaries thereof shall be submitted along with the application for a *Conditional use Permit*.
- F.** No *sexually oriented business*, except for an *adult motel* and *adult theaters*, may remain open at any time between the hours of one o'clock (1:00) A.M. and eight o'clock (8:00) A.M.
- G.** Site locations and *site plan* design, such as but not limited to compatibility with *adjacent* neighborhoods, shall be factors to be considered with the application for a *CUP*.

Table 106-10d - Sexually Oriented Businesses

Land use	Separation Requirement (feet)
Another <i>sexually oriented business</i>	1,000
Establishment having an Arizona Spirituous Liquor License Series #06: <i>Bar</i> License or Series #07: Beer and Wine <i>Bar</i> License	500
Public <i>park</i> , playground, or public recreational facility	1,320

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<i>Schools</i> (public or private)	1,320
<i>Day care</i> facility or preschool	1,320
<i>Place of Worship</i> , cultural institutions	1,320
Residential district boundary	1,320

106-10.42 Special Events and Seasonal Activities

Commented [JM118]: City Comment: Retained from the SUDC and revised

- A.** Special events that necessitate additional parking, special equipment (such as generators or portable sanitation facilities), or security measures, including but not limited as those listed below, shall require a *Temporary Use Permit (TUP)* from the City.
1. Carnivals, circuses, festivals, fairs, firework shows, and holiday events;
 2. Concerts, exhibitions, special performances or other outdoor live entertainment;
 3. Farmer's markets and temporary retail sales of arts, crafts, souvenirs, gifts, food, and other goods;
 4. Grand opening events, tent sales, sidewalk sales, and other events that include commercial activities or commercial related activities in areas that are not *used* for commercial purposes;
 5. Religious/revival gatherings;
 6. Political/organizational rallies;
 7. Parades, races, walk or bike-a-thons, and sports tournaments;
 8. *School* events beyond the typical *use* of parking or traffic congestion;
 9. Garage or yard sales held in excess of thirty-two (32) hours or two (2) times a year.
- B.** Seasonal activities, as those listed below, shall require a *TUP* from the City.
1. Special events that exceed the time limit of seven (7) consecutive days;
 2. Temporary retail sales such as but not limited to Christmas trees, pumpkins, fireworks, or other seasonally related *outdoor sales*;
- C.** A time limit shall be established for each event.
1. Special events shall be no more than seven (7) consecutive days and no more than four (4) event periods during a calendar year shall be permitted on any single site.

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2. Seasonal activities shall be no more than forty-five (45) consecutive days per event, and may not occur more than ninety (90) cumulative days per calendar year per property, or in the case of a *commerce center*, per tenant.
- D. Special events and seasonal activities that are minor and do not require additional parking, equipment (such as generators and portable sanitation facilities), or security measures such as those listed below do not require a *TUP*:
1. Sports tournaments.
 2. *School* events.
 3. City operated events.
 4. Garage or yard sales held for a maximum of 32 hours or two times a calendar year.
 5. *Temporary use* of portable storage containers in residential districts for the purpose of loading and unloading household contents is only permitted for a period of time not exceeding seven days in a calendar year.
 6. Live entertainment, such as ancillary to a restaurant.
 7. Peaceful assembly.
- E. Permanent facilities or *structures* shall not be permitted under a *TUP*. The site shall be cleared of all temporary facilities and *uses* and cleaned of trash and debris when concluded.
- F. If applicable Maricopa County Health Department approval shall be obtained prior to the City issuing the *TUP*.
- G. All *parking areas* must be paved or have a method of dust control. If the *temporary use* is within the existing *parking area* the number of *parking spaces* shall not be reduced by more than ten (10) percent of the total spaces existing.
- H. Any *TUP* that includes retail sales must comply with necessary *business* and/or vendor license. Any *TUP* is subject to revocation if any activities related to the *TUP* are in violation of a Surprise Municipal Code.

106-10.43 Sport Courts.

- A. Outdoor sport courts in residential and *mixed use zoning districts*, including the enclosure and lighting elements, may be built as follows:
1. Sport courts other facilities shall not be permitted in the *front yard* when used an *accessory to a dwelling unit*;

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2. Sport courts other facilities without lighting shall be set back five feet from all *lot lines* (measure from the edge of the playing surface) and when *used* an *accessory* to a *dwelling unit* shall maintain *height* limitations defined in **Section 106-10.3**;
3. Sport courts with lighting shall be set back 20 feet from all side and *rear lot lines* (measured from the edge of the playing surface or base of the lighting standard);
4. Photometric foot-candles shall be zero along property lines and shielded to prevent *light spillage*.
5. Protective fencing/netting may be allowed along the residential property line that *abuts* a ballfield, sport courts, or golf course.

106-10.44 Swimming Pools.

- A. Outdoor swimming pools, in-ground or above-ground, wading pools, hot tubs, spas, or other similar pools *used* for swimming, wading, purposes are subject to *building code* requirements with the following additions:
1. Private facilities listed above located in residential *zoning districts* are prohibited in the *front yard*. No water surface shall be closer than three feet (3') from any property line.
 2. ~~A building permit shall not be issued for any swimming pool unless the plans for such pool provide for a fence as required by Chapter 105 of this Ordinance.~~
 3. ~~No swimming pool shall be filled in whole or in part with water unless the pool structure has been installed in accordance with this section and approved by the building official, or his designee.~~
 4. It shall be the responsibility of both the property *owner* and the occupant of the premises to install and maintain the *fences*, locks, latches, and gates in good condition and proper working order when water is in the pool and both may be deemed in violation of this section for failure to do so.
 - 3.5. Swimming facilities listed above as ancillary or as an *amenity* to multi-family or non-residential *uses* shall comply with development standards of the *zoning district*.

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106-10.45 Tattoo and/or Body Piercing Establishment

- A. Tattoo and/or body piercing establishments shall maintain the following minimum separations, measured by a straight line in any direction:

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1. Shall not be located within one thousand feet (1,000') from the *lot line* of another tattoo shop or body piercing establishment.
 2. Shall not be located within five hundred feet (500'), from the *lot line* of a residential district.
 3. Shall not be located within five hundred feet (500') from the *lot line* of a *school*, which provides elementary or secondary education.
- B.** A tattoo and/or body piercing establishment lawfully operating as a conforming *use* shall not be rendered a *nonconforming use* by the subsequent location of a residential district or residential *use*, or any of those *uses* previously listed in above. If the tattoo and/or body piercing establishment is *abandoned* or the *business* license is not renewed, it becomes *nonconforming* and subject to the provisions herein.
- C.** Site locations and *site plan* design, such as but not limited to compatibility with *adjacent* neighborhoods *commerce center*, shall be factors to be considered with the application for a *CUP*.
- D.** Permanent facial cosmetics service shall be exempted from this section

106-10.46 Truck Stop/Travel Plaza

- A.** The *lot* or *parcel* for a travel plaza/*truck stop use* shall be no more than 500 feet from an interstate or state highway interchange *right-of-way* and the minimum *lot* or *parcel* size shall be twenty (20) acres.
- B.** On-site improvements, including but not limited to: 1) turning radius; 2) *drive aisle* dimensions and; 3) parking stall dimensional standards shall be in compliance with the American Association State Highway and Transportation Officials standards (AASHTO) when not included in the City of Surprise PEDS.
- C.** A masonry sound attenuation *wall* of at least six (6') feet shall be installed along all property lines that *abut* or are *adjacent* to a residential *zoning district* or *use*.
- D.** Any fuel dispenser along with underground storage tanks or pumps shall be a minimum of one hundred ~~(100')~~ feet (100') from any residential *zoning district* and at least forty ~~(40')~~ feet (40') from any property line or public *right-of-way* line.
- E.** *Amenities*, such as but not limited to, shower and restroom facilities, laundry facilities, driver lounge, and *restaurant* or food services shall be provided.

106-10.47 Vehicle fueling stations

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- A. All activities and operations shall be conducted entirely within an enclosed *structure*, except as follows:
 - 1. The dispensing pumps and plug-in stands, water and air facilities;
 - 2. Trash receptacles and windshield cleaning paraphernalia.
- B. The total site area shall not be less than 20,000 square feet unless it is planned to be part of a functionally integrated commercial complex.
- C. All *structures* shall be of a unique design character that is appropriate to the area. If present, pump island plug-in stand canopies shall be architecturally similar to and compatible with the main *structure* unless otherwise approved through the *site plan* review process.
- D. Landscaping shall account for a minimum of 15 percent of the site. For sites that are located at intersections, a landscaped area shall be provided at the intersection and shall extend a minimum of 150 feet in both directions from the *street* corner. Paving shall be limited to functional vehicle and pedestrian areas. All unpaved areas shall be maintained with landscaping.
- E. Sites located on arterial intersections or in other areas of significant pedestrian *use* shall locate pump islands, plug-in stands, and queuing lines away from intersections, driveways, sidewalks and other pedestrian areas.
- F. Site improvements such as *buildings* or *structures* (permanent or temporary) shall be separated from any residential property line by a minimum of 75 feet. *Parking areas* shall be separated from any residential property line by at least 25 feet.
- G. Pump islands and plug-in stands shall be located a minimum of 50 feet from a *street right-of-way* line or non-residential property line and 75 feet from a residential property line.
- H. All sources of artificial light shall be hidden and all lighting shall be *full cut-off* and designed so there is no glare or spillover on *adjacent* properties and *roadways*. Lighting under canopies shall *use* flat lenses (rather than drop lenses or refractors) and/or be fully recessed within the canopy.
- I. No vehicle shall be *parked* on the premises for the purposes of offering the vehicle for sale.
- J. Noise from bells or loudspeakers shall not be audible beyond the property line at any time.
- K. Interior curbs of not less than six inches in *height* shall be constructed to separate driving surfaces from sidewalks, landscaped areas, and *street rights-of-way*.
- L. Driveways for *fueling stations* shall be developed in conjunction with *adjacent uses* and shall be located as part of the total circulation element of such *adjacent*

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uses. Single *use* driveways for *fueling station use* will only be allowed when environmental or topographic constraints prohibit such shared driveway *access*.

- M. Lighting shall not exceed 50 foot-candles under canopies.
- N. No existing *fueling station* or *abandoned fueling station* may be converted to any other *use* unless the following standards are met:
 - 1. All pumps, canopies, *signs*, insignia, and corporate trademarks, supporting *structures*, mountings, and foundations, and all other aboveground improvements which are uniquely associated with *fueling station* operations shall be taken down, dismantled, and removed from the site.
 - 2. All fuel storage tanks, fuel lines, pumps, and other below ground apparatus related to the delivery or disposal of fuel products shall be excavated and removed from the site or *filled* in accordance with the provisions of the Fire Code as currently adopted by the city and all other applicable law.
 - 3. Upon the removal of the tanks, *structures*, and apparatus specified in subsections 1 and 2 of this subsection, the proposed converted fuel station site shall be resurfaced and landscaped in a manner appropriate to the proposed commercial or industrial *use*.
- O. If fuel canopies are fronting on an arterial and/or *parkway*, a minimum of 3.5 kW photovoltaic shall be required to be placed on the top of the canopy.

106-10.48 Vehicle Rental Facilities

- A. The primary *business* of a vehicle rental/leasing facility must be the rental and leasing of automobiles and light passenger *trucks*.
- B. No rental or leasing of other vehicles such as utility *trucks*, trailers or RVs shall be allowed.
- C. No more than six (6) vehicles shall be stored on-site in cases where the rental location is located in a *commerce center* or commercial complex that includes other retail *uses*.
- D. No outside storage of any type shall be permitted, except for passenger vehicle storage.
- E. On-site service and repairs of automobiles is prohibited, except for hand washing, vacuuming, window cleaning and checking fluids. Openings to the service bays shall not face public *rights-of-way* and shall be designed to minimize the visual intrusion into adjoining properties.
- F. The area *used* for parking and/or vehicle storage shall be properly *screened* with a *fence/wall*, hedge, plantings or combination thereof.

Commented [JM123]: City Comment: Retained from the SUDC and revised

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- G. The area *used* for parking and/or storage shall be paved.
- H. The installation and *use* of an outside public address or bell system is prohibited.
- I. Site improvements such as *buildings* or *structures* (temporary or permanent) shall be separated and *screened* from all residential zones by a minimum of 50 feet.

106-10.49 Vehicle Retail Sales.

- A. The primary *business* of a vehicle and boat sales establishment must be the retail sale of new products, except classic cars and in CR zoned properties.
- B. When on-site servicing and repair are permitted, the site also shall meet the requirements in **Section 106-10.50**.
- C. Site improvements such as *buildings* or *structures* (temporary or permanent) shall be separated from a residential zone by a minimum of 150 feet.
- D. Adequate *loading areas* must be allocated, specifically identified, and reserved on the site for the unloading of vehicles and boats brought to the site by carriers.
- E. Outside loudspeakers shall not be permitted. Digital pagers or other means must be *used* to communicate between employees in the *office* and on the premises.
- F. The maximum area for vehicle or boat display shall not exceed 20 percent of the total net *lot* area.
- G. Vehicle or boat display shall be limited to hard-surfaced areas and shall be incorporated into a setting of significant *open space*.
- H. All areas designated for vehicle or boat storage (not *display area*) shall be *screened* from view through approved landscape *berms* and *screens*.

Commented [JM124]: City Comment: Retained from the SUDC and revised

106-10.50 Vehicle Service.

- A. Major repair. When allowed, *major repair vehicle service* facilities shall be subject to the following requirements:
 - 1. All repair and service work shall be performed within a completely enclosed *building*.
 - 2. Openings to the service bays shall not face public *rights-of-way* and shall be designed to minimize noise and visual intrusion into adjoining properties.
 - 3. No *used* or discarded automotive parts or equipment shall be located or stored in any open area outside of the enclosed *building*.

Commented [JM125]: City Comment: Retained from the SUDC and revised

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4. No dismantling, *remanufacturing*, or *rebuilding* shall be permitted unless it is clearly incidental to the *business* and the product is sold at retail at the location.
 5. All disabled vehicles shall be stored in an area that is *screened* from view from the surrounding properties and adjoining *streets*. Vehicles shall not be stored on the property longer than 30 days.
- B. Minor repair. When allowed, *minor repair vehicle service* facilities shall be subject to the following requirements:
1. If an installation service is offered, the service shall be restricted to the installation of minor parts only, including batteries, windshield wipers, hoses, fuses, lights, radios, tires and similar minor elements, but excluding engine, transmission and differential service, or similar installation.
 2. All repair and service work shall be performed within a completely enclosed *building* with the exception of gasoline sales.
 3. Service bays shall not face public *rights-of-way* and shall be designed to minimize the noise and visual intrusion into adjoining properties.
 4. No new stock, or *used* or discarded automotive parts or equipment, shall be located or stored in any open area outside of the enclosed *building*.
 5. No dismantling, *remanufacturing* or *rebuilding* shall be permitted.
 6. All vehicles waiting for repair shall be *screened* from view through the *use* of a landscape *screen* such as *berms* and dense landscaping.
 7. *Outdoor storage and displays* are prohibited.

106-10.51 Vehicle Washing Facilities (also known as car washes)

- A. *Vehicle washing facilities* may be self-serve or full-serve as a *primary* or an *accessory use* to *vehicle fueling stations* or *vehicle service* facilities.
- B. *Vehicle washing facilities* shall be subject to conditions (c) - (f), (h), (j) - (l), under *vehicle fueling stations* as outlined in **Section 106-10.47** above.
- C. Sufficient area on the premise to provide stacking shall be provided. The size of each individual stacking space shall be twenty feet by nine feet (20'x9'). When the stacking lane is adjacent to the *street*, it shall be *screened* by a landscaped *berm*, *screen wall*, or combination thereof not less than three feet (3') in height.
- D. All wash water disposal facilities including sludge, grit removal and disposal equipment shall be subject to the approval of the city engineer, and shall conform

Commented [JM126]: City Comment: Retained from the SUDC and revised

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to all city ordinances regarding sewage and health and shall be designed so as not to detrimentally affect the city *sewer system*.

- E. The wash tunnel exit shall be oriented away from all *adjacent residential uses*.
- F. Self-service and accessory *vehicle washing facilities*. Stacking lanes shall have a minimum capacity two (2) vehicles.
- G. Full-service *vehicle washing facilities*. Stacking lanes shall have a minimum capacity of ten (10) vehicles.

106-10.53 Zoos, Indigenous Wildlife Rescue Facilities

- A. Animals shall be confined at all times within a secured, enclosed or *fenced* area;
- B. Animals that are kept outdoors must be located at least 2,640 feet from any residential *dwelling, school, or childcare-day care* facility;
- C. The site must have a minimum area of six acres; and all operations and activities shall be in accordance with Surprise Municipal Code.

Commented [JM127]: City Comment: Retained from the SUDC and revised

CHAPTER 107 DESIGN AND DEVELOPMENT REGULATIONS

ARTICLE 1 – PLANNING AND ENGINEERING DESIGN STANDARDS (PEDS)

107-1.1 Incorporation into the LDO.

- A. The Planning and Engineering Design Standards (PEDS) have been developed to be incorporated into the City of Surprise LDO by reference herein and reproduced as a stand-alone booklet for ease of readability by the development community.
- B. With the formal adoption of the LDO the PEDS along with all appendices are likewise formally adopted and considered to be incorporated herein as a part of this Ordinance.

107-1.2 Deviations and Waivers.

- A. The Community Development Director may approve a deviation to the standards through a Type 1 Procedure when, ~~if in the Director's opinion the an~~ alternative method provides an equal or better approach to solving the problem addressed by the standard.
- B. The Community Development Director may approve through a Type 1 Procedure, on a case-by-case basis, a waiver for a study, report, or an analysis that may otherwise be required by the PEDS when such information has previously been submitted to the City and the circumstances and site conditions have not changed since said information was originally provided to the City.

Commented [AB128]: From HBACA:

Pages 209 to 300: Chapters 107 (Design & Development Regulations) and 108 (Land Division and Subdivision Regulations)

HBACA: Many of the requirements in these two chapters should more appropriately be located within the PEDS. These are development standards and specifications that, from time to time, may require deviation. Pursuant to 107-1.2 waivers of the PEDS can be done through the Community Development Director. It is unclear whether such a process exists for deviation from the LDO. Typically that would require obtaining a variance, which in the context of these types of design features is very difficult.

Commented [AB129]: From Tiffany & Bosco:

Great provision and it should be written elsewhere to allow applicants to provide an equivalent alternative to code requirements that can be approved by the director

ARTICLE 2 – LANDSCAPE AND SCREENING REGULATIONS

107-2.1 Purpose and Applicability.

- A. The purpose of the Landscape regulations in this article is to encourage quality development within the city; to provide *buffering* between different land *uses* to mitigate any negative impacts between the different intensities of *use*; to provide *open space* and recreational areas to serve the needs of the residents of the city; to improve erosion and storm-water runoff control; to reduce the particulate matter in the air; and to aid in conserving water and the native *habitat* with the *use* of xeriscape methods and low water *use* drought tolerant plants as specifically listed in Appendices B and C in Volume One of the Planning and Engineering Design Standards (PEDS).
- B. Landscaping shall be provided for all developments and conform to the design standards outlined in the PEDS. The regulations in this Article shall be considered to be the minimum requirements applicable to all *Zoning districts*, all land *uses*, and all applications within the City of Surprise. The regulations set forth in this Article shall qualify or supplement, as the case may be, Chapter 106 and the design standards set forth in the PEDS.
- C. Where there exists extraordinary conditions of topography, land *ownership*, site boundaries and dimensions, *adjacent* development characteristics or other circumstances not provided for in this section, the Community Development Director or designee may modify or vary the strict provisions of this section in such a manner that the purpose and intent of this ~~section~~ Article is maintained with such modification.
- D. Any proposed *building*, *building* additions, or *use* of land that requires *Site Plan* Review by the City shall also include, either on the *site plan* or on a separate sheet, information on the required landscaping designed in compliance with the PEDS and, if applicable, the Subdivision Regulations. The Landscape Plan shall be prepared by an Arizona Registered Landscape Architect, an Arizona Certified Nurseryman, or other qualified professional. The landscape plans shall be submitted at the time of application for *rezoning*, *use* permit, *platting*, or at the time of *building permit* if none of the above applications are required. Specific plan submittal requirements are outlined in the PEDS, Volume One, Appendix D.
- E. Projects containing *environmentally sensitive features*, such as but not limited to properties identified in the Surprise *General Plan* as *Open space* Character Area or in Scenic Lands Development Sub Area, natural washes, *floodways*, *wildlife corridors*, and *hillside* slopes above 10% shall maintain undeveloped areas in a preserved desert environment in conformance with the PEDS.F. The intent of the landscaping requirements in this Ordinance is to enhance, conserve, and stabilize property values by encouraging pleasant and attractive surroundings and

Commented [AB130]: From Tiffany & Bosco:

This provision allowing the CDD to modify or vary the strict provisions of the section is a great idea. Should be considered in other sections of the LDO.

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thus create the necessary atmosphere for the orderly development of a pleasant community. Landscaping also contributes to the relief of heat, noise, air pollutions, and glare through the proper placement of green plants, trees, and desert landscaping.

- G. If any section, subsection, sentence, clause, phrase, or portion of this article or any part of the code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.
- I. All projects within the City of Surprise must follow chapter 58, article VII of the Surprise Municipal Code.
- J. Any use not in compliance with the requirements of this Article will be a violation of this Ordinance.

Commented [AB131]: From Tiffany & Bosco:

what is Chapter 88, article VII

City Comment: This is the Water Conservation section of Utilities chapter of the Municipal Code

107-2.2 Maintenance

- A. The maintenance of all required landscaping whether located on the property or within the adjoining *right-of-way frontage, landscape strip, open space, buffer areas, setbacks, parks, retention* basins, or pathways shall be the responsibility of the property owner; unless otherwise accepted by the City for maintenance purpose.
- B. The developer must put in place an improvement district, or other City approved mechanism, that shall fund the maintenance of landscape, *open space, recreation, and/or retention areas*; unless otherwise accepted by the City.
- C. All projects required to be landscaped shall pass a landscape inspection prior to the issuance of a final inspection or a certificate of occupancy by the city. Landscaping installation shall be in substantial conformance with the approved plan. Significant *alteration* in the design or installation without appropriate plan *amendment* approval is subject to the withholding of final inspection approval.
 - 1. The city shall have the right to deny any project not meeting the provisions of this section.
 - 2. The city shall also have the right to reject landscape materials as being substandard as to size and/or condition prior to installation.
 - 3. The owner shall, prior to *building permit* approval, provide evidence that all plant materials are guaranteed for a minimum period of 120 days from the date of final approval by the city. Trees, shrubs, vines, ground cover, and turf which have to be replaced under terms of the guarantee shall be guaranteed for an additional 120 days from the date of replacement.

Commented [AB132]: From HBACA:

Would a homeowners association be an "approved mechanism?"

City Comment: Yes, an HOA applies. Another option is a Property Maintenance Improvement District (like a SLID)

Commented [AB133]: From Tiffany & Bosco:

Why does the City want to get involved with an ID and other funding requirements?

City Comment: This is intended to include alternatives to an HOA, especially for smaller developments that still require open space but may not provide programmed amenities or for the benefit of a tax deductible unlike HOA fees.

Commented [AB134]: From Tiffany & Bosco:

Why doesn't the City Inspections staff just put yearly reminders on their calendars to re-inspect to make sure the landscaping takes and didn't die or get removed?

City Comment: This provision is a carryover from the SUDC and appeared sufficient to bolster long-term lifespan of the plant materials

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- D. No *setback* and/or landscaped area required by this Ordinance shall be *used* for the parking of vehicles or the storage or display of materials, supplies or merchandise.
- E. Landscaping shall be maintained in accordance with the approved site and landscape plan. Required landscaped areas shall be kept free of trash, debris, weeds, and dead plant material, and shall in all respects be maintained in a neat, clean, and healthful condition. This includes proper pruning, mowing of lawns, weeding, removal of litter, fertilizing, replacement of dead plants, and the regular watering of all plantings.
- F. The removal or destruction of plants and landscape material, previously approved by the city as part of the landscape plan, shall constitute a violation of this Ordinance. All dead or removed plants shall be replaced with plants of the same variety, and size in accordance with the approved final landscape plan.
- G. Any plant material, that does not survive, shall be replaced within 30 days of its demise or damage.
- H. Plant material shall not be severely pruned but rather maintained based on the specific plant species such that the natural growth pattern, flowering cycle, and characteristic form are not significantly *altered*. Refer to the Arizona Landscape Contractors Association (ALCA) for best practices.
- I. Palm trees shall be pruned once each year to remove dried fronds to eliminate fire hazard and insect infestation.
- J. The property *owner* is responsible for the pruning of any tree overhanging any sidewalk, path or trail, *street*, or *right-of-way* within the city to the degree that maintains visibility of intersections, clearance for large vehicles, and prevent interference with pedestrians and other *multimodal* means of travel.
 - 1. Refer to the PEDS in reference to landscape, fences, and other *structures* regarding potential impacts on sight *visibility triangles* on all *streets*.
 - 2. A minimum vertical clearance of fifteen feet (15') from the top of road pavement shall be required for tree limbs extending over roads and above fire *access lanes*.
 - 3. All dead, diseased or dangerous trees with broken or decaying limbs which the Community Development Director or designee constitutes a hazard to the public shall be removed. A *street* tree that interferes with the proper spread of light along the *street* from a *street* light, or interferes with the visibility of any traffic control device shall be correctively pruned.
 - 4. The City shall have the right, at the expense of the property *owner*, to prune or remove landscaping that the *owner* fails to remove within the time period provided in a notice by the City Code Enforcement. The costs

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of pruning or removing such hazardous tree or limbs from the public property or *right-of-way* shall be assessed against the property owner and shall constitute a lien on the property until paid.

- K. All landscaped areas shall be supported by an automatic irrigation system which may be a spray, soaker, or drip type system.
1. The irrigation system shall terminate in an appropriate number of sprinklers or bibs to ensure a sufficient amount of water to sustain plants within the landscape areas.
 2. A reduced pressure-type vacuum breaker shall be required with the installation of all sprinkler systems.
 3. All irrigation systems and landscaped areas shall be designed, constructed, and maintained so as to promote water conservation and prevent water overflow or seepage into the *street*, sidewalk, or *parking areas*.
- L. Landscaping provided in utility easements
1. If a power line utility easement is included as part of the *open space* of a project, the corridor must be fully landscaped with native and drought tolerant shrubs and tree, which will not exceed a height of twenty-five feet (25'), per Appendices B and C of Vol 1, PEDS. Decomposed granite application shall not be required.
 2. The destruction or removal of plant and landscape material, or *fences*, located in a public utility easement (PUE), water easement or sewer easement resulting from installation or maintenance of utility infrastructure by a service provider shall be replaced in accordance with the approved landscape plan by the property owner.
- M. Sidewalks, medians, and *landscape strip* construction and the landscaping within these areas shall adhere to the Property Maintenance regulations as referred to in Chapter 105 of the LDO.

107-2.3 General Landscaping Standards

A. Tree Specifications and Standards.

1. The required trees in the Article are listed in "box size" as the industry standard when identified on landscape plans. All trees materials at the time of planting shall have a specified in the "Container Grown Tree Guide", published by the Arizona Nursery Association (ANA). A copy of the latest edition of the specification list will be maintained by the City of Surprise.

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2. Standard trees with one trunk will be measured at six inches above the soil line. The *caliper* of multiple trunked trees is established by taking the average of the *caliper* of the two (2) largest trunks. *Caliper* is measured at six inches above origination point of the second largest trunk or six inches (6") above ground if all trunks originate from the soil.
3. All trees shall be located, planted, and staked in accordance with this Article and the design standards of the PEDS. Trees to be planted at *street* intersections, extending over roads and *drive aisles*, and above fire *access* lanes shall have an intact leader.
4. All trees shall be planted at a minimum distance from any property line equal to at least half of the typical mature canopy radius.
5. For the purposes of establishing a healthy root system and for water harvesting, deep-root irrigation well ~~shall~~ may be required for ~~all trees~~ near sidewalks and streets, such as but not limited to a ~~perforated PVC pipe, appropriately sized, shall be and~~ placed *adjacent* to the rootball, placed at the *grade* surface and extended vertically two feet deep (2') and *filled* with *screened* one-quarter-inch minus gravel.
6. A root barrier shall be required, for species with a known aggressive root system, when trees are planted five (5) feet or closer to a walk or curb.
7. Palm trees, identified as an 'accent plant' in Appendix C of the PEDS, shall not be substituted for any required trees along *streets* and driveways. Palm trees may be utilized in a landscape plan in appropriate locations as approved and permitted by the City of Surprise.
8. Saguaros may be substituted for up to five percent (5%) of the total required shade trees along *streets* and driveways when sized according to Table No 107-2a below.

Commented [AB135]: From HBACA:

The use of a deep root perforated PVC pipe is very expensive and is not a proven technique. Also, the City may want to revisit when irrigation is required. Frequently, there will be areas that are designed to grow and live as "native areas" which would not require irrigation or maintenance.

City Comment: revised to focus on high risk areas such as sidewalks and streets. Alternatives may be considered if root integrity can still be met.

Table No 107-2a – Saguaro Sizing Standards

Required Tree Sizes	Substitute Saguaro Heights (minimum)
24" Box	10'
36" Box	15'

- B. Shrubs:** Where required by this Ordinance, shrubs shall be, upon installation, a minimum of one (1) gallon size for fast growing shrubs and five (5) gallon for slow growing shrubs; unless otherwise indicated.

1. The *use* of cactus and/or succulents may be substituted for up to fifty (50%) percent of the required shrubs.

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2. Accent material (cacti and succulents) shall be a minimum of five (5) gallon in size upon installation.

C. Organic Groundcovers: Where required by this Ordinance organic groundcovers shall be, upon installation, a minimum of one (1) gallon size; excluding turfed areas (where allowed and outlined in the PEDS) and flowerbeds.

1. All turf areas equal to or greater than five acres (5 ac) in size shall be overseeded with a winter lawn and watered exclusively with reclaimed water, when reclaimed water is available in the *adjacent arterial street*. All infrastructures needed to accept reclaimed water shall be installed as a part of the development.
2. All turf areas and flowerbeds shall be separated from areas of decomposed granite application by a six-inch (6") wide concrete header; except in golf course applications.

D. Inorganic Groundcovers: All landscaped areas shall be finished with an inorganic groundcover which may include decomposed granite (minimum size one-quarter (¼) inch minus), river rock, boulders, expanded shale or a combination thereof.

1. Inorganic groundcovers shall be applied having a depth of two inches (2") or greater and maintained as weed free environment. A pre-emergent herbicide shall be applied to the ground prior to the placement of the inorganic materials to prevent weed growth.
2. All landscape areas shall be *graded* so that finished *grade* surfaces of all inorganic groundcovers are one and one-half inches below *adjacent* concrete or other paved surfaces.
3. All drainage scuppers, spillways, energy dissipation pads and drywell areas that contain rip rap or river rock shall be separated from turf and decomposed granite landscape areas by a six-inch (6") concrete header.
4. Use of plastic under ground cover materials is prohibited.

E. Prohibited: The *use* of fruit producing species of Olive and Mulberry trees shall be prohibited. The *use* of turf is prohibited within the public *rights-of-way*. Natural turf is also prohibited in the *front yard* of residential lots, except established turf in existence at the adoption of this Ordinance.

107-2.4 Quantity, Size, and Spacing Requirements.

A. Adjacent to Public Utility Infrastructure

1. Trees measured from trunk center shall be placed a minimum of five feet (5') from rear of fire hydrants. Shrubs as measured from their mature

Commented [AB136]: From Tiffany & Bosco:

Turf in the front yard allows for kids to play on grass and allow neighbors to interact and get them out of the back yards... a blanket prohibition seems extreme.

City Comment: This updated regulation meets conservation goals and policies, significantly reducing water consumption and yard waste. According to the Phoenix Lawn Watering Guide, from University of Arizona, "The average 15'x15' bermudagrass lawn uses over 5000 gallons of water per year. A properly xeriscaped yard, using native plants, can be maintained with little or no supplemental water."

Artificial Turf is permitted in the front yard for the visual appeal and play area.

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perimeter shall be located a minimum of five feet (5') from the rear of a fire hydrant. All plant materials, other than groundcover, shall not be placed between a fire hydrant and *street* or *roadway* and shall be a minimum of fifteen feet (15') away from either side of a fire hydrant.

2. All trees, shrubs and cactus having significant spines or thorns shall be placed at least ten feet from all public sidewalks, private pathways and gathering spaces as to not harm pedestrians.
3. All perimeter landscaped areas surrounding public works utility sites are to incorporate thorn bearing plant material to discourage entry into said facilities.

B. Within the Public Rights-of-way

1. Landscaping shall be provided within all areas of the public *rights-of-way* not being *used* for *street* pavement, curbs, gutters, sidewalks, or driveways and shall be installed by the contiguous development site in addition to the required on-site landscaping areas for the development.
2. All *arterial street rights-of-way* shall contain *street* trees and additional plant material in conformance with the **PEDS, Appendix B**.
3. **Table 107-2b** describes the minimum quantity of trees, shrubs, and groundcovers when *adjacent* to specific *street* types, as calculated across frontage widths. The priority location shall be in the center medians and the *landscape strip* when present and shall be only those plant materials listed in the PEDS, Appendix B Table 1 and Table 2.

Table 107-2b – ROW Planting Quantity & Size			
	15 Gallon Tree	24-inch Box Tree	5-gallon Shrubs ² and/or 1-gallon Groundcover Plants
Local (residential lot up to 50' wide)	2		4
Local (residential lot over 50' wide)	1	1	6
Local (nonresidential lot)	1 per 20 linear feet	1 per 40 linear feet	4
Collector	1 per 20 linear feet	1 per 40 linear feet	4
Minor arterial	1 per 25 linear feet (10% comprised of 15 gallon trees)		4
Major arterial	1 per 20 linear feet Secondary Tree Type	1 per 40 linear feet Main tree type ¹	4

Commented [AB137]: From: HBACA :

The Table should be revised for clarity. For instance, is it 15 gallons at 20' and a 24" tree at 40'? In other words, this would require three trees every 40 linear feet. Or is this every other tree is a 24" box tree?

City Comment: These are calculations based on the frontage widths. The actual planting distribution is flexible to the site conditions and design.

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<i>Parkway</i>	1 per 20 linear feet	1 per 40 linear feet	4
Notes: 1. If no Secondary Tree Type is designated then spacing shall be <u>an average of at</u> 1 per 25 linear feet. 2. Up to 50% may be 1-gallon Groundcover Plants			

4. Landscaping within center medians and *landscape strips* shall not obstruct the required site visibility lines at median breaks or intersections, ~~and shall not create other safety issues, and~~ Table 107-2c describes the minimum quantity of plants and materials within the ROW while layout and design is subject to the site a median, shall provide in addition to that outlined in Table 107-2b above the following:

Table NO. 107-2c – Additional Plants/Materials per Median Size			
Minimum Width Curb to Curb	Decorative Brick	Shrubs and Groundcovers	Trees
Under 3'	Only	N/A	N/A
3' to under 10'	N/A	6 plants every 50 linear feet	N/A
10' and wider	N/A	6 plants every 50 linear feet	1 additional tree every 50' linear feet

5. Irrigation systems shall be installed by the *developer* and/or home builder and maintain according to the provision in this Article.

C. Parking areas/Lots and Non-residential Setbacks

1. On site landscaping shall be provided in parking facilities for *multi-family* and non-residential development within the landscape islands, parking medians, and *setbacks* at the minimum quantities and sizes outlined in **Table 107-2d** below.

Table 107-2d – Parking Lot/Area Landscape		
	24-inch Box Tree	5-gallon Shrubs
Landscape Islands	1	4
Parking Lot Medians/Walkways	1 every 40 linear feet	1 per 5 linear feet
Setbacks	1 every 400 sf ¹	5 every 400 sf
Notes: 1. Thirty percent (30%) of the trees may be fifteen (15) gallon.		

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2. Shrubs within a landscape island or parking median shall be maintained to a maximum height of three feet (3'), and all trees at maturity shall maintain a minimum vertical clearance of eight feet (8') from the lowest branch to the *adjacent grade* elevation.
3. Trees and shrubs planting locations shall not interfere with vehicles, *parking area/lot light fixtures*, pedestrian movement, or *access to parking spaces*.
4. Plant quantities for *setbacks* and *buffer areas* shall be distributed throughout the *setbacks*, appropriate to the site conditions with priority towards pedestrian shade, *screening*, and *ROW* visibility.

D. On-Site Landscaping Requirements

1. On site landscaping shall be provided in *single-family* residential *front yards* and the required minimum *setbacks* for *multi-family* residential and all non-residential development.
2. *New construction* on individual R-1 and R-2 residential *lots* shall provide landscaping in addition to the *ROW* landscaping identified in **Table No 107-2b**. Dust control measures, such as inorganic ground cover with a minimum size of one-quarter-inch minus, consisting of decomposed granite or other rock, shall be provided in all remaining unpaved areas.
 - a. A *front yard* landscape package shall be provided by the homebuilder with the Home Product review. These packages may be included with the purchase price of the home or replaced by a "landscape budget" for an *alternative* landscape plan to be approved by City Staff.
 - b. All *front yards* for residential shall provide a minimum of one 24-inch box tree.
 - c. The landscaping shall include a minimum of one (1) five-gallon shrub or accent plant and one (1) one-gallon shrub, accent or groundcover plant per one hundred and twenty-five square feet (125 sf) of unpaved area. Plants must be installed on both sides of the driveway.
 - d. An automatic irrigation system appropriate for the plant material shall be provided.

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- e. Initial landscaping for new homes shall be maintained in conformance with the approved landscape plan for a minimum of one (1) year.
3. In addition to the minimum quantity and sizes, additional trees at the fifteen (15) gallon size and additional shrubs at a smaller size may be installed.
43. Plant location shall be distributed throughout the *setbacks*, appropriate to the site conditions with priority towards pedestrian shade, *screening*, and *ROW* visibility.

107-2.5 Screening and Fence Standards

- A. *Fences* may be provided, unless restricted by other provisions within this Ordinance or PEDS, as part of any development to separate properties, *screen* portions of a property, as a pool barrier complying with Chapter 105 of this Ordinance, or as a boundary to control animal movement.
- B. No *fence* or *wall* shall be constructed that does not comply with the *screening* and/or *wall* standards outlined in the PEDS and without first making an application for and securing a *building permit* as required by Chapter 105 of the LDO.
 1. All *fence* or *wall* locations, materials, and colors must be specifically identified in a *wall* plan submitted in conjunction with a subdivision *preliminary plat*, or as part of the *site plan* review for *multi-family* and non-residential developments.
 2. *Fences* are prohibited from blocking or impeding connections designed for pedestrian and *multimodal uses* and gates leading to other *adjacent parcels* must provide *owner* authorization allowing such *access*.
 3. All *fences* shall be *setback* two feet (2') from a P.U.E that is *abuts* a *ROW*.
- C. *View fences* may be *used* as a preferred approach to enclose areas or restrict *access*, except when visual *screening* is required.
- D. The height of any *fence* shall be measured from the top of the footer to the top of the *fence* or column, except that a four inch (4") architectural embellishment or decorative cap may be permitted (see **Figure 107-2a**)
 1. Placing *fill* solely for the purpose of adding additional height to a *wall* or *fence*, *view fence* or combination thereof is prohibited. If a *wall*, *fence*, or *view fence* is placed on a *berm*, the height shall be measured vertically from the base of the *berm*.

Commented [AB138]: From HBACA:

Fence heights measured from footers is not a good method. Better to use lowest adjacent grade.

City Comment: This provision change aligns with the measuring method required by the building code. Measuring from the grade creates a conflict in standards

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2. *Fences* located in a residential *zoning district* shall not exceed six (6') feet. In no case shall the height of either side of the *wall or fence* exceed eight (8') feet (including architectural embellishment). This requirement does not pertain to *fences* that surround utility installations.
3. *Fences* in all commercial and industrial districts shall adhere to the *screening standards* outlined in the PEDS.

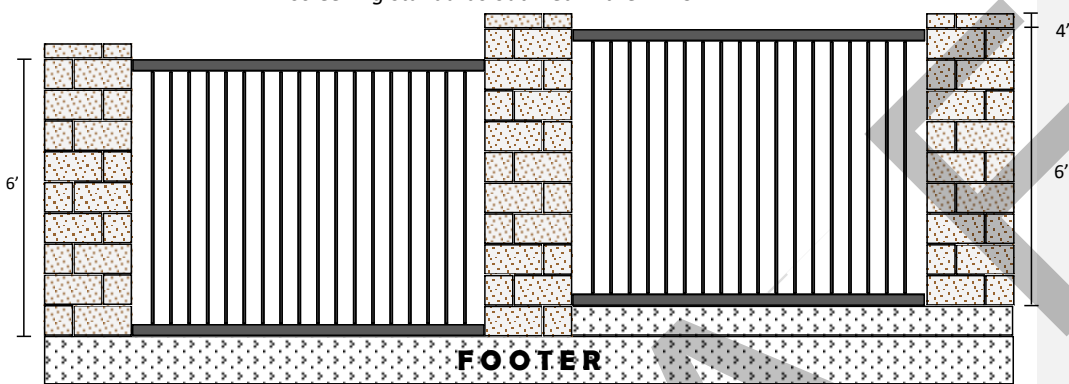


Figure 107-2a

(Illustrates how measurements follow footers; design shall comply with PEDS)

4. Wall Fence height shall follow the contour of the natural terrain and step when the change in *grade* exceeds eight (8") inches. Columns and/or posts may exceed maximum *fence* heights to meet *grade* changes.
- E. Chain link, razor wire, barbed wire, and electrified wire fencing shall be prohibited, with the following exceptions:
1. Chain link *fences* may be utilized for an approved *temporary use*.
 2. Chain link may also be *used for public facilities* and recreational *uses*, including but not limited to, enclosures for sport courts/fields, as a protective means with baseball fields, batting cages, golf ranges or other such recreational *amenities*; in which case the fencing may exceed the allowed fencing heights.
 3. Barbed wire may be utilized in association with *Agricultural operations* pursuant to **Section 106-10.5** of this Ordinance.
- F. Residential *fence* requirements.
1. *Fence returns* shall be set back a minimum of five feet (5') from the front of the *building*. At least one (1) gate that is a minimum of three foot (3') wide should be provided per *lot* to permit emergency *access* to the side and rear yard.

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2. RV gates may be even with the front of the *building*.
 3. A solid *fence* located within any required *front setback* shall not exceed two feet (2') in height. A *view fence* may be permitted to a maximum of four (4') feet in height, except Rural Residential zoned properties may be permitted a view fence up to a maximum of five feet (5') in height.
 4. A *fence*, up to six feet (6') in height may be permitted within the required *front yard* along the side lot line of a *key lot* when located along the rear property line of the *adjacent lot*.
- G. *Off-street parking*. All *off-street parking areas* for *multi-family* and non-residential developments shall be *screened* from *street* view by a landscaped *berm*, *screen* wall or combination thereof not less than three feet (3') in height.
- H. When permitted, *outdoor storage and use areas* for materials, trash, equipment, vehicles or other similar items shall be *screened* with a masonry *screening wall* no less than six feet (6') in height.

Commented [AB139]: From HBACA :

Figure 107-2a

This figure is confusing and should be revised for clarity as to what it is illustrating.

ARTICLE 3 – OUTDOOR LIGHTING REGULATIONS

107-3.1 Purpose, Intent and Applicability

- A. The purposes of this Article is to protect the community and its neighborhoods with appropriately regulated and properly installed *outdoor lighting* that will contribute to the safety, security and wellbeing of *persons* engaged in outdoor public activities at night, while maintaining *access* to the dark night sky. The City will prevent the negative impact created by excessive glare, *light trespass*, and unnecessary waste of energy and resources caused by improper design and installation of *outdoor lighting*.
- B. It is the intent of this article that *outdoor lighting* be installed with the idea of safety and being a "good neighbor" by keeping unnecessary direct light from shining onto *abutting* properties or *streets*. Establishing environmentally responsible lighting regulations that limit the area that certain kinds of *outdoor lighting fixtures* can illuminate will balance the need for safe lighting with the need for dark skies.
- C. All outdoor illuminating devices shall be installed in conformance with the provisions of this article, the **PEDS**, the sign regulations in **Chapter 108**, and the electrical code as adopted by the city under appropriate permit and inspection.
 - 1. The development standards provided herein shall apply to all proposed new land *uses*, developments, *buildings*, *structures*, or *building* additions within the City of Surprise.
 - 2. Any new or modified *outdoor lighting* on an existing *building*, *structure*, or site shall meet the requirements of this article with regard to shielding and *lamp* type; the total amount of lighting after modifications are complete shall not exceed that on the site before the modification, or that permitted by this article, whichever is more restrictive.
 - 3. Legal non-conforming *lighting fixtures* may continue to be *used* provided such *fixtures* are turned off between the hours of 10:00 p.m. and sunrise. This requirement does not apply to *fixtures used* for safety or security purposes. Sign lighting cannot be *used* for security lighting purposes.

107-3.2 General Standards

- A. All *fixtures* installed anywhere in the City of Surprise shall at a minimum be *full cut-off fixtures*; excluding seasonal holiday lighting and decorative string lighting for outdoor seating areas. Other exceptions to *full cut-off fixtures* may be approved on a case-by-case basis by the Community Development Director provided it can be shown that the proposed *fixture* includes *alternative*

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technology luminaries or artistic attachments/shields that provide similar photometric results as *full cut-off fixtures*.

- B. Fully shielded *fixtures* are generally preferred and may be required in some installations depending on location and *adjacent* land uses. Internally shielded *fixtures* are required except when retrofitting existing *light fixtures* with external shields treated to be non-reflective. See **Figure 107-3a**

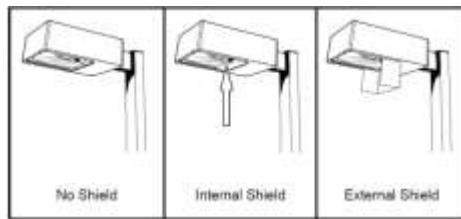


Figure 107-3a

- C. *The maximum light output per acre for new commercial, industrial, mixed use, and multi-family residential developments in the LZ2 Lighting Zone shall not exceed 150,000 lumens per acre when adjacent to residential and 200,000 lumens when not adjacent to residential in order to control the amount of visible light on the property and thus reducing the overall brightness. Unshielded fixtures or lighting sources shall not exceed 3,000 lumens per luminaire.*
- D. *Outdoor lighting* installations shall be served by underground electrical service and include *adaptive controls*, including but not limited to, timers, dimmers and/or sensors in order to reduce overall energy consumption, eliminate unnecessary lighting, and to comply with the city's automatic lighting reduction requirements of **Section 107-3.4** herein.
- E. The city is not mandating a specific design, material or *lighting fixture* other than all *lighting fixtures* shall meet the "Fixture Seal of Approval" (FSA) program established by the International Dark-Sky Association (IDA). Below, for illustrative purposes only, are examples of both unacceptable and acceptable *lighting fixtures* for use in the City of Surprise. See **Figure 107-3b**

Commented [AB140]: From Tiffany & Bosco:

Good visuals

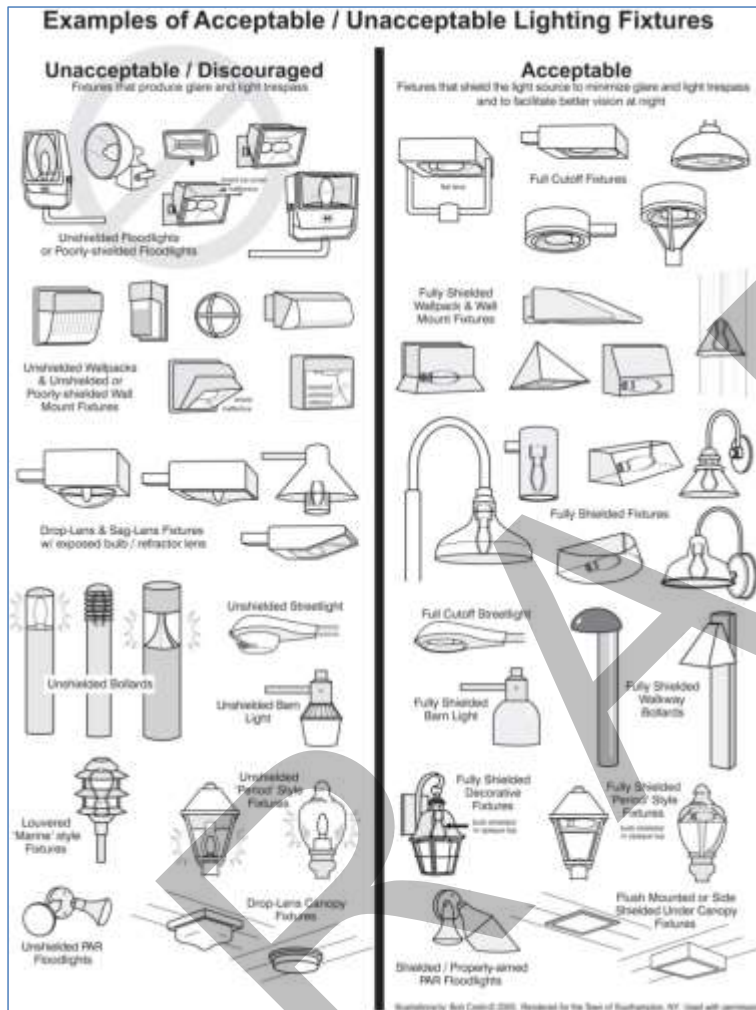


Figure 107-3b

- F. The style of light standards and *fixtures* should be consistent with the style and architectural character of the proposed development site and in compliance with the light source and shielding requirements for the specific lighting zone per **Table 107-3a** below. The pedestals for pole-mounted *fixtures* are to be finished in a manner and with a material that complements the architectural character of the proposed development site.

Commented [AB141]: From Tiffany & Bosco:

This is a good visual

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- G. All *light fixtures*, including security lighting, shall be located, aimed, and shielded so that the *direct illumination* from the *fixture* will be confined entirely within the property boundaries of the source.
- H. The overall height shall be measured from the finished *grade* to the top of the *light fixture*. Any pedestals upon which pole-mounted *fixtures* are placed shall be included in the overall height measurement. Exceptions to the height limitations shall be allowed only for those *structures* and facilities where lighting must be *used* to illuminate potential obstructions and/or hazards to air navigation.
- I. An approved site lighting plan photometric indicating the lighting zone, type of light source, *fixture* detail, and schedule is required prior to the issuance of a *building permit*.

107-3.3 Outdoor lighting Zones and Lighting uses

- A. There are different lighting zones throughout the City of Surprise. The lighting source, shielding requirements, and automatic lighting reductions are determined by both the lighting zone and the specific *use* of the property. The lighting zones are further delineated as follows:
 - 1. **Lighting Zone 2 (LZ2):** Areas within this lighting zone includes the neighborhood areas that are developed at the suburban and urban level, high *use* recreational and play fields, commerce and *office* areas of the city, and within the Transit Oriented Development District as designated by the Surprise *General Plan*. Lighting levels in the LZ2 are medium to high ambient brightness due to the higher levels of night time activity and the concentration and types of land *uses* allowed by the *zoning districts*; particularly where color rendition is important for the effectiveness and safety of the permitted activities.
 - 2. **Lighting Zone 1 (LZ1):** Areas within this lighting zone includes the neighborhood area that is developed as large *lot single-family*, rural residential, and surrounding natural *open space* as well as *business parks* and industrial areas with limited nighttime activity. Lighting levels in the LZ1 are low ambient brightness with general illumination for safety or security focused at activity centers and along travel corridors.
 - 3. **Lighting Zone 0 (LZ0):** Areas within this lighting zone includes those lands within a Scenic Lands Development area as designated by the Surprise *General Plan* and for other lands determined to have *environmentally sensitive features* or to be located in *environmental buffer areas*. In these areas, the preservation of an intrinsically dark environment both in the sky and in the visible landscape is considered of paramount value and special review will be required for any permanent lighting in this zone.

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4. A property located in more than one (1) of the lighting zones described in subsections (1) to (3) above shall be considered to be only in the more restrictive lighting zone.
- B.** *Outdoor lighting fixtures* will be permitted for the following *uses* and activities provided they are allowed in the lighting zone and designed to meet the standards further outlined herein and in the PEDS:
1. *Street lighting.*
 2. *Parking lot lighting.*
 3. *Architectural illumination and structural lighting.*
 4. *Landscape lighting and the illumination of trees, shrubs, water features, and open space plaza areas.*
 5. *Outdoor recreational sports fields/courts and play area lighting.*
 6. *Signage* (external and internal lighting).
 7. *Product display area.*
 8. *Building overhangs and open canopies.*
 9. *Outdoor seating areas at eating and drinking establishments.*
 10. *Security lighting.*
 11. *Walkways and trails.*
 12. *Agricultural uses:* arenas, corrals and animal containment areas.
- C.** The lighting zones delineated in section **107-3.3** above have specific permitted/prohibited lighting sources and shielding requirements associated with them as outlined in the following **Table 107-3a** and in other subsections herein.

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Table 107-3a – Allowed Lighting and Shielding Standards

Lighting Activities in Lighting Zones	LZ2	LZ1	LZ0
Street lighting	LED, (1),(7)	LED, ENV, (1),(7)	ENV, (1),(5),(7)
Parking lot lighting	LED, MH, (2),(5),(7)	LED, MH, (2),(5),(7)	ENV, (1),(6),(7)
Commercial <i>signage</i> (external and internal lighting).	LED, (1),(5)	LED, (1),(5)	LED,(1),(6)
School and Community Facilities such as Sports Field/Court and Play Area Lighting	LED, MH, (1),(6),(7)	LED, MH, (1),(6),(7)	LED, MH, (1),(6),(7)
Architectural/structural illumination,	LED, (1)	ENV, (1)	ENV, (1),(6)
Landscape lighting (trees, shrubs, <i>open space</i> features)	ENV, (2)	ENV, (2)	ENV, (1),(6)
Vehicular sales lot lighting	LED, MH, (1),(5),(7)	X	X
Building overhangs and open canopies	LED, MH, (1),(5),(7)	LED, MH, (1),(5),(7)	ENV, (1),(6)
Plazas and outdoor seating areas at eating and drinking establishments	LED, (3),(4),(5)	LED, (3),(4),(5)	ENV, (3),(4),(5)
Security lighting	MH, (1),(7)	MH, (1),(7)	ENV, (1),(7)
Walkways and trails	LED, MH, (2),(5),(7)	LED, MH, (2),(5),(7)	ENV, (1),(6)
Agricultural uses: arenas, corrals & animal containment areas	X	MH, ENV,(2),(6)	X

Notes:

- (1) Fully shielded
- (2) Partially shielded
- (3) Unshielded – shielding not required but highly recommended
- (4) Decorative unshielded low-wattage incandescent *lamps* will be permitted.
- (5) Lighting reductions are required.
- (6) Lighting shut-off required.
- (7) *Adaptive controls* shall be utilized.

Light Source Code:

ENV = “narrow-spectrum amber” LEDs
LED = **filtered to have a Correlated Color Temperature (CCT) maximum of 3,000K** unless otherwise indicated.
MH = *metal halide*
X = Not allowed.

107-3.4 Lighting Reduction Requirements

- A.** Table 107-3a above delineates specific lighting zones and certain types of lighting uses that require lighting to be reduced or extinguished. The following sections further detail those requirements; which shall be accomplished by providing *adaptive controls* for the automatic reductions and/or extinguishment of the *lighting fixtures*.

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- B.** Lighting reductions and/or shut off is not required for any of the following:
1. With the exception of landscape lighting, lighting for *multi-family* residential properties having *common areas*.
 2. When the *outdoor lighting* consists of only one (1) luminaire.
 3. Code required lighting for steps, stairs, walkways, and *building* entrances.
 4. When in the opinion of the Community Development Director, lighting levels must be maintained.
 5. Motion activated lighting.
 6. Lighting governed by special *use* permit in which times of operation are specifically identified.
 7. Lighting *used* to illuminate potential obstructions and/or hazards to air navigation.

107-3.5 Street Lighting Standards

- A.** General Requirements
1. All *lighting fixtures* along public and *private streets* should be non-reflective and consist of *full cut-off, fully shielded luminaires* to prevent any glare or *light trespass* onto adjoining property and *adjacent* areas; primarily lighting the pedestrian sidewalk, specifically at intersections and crosswalks, and secondarily to light the driving lanes.
 2. Lighting sources shall adhere to **Table 107-3a** and the overall height of the lighting standard, measured from finish *grade* to the top of the *fixture* should be as follows:
 - a. Along *local streets* serving residential areas should not exceed sixteen (16) feet in height in all lighting zones. *Local streets* serving non-residential areas in the LZ0 lighting zone shall not exceed sixteen (16) feet and in all other lighting zones shall not exceed twenty-five (25) feet in height.
 - b. Along *collector streets* serving residential areas should not exceed sixteen (16) feet in height in all lighting zones. *Collector streets* serving non-residential areas in the LZ0 and LZ1 lighting zone should not exceed sixteen (16) feet and in the LZ2 lighting zone should not exceed thirty (30) feet six (6) inches in height.

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- c. Along the city's primary arterials should not exceed thirty (30) feet in height in the LZ0 and LZ1 lighting zones and thirty-nine (39) feet six (6) inches in the LZ2 lighting zone.
 3. In residential neighborhoods where *curb separated sidewalks* exist, pole-mounted *lighting fixtures* on local residential *streets* shall be placed within the *landscape strip* between the curb and sidewalk, and spaced in an *alternate* pattern using both sides of the *street*; utilizing the lighting source specified for the lighting zone in which the development is located.
 4. The *use of adaptive controls* that regulate and automatically reduce the amount of light based on the traffic flows should be utilized in all circumstances and in all lighting zones.
- B. Street Lighting in the LZ2 Lighting Zone**
1. Arterial and *collector streets* shall utilize *LED's* filtered to have a CCT of ~~34~~,000K.
- C. Street Lighting in the LZ1 Lighting Zone**
1. Due to the rural nature of the lighting zone limited *use of street* lighting should be expected with lighting provided only as outlined below:
 - a. Major intersecting rural roads.
 - b. Intersections where local roads of a rural subdivision intersect with a major rural road.
 - c. Those areas identified as dangerous and hazardous to vehicular travel due to significant changes in *roadway* alignment, bridges, or hazardous *structures* such as curbs, piers, *abutments* or culverts.
 - d. Locations along roads and highways where police reports indicate nighttime accident rates exceed those of daytime hours.
 - e. Locations along a highway or rural road where traffic turning movements to and from *adjacent* commercial developments threaten public safety.
 2. *Arterial streets* only should utilize *LED's* filtered to have a CCT of 4,000K all others shall be limited to 3,000K or a narrow-spectrum amber *LED*.
- D. Street Lighting in the LZ0 Lighting Zone**
1. Due to the environmentally sensitive nature of the lighting zone minimal *use of street* lighting should be expected with lighting provided only as outlined below.

Commented [AB142]: From HBACA:

The City should reconsider the 4,000K lighting standard. Our understanding is that other municipalities have adopted this standard and subsequently revised the standard and are now retrofitting to 3,000K. This standard should probably require more study and evaluation.

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- a. Locations along a highway or arterial road where traffic turning movements to and from *adjacent* commercial developments threaten public safety.
 - b. Intersections where the entrance of a subdivision intersects with a major road.
2. *Adaptive controls* for the automatic reduction of lighting by 30% between 11:00 p.m. and sunrise will be required for all street lights.

107-3.6 Parking Lot and Loading Area Lighting Standards.

- A. Ornamental parking lighting may be permitted provided it is complimentary to the architecture and meets the intent of this Ordinance and the design aspects of the PEDS.
- B. The maximum height of parking *lot* lighting standards (poles) shall be sixteen (16) feet within the interior of the parking *lot* and twelve (12) feet at or along the perimeter of the parking *lot* and shall be located in such a manner as to not conflict with tree locations within the planting islands and *buffers*.
- C. *Parking area* lighting for all *uses* and within all lighting zones shall achieve, as near as possible, an equal luminance uniformity throughout the *parking area* with a reduced level at the property line when *adjacent* to the public *right-of-way* or a residential property.
- D. Within LZ2 and LZ1 Lighting Zones.
 1. For any non-residential land *use* the minimum lighting intensity shall be 2 *lumens* (2.0 fcs), the maximum intensity shall not exceed 5 *lumens* (5.0 fcs), as measured within the parking *lot*, and shall not exceed 1 *lumen* (1.0 fcs) measured at the property line for parking *lots* adjoining the public *right-of-way* or a residential property.
 2. All lighting shall at a minimum be reduced by 50% between 11:00 p.m. (or 30 minutes after close of *business* whichever is later) and sunrise.
- E. Within LZ0 Lighting Zone.
 1. For any non-residential land *use* the minimum lighting intensity shall be 1 *lumens* (1.0 fcs), the maximum intensity shall not exceed 2 *lumens* (2.0 fcs), as measured within the parking *lot*, and shall not exceed 0.5 *lumen* (0.5 fcs) measured at the property line for parking *lots* adjoining the public *right-of-way* or a residential property.

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2. All lighting shall be extinguished between 11:00 p.m. (or 30 minutes after close of *business* whichever is later) and sunrise; except for *businesses* that operate on a 24hour basis.

107-3.7 Outdoor Advertising Signs.

A. General Requirements.

1. External *fixtures* shall be fully shielded, mounted on top or above the sign, and directed downward onto the sign face.
2. *Lamps used* for internal and external illumination of *signs* shall be counted toward the total *lumen* cap described in Section **107-3.2 C.** above.
3. Illumination for all advertising *signs* both externally illuminated and internally illuminated shall be either reduced or turned off as noted in **Table 107-3a** as further described below.

B. Within the LZ2 and LZ1 Lighting Zones.

1. Electronic Message *Signs* (EMS) where permitted per **Chapter 109** of this Ordinance shall adhere to the following:
 - a. The maximum *lumen* level for all land *uses* shall not exceed 200 *nits*.
 - b. *Signs* shall be required to be equipped with photo cell sensors that are factory locked to dim the sign at night (2 hours after dusk) to 100 *nits*. An affidavit from the manufacturer attesting to the brightness level shall be submitted with the sign permit application.
 - c. The electronic message center portion of the sign shall be turned off when the *business* activities cease (or 11 pm whichever occurs last). *Signs* shall include timers that will automatically turn off the digital display.
2. All *signage* within a non-residential development shall be reduced by thirty (30%) percent by 11:00 p.m. or when the *business* closes whichever is later.

C. Within the LZ0 Lighting Zone.

1. The maximum *lumen* level for any type of sign shall not exceed 100 *nits*.
2. All free-standing *signs*, EMC or otherwise, shall not have white backgrounds.
3. Electronic Message *Signs* (EMS) where permitted per Chapter 109 of this Ordinance shall adhere to the following:

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- a. The sign was to be factory locked at 100 *nits* with an affidavit from the manufacturer attesting to this brightness level.
 - b. The electronic message center portion of the sign shall be turned off when the *business* activities cease or 11 pm whichever occurs last. *Signs* shall include timers that will automatically turn off the digital display.
 - c. The sign shall be equipped with photo cell sensors, reducing the surrounding sign brightness to reflect the surrounding ambient light when the EMS portion is turned off.
4. All *signage* within both residential and non-residential development shall be shut-off by 11:00 p.m. or when the *business* closes whichever is later.

107-3.8 School and Community Facility Sports Field/Court and Play Area Lighting

- A. The City's intent is to follow the IES Recommended Practice for Sports and Recreational Area Lighting and the International Dark-Sky Association (IDA) Criteria for Community-Friendly Outdoor Sports Lighting.
 1. The measurement of on-field illuminance values will be those appropriate for the application per IESNA RP-6-15 Sports and Recreational Area Lighting criteria (or equivalent CIE guidance) together with modeled initial illuminance targets. To limit over-lighting, the design may vary by no more than 10% above the average target illuminance levels for each Class.
 2. The IES TM-15-11 Luminaire Classification System for *Outdoor lighting* is not appropriate for sports lighting.
- B. Provide advanced *adaptive controls* and documentation for the following:
 1. Automatic and/or remote control system via smartphone apps, or direct remote communication to the company/agency/department facility responsible for handling the lighting controls, to enforce shut-off at the established curfew time per the Lighting Zone in which the facility is located, not to be later than 11:00 PM. Illumination of the playing field, court or track shall be permitted after the curfew only to conclude a scheduled event that was unable to conclude before the curfew due to unusual circumstances.
 2. On-site manual and/or remote control system shall also be provided to allow for the lights to be turned on or off at will (before curfew) to assure that only active sports fields are lighted.

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3. Provide readily accessible controls to implement uniform and variable adaptive illumination levels for different task lighting needs on field, e.g. IES class of play, competition athletics, band practice, striping, mowing, sports practice, etc. Adaptive dimming shall be possible across the range of 25% to 100% of full illumination.
- C. Maximum mounting heights, measured from the finished *grade* to the top of the *fixture*, for recreational lighting shall be in accordance with the following:
1. Pedestrian and bicycle pathways throughout a *park* or developed *open space* area should not exceed 12 feet in height and should be spaced in a manner to provide continuous illumination of the pathway.
 2. Sport court activities such as basketball, tennis, volleyball, and handball should not exceed 25 feet in height.
 3. Recreational activities such as, but not limited to, horseshoes, lawn bowling and bocce ball courts, shuffleboard, miniature golf, and swimming pool aprons/decks should not exceed 20 feet in height.
 4. Athletic fields for football, soccer, baseball, lacrosse, and nighttime practice golf ranges should not exceed 80 feet in height. Little League baseball fields should not exceed 60 feet in height for fields with a radius of 200 feet and 70 feet in height for fields with a radius of 300 feet.
- D. Lighting for outdoor athletic fields, courts or tracks shall be exempt from the *lumens* per acre limits of Section **107-3.2 C** herein. All such lighting shall utilize *full cut-off* luminaires that are installed in a fashion that maintains the *full cut-off* characteristics unless certified by a registered engineer that such shielding is impractical. Every such lighting system design shall be certified by a registered engineer as conforming to all applicable restrictions of this Ordinance. Where *full cut-off fixtures* are not utilized, acceptable luminaires shall include those which:
1. Are provided with internal and/or external glare control louvers and installed so as to limit direct up-light to less than five percent (5%) of the total *lumens* exiting from the installed *fixtures* and minimize *off-site light trespass* as required herein, and
 2. Are installed with minimum aiming angles of twenty-five (25) degrees downward from the horizontal. Said aiming angle shall be measured from the axis of the luminaire maximum beam candlepower as certified by independent testing agency.

107-3.9 Architectural and Landscape Lighting

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- A. Architectural/structural and landscape lighting *used* to illuminate the wall of a *building* or elements are permitted in all lighting zones per **Table 107-3a**. Subject to the review and approval of the Community Development Director or designee, said lighting must satisfy the criteria in the following sections:
1. *Lighting fixtures* shall be selected, located, aimed and shielded so that *direct illumination* is focused exclusively on the *building façade*, plantings and other intended site features and away from *adjacent* properties and the public *right-of-way*;
 2. Any lighting that directly shines onto neighboring properties or the public *right-of-way* shall be prohibited. Wall mounted (downward lighting) flood or spot *lamps* must be fully shielded, except that unshielded wall mounted lights, whose glare is mitigated by features such as porches and *building* overhangs and minimizes *light trespass* onto neighboring properties.
 3. The lighting will illuminate an architectural feature or landscape feature that is unique to the particular project due to the *use* of materials, colors or design characteristics which are not commonly found within the city. Such *fixtures* should be located and designed in such a manner that the actual *lamp* and reflector are shielded so that it is not seen from normal public viewing; such as but not limited to direct glare be protected from vehicular and pedestrian traffic.
- B. Architectural and landscaping lighting in the LZ0 lighting zone shall be shut off from 11:00 p.m. to sunrise except when lighting is required by code for steps, stairs, walkways, and *building* entrances. *use* of motion sensors is encouraged.

107-3.10 Multimodal Pathways and Trails, Plazas, and Outdoor Seating Areas.

- A. Lighting within fifty feet (50') of a residential property line shall not exceed a maximum standard height of twelve feet (12').
- B. Lighting shall be aimed or directed in a manner that any changes in the elevation or turn of the pathway are illuminated so that such pathway features are clearly discernible through the *use* of, but not limited to, freestanding poles, bollards, in-place step, and/or *structure/building-mounted fixtures*.
- C. Bollard lighting shall be a maximum of four (4) feet in height with the *fixture* standard made primarily of concrete. All *fixtures* shall be shielded, have some type of control mechanism for the reduction or shut off, and *use* a low ambient light source as indicated above in **Table 107-3a** herein.
- D. Trailheads, Plazas, and outdoor seating areas, including their entrances and exits, shall be illuminated one-half (½) hour before sunset to one-half (½) hour after sunrise to facilitate natural surveillance opportunities and discourage unsafe

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activities. All lighting shall be pedestrian scaled and integrated into the total design in a manner that brings definition, order and a sense of security that welcomes pedestrian use.

107-3.11 Canopy Lighting.

- A. Canopies include, but are not limited to, the following applications:
1. All canopies associated with *vehicle fueling stations* and convenience stores.
 2. Canopies over store and *office* fronts.
 3. All marquees and projecting overhangs.
 4. Exterior canopies over driveways and *building* entrances.
 5. Pavilions and gazebos.
- B. Overhead lighting *used to light building overhangs* and open canopies shall have a maximum lighting intensity (eye illumination levels) under the canopies no greater than 5 *lumens* (5 fcs) when measured directly under the overhang or canopy or greater than 1 *lumen* (1 fcs) when measured at the property line. Areas outside canopies and pump areas shall be regulated by the type of lighting application and the lighting zone in which the development is located as delineated in other sections herein.
- C. Overhead lighting *used to light building overhangs*, open canopies, fueling facility canopies, *drive-through* canopies, customer loading canopies, and similar *structures* shall be a recessed *fixture* incorporating a lens cover that is either recessed or flush with the bottom surface (ceiling) of the canopy. No portion of the *fixture* shall project below the ceiling of the canopy *structure*.
- D. Canopies for pavilions and gazebos may utilize indirect lighting beamed upward and then reflected down from the underside of the canopy. Such *fixtures* shall be shielded such that *direct illumination* is focused exclusively on the underside of the canopy.
- E. Canopy lighting shall be reduced by thirty (30%) percent between the hours of 11:00 p.m. to sunrise. Except for *businesses* open 24 hours, canopy lighting in the LZ0 lighting zone shall be shut off by 11:00 p.m. or thirty (30) minutes after the close of *business* or at such time as the last employee leaves the *business* premises, whichever is later.

107-3.13 Security Lighting.

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- A. **Security lighting shall use** the lowest possible illumination level to effectively allow surveillance **and reduce the negative impacts of crime.**
- C. Security lighting systems shall utilize the light sources delineated in Table 107-3a herein, be fully shielded *fixtures*, and aimed so that illumination is directed to the designated areas.
- D. The use of sensor technologies, timers or other means to activate lighting during times when it will be needed may be required by the Planning and Zoning Commission to conserve energy, provide safety and promote compatibility between different land uses.

107-3.14 Exposed String Lighting.

- A. Lights that are blinking and/or chasing are not permitted in non-residential zones. Only during seasonal periods identified herein may residential zones utilize blinking and/or chasing lights.
- B. Permanently exposed string lights are permitted the following criteria are satisfied:
 - 1. Exposed permanent string lights shall be exclusively a white light with a clear bulb as a commercially available maximum 2.8-watt system and may require a *building permit* according to Chapter 105 of this Ordinance.
 - 2. Exposed string lights shall be limited to designated areas for outside dining, seating, or gathering and main pedestrian entry to a project site.
 - 3. Lighting of living landscape features (trees) may be permitted if *used* in combination with other highlighting or pedestrian *lighting fixtures* within these immediate areas. Lighting of landscape features shall be secured to the landscape feature with bands that will not puncture the skin of the plant.
 - 4. Residential string lights must comply with regulations of this Article herein with regards to *light trespass* and spillage.
 - 5. Applications considered with the development review process may require string lights details to be included with final approval made with the Community Development Director or designee upon satisfactory compliance with the limitations and design parameters above.

107-3.15 Outdoor Display and Sales Areas.

- A. All site lighting not directly associated with the *outdoor display* and *sales areas* shall conform to the lighting standards described in other sections of this Article, including but not limited to the lighting source and shielding requirements of

Commented [AB143]: From Tiffany & Bosco:

Why would the P&Z Commission get involved with this decision of sensors?

City Comment: this extra provision is intended to design and locate of sensor lights protect against negative impacts to adjacent properties.

Table 107-3a and the *lumens* per acre limits of Section **107-3.2 C**.

- B.** Lighting for the *outdoor display* and *sales areas* shall be designed to not exceed the luminance recommendations for the activity as defined by the most current recommended practice of the Illuminating Engineering Society of North America (IESNA). All such lighting shall utilize *full cut-off* luminaires that are installed in a fashion that maintains the *full cut-off* characteristics. Every such lighting system design shall be certified by a registered certified engineer as conforming to all applicable restrictions of this Article.
- C.** Maximum lighting standard (pole) heights, measured from the finished *grade* to the top of the *fixture*, should not exceed sixteen (16) feet in height along the perimeter of the *display area* and twenty-five (25) feet within the interior of the *display area*.
- D.** *Display area* lighting shall be turned off by 11 p.m. or within thirty (30) minutes after closing of the *business*, whichever is later. Security lighting shall be exempt from these turn-off requirements.

107-3.16 Prohibited Outdoor lighting.

- A.** The *use*, installation, sale of any mercury vapor *lamps* is prohibited per AR §49-1104.
- B.** The *use* of laser source light or any similar high intensity light for outdoor advertising or entertainment when projected above the horizontal is prohibited.
- C.** The operation of searchlights for advertising purposes in the LZ2 lighting zone is prohibited between ten (10:00 p.m.) and sunrise the following morning and prohibited at all times in lighting zones LZ1 and LZ0.
- D.** Bottom-mounted outdoor sign lighting attached to the sign shall not be *used*.

ARTICLE 4 – PARKING AND LOADING REGULATIONS

107-4.1 Purpose and Applicability.

- A. The purpose of this article is to set standards for *off-street parking* and loading requirements for *new construction* and the expansion of or changes to existing *uses*. The city sets both minimum and maximum levels to avoid congestion on surrounding *streets* while avoiding excessive on-site parking. On-*street* parking is also encouraged in some locations in order to provide a *buffer* between pedestrians and vehicular traffic.
- B. *Applicability*. The standards herein apply to all residential, commercial, industrial and public *uses*.
- C. The Community Development Director or designee shall determine the parking and loading requirements for *uses* that do not correspond to the categories listed in **Table 107-4b** and **Table 107-4d**. In such instances, the *applicant* shall provide adequate information by which the proposal can be reviewed, which includes but may not necessarily be limited to the following:
 - 1. Type of *uses*.
 - 2. Number of employees.
 - 3. *Building* design including square footage of public areas, *sales areas*, *display area*, service area, restricted areas, and *ancillary* outdoor spaces.
 - 4. *Parking spaces* proposed on site.
 - 5. *Parking spaces* provided elsewhere.
 - 6. Hours of operation.

107-4.2 General Provisions

- A. Calculations for the minimum number of required spaces shall be based on Gross Floor Area (GFA) that combines the total square footage of all the *uses*, multiple *uses*, and *accessory uses*; which may include, but is not limited to, the floor areas of the *building(s)*, outdoor activities and dining areas, storage areas, and all sales *display areas*.
- B. When units or measurements determining the number of required *off-street parking* and *loading spaces* result in a fractional space, then such fraction equal or greater than one-half (1/2) shall require a full *off-street parking space*.
- C. With the exception of a *shared parking agreement*, *off-street parking* facilities shall be located on the same *lot* as the *use* they are intended to serve.

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- D. All vehicular egress from parking *lots*, *parking structures*, or from any development site to a public *right-of-way* shall be by a forward motion only. All *parking areas* shall be designed with a turnaround area that permits vehicles to turn around without utilizing a *parking space* to do it or without backing onto the public *right-of-way*. Exceptions may be made for a residential *use* in the R-1 or R-2 *Zoning district* that load onto collector or local *ROW*.
- E. Only spaces that are designed consistent with this section are counted toward the minimum number of required *parking spaces*. Spaces at fueling pumps, bays for auto repair/service, and drive through aisles are not counted toward the minimum parking required.
- F. In lieu of *parking spaces* applicants may participate in a parking improvement district or make payments to a parking fund specifically set aside to provide public parking within one-quarter mile (1/4 mi) of the exterior boundaries of the proposed development. The amount of the payment for each space shall be established by a resolution of the City of Surprise and shall be reasonable and based on the actual or estimated cost to provide such spaces. No development approvals shall be issued until improvement district agreement is secured or the complete payment to the parking fund has been received by the City of Surprise.
- G. Provisions in this Article shall work in support of Chapter 54 of the Municipal Code. In the event of conflicting regulations, the more restrictive shall be applied.
- H. Any *use* not in compliance with the requirements of this Article will be a violation of this Ordinance.

107-4.3 R-1 and R-2 Residential Provisions

- A. Required *off-street parking* shall be utilized solely for the parking of licensed and operable passenger vehicles and in addition to Chapter 54, Article IV of the Municipal Code the regulations below shall apply:
 - 1. The *recreational vehicle* or utility trailer stored in the rear or *side yard* shall be behind the front line of the primary *structure*.
 - 2. Placement of a *recreational vehicle* or utility trailer in other than the rear or *side yard* for loading and unloading purposes may be permitted for a period not to exceed seventy-two (72) hours up to two (2) times per month.
 - 3. No person shall *park a truck* on any *lot*, except while loading and unloading the *truck*, while services are being provided to the residence by the *truck's* occupant, or for a period of time to exceed twenty (24) hours.

Commented [AB144]: From Tiffany & Bosco:

Why not let HOA's govern this?

City Comment: This provision does not preclude the HOA from having RV rules. It does ensure that if there are no HOA rules for RVs that they are not permanently stored in the front yards.

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- B. The required *off-street parking spaces* shall not be *used* for storage of commercial equipment.
- C. Residential parking and driveway areas shall be constructed and maintained, with the required *parking space(s)* being located on and *accessed* by a dust-proof surface.

107-4.4 Multi-family, Mixed use, and Non-residential use Provisions

- A. The minimum number of required *off-street parking spaces*, as outlined in **Table 107-4d**, may be reduced by the number of *on-street parking spaces abutting* the property lines of the *lot* or *parcel*.
- B. *Off-street parking* facilities shall be designed, constructed, and maintained in accordance with Volume 1 of the PEDS and the specifications described below:
 - 1. Parking, loading, and driveway areas will be paved with asphalt, brick, concrete, or other approved surfaces of comparable durability.
 - 2. Parking, loading, and driveway areas will be *graded* and drained utilizing Low Impact Design (LID) methods and water harvesting of surface water run-off for watering of the required landscaping.
 - 3. Parking is prohibited in required *setback* and landscape areas.
- D. *Off-street parking* facilities shall provide landscape islands and landscape medians/walkways to provide shade trees and aid in capturing storm water as follows:
 - 1. One parking *lot* island with one foot (1') of ribbon curbing shall be provided every ten (10) *parking spaces* and at the end of each parking row.
 - 2. Landscaped medians/walkways shall be provided for every third double rows of parking when the parking exceeds thirty (30) spaces per row.
 - 3. Where wheel stops are not *used* the width of the *abutting* landscape median or sidewalk shall be increased in by at least two feet (2').
 - 4. Exceptions may be made for *parking spaces* that are covered utilizing solar panels as the shade *structure*.
- E. When permitted in commercial or industrial *zoning district* parking and storage of *trucks* shall be within the *screened* storage area or a loading zone of an approved *site plan* and under the specific conditions outlined within the Surprise Municipal Code.

107-4.5 Dimensions

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- A. All vehicular *parking space* and *drive aisle* dimensions within on-site parking lots shall be as outlined in **Surprise PEDS Standard Detail**; except for spaces identified below.
1. Motorcycle, Scooter, and Golf Cart. *Parking spaces* shall be a minimum of five feet wide by nine feet deep (5'x9'). *Parking lots* with forty (40) *parking spaces* or more may substitute up to two and half percentage (2.5%) of the standard *parking spaces* with motorcycle, scooter, and/or golf cart spaces.
 2. Compact vehicles. Compact vehicles shall be a have the dimensions of eight feet in width and sixteen feet in length (8'x16'). Up to thirty percent (30%) of the required *parking spaces* may be designated for *use* by compact vehicles. Each compact vehicle *parking space* shall be identified with a sign or pavement marking.
- B. Landscape Islands. Each landscape island shall be a minimum width of six feet and length of fifteen feet (6'x15'), measured from back of curb to back of curb.
- C. Landscape Median/Walkways. Each median shall be a minimum width of fifteen feet (15'), measured from back of curb to back of curb.
- D. Off-street loading spaces. The number of such required spaces is outlined in **Table 107-4a** and the dimensions, exclusive of *access* or maneuvering area, *platform*, and other appurtenances, are as follows:
1. Each large space shall have an overhead clearance of at least fifteen feet (15'), shall be at least twelve feet wide and at least fifty feet (12'x50') long.
 2. Each small space shall have an overhead clearance of at least ten feet (10'), shall be at least eight feet wide and at least feet long (8'x20').

107-4.6 Bicycle Parking

- A. Bicycle spaces will be provided at the rate of one (1) bicycle space for every 20 vehicle *parking spaces* in accordance with the below specifications; with the exception of residential uses in RR, R-1, and R-2 *zoning districts*.
1. Bicycle racks and other fixtures must be securely affixed to the ground and allow for the bicycle to be locked and chained.
 2. Bicycle spaces shall be located within fifty feet (50') of the primary entrance on paved, drained, and well lighted area. If required bicycle spaces are not visible from the *street* or vehicle *parking area*, *signs* must be posted indicating their location.
 3. The location and design of bicycle racks and fixtures shall be included and identified on *site plans*.

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4. Bicycle racks may be *used* as an architectural embellishment or functional art piece to coordinate with the site or land *uses*.

107-4.7 Off-street loading

- A. *Off-street loading* facilities are required for all *structures* and/or developments containing non-residential *uses* and shall be constructed, maintained, and operated in accordance with the specifications described in this article.
- B. When *off-street loading areas* are *abutting* residentially zoned areas, *truck* usage is only to occur between the hours of 6:00 a.m. to 9:00 p.m.
- C. *Off-street loading* spaces and appurtenances, such as but not limited to trash enclosures, compactors, and storage shall be *buffered* and *screened* by utilizing internal *site plan* design, *structures*, or *screen fences/walls* to ensure residential *uses* and pedestrian connectivity is not unreasonably disturbed by the movement of vehicles or noise of the activities either during the day or at night.
- D. The number of *off-street loading* spaces shall be based on the gross floor area of each *structure* as delineated in **Table No 107-4b**. The Community Development Director or designee may approve a reduced number of spaces based on the varied usage times by the individual *users* and the character of the merchandise. The loading spaces may be designed in a common *loading area*, not more than three hundred feet (300') from the service entrance for the *structure* or tenant space(s) for which they are provided.

Table 107-4a Loading Spaces for Commerce Structures/Centers

Gross Floor Area in <i>Structure</i>	Required Number of Spaces
0 up to and including 12,500	1 (small)
12,501 up to and including 25,000	2 (small)
25,001 up to and including 40,000	1 (large)
40,001 up to and including 100,000	2 (large)
For each additional 80,000 over 100,000	1 (large)

- E. The required *off-street loading* spaces will in all cases be on the same *lot* as the *use* they are intended to serve. In no case will required loading spaces be part of the area *used* to satisfy the parking requirement.
- F. *Off-street loading areas* shall be properly *graded* for drainage; surfaced with concrete, asphaltic concrete, or asphalt; and maintained in a clean and functioning condition free of weeds, trash, and debris.

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- G. *Off-street loading areas* may require design with one-way entrances and exits to minimize traffic congestion.

107-4.8 Shared Parking and Loading

- A. *Off-street parking spaces* and *loading areas* required under this section may be provided cooperatively for two (2) or more *uses* in a development or for two (2) or more individual *uses* with a *shared parking* agreement, subject to the requirements of this section.
1. The quantity of *off-street parking spaces* provided under the *shared parking* agreement meet the minimum requirements of this Article.
 2. The *owner(s)* of the land to be included within the *shared parking* agreement shall submit an application and parking plan with the following information:
 - a. The name and signatures of all *owner(s)* and parties having a legal interest in all *structures*, land, and *uses* associated with the *shared parking* agreement.
 - b. The parking plan (as an Exhibit to the agreement) showing the location of the *uses* or *structures*, the design and layout of the parking facilities, and the schedule of times *used* by those sharing parking in common.
 - c. A written agreement between the *owners* and lessees for cross access, ingress/egress, loading and *shared parking* to be executed for a minimum of 20 years.
 3. Upon approval, the *shared parking* agreement and parking plan will be recorded with the Maricopa County Recorder.
 - a. Should the lease expire or terminate, the *uses* for which the *off-site* parking ~~was~~ provided shall be considered *nonconforming* with this article ~~and any and all approvals~~, including *CUPs*, ~~which may shall~~ be subject to a standard *CUP* revocation process.
 - b. Continuation or expansion shall be prohibited unless the *use* is brought into compliance with the parking regulations of this article.
 4. Pursuant to the same procedure and subject to the same limitations and requirements by which the *shared parking* agreement and plan was approved and registered, any such agreement and plan may be amended or withdrawn, either partially or completely, if all land and *structures* remaining under such plan comply with all the conditions and limitations of the agreement and plan, and all land and *structures* withdrawn from such agreement and plan comply with the regulations of this article.
- B. *Off-street parking* requirements of a given *use* may be met with an *off-site* parking facility that is within one thousand three hundred and twenty feet (1,320') provided the following:
1. The *owners/applicants* have submitted the appropriate parking funds to the City for the necessary *parking spaces* within a public parking facility.
 2. The *owners/applicants* have submitted a signed agreement to participate in a parking improvement district for which the *public facility* is included.

Commented [AB145]: From Tiffany & Bosco:

Other flexibility may be needed here

City Comment: Please provide additional details of what flexibility is needed and how it could be achieved

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- C. *Recorded plats* shall convey, within the dedication statement, agreement to *shared parking* and *ingress and egress* as follows:
1. "Owner hereby grants to the ultimate owner of each *parcel* created by this *plat* an easement over, upon and across the entire *plat* for the purpose of providing continuous and uninterrupted *ingress and egress* and parking to each *parcel* created by this *plat*".
- D. *Commerce centers* that contain *uses* designed around common circulation, parking, and pedestrian connectivity may replace the quantity of required parking in **Section 107-4.9** according to **Table 107-4b**.

Table 107-4b Commerce Center Parking Standards		
Zoning	Min. Spaces per Non-residential GFA (square feet)	Min. Spaces per Dwelling unit (DU)
OC and C-1	1 per 400	
MU-1, MU-2, TND-MU	1 per 500	1.5
C-2, TND-C, SHD-CO	1 per 200	1
C-3	1 per 500	
I-1 and I-2	1 per 1000	

1. Projects that only utilize *shared access* or *access* easements without an overall design that incorporates *shared parking* and internal circulation do not qualify as a *Commerce center*.
2. *Commerce centers* that include more than two (2) *Medical Offices* shall still calculate the minimum required number of *parking spaces* per **Table 107-4c**

107-4.9 Minimum Off-street Parking Requirements

- A. Each individual land *use* within the different *zoning districts* and overlay *zoning districts* shall provide the required number of *off-street parking spaces* as described in **Table 107-4c** below.
- B. The Community Development Director or designee will determine if *uses* are significantly similar or dissimilar to particular *uses* not expressly listed in **Table 107-4c**. The parking requirement for *uses* that are significantly dissimilar to *uses* listed in **Table 107-4c** shall be determined by the Community Development Director or designee. In such instances, the *applicant* will provide adequate information by which the proposal can be reviewed, which includes but not limited to the following:

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1. Type of *use(s)*.
2. Number of employees.
3. *Building* design capacity.
4. Square feet of *sales areas* and service area.
5. *Parking spaces* proposed on site.
6. *Parking spaces* provided elsewhere.

Table 107-4c – Parking Standards

Uses	Min Off-street Parking spaces	Max Off-street Parking spaces
Residential		
<i>Assisted Living Center</i> (more than 10 residents)	0.5 per sleeping room	1 per room
<i>Assisted Living Home</i> (10 or less residents)???	2 per <i>dwelling unit</i> plus 0.5 per sleeping room	2 per <i>dwelling unit</i> plus 1 per sleeping room
Dormitory	0.5 per sleeping room	2 per sleeping room
<i>Dwelling, Live-work</i>	2 per DU	
<i>Dwelling, Multi-family</i> (4 or more)	Studio-1B=1/unit, 2+B=2.0/unit plus 1 per 250 sf of <i>office uses</i>	
<i>Dwelling, Single-family</i>	2 per DU	
<i>Dwelling, Two-family (Duplex)</i>	2 per DU	
<i>Dwelling, Three-family (triplex)</i>	2 per DU	
<i>Group Home</i>	Same as Residence	
Commercial		
Airport (private)	1 per 100 sf GFA of waiting room space or 2 spaces per craft staging/tie down pad	
<i>Amusement &/or Theme Park</i>	1 per 600 sf outdoor public activity area	1 per 500 sf outdoor public activity area
<i>Animal Boarding Facility</i>	1 per 375 sf GFA	
<i>Animal Clinic</i>	1 per 200 sf GFA	
<i>Animal Grooming</i>	1 per 200 sf GFA	

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Table 107-4c – Parking Standards		
Uses	Min Off-street Parking spaces	Max Off-street Parking spaces
<i>Animal Hospital</i>	1 per 200 sf GFA	
<i>Animal Shelter</i>	1 per 300 sf GFA	
<i>Athletic or Fitness Club (Commercial)</i>	1 per 250 sf GFA	1 per 100 sf GFA
<i>Bank</i>	1 per 250 sf GFA	
<i>Bar</i>	1 per 100 sf GFA	
<i>Bus Terminal</i>	Determined by <i>Site Plan</i>	
<i>Catering Services</i>	1 per 500 sf GFA	
<i>Cemetery and Mausoleum</i>	Determined by <i>Site Plan</i>	
<i>Cemetery, Pet (Limited to small animals)</i>	Determined by <i>Site plan</i>	
<i>Club, Private</i>	1 per 300 sf GFA	
<i>Community Facility</i>	3 spaces when on-street parking is prohibited or 1 per 500 sf GFA	
<i>Community garden</i>	2 spaces when on-street parking is prohibited or 1 per 500 sf GFA	
<i>Day care Center (Child or Adult)</i>	1 per 375 sf GFA	1.5 per 375 sf GFA
<i>Entertainment Establishment - Indoor</i>	Bowling, billiards, pool, etc. 2 per lane or gaming table	
	Miniature golf establishment-1 per hole	2 per hole
	1 per 4 seats or 1 per 50 sf GFA of if no permanent seats	1 per 2 seats or 1 per 25 sf GFA of if no permanent seats
	Skating rinks-1 per 200 sf GFA	1.5 per 200 sf GFA
	Theater (movie and performance)-1 per 4 seats	
<i>Entertainment Establishment - Outdoor</i>	Miniature golf -1 per hole	2 per hole
	Driving Range - 2 per tee	
	1 per 4 seats or 1 per 50 sf of activity area if no permanent seats	1 per 2 seats or 1 per 30 sf GFA of if no permanent seats

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Table 107-4c – Parking Standards

Uses	Min Off-street Parking spaces	Max Off-street Parking spaces
<i>Fairground/Stadium</i>	TBD by Parking Study with <i>Site Plan</i>	
<i>Funeral Home, Mortuary</i>	1 per 4 seats	1 per 2 seats
<i>Galleries, Museums</i> (including display & production space)	1 per 1,000 sf GFA	1.5 per 1,000 sf GFA
Golf Course (public or private)	2 per hole plus <i>ancillary uses</i>	
Gunsmith	1 per 400 sf GFA	
<i>Hotels, Motels, Resort</i>	0.8 per room plus 1 per 800 sf GFA of public meeting area and <i>restaurant space</i>	1 per room plus 1 per 400 sf GFA of public meeting area and <i>restaurant space</i>
Library	1 per 500 sf GFA plus <i>ancillary uses</i> (i.e. <i>places of assembly</i>)	
Medical <i>Hospital</i> , Overnight Surgical Facility	1 per 400 sf GFA	1 per 100 sf GFA
Medical Marijuana <i>Off-site</i> Cultivation Facility	1 per 1000 sf GFA of activity area	
<i>Medical marijuana dispensary</i>	1 per 400 sf GFA	
<i>Medical marijuana infusion facility</i>	1 per 1000 sf GFA of activity area	
<i>Medical Office (Health Care Facility)</i>	1 per 200 sf GFA	1 per 100 sf GFA
<i>Microbrewery, Distillery, Winery</i>	1 per 100 sf GFA	
<i>Nursing care facility</i>	0.5 per room	1 per room
<i>Office</i>	1 per 250 sf GFA	1 per 140 sf GFA
<i>Park, Recreation, and Open Lands</i>	1 per 1000 sf GFA of activity area	
<i>Park and Ride</i>	TBD by Parking Study with <i>Site Plan</i>	
<i>Parking Lot, Parking structure</i>	TBD by Parking Study with <i>Site Plan</i>	
<i>Personal service Establishment</i>	1 per 400 sf GFA	
<i>Places of Assembly</i>	1 per 4 seats or 1 per 50 sf GFA of if no permanent seats	1 per 2 seats or 1 per 30 sf GFA of
<i>Places of Worship</i>	1 per 4 seats or 1 per 50 sf GFA of if no permanent seats	1 per 2 seats

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Table 107-4c – Parking Standards		
Uses	Min Off-street Parking spaces	Max Off-street Parking spaces
<i>Plant Nursery</i>	1 per 400 sf GFA of sales areas and service building	1.5 per 375 sf GFA of sales and service building
Post Office	TBD by Parking Study with Site Plan	
Public Facility	TBD by Parking Study with Site Plan	
Racetrack	1 per 4 seats or 1 per 50 sf GFA of if no permanent seats	1 per 2 seats or 1 per 30 sf GFA of
Recreational vehicle (RV) Park	1 per 4 camp sites, plus 2 per laundry and shower facility (camping related establishments) and 1 space adjacent to each lot	
Recreational vehicles (RV) Storage	1 per 20 RV parking space	
Residential Care Institution	0.5 per room	1 per room
Restaurant	1 per 100 sf GFA	1 per 50 sf GFA
Restaurant, Convenience/Take Out	1 per 150 sf GFA	1 per 175 sf GFA
Repair Service Establishment	1 per 400 sf GFA	1 per 200 sf GFA
Retail Shopping Establishment	1 per 400 sf GFA	1 per 200 sf GFA
Schools: Pre-K through 12 (Private)	2 per classroom, 1 per 6 students for grades 10-12	3 per classroom 1 per 2 students for grades 10-12
Schools: Universities or Colleges (Public or Private)	1 per 4 students	1 per 2 students
Schools: Vocational (Technical or Trade)	1 per 200 sf GFA	1 per 150 sf GFA
Self-storage facility	Drive-up Storage-1 per 300 sf GFA of office/retail space Multi-story/climate controlled-1 per 50 storage unit	1 per 35 storage spaces
Service Call Establishment	1 per 400 sf GFA	
Sexually Oriented Business	1 per 400 sf GFA	
Showroom/Sales Office	1 per 400 sf GFA	

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

Table 107-4c – Parking Standards

Uses	Min Off-street Parking spaces	Max Off-street Parking spaces
<i>Shooting Range-Indoor Only</i>	2 per stall	
State Vehicle License & Inspection Station	TBD by Parking Study with <i>Site Plan</i>	
Tattoo and Body Piercing	1 per 400 sf GFA	1 per 200 sf GFA
Technology/ <i>Business Incubator Space</i>	1 per 300 sf GFA	
Utility Equipment Infrastructure	1 spaces when on-street parking is prohibited	
Utility Service Yard	TBD by Parking Study with <i>Site Plan</i>	
<i>Vehicle fueling station</i>	1 per 300 sf GFA retail areas	1 per 375 sf GFA , including service bays, wash tunnels, and retail areas
Vehicle Rental Facilities	1 per 500 sf GFA retail areas	1 per 200 sf GFA
<i>Vehicle sales & Leasing: New or used (Commercial, including Equipment)</i>	1 per 300 sf GFA of <i>office and covered sales areas</i>	1.5 per 375 sf GFA of sales and service <i>building</i>
<i>Vehicle sales & Leasing: New or used (OHV, motorcycles, boats, or similar)</i>	1 per 300 sf GFA of <i>office and covered sales areas</i>	1.5 per 375 sf GFA of sales and service <i>building</i>
<i>Vehicle sales & Leasing: New or used (Personal)</i>	1 per 300 sf GFA of <i>office and covered sales areas</i>	1.5 per 375 sf GFA of sales and service <i>building</i>
<i>Vehicle service: Major Repair</i>	1 per 500 sf GFA, including service bays, wash tunnels, and retail areas	1 per 375 sf GFA, including service bays, wash tunnels, and retail areas
<i>Vehicle service: Minor Repair</i>	1 per 500 sf GFA , including service bays, wash tunnels, and retail areas	1 per 375 sf GFA , including service bays, wash tunnels, and retail areas
<i>Vehicle washing facilities</i>	1 per 300 sf GFA <i>office</i> and retail areas OR Self-serve car washes-3 per property	
Wireless Telecommunication Facilities	1 space per facility *excluding <i>small wireless facility</i>	
Zoo & Exotic Animal Keeping	TBD by Parking Study with <i>Site Plan</i>	

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

Table 107-4c – Parking Standards		
Uses	Min Off-street Parking spaces	Max Off-street Parking spaces
Employment/Industrial		
<i>Agricultural operations</i>	1 per 1,500 sf GFA	
Auction–Vehicle (passenger, commercial) & heavy equipment	TBD by Parking Study with <i>Site Plan</i>	
Batch Plant, Paving Material Mixing Plant	TBD by Parking Study with <i>Site Plan</i>	
Brick, Clay, Concrete, or Similar Product	TBD by Parking Study with <i>Site Plan</i>	
<i>Contractor's Yard</i>	1 per 1,000 sf GFA plus 1 per 400 sf GFA of sales and service <i>building</i>	
<i>Correctional Institutions/Facilities</i>	TBD by Parking Study with <i>Site Plan</i>	
Data Center	TBD by Parking Study with <i>Site Plan</i>	
<i>Equestrian center, Commercial Stables</i>	1 per 3 stalls	
<i>Farm and Heavy Equipment Sales, Service or Storage</i>	1 per 300 sf GFA of <i>office</i> and covered <i>sales areas</i>	
Feed and Tack Sales	1 per 400 sf GFA	
<i>Fleet-Based Services</i>	TBD by Parking Study with <i>Site Plan</i>	
Food <i>Manufacturing</i> & Processing	1 per 1,500 sf GFA	
<i>Freight Depot/Distribution Center</i>	1 per 1,500 sf GFA	
Grain Processing; including Milling, Drying, Storage	1 per 1,500 sf GFA	1 per 300 sf GFA
<i>Laboratory—Research and Testing Facility</i>	1 per 1,500 sf GFA	
Laundry, Dry Cleaning: Bulk Operation (Pick-Up & Delivery)	1 per 1,500 sf GFA	
Machine Shop, Welding Shop	1 per 1,000 sf GFA	
<i>Manufacturing</i>	1 per 1,500 sf GFA	1 per 300 sf GFA
<i>Manufactured home Sales, Portable Building, (new only)</i>	1 per 375 sf GFA of sales and service <i>building</i>	1.5 per 375 sf GFA of sales and service <i>building</i>
<i>Mining and Mineral Extraction</i>	1 per 300 sf GFA of <i>office</i> and covered <i>sales areas</i> plus <i>ancillary uses</i>	
Moving Company	1 per 300 sf GFA of <i>office</i>	

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

Table 107-4c – Parking Standards

Uses	Min Off-street Parking spaces	Max Off-street Parking spaces
<i>Plant Nursery</i> (Growing Facility & Wholesale)	1 per 1,000 sf growing area plus 1 per 400 sf GFA of sales and service building	
Oversized and Recreational (RV) <i>Vehicle sales</i> and Service Sales	1 per 375 sf GFA of sales and service building	1.5 per 375 sf GFA of sales and service building
<i>Printing Plant</i> (commercial scale)	TBD by Parking Study with <i>Site Plan</i>	
<i>Recycling, Collection Facility</i>	TBD by Parking Study with <i>Site Plan</i>	
<i>Recycling, Processing Facility</i>	TBD by Parking Study with <i>Site Plan</i>	
Sand and Gravel Operation	1 per 300 sf GFA of office and covered sales areas plus ancillary uses	
Sanitary Landfill	TBD by Parking Study with <i>Site Plan</i>	
Stone Product Curing, Fabrication	1 per 1,500 sf GFA	
Tank Farm	1 per 600 sf GFA	1 per 350 sf GFA
Taxidermist	TBD by Parking Study with <i>Site Plan</i>	
Testing Facility	TBD by Parking Study with <i>Site Plan</i>	
Tile, Roofing & Waterproofing Production	1 per 1,500 sf GFA	
<i>Truck Stop</i> (full service & repair permitted)	1 per 500 sf GFA , including service bays and retail areas	
Vehicle Towing & Impound Lot	1 per 300 sf GFA of sales and service building	
<i>Warehouse/Distribution</i>	1 per 600 sf GFA	1 per 350 sf GFA
Water Aquifer Recharge/Storage Facility	TBD by Parking Study with <i>Site Plan</i>	
Water Reclamation or Wastewater Facility	TBD by Parking Study with <i>Site Plan</i>	
Wholesale Shopping	1 per 400 sf GFA	
Accessory uses		
<i>Accessory dwelling unit (ADU)</i>	1 per ADU plus spaces for primary residence	

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

Table 107-4c – Parking Standards

Uses	Min Off-street Parking spaces	Max Off-street Parking spaces
Cottage Industries	2 plus spaces for primary residence	

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ARTICLE ~~6-5~~ – WIRELESS FACILITIES REGULATIONS

THE TEXT FOR THIS SECTION IS BEING SEPARATE REVISED AND AMENDED AS PART OF CASE NUMBER FS20-114. AFTER APPROVAL BY THE PLANNING AND ZONING COMMISSION AND THE CITY COUNCIL, THAT TEXT WILL BE FORMATTED TO MATCH THE LDO AND INCLUDED IN THIS ARTICLE

CHAPTER 108 - LAND DIVISION AND SUBDIVISION REGULATIONS

ARTICLE 1 – GENERAL PROCESS AND OVERVIEW

108-1.1 Purpose and Intent.

- A. The purpose of the Land Division and Subdivision Regulations is to ensure that all development conforms to the goals, objectives, and requirements adopted and contained in the Surprise *General Plan*. Specific land division considerations include the location and shape of the site, proposed *lot* and/or tract size, *lot* orientation, circulation and *street* layout, area drainage, and legal as well as physical *access*. Further that all subdivision projects provide legally established *lot(s)* that comply with the specific *zoning district* requirements; all *lots* provide legal as well as physical *access*; that each development provides the required public infrastructure; to ensure that adequate provisions for utility services, utility easements, *roadways* that meet PM10 nonattainment area requirements, and other health and safety concerns are addressed.
- B. Additionally, all land division and subdivision projects are reviewed to ensure that they address any environmental concerns that may arise including but not limited to, water quality and *floodplain* concerns, native *vegetation* and *habitat* conservation and maintenance, the proposed site grading, and the protection of *environmentally sensitive features*.

108-1.2 General Provisions.

- A. Recording any assemblage, split, or subdivision of land with the Maricopa County Recorder's Office, without prior review and approval by the City in accordance with the provisions of this Ordinance will not create a legal *lot* and *building permits* will not be issued.
- B. All land divisions and subdivisions must result in the creation of *lots* that are developable and capable of being built upon. No land division or subdivision shall create *lots* that are impractical of improvement due to location of water courses, problems of *sewerage* or driveway *grades*, steepness of terrain, or natural physical conditions.
- C. Where, in the opinion of the Council, and after review by the Community Development Director and/or Planning and Zoning Commission, there may exist extraordinary conditions of topography, land *ownership* or *adjacent* development, or other circumstances not provided for in the LDO or this Chapter, the Council may modify these provisions in such a manner and to such an extent as it may deem appropriate to the public interest. In modifying the standards or requirements the Council may make such additional requirements as appear

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necessary to secure substantially the objectives of the standards or requirements so modified.

Commented [AB146]: From Tiffany & Bosco:

Good provision to have

- D. The regulations herein apply to subdivisions and any other division of land within the City of Surprise creating a legally developable *lot*. For a legally enforceable division or assemblage of property to occur in the City of Surprise, any properties assembled, split, or *subdivided* must be approved by the city through one (1) of the following means:

1. *Map of dedication*;
2. *Minor land division, lot line adjustment, or parcel assemblage*;
3. Subdivisions;
4. Condominium *plat*.

108-1.3 Map of dedication.

- A. A *map of dedication* may be used to dedicate land to the city or other public agency or to grant an easement to the city for *roadway, drainage, flood control, utilities, emergency or service vehicle access, or other public uses*.
- B. A *Map of dedication* shall be used for the purpose of dedicating property to the city or public agency such as but not limited to *street rights-of-way*.
- C. A *map of dedication* will be prepared and processed in accordance with procedures and requirements for a subdivision *final plat*.

108-1.4 Minor land division, Lot line Adjustment, or Parcel assemblage

- A. The provisions of a *minor land division* will only apply to *original lots*.
- B. The Community Development Director or designee will determine the specific *final plat* submittal requirements necessary for appropriate review of the *minor land division, lot line adjustment or parcel assemblage* at the time of the concept review meeting.
- C. If the Community Development Director or designee in concurrence with the City Engineer finds that the proposed *minor land division, lot line adjustment, or parcel assemblage* meets all of the requirements of the LDO and the PEDS, the *final plat* will be approved and the Director and City Engineer will date and sign the approval block on the *final plat*.
- D. After approval, City will record the *final plat* and the *applicant* will pay to the city the fee charged by the Maricopa County Recorder.

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- E. An *applicant* aggrieved by the decision of the Community Development Director may file for an appeal of the decision to the Board of Adjustment.

Commented [AB147]: From Tiffany & Bosco:

Does this provision apply to all of Section 108?

City Comment: yes, but since there is a standard appeal process that applies to the decision-making body, it is being removed.

108-1.5 Subdivisions.

- A. The standard *subdivision* process involves both a *preliminary plat* and a *final plat* process

1. A proposed division of improved or unimproved land or lands divided for the purpose of financing, sale or lease, whether immediately or in the future, into four (4) 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 four (4) parts.
2. If a new *street* is involved, a proposed division of improved or unimproved land or lands divided for the purpose of financing, sale or lease, whether immediately or in the future, which is divided into two (2) or more lots, tracts or parcels of land.
3. If the boundaries of which have been fixed by a recorded plat, a proposed division into more than two (2) parts of improved or unimproved land or lands divided for the purpose of financing, sale or lease, whether immediately or in the future.
4. A standard land division also includes any condominium, cooperative, community apartment, townhouse or similar project containing two (2) 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 Community Development Director or designee may at their discretion allow a concurrent submittal of both the *preliminary* and *final plats* when, in their judgement, the project scope is minor and the concurrent submittal will not cause problematic coordination between the *preliminary* and *final plat*. In the event that a change of *zoning* is necessary, the *zoning* application and subdivision may be processed concurrently, but in no event will the *preliminary plat* be approved until the change of *zoning* is adopted by the Council.

Commented [AB148]: From Tiffany & Bosco:

Good Provision

- C. *Preliminary plat* Overview.

1. The *preliminary plat* stage of land division involves detailed land division planning, including the submittal, review (by staff and Commission), and approval of the *preliminary plat* by the City Council. The *applicant* shall provide the City with all information, outlined at the *preliminary plat* concept review meeting and the information listed in Article 2 herein,

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essential to determine the character and general acceptability of the proposed development.

2. *Preliminary plat* approval constitutes authorization for the *subdivider* to proceed with preparation of the *final plat* and the engineering plans and specifications for *public improvements*. *Preliminary plat* approval **does not** authorize the *developer* to begin site preparation and grading, or any similar such work **unless authorized in writing** by the City Engineer or designee. Preliminary approval is based upon the following:
 - a. The *preliminary plat* shall be valid for twelve (12) months from the date of approval. The *applicant* may apply in writing for a single, twelve (12) month extension to be granted by the Community Development Director or designee if in the opinion of the Director there is no change in conditions within or adjoining the *preliminary plat* that would warrant a revision in the design of the original *preliminary plat* and that substantial progress has been made towards the *final plat*.
 - b. The approval of the *preliminary plat* that was granted shall not be substantially changed prior to the expiration date and subsequent *final plat*. If the *preliminary plat* has expired and/or substantial changes have been made the land area shall not be allowed to proceed with *final platting* until a new *preliminary plat* is submitted and approved.
 - c. Preliminary approval, in and of itself, does not assure final acceptance of *streets* for dedication nor constitute authorization to record the *plat*.

D. *Final plat* Overview.

1. The *final plat* stage of land division involves submittal, review and approval of the *final plat*, the improvement plans for all improvements required by ordinance and Council, and recording of the *plat* with the County Recorder.
2. The *applicant* shall provide the City with all information, outlined by the Community Development Director or designee in conjunction with the *final plat* concept review meeting and consistent with information outlined in Article 3 herein, essential for review of the improvement plans and *final plat*.
3. The *final plat* shall conform to the approved *preliminary plat* and/or *site plan/Conditional use Permit*.
4. Prior to the *final plat* being placed on the Council's agenda for action the following must have occurred:

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- a. The City Engineer or designee has approved the associated improvement plans and related final reports; and,
 - b. Letters from all involved utility companies approving the utility installation improvement plans and confirming both the availability of services and the intent to serve the subdivision with said services have been received by the City; and
 - c. All required certifications from State and County agencies have been procured; and
 - d. The City Engineer has received the project cost estimate; and
 - e. The Community Development Director has received the *financial assurance* document or the *Alternative Improvements Contract*, per the development option chosen, in the form and amount to the City's satisfaction; and
 - e. Documents, easements, and the necessary recording fees have been submitted; and
 - f. In the event the *Final plat* or *Map of dedication* includes the dedication of *rights-of-way* to the City, a completed Phase I Environmental Assessment that has been prepared with the previous 90 days and which indicates no contaminations occurring within the *right-of-way* to be dedicated.
5. Once the City Council approves the *final plat*, the Mayor shall sign the *plat* and the City Clerk shall attest the Mayor's signature.
 6. The *final plat* will be transmitted by City staff to the County Recorder's Office for recording; at the appropriate time and depending upon the development option being utilized as outlined below.
 7. The simple approval by the City Council of a *final plat* shall not constitute acceptance of dedication by the city of any *street*, easement, or other public area, shown on said *plat*. Recordation of a *final plat* shall constitute such acceptance and a statement of dedication along with signatures shall be included on the *plat*.

E. Amended or Corrected *Final plat* Overview.

1. If, after the approval and recording of a *final plat*, errors are found in the language or numbers on the *recorded plat*, the *subdivider/applicant* shall file a properly signed, corrected or revised original Mylar with the Community Development Director. The *plat* shall be noted "Corrected *Plat*" under the name of the subdivision. Notations shall be made on the face of the *plat* listing all corrections made and the book and page numbers

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where the original *plat* was recorded. The Community Development Director shall review the *plat* for corrections, secure the signatures of the proper public officials on the corrected *plat* and present the *plat* to the City Council for the reaffirmation of their approval and to the Maricopa County Recorder for recording. The recording of the corrected *plat* shall void the incorrect original *plat*, and the Maricopa County Recorder shall note "Void" across the face of the incorrect *plat*.

2. If, after the approval and recording of a *final plat*, a *subdivider/applicant* wishes to modify the location of *lot lines* on part or all of the *recorded plat*, the *subdivider/applicant* shall submit a new *final plat* drawing with the revised *lot* arrangement. The *plat* shall be marked the "Replat of _____" under the name of the land division and shall be processed as a *final plat*. If the change is found to be substantial by the Community Development Director, a new *preliminary plat* and *final plat* will be required as described herein.
3. If, after the approval and recording of a *final plat*, the *subdivider/applicant* wishes to substantially change the *street* and *lot* arrangement of a part or all of the *platted* area, the resulting subdivision shall be treated as a new submittal with both a *preliminary plat* and a *final plat* required. The subdivision shall be identified as the "Replat of _____."

- F. Exception. For any subdivision that consists of four to ten lots, tracts or parcels, each of which complies with the size requirements of this LDO-SUDC, it may proceed without the requirement to prepare, submit and receive approval of a preliminary plat as a condition precedent to submitting a final plat. Requirements for dust-controlled access and drainage improvements shall not be waived.

Commented [AB149]: From Tiffany & Bosco:

LDO?

108-1.6 Condominium Plats

- A. The application and processing requirements outlined for both *preliminary plat* and *final plat* shall apply to all condominium developments.
- B. The *developer* shall submit any plans, specifications and analysis needed to show that the proposed condominium subdivision is in compliance with the LDO and the design standards in the PEDS. The submittal material shall clearly indicate the location of the *buildings*, the manner in which the airspace is to be divided when conveying the condominium clearly defined, and may include grading plans, *site plans*, floor plan, *elevations*, and improvement plans.

108-1.7 Abandonment of Recorded Subdivision.

- A. Pursuant to provisions of Title 28, Chapter 14, Article 1, Subsections 28 - 1901 through 28 - 1908, ARS, the abandonment of all or part of a recorded subdivision

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may be initiated by written petition to the Council, said petition to be signed by all *owners* of real property in said subdivision requesting abandonment of all *streets, alleys* and easements within said subdivision and giving the legal description and recording information thereof.

- B. Applications for abandonment of a recorded subdivision are filed with the Community Development Director and referred for recommendation to the appropriate city departments and utility companies concerned. After approval of the abandonment of the *streets, alleys* and easements by the Council and upon recordation of the abandonment Resolution the subdivision is removed from official maps.

ARTICLE 2 – REPORTS, PLANS, AND DESIGN STANDARDS

108-2.1 General Requirements.

- A. The development standards of the *zoning district* as well as the City's Parks and Trails Master Plan, the Integrated Water Master Plan, both Volume 1 and Volume 2 of the Planning and Engineering Design Standards (PEDS), and any supplemental design criteria that may be adopted by the city from time to time shall be followed when designing any subdivision.
- B. Except where modified by the City Council, upon recommendation by the Planning and Zoning Commission, each subdivision and map thereof shall also be in conformity with the standards set forth in this Article. Unless otherwise noted herein, this article shall apply to all new residential and non-residential subdivision development within the City of Surprise.
- C. In addition to ordinances and standards adopted by the City of Surprise, subdivision improvements shall be in conformance with the following rules and regulations:
1. Rules of the Arizona Department of Transportation (ADOT) relating to provisions for the safety of *ingress and egress* with the *abutting* state highway.
 2. Rules of the Flood Control District of Maricopa County (FCDMC) and where applicable, rules of the Maricopa County Department of Transportation, the Arizona Department of Water Resources, Federal Emergency Management Agency, and the National Flood Insurance Program.
 3. Rules of the Arizona Department of Health, Arizona Department of Environmental Quality, the Maricopa County Department of Health and Maricopa County Environmental Services Department as they relate to water supply, sanitary sewage disposal, and dust control.
 4. Manual on Uniform Traffic Control Devices (MUTCD) standards and guidelines
 5. Maricopa Association of Governments (MAG) standards and guidelines unless modified within the Surprise PEDS.
- D. Where a tract of land to be *subdivided* contains all or any part of a *park, school, flood control facility, or other public improvement* or facility as shown in the *General Plan*, or as recommended by the Planning and Zoning Commission, such site shall be either dedicated to the public or reserved for acquisition by the city, appropriate public agency, or land trust within a specified time period. A development agreement shall be prepared between the *subdivider* and the city, appropriate agency, or land trust regarding the time, method and cost of land acquisition. Said acquisition shall be completed within one (1) year from the date

Commented [AB150]: From Tiffany & Bosco:

Not sure why other governmental agency requirements need to be in the new LDO...which approval is necessary in which order?

City Comment: This provides transparency with the fact that MAG standards to used by the City of Surprise. These provisions are carryover the Section 122-15 of the SUDC but are more appropriate in the subdivision chapter

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of recording the *final plat*, or within such extensions of time as may be mutually agreed upon. In the event a development agreement cannot be reached between the *subdivider* and the city, agency, or land trust relative to the acquisition of the land, the City Council shall make a determination relative to the *reserved area's* compliance with the requirements of this chapter for subdivision.

- E. Land that is subject to periodic flooding, cannot be properly drained, has unstable soils or slopes, rock formations, adverse earth formations or topography, major utility easements or land which is otherwise unsuitable for subdivision *use* due to safety, health and welfare concerns, shall not be *subdivided* but shall be set aside for *uses* that shall not involve such a danger. The City Council may approve subdivision of such land upon receipt of evidence provided by the *applicant* and approved by the City Engineer or designee that the construction of specific improvements can be expected to render the land suitable; thereafter, construction upon such land shall be prohibited until the specified improvements have been planned and construction *guaranteed*.

~~F. If the owner of a subdivision places restrictions on any of the land contained in the subdivision greater than those required in the LDO and/or in the PEDS such restrictions, and reference thereto, shall be indicated on the recorded plat and in the restrictive covenants recorded with the Maricopa County Recorder's Office.~~

- FG. All land proposed for subdivision and development within the city shall be served by services and infrastructure. No *building permit* shall be issued for development of a subdivision not served by existing infrastructure, or proposed extensions thereof. In no case shall temporary package water and/or *sewer* treatment plants be permitted as a means of providing water and *sewer* service to the development, unless designated in the Integrated Water Master Plan and approved by the *Water Resource Director*.

- GH. A proposed subdivision name shall not duplicate, or approximate phonetically, the name of any other subdivision located within the city, unless a clear distinction between the two (2) subdivisions is evident. The City Council shall have final authority to designate the name of the subdivision which shall be determined at the *preliminary plat* approval.

- HI. Any contiguous property owned by the *subdivider/applicant* shall not be excluded from the boundaries of a subdivision when needed or required for traffic, drainage, or flood control facility for the subdivision, or dedication of *rights-of-way*, unless said property is dedicated through a *Map of dedication* or other instrument acceptable to the City.

- IJ. If the subdivision is traversed by or is *adjacent* to any *water features* the *subdivider/applicant* shall provide tracts or easements for storm drainage substantially in line with the natural alignment of the *water features* and in designed in accordance with the PEDS.

Commented [AB151]: From Tiffany & Bosco:

Requiring development agreements is not good direction for a LDO code

City Comment: These provisions are carryover the Section 122-15 of the SUDC but are more appropriate in the subdivision chapter to ensure a transparent process of reserving land within a subdivision

Commented [AB152]: From Tiffany & Bosco:

Good provision

Commented [AB153]: From Tiffany & Bosco:

Water services director approval = good; but Integrated Water Master Plan will not have this designation prior to the 'request'

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- K. The *developer* shall be responsible for all costs, including improvement plan review fees, for installation of the improvements as a condition of *zoning* and/or *plat* approval which shall at least include, but not limited to, the improvements outlined in the following sections.

108-2.2 Specific Report(s) Required.

- A. During evaluation of development proposal, the following reports may be required during the preliminary or *final plat* process
1. Drainage Report in accordance with the PEDS
 2. A geotechnical/soils report, when required, shall be submitted in a separate bound folder
 3. The Traffic Impact Analysis (TIA), when required, shall be prepared by an Arizona Registered Professional Engineer with experience in transportation and traffic engineering and submitted in a separate bound document; with the category of study listed on the cover.

108-2.3 Specific Plan(s) Required.

- A. The *developer* will be responsible for the installation of all improvements. The improvement plans for these improvements shall be submitted as part of the *Final plat/Improvement Plan* application and shall include at a minimum improvement plans for the following:
- a. Water and Sewer Improvements (refer to **Volume 2, Chapter 9** of the PEDS for required plan information).
 - b. Paving, Grading, and Drainage Improvements (refer to **Volume 2, Chapter 9** of the PEDS for required plan information).
 - c. Dry Utility Improvements; including electric, telecommunications, gas, and *street* lights (refer to **Volume 2, Chapter 9** of the PEDS for required plan information).
 - d. All final reports listed in **Section 108-2.2** above.
- B. A Preliminary Landscape and *Open space* Plan shall be submitted as part of the *Preliminary plat* application, as required in **Article 2** herein, and a Final Landscape and *Open space* Plan shall be submitted as part of the *Final plat/Improvement Plan* submittal package. The format and information required for both submittals can be found in **Volume 1, Appendix D** of the PEDS.

108-2.4 Circulation Design Standards.

A. Access Requirements:

1. No land division shall be approved unless the area to be divided has direct *access* to an existing *street*. Further, all subdivision developments must have dedicated *access* to the city's *arterial street* network or to a dedicated *street* that connects to the *arterial street* network. The *developer* of any property which does not have such *access* or connection to the improved *arterial street* network shall be required to improve the impacted intervening *streets* in accordance with the Planning and Engineering Design Standards (PEDS).
2. All *streets* that connect to the improved *arterial street* network shall include the width and improvements necessary to maintain a level of service "C" as defined in the *General Plan* and **Volume 2, Chapter 4** of the PEDS.
3. *Off-site public access* improvements shall be required for all primary *access* routes that will, in the judgment of the City Engineer or designee, carry the most trips (per travel mode) generated by the development as defined by the Traffic Impact Analysis (TIA) required herein. The City Engineer or designee shall utilize the transportation/circulation plan set forth in the Surprise *General Plan* as the basis for identifying the improvements to be made as a condition of approval of the development.
4. Where a subdivision borders on or contains an existing or proposed arterial or *parkway street*, the City shall require that *access* to such *street(s)* be limited and direct *access* to arterials or *parkways* shall be prohibited from residential *lots*; unless otherwise provided herein or as prescribed in Volume 1 of the PEDS.

B. General Design.

1. ~~The street design will include for any subdivision shall follow the complete streets model multimodal travel as further outlined in this Ordinance and the different chapters and various sections of Volume One of the PEDS. The complete streets concepts are weaved throughout the PEDS and the developer will need to address aspects of the general site design, open space, edge treatment, and transition elements when designing the circulation system for a development.~~
2. The location and arrangement of *streets*, *cul-de-sacs*, and *alleys*, and multiuse pathways in new subdivisions shall be in a manner that ensures maximum connectivity to permit the safe, efficient, and orderly movement

Commented [AB154]: From HBACA:

A few years ago, the City of Phoenix attempted to mandate a complete streets policy and design standards and received significant opposition from a variety of development interests because the standards are vague, subjective, potentially very expensive, and most importantly not compatible with a variety of land uses.

The current best practice from around the country is to exclude single-family residential from complete streets programs. This is because local streets are designed predominantly for access to the residential streets that front them. They are already designed and required to be designed to discourage excessive speed and to increase visual interest in the streetscape. In short, they do not have the traffic levels needed to comply with complete streets and are therefore, generally, excluded.

More frequently, complete streets programs begin in the densest areas of the municipality and expand from there. This approaches a complete streets policy in a comprehensive way and avoids piecemeal projects. Therefore, the reference to "complete streets" in the single-family residential context should be removed and designated as not applicable to single-family subdivisions.

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of traffic, cyclists and pedestrians while presenting an attractive streetscape and respecting the natural features and topography of the site.

3. Whenever a tract of land to be *subdivided* encompasses any part of an arterial, *parkway*, or major *collector street* designated in the *General Plan Roadway Functional Classification Plan*, such *street* shall be *platted* in conformance therewith. *Street* layout shall provide for the continuation of such arterial, *parkway*, and *collector streets* as the *General Plan* or City Engineer may designate.
4. Unless prevented by topography or other physical conditions, all proposed *streets* and *multimodal* pathways shall be extended to the boundary of the subdivision being developed in order to provide future connection with adjoining lands.
5. *Streets* shall be so arranged in relation to existing topography as to produce desirable *lots* of maximum utility and to facilitate adequate drainage.
6. *Grades of streets* shall conform as closely as possible to the original topography, unless otherwise approved by the City Engineer.
7. Sidewalks shall be included within the dedicated non-pavement *right-of-way* of all *streets*. If public sidewalks are located outside of the *rights-of-way*, a public easement shall be recorded on the *final plat* for said path and/or sidewalk.
8. Installation of *streetlights* shall be in accordance with design and specification standards detailed in **Chapter 107, Article 3** of the LDO.
9. Curb location markers for refuse containers may be required in conjunction with certain development situations.

C. Types of Streets.

1. All chapters of Volume 1 of the PEDS contains circulation design standards ~~for complete streets~~, varying by the type of *roadways* and *land uses*, and shall be adhered to for all types of subdivisions.
2. Cul-de-sac. The use of *cul-de-sacs* will generally be denied, exceptions may be allowed in those ~~site-specific~~ site-specific areas where topography or *environmentally sensitive lands* would prevent extension and connection to adjoining and surrounding *streets*.
 - a. Where a *cul-de-sac* is permitted, they must comply with the design standard provided in both Volume 1 and 2 of the PEDS.

Commented [AB155]: From HBACA:

Cul-de-sacs are still extremely valued by homeowners and desirous places to live. Most homebuyers strive to have as little pass through traffic as possible to ensure the safety of the neighborhood residents, particularly children. Therefore, the City should not prohibit cul-de-sacs as a matter of course. There are other ways to provide adequate connection to adjacent arterial and collector streets.

City Comment: These provisions are carryover the Section 122-30 of the SUDC but more appropriate in the subdivision chapter. The regulation is supported as a way to implement safety access, smooth circulation, and connectivity.

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- b. When approved, the maximum length of any *cul-de-sac* shall be seven hundred fifty (750) feet or twenty (20) homes, whichever is more restrictive, as measured from the curb line of the intersecting *street* to the curb line at the end of the *cul-de-sac*, along the centerline.
- 3. *Alley*. *Alleys* in traditionally designed residential subdivisions are encouraged and shall be designed and arranged to provide a means of easement placement and *access* to *lots*. The *alley* shall contain the following characteristics
 - a. Minimum *right-of-way* or easement width of twenty feet (20’);
 - b. A twelve-foot (12’) wide paved surface centered in the *right-of-way*, with pavement material, texture, pattern and strength selected to accommodate automobiles, garbage disposal *trucks* (when garbage pick-up is planned at the rear of the property), pedestrians, and bicycles;
 - c. A four-foot (4’) wide well-landscaped strips located on either side of the paved area of the *alley*. Landscaped strips shall contain a combination of trees and shrubbery and architectural lighting consistent with the character of the neighborhood. The placement, type, height and spacing of landscape and lighting shall comply with the landscape and lighting standards set forth in this Ordinance;
 - d. Opaque fencing along the rear property line *abutting* the *alley* line shall not exceed four feet (4’) in height, except *view fences* may be permitted up to six feet (6’) in height;
 - e. Ribbon curbs (no gutters) to permit natural recharge of groundwater shall be required; except or unless, because of drainage conditions, additional engineered measures are required by the city manager or designee to facilitate stormwater runoff and drainage;
 - f. No parking shall be permitted on an *alley* unless *parking bays* or pull outs *adjacent* to *garages* have been included and approved as part of the rear lane design; and
 - g. When the *alley* is also *used* to collect garbage, storage bins containing trash for pick-up shall be placed on a designated surface integrated into the design of the *landscape strip*, and that are easily accessible by waste removal vehicles.
- 4. *Private streets*. *Private streets* shall not be permitted, except within gated communities.

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- a. Where *private streets* are approved, such *streets* shall be constructed to City specifications and the PEDS and shall be placed into specific "*street tracts*" of land. Statements shall be contained on the *plat* and in the deed restrictions declaring those *streets* as private and subject to an easement authorizing *use* by emergency and public service vehicles and public utilities.
- b. Maintenance agreement. The city shall not maintain *streets, signs* or drainage improvements on *private streets*. A private maintenance agreement between the *developer* and the city that is recorded by Maricopa County shall be required for any *private street* allowed. Said agreement shall clearly set forth the terms and conditions of responsibility for maintenance methods and standards, distribution of expenses, remedies for noncompliance with the terms and agreement, right-of-use agreements and other considerations. The agreement shall also create a *private street* maintenance fund and the annual assessment for property *owners* served by the *private street*. Said agreement may contain provisions for the establishment of an assessment district to maintain *private streets* in the event of a default by the property *owners*.
- c. Limits of liability. A statement shall be required on the face of any *plat* having an approved *private street(s)* that the *private street(s)* shall be maintained to city standards by the *developer* or an authorized homeowners' association at said *developer* or association's expense.
- d. Acceptance of *private streets* as *public streets*. No existing *private street* shall be accepted for designation as a *public street* unless it shall satisfy the following procedures and conditions:
 - (1) The subject area must be *platted* or *replatted* in order to dedicate *street rights-of-way*, sidewalk, drainage and utility easements, and other easements as necessary for the *platted* area;
 - (2) Where easement rights to any person, utility or corporation have been previously dedicated within the proposed *rights-of-way*, a release must be obtained from each person, utility or corporation agreeing to retain only those rights they would have in a *public street right-of-way*;
 - (3) The existing *street* construction details must be certified by a licensed professional engineer as being in compliance with city standards; with said certification accompanied by

surveys, sketches and test borings giving the paving material and thickness, cross-section, *grades*, vertical curves and drainage data, including storm drainage analysis of current conditions based upon the city's storm water management regulations and requirements;

- (4) The date of the *street* construction and a history of maintenance, including type of maintenance treatment and dates, must be provided to the city;
 - (5) *Street* lighting that complies with city standards set forth herein shall be installed, unless the city determines that existing lighting or *alternatives* thereto, are sufficient and necessary to protect the character of the neighborhood and are APS compliant for maintenance. SLID (*street* light improvement district) application will be required at the time of *platting* or *replatting*.
- 5. Rural Roadways. A "Rural Roadway" cross section may be utilized in areas with Rural Residential (RR) *zoning*, where there are *environmentally sensitive features*, or in low density residential developments with two (2) or less *dwelling units* per acre (2 du/ac).
 - a. The rural *roadway* cross section utilizes a reduced *right-of-way* at fifty (50) feet;
 - b. The construction of a twenty-eight (28) foot wide paved *access* road with a two (2) foot wide modified ribbon curb. The required drainage report may determine the need for a different curb and gutter.
- 6. Half-streets. Half-streets shall be discouraged and *street* systems in new subdivisions shall be laid out so as to avoid any new perimeter half-streets.
 - a. Where an existing half-street is *adjacent* to a new subdivision, the other half of the *street* shall be improved and dedicated by the *subdivider*.
 - b. The City may authorize a new perimeter *street* where the *subdivider* improves and dedicates the entire required *street right-of-way* width within the subdivision boundaries. In the event that the entire required *street right-of-way* width is improved and dedicated, arrangements for reimbursement at the time the adjoining land is *subdivided* will be in accordance with Chapter 42 of the City Code.

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- c. Half-streets will only be allowed when such a concession is granted by the mayor and city council as part of an approved development agreement. Said half-streets shall only be permitted when:
 - (1) A traffic impact assessment has been approved by the transportation director for the property in question and the assessment concludes that the property in question does not generate the traffic warrants that justify the full street improvements; or,
 - (2) Traffic safety can be assured with less than full street improvements; or,
 - (3) The full improvement cannot be constructed due to insufficient right-of-way; or,
 - (4) All evidence is provided to the city manager or designee that illustrates all possible efforts have been exhausted to obtain full-street rights-of-way.
- 7. Dead-end streets. Dead-end streets will not be approved except in locations recommended by the City Engineer as necessary to future development of adjacent lands; with an acceptable all-weather access emergency turnaround.
- 8. Phased Construction. When the developer/property owner is allowed to phase construction of the roadway improvements to an ultimate full street improvement said phasing shall be a component of the approved phasing plan and development agreement and shall be based on project absorption such as housing units constructed and/or the amount of leased commercial space, such that the property build-out generates the traffic volume that warrants the full street improvement. When full street improvements are required, the City shall institute the City's repayment policy in accordance with the provisions of Chapter 42, such that the property owner/developer that paid for the full street improvements is reimbursed for half-street improvements that are the responsibility of another property owner.

D. Block Planning

- 1. A block shall have a length ranging from four hundred (400) feet to no more than one thousand three hundred twenty (1,320) feet in length; unless otherwise restricted by the PEDS or deviated by the Council when considered necessary for safety reasons or in order to secure efficient use of the land.

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- a. A residential neighborhood *block* within a subdivision shall have a length ranging from 400 to 800 feet as measured along the centerline of the *street* and between intersecting *street* centerlines; and
 - b. Be designed to accommodate no more than ten *single-family* residential *lots* on either side of a *local street* to equal a not-to-exceed combined total of 20 *single-family*, detached residential *lots* per *block*.
 - c. A longer perimeter *block* may be approved by the City Engineer and Council when *adjacent* to a major *street* in order to reduce the number of intersections
 2. *Blocks* which are over six hundred feet (600') in length shall provide a landscaped pedestrian easement, not less than thirty feet (30') wide, mid-*block* to allow easier *access* to the subdivision *open space*, the community pedestrian circulation system, or direct pedestrian *access* to the exterior *arterial streets*.
 3. *Block* endcap landscape tracts shall be required; unless an acceptable *alternative* design is proposed. Endcap landscape tracts shall be a minimum of ten feet (10') wide when *adjacent* to *local streets* and fifteen feet (15') wide *adjacent* to collector and arterial roads. These tracts shall be landscaped in accordance with the **Chapter 107** and shall be maintained by the *adjacent* property owner and/or Homeowners Association.
- E. *Street Names and Signage*
1. The name of a new *street*, unless an extension of Maricopa County *street* grid alignment, shall not duplicate existing or *platted street* names in Maricopa County, or approximate such names in spelling, sound, or pronunciation in conformance with the MAG Address and *Street* Assignment Policy. A *street* shall bear the same name of an existing *street* when planned as a continuation of or when in alignment with an existing or *platted street*.
 2. The City's GIS department shall propose the *street* names at the *preliminary plat* submittal stage and the names shall be recommended by the Commission and approved by the Council.
 3. The *applicant* shall deposit with the City at the time of *final plat* approval an amount equal to the cost of each required *street* sign. *Street* name *signs* are to be placed at all intersections within or *abutting* the land division, and be in place by the time the *street* pavement is ready for *use*. Specifications for design, the type and location shall conform to "Manual

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on Uniform Traffic Control Devices” (M.U.T.C.D.) standards as approved by the City Engineer.

108-2.5 Lot Planning

- A. The *lot* arrangement and sizes shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing *building permits* to build on all *lots* in compliance with Chapter 106 of the LDO or in providing driveway *access* to *buildings* on such *lots* from an approved *street*. Prior to *final plat* approval the City may require additional documentation, including but not limited to engineering concept plans, for *lots* with questionable development ability.
- B. *Lots* shall be arranged in a contiguous pattern within a *block*; except where the *block* length or an *environmentally sensitive feature* warrants an easement either through the *block* to accommodate drainage or *access* for *multimodal* (pedestrian/bicycle/golf cart) traffic to adjoining *open space* or to preserve the *environmentally sensitive feature*.
- C. Flag *lots* or panhandle *lots-type* and other unorthodox *lot* layouts shall not be *platted*; unless approved by Council, such as topographic constraints in environmentally sensitive areas or design methods that enhance *multimodal* (pedestrian/bicycle/golf cart) traffic.
- D. *Lot* dimensions.
 - 1. The minimum *lot* size shall comply with the *lot* ranges within the *zoning districts* as described in Chapter 106 of this Ordinance; except that utility facilities using land or a *building used* only for equipment purposes (and not for human occupation) and requiring less than one thousand square feet (1,000 sf) of site are exempt from the minimum *lot* size standards of all *zoning districts*. Individual tracts within a subdivision are also exempt from this provision.
 - 2. The depth-to-width ratio of the usable area of a residential *lot* shall not be greater than 3:1, except in a *hillside* development area where flexibility may be allowed based on topographical considerations.
 - 3. Depth and width of properties reserved or laid out for *business*, commercial, or industrial purposes shall be adequate to provide for the *off-street parking* and loading facilities required for the type of *use* and development contemplated.
 - 4. Dimensions of *corner lots* shall be large enough to allow for erection of *buildings*, observing the minimum *setbacks* from both *streets*.

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5. All residential *lots* shall be designed such that the minimum *lot* width may be achieved at both the *front* and *rear setback* lines.
 6. Residential *lots* that are less than fifty feet (50') wide shall have vehicular access from an *alley*.
- E. *Side lot lines* shall be at right angles to the *street* the *lot* faces, or radial to curved *street* lines, unless topographic conditions necessitate a different arrangement acceptable to the Community Development Director or designee.
- F. *Lot Frontage*.
1. Every *lot* shall have a minimum *frontage* width of thirty feet (30') on a public or *private street* and every *lot* shall have direct *access* to the improved circulation system either by said *street* or by *alley*.
 2. No residential *lot* of record shall derive direct *access* to a *roadway* classified as an arterial or *parkway*, except *multi-family* developments designed with an on-site turnaround and comply with *roadway access* management policy standards.
 3. Residential *lots* that are zoned Rural Residential (RR) and have a minimum *lot* width of two hundred feet (200') may take direct *access* to collector *roadways*; egress from the *lot* shall be only in a forward motion.
 4. Commercial and industrial *lots* may take *access* to a *roadway* classified as an arterial or *parkway* when designed with an on-site turnaround and comply with *roadway access* management policy standards.
 5. Commercial and industrial *lots* may be required to be served by a combined shared *access* drive to limit the number of possible traffic hazards; driveways shall be designed and arranged so vehicles *ingress and egress* from the property in a forward motion.
 6. Double *frontage* and reversed *frontage* *lots* shall be avoided except where necessary to provide separation of residential development from traffic arterials or to overcome specific constraints of topography and orientation.

F. *Narrow Lot Subdivisions. Subdivisions with a homogenous design of lot widths narrower than fifty feet (50') cause numerous long-term conflicts and constraints for city services, design standards, parking, and quality of pedestrian movement over the life of the neighborhood. In order to mitigate these problems, the following restrictions in lot design apply to residential subdivisions in zoning districts that permit any given lot to be narrower than fifty-feet (50') wide.*

1. *Up to ten percent (10%) of the lots within a new final plat may be less than fifty feet (50') wide. No more two such lots shall abut one another.*

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2. Up to twenty-five percent (25%) of lots within a final plat may be less than fifty feet (50') wide, if at least 1 mitigating design is included in the plat.
3. Up to fifty percent (50%) of the lots within a final plat may be less than fifty feet (50') wide if alleys as outlined in Sec 108-2.4.C are incorporated in the plat design.
3. Mitigating factors that can be incorporated into the design of the plat include but are not limited to single-car driveways and garages, open carports, shared driveways, public parking areas within one-eighth mile (1/8 mi) of every lot. The Community Development Director or designee may modify or vary the strict provisions of this section in such a manner that intent is maintained with such modification.

108-2.6 Stormwater Drainage and Environmental Water features

- A. All development within the City must comply with the Grading and Drainage Design standards outlined in the PEDS as well as the following minimum standards.
- B. The drainage system of a subdivision shall be governed by the Drainage Design Manual for Maricopa County, published by the Maricopa Flood Control District and the City of Surprise Engineering Development Standards (Volume 2 of the PEDS). The stormwater drainage system shall be separate and independent of any sanitary sewer system. Stormwater drainage shall be accommodated in the streets, gutters, retention basins or detention basins that drain to natural washes unless otherwise indicated by the City Engineer.
- C. The stormwater drainage shall in each case accommodate potential runoff from its entire upstream watershed, whether inside or outside the land division. The City Engineer shall determine the size of any necessary facilities, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development and the final subdivision drainage report.
- D. The required drainage report (per Sec. 108-4.2A) must address the effect of the proposed subdivision on existing upstream and downstream drainage facilities outside the area of the land division. No land division shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility. The City Engineer will determine the adequacy of the drainage facilities for purposes of Council review, but such determination will not relieve the property owner from any responsibility related to storm water or drainage; such responsibility shall remain that of the property owner.
- E. Unless the diversion of stormwater is required to conform to a comprehensive drainage plan for a drainage district or regional master plan, off-site stormwater runoff shall be received and discharged at the locations which existed prior to

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development and as nearly as possible in the same manner which existed prior to development. If a diversion is required, sufficient work shall be done upstream and/or downstream to provide all affected properties at least the same level of flood protection that existed prior to the diversion. Post development flows cannot exceed pre-development flows in peak runoff, volume, or velocity and may not concentrate sheet flows without downstream *off-site* control.

- F. Whenever a development site contains a *water feature* (stream, wash, *floodway*, or *wetlands* area) identified by the Maricopa County Flood Control or FEMA the *plat* shall adhere to the following:
1. If the ephemeral flow of the *water feature* is less than 250 cfs the *water feature* may be diverted within the development provided it enters and exits the *development parcel* in its general historic location.
 2. If the ephemeral flow of the *water feature* is over two hundred and fifty cubic feet per second (250 cfs) the *water feature* must be retained *unaltered* in its historic location within and throughout the *development parcel*, except when approved through drainage master plan.
 3. The subdivision shall provide for an overflow zone along the bank of said *water feature*. The width of the overflow zone shall be sufficient in times of high water to contain or move the water, and no *fill* shall be placed in the overflow zone nor shall any *structure* be erected or placed therein. The boundaries of the overflow zone shall be delineated in the drainage report and approved by the City Engineer and Community Development Director.
- G. The City Council may, when it deems it necessary for the health, safety or welfare of the present and future population of the area and necessary to the conservation of water, drainage and sanitary facilities, prohibit the land division of any portion of the property which lies within the 100-year *floodplain* of any *water feature* as determined by the City Engineer, the flood control district of Maricopa County, and/or the U.S. Army Corps of Engineers. These *floodplain* areas shall be preserved from any and all destruction or damage resulting from clearing, grading or dumping of earth, waste material or stumps, except for the limited development of trails with approval by the City Council.
- H. *Lots* shall be laid out so as to provide positive drainage away from all *buildings* and individual *lot* drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each *lot* onto *adjacent lots*.

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108-2.7 Sanitary Sewage Disposal.

- A. The *applicant* shall install sanitary *sewer* collection facilities in a manner prescribed by the Uniform Standard Details and Specifications, the City of Surprise Engineering Development Standards, and the city engineer.
- B. Public sanitary *sewers* shall be installed in accordance with plans, profiles and specifications outlined in the PEDS and approved by the City Engineer and in certain cases Maricopa County Environmental Services Department. Sanitary *sewer* lines shall be extended to the boundaries of the *plat* to provide service connections to *abutting unsubdivided* land.
- C. Every *lot* (residential and non-residential) shall be provided a *sewer* service and connect to the City's *sewer* collection system unless such connection will not be available (in the estimation of the City Engineer) for at least 20 years. Service stubs extended to the *platted lots* shall be placed to such lengths as not to necessitate disturbance of the paved (*street* or *alley*) improvements when service connections are made.
- D. Where public sanitary sewage collection systems are not reasonably accessible, but will become available within twenty (20) years, the City may allow one (1) of the following *alternatives*:
 - 1. Central *sewerage* system, where the maintenance cost to be assessed against each property benefited. If plans for future public sanitary *sewerage* systems exist, the *applicant* shall install the *sewer* lines, laterals, and mains to be in permanent conformance with such plans and ready for connection to such public *sewer* mains; or
 - 2. Individual disposal systems, where the *applicant* may be required to install sanitary *sewer* lines, laterals and mains from the *street* curb to a point in the subdivision boundary where a future connection with the public *sewer* main shall be made. *Sewer* lines will be laid from the house to the *street* line, and a connection will be available in the home to connect from the individual disposal system to the *sewer system* when the public *sewers* become available. Such *sewer systems* shall be capped until ready for use and shall conform to all plans for installation of the public *sewer system*, where such exist, and will be ready for connection to such public *sewer* main.
- E. Where public sanitary *sewer* collection systems are not reasonably accessible and will not become available for a period in excess of 20 years, the City may allow the installation of *sewerage* systems as follows:
 - 1. For Residential Low Density (R-1) *zoning*, a central *sewerage* system only. No individual disposal system will be permitted. The *applicant* shall install

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all *sewer* lines, laterals, and mains to be permanent and ready for connection to the public *sewer system*, should it become available.

2. For Rural Residential (RR) *zoning*, individual disposal systems or central *sewerage* systems shall be *used*. If individual disposal systems are proposed, minimum *lot* areas shall be one acre (1 ac) or larger depending upon the results of the required percolation tests and test holes as directed by the City Engineer. The individual disposal system, including the size of septic tanks and size of the tile fields or other secondary treatment device, shall be approved by the City Engineer and Maricopa County.
- F. If a public sanitary *sewer* is accessible and a sanitary *sewer* is placed in either an easement or within a *street* or *alley* that *abuts* the property, the property *owner* shall be required to connect to the *sewer*; and it is unlawful for any such *owner* or occupant to maintain upon the property an individual sewage disposal system.

108-2.8 Water System.

- A. Each *lot*, *dwelling unit* or *building* shall be supplied with potable water in sufficient volume and pressure for domestic *use* and fire protection purposes.
- B. Where a public water main is accessible, the *subdivider* shall install adequate water facilities (including fire hydrants) subject to the specifications of the City engineer. Design and construction of any and all facilities relating to the supply, storage, transmission, treatment and distribution of potable water within or outside of any subdivision shall be the responsibility of the *subdivider* and shall be accomplished under generally accepted construction techniques in accordance with the PEDS (Volume 2, Chapter 6), those of ADEQ, and with the written approval of the City Engineer.
- C. Where it is necessary to extend a water main from an existing adequate main to the subdivision, the *subdivider* will be required to pay the full cost of the line extension; costs of the extension may be eligible for repayment agreements. Water main extensions shall be approved by the City Engineer. All water mains shall be a minimum eight inches in diameter.
- D. Water distribution lines shall be extended to the boundaries of the *plat* to provide service connections to *abutting unsubdivided* land.
- E. No vertical construction or *structure* shall be permitted within the subdivision until fire protection for the subdivision is operable.
- F. Service stubs shall be extended to all *platted lots* and landscaped tracts within the subdivision and to such a length as not to necessitate disturbance of *street* improvements when service connections are made.

108-2.9 Public Utilities.

- A. The city has determined the need to improve the visual character of the community through the undergrounding of all new and existing utility lines except as noted below. This subsection addresses the requirements for undergrounding utilities in conjunction with a development or redevelopment project that has been submitted for approval under provisions of this Ordinance. The undergrounding requirements herein shall apply to primary distribution lines as well as secondary and service lines, for both on-site and *off-site* locations; except said requirements shall not be applied in a manner inconsistent with any franchise or license agreement that may exist between the city and any utility company
- B. All public and private utilities to be installed within the City shall comply with the design and construction standards set forth in the Planning and Engineering Design Standards (PEDS).
- C. New and existing utility lines including, but not limited to primary distribution lines as well secondary and service lines for, gas, electric power, telephone, fiber optic cable, overhead transmission lines having a line voltage of less than sixty-nine thousand (69KV), and *off-site* locations that may need to be extended to serve the subdivision shall be located underground to and throughout the subdivision; placed within a public utility easement (PUE).
- D. All utility easements existing and proposed throughout the subdivision shall be shown and labeled as such on the *preliminary plat*.
- E. When as a result of the subdivision development, it is necessary to relocate, renew, or expand existing facilities within or *adjacent* to the *platted* area, the *developer* shall make the necessary arrangements with the serving utility for these installations to be placed underground at the time of development of the property as part of the required *off-site* and on-site improvements. The *developer* shall be responsible for the costs of the underground construction, in accordance with the underground policy of the City and the serving utility.
- F. Service stubs to *platted lots* within the subdivision for underground utilities shall be placed to the *right-of-way* line or the public utility easement (PUE) whichever is greater.
- G. As a condition of project approval, the development *applicant* of a project shall be responsible to make necessary arrangements with the affected utility companies for the installation of required underground facilities, including arrangements for the payment of any cost. The required undergrounding shall be completed prior to approval and occupancy of the project. In cases where utility undergrounding

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construction may not be completed at the time the rest of the project is completed, the *developer* shall produce written proof from the utility company(ies) that undergrounding will be accomplished with all necessary moneys having been paid to the utility company(ies).

- H. In those instances where poles to be removed include *street* lights, the *street* lights will be replaced with freestanding poles and luminaries by the *developer/redeveloper* or the utility company when acting as a *developer/redeveloper*. Replacement of *street* lights shall comply with the PEDS and the regulations in Chapter 107 of the LDO.
- I. Underground utilities shall be extended to the boundaries of the *plat* to provide service connections to *abutting unsubdivided* land.
- J. No appurtenant or *ancillary* above ground equipment shall be placed without prior review and approval of siting and *screening* plans by the City of Surprise Public Works and Community Development Departments.

108-2.10 Easement Planning.

- A. Uniform and continuous easements shall be provided to accommodate both municipal and private utilities and, where necessary, such other *uses* such as drainage, transit shelters, multi-use pathways, and emergency *access*. Said easements shall be delineated on the *preliminary plat* and dedicated on the *final plat*. The *subdivider* shall be responsible for coordinating with the appropriate utility company and when necessary with *adjacent* property owner(s) for the continuation of easements established in adjoining properties.
- B. Utility easements.
 - 1. City maintained easements for water, *sewer*, and storm *sewer* lines located outside of the *right-of-way* they shall be a minimum twenty feet (20') in width or as required by the City Engineer.
 - 2. Easements for gas, electric, telecommunications, *streetlights*, water meter, and water/*sewer* service lines shall be a minimum of eight (8) feet in width and provided outside of the public *right-of-way* along each side of the *street* and around a *cul-de-sac*.
 - 3. For those subdivisions where *alley* are provided, gas, telephone, fiber optic cable, cable television utilities may be located within a four (4) foot wide public utility easement (PUE) provided along the *rear lot lines adjacent* to, and outside of, the *alley*; in which case the width of the front PUE may be reduced from eight (8) feet to four (4) feet when accommodating only the water meter and water/*sewer* service lines.

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C. Drainage easements.

1. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, a stormwater easement or drainage *right-of-way* shall be provided, conforming substantially to the lines of such watercourse, and of such width and construction, or both, as required by the City Engineer based upon the subdivision drainage report. The drainage shall be maintained by an open channel designed in accordance with Volume 1 of the PEDS with landscaped banks and adequate width for maximum potential volume of flow; unless determined otherwise by the City Engineer.
2. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road *rights-of-way*, perpetual, unobstructed easements at least 15 feet in width for such drainage facilities shall be provided across property outside the road lines and with satisfactory *access* to the road. Easements shall be indicated on the *plat*. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.
3. When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the *plat*.
4. All *retention* areas shall be in tracts with drainage easements.

D. Land within a drainage way or within an easement for major power transmission (tower) lines or pipelines shall not be considered a part of the minimum *lot* area.

E. Development *adjacent* to a designated transit stop, as identified in the City's Transit Feasibility Study or by Valley Metro, may be required to provide transit shelter easements. The size of a transit shelter easement shall be in accordance with Valley Metro's RPTA Bus Stop Program and Standards.

F. *Lots abutting* existing or proposed multi-use trails or pathway corridors as designated in the *General Plan* may be required to provide a multiuse trail easement having a width and design in accordance with the PEDS.

G. Emergency *access* and fire lane easements shall be provided in locations where designated by the City Fire Department. Said easements shall have a minimum width of twenty feet (20'), with a minimum vertical clearance of fifteen feet (15').

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108-2.11 Open Space

- A. The hierarchy, types, and locations of *open space* required by the City are detailed in **Chapter 104** of this Ordinance. The design standards for the required *open space* are detailed throughout the different chapters of **Volume One** of the PEDS.
- B. For residential subdivisions and Traditional Neighborhood Development (TND) the specific percentage of required *open space* is prescribed within the development standards tables in **Chapter 106** of this Ordinance.
- C. For *mixed use*, commercial, *business park*, and industrial subdivisions the required amount of *open space* shall be those areas that are required for the specific *zoning* and land *use* as detailed in **Chapters 104, 106** and **107** of this Ordinance. The design standards for the required *open spaces* are detailed throughout the different chapters of **Volume One** of the PEDS.
- D. Where a proposed *park*, playground, *open space*, or other public use shown on the *General Plan* and/or Parks and Trails Master Plan, is located in whole or in part in a subdivision, the area be shown on both the preliminary and *final plats* and such area(s) shall be reserved to the City by the *subdivider* if the City Council approves such reservation. The City or other public agency shall enter into an agreement on the method of acquiring such reserved land area(s) prior to approval of the *final plat*.
- E. Unless a public entity has accepted primary maintenance responsibility for all *common areas* within a subdivision, the property *owner/developer* shall create a method, acceptable to the Community Development Director to provide for the long term maintenance of the *common areas* in perpetuity.

108-2.12 Gated Communities.

- A. The size of the gated community, or multiple *adjacent* gated communities, shall not exceed 40 acres, unless designed to properly connect with *adjacent* communities by both vehicular and pedestrian connections, with a minimum of thirty (30) percent of the gross land area set aside as improved *open space*.
- B. The planning and design of the gated community shall not impede connectivity of *streets*, improved *open space*, multi-use pathways or other *public improvements* from adjoining and *abutting* property, and in no case shall any connection be greater than 1,320 feet apart. Connections shall remain open and accessible at all times.
- C. The perimeter of the gated community shall be designed with view fencing and that said view fencing is to provide continuous visual connections with *open space* areas of adjoining properties.

Commented [AB156]: From HBACA:

The City's gated community requirements are impractical and undesirable for those wishing to live in a gated community. The City should recognize that these types of communities are an important component in providing a variety of housing types and diversity. While they will not be appropriate for all developments, there are instances where the City should embrace those seeking the privacy and security of a gated community.

City Comment: These provisions are carryover the Section 122-27 of the SUDC but more appropriate in the subdivision chapter. The regulation is supported as a way to implement safety access, smooth circulation, and connectivity.

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- D. There shall be a minimum of two (2) separate entry/exits to the gated community; except when constructed as an *infill* development.
- E. The ongoing maintenance of all *private streets*, water and *sewer* mains, fire hydrants and any other infrastructure required by the City shall comply with the City's minimum operational standards, and shall be fully maintained by the *developer* and/or homeowners association.
- F. The installation of drainage systems, *retention* basins, landscaping, multi-use pathways, *street*/pedestrian way lighting, *screening* and *buffering* shall comply with the City's standards set forth in the PEDS and the Parks and Trails Master Plan.
- G. A public service and emergency *access* easement shall be granted over all *private streets*.
- H. Gate designs shall include emergency hardware to ensure proper ~~24-24~~-hour emergency *access* to the satisfaction of the City fire, police, public works, and utilities departments.
- I. A minimum of one (1) pedestrian *access* gate shall be provided at each gated driveway entrance.
- J. Such "anti-directional" devices as metal spikes that can cause tire damage shall not be allowed at entrances and exits.
- K. Sufficient queuing space between the gated entrance and the gate controller shall be provided such to ensure there is no conflict with *adjacent public street* traffic, and to avoid vehicular stacking across sidewalks, *streets*, bike paths and similar facilities.
- L. The gate entrance shall be designed to allow vehicles to turn around within the driveway without backing into the *adjacent street*.
- M. The style and color of gates and other enclosures shall be coordinated with nearby *structures* and approved by the Community Development Director.

ARTICLE 3 – SUBDIVISION CONSTRUCTION, INSPECTION AND ACCEPTANCE

108-3.1 Construction of Improvements Financial Assurance.

- A. An *applicant* shall submit a *Financial assurance* to the City thirty (30) days prior to a *Final plat* being placed on the City Council agenda for action. The amount of this *financial assurance* shall be no less than one hundred twenty-five (125%) percent of the total cost necessary to complete the required improvements, including but not limited to, the costs of labor, and materials, permits, management fees, insurance costs and any other capital costs.
- B. The *financial assurance* shall secure to the city the satisfactory construction, installation, and dedication of required *street*, utility, drainage, water and sewer *systems*, and other improvements, including any portions of such improvements which are located in the public *rights-of-way*, easements, and upon individual *lots*. Improvements may include, but are not limited to, *streetlights*, landscaping, drainage facilities, *street* improvements, perimeter *fences/walls*, water and sewer distribution lines, and *common area* and *open space* improvements.
- C. The *financial assurance* shall comply with all statutory requirements and shall be satisfactory to the City Attorney as to form, sufficiency, and manner of execution, as set forth herein. The periods within which required improvements must be completed shall be incorporated in the *financial assurance* and shall not exceed twelve (12) months from the date of *final plat* approval by City Council.
- D. Nothing in this section may be interpreted to limit the application of A.R.S. §34-222 et seq., including but not limited to that statute's requirements with respect to *financial assurance* for public projects.
- E. In the event *temporary improvements* are required by City Council, the *applicant* shall provide a separate *financial assurance*, in addition to any *financial assurance* required for permanent improvements, that covers all costs of constructing, maintaining, and removal of the temporary facilities and improvements.

108-3.2 Financial Assurance Options

- A. There are two (2) *financial assurance* options related to the timing of the construction of the required subdivision *improvements* and the recordation of the *final plat* available to the *subdivider/applicant*. Following the review and approval of all subdivision *improvements plans* and final reports, and after securing all certifications and written proof of service from all applicable agencies, utilities, and/or districts the *subdivider/applicant* may choose to follow one (1) of the two (2) development options outlined below.
 - 1. *Financial assurance / Record Plat:* The *subdivider/applicant* provides a "Construction of Improvements *Financial assurance*" to the City and

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recordation of the *final plat* occurs prior to, or in conjunction with, construction of the subdivision improvements.

- a. The *subdivider/applicant* provides the required form of financial guarantee, acceptable to the City Attorney, which assurance construction of all of the required subdivision improvements (see **Sec. 108-3.1** herein for information on the amount and specific forms of *financial assurances* accepted by the City).
 - b. The City Council approves the *final plat* and the Community Development Director subsequently transmits the *final plat* for recordation. After a *final plat* has been recorded, the City Engineer may, in his/her discretion, allow a *subdivider/applicant* to substitute one (1) type of *financial assurance* for another.
 - c. In the event the *subdivider/applicant* fails to initiate construction within twelve (12) months of approval, and after reasonable notice to the *subdivider/applicant* of default, the City may choose to take formal action to either *abandon* the recorded *final plat* or to do/have done all work; in which case the *financial assurance* instrument will be charged with all costs and expenses incurred.
 - d. The Community Development Director may, upon proof of difficulty, recommend to the City Council, and the Council may approve a one-time extension of the completion date for a maximum of an additional twelve (12) months provided the "Construction of Improvements *Financial assurance*" form is amended by the *subdivider/applicant* to cover the extended time period.
2. **Alternative Assurance Agreement:** In lieu of providing a "Construction of Improvements *Financial assurance*" to the City, the recording of the approved *final plat* is withheld until after all required *public improvements* have been completed by the *developer* and approved for acceptance by the City.
- a. The *subdivider/applicant* submits an executed standard contract (Alternative Assurance Agreement), as approved by the City Attorney, regarding the installation of improvements. The contract shall require that all improvements be completed no later than twelve (12) months from the date the *final plat* was approved by the City Council and that no *lot* may be sold. The terms of this contract shall run with the land and shall be binding upon all subsequent *subdividers* and shall survive the expiration or other termination of this agreement.

Commented [AB157]: From Tiffany & Bosco:

Good provision

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- b. The *subdivider/applicant* pays the construction permit fees and the City issues a construction permit for the subdivision improvements.
- c. All improvements and construction shall be in conformance with the approved subdivision improvement plans. When the completed improvements are inspected and approved by the City Engineer and a warranty of improvements *financial assurance* is submitted to cover the completed improvements the Community Development Director will transmit the *final plat* to the County for recordation and the sale of *lots* may commence.
- d. If the *subdivider/applicant* fails to initiate construction within twelve (12) months from the date of Council approval, the Council shall take formal action to rescind approval of the *final plat* which shall then become null and void and of no force or effect.
- e. A request for a one-time extension to the required completion of the improvements may be approved by the city for an additional twelve (12) month period. A revised Alternative Improvements Contract, as approved by the City Attorney, regarding the construction of the unfinished portions of the improvements shall be submitted along with the request for the time extension.
- f. Should the construction of improvements be found to be contrary to the improvement plans or contrary to good construction practices, the recordation of the *final plat* shall be withheld until appropriate construction remedies are made to the satisfaction of the City Engineer.

108-3.2 Deferral of Required Improvements.

- A. The city council may defer or delay installation of development-required improvements to coincide with *adjacent* work, future planning, or because of incompatible *grades*, inadequacy or lack of connecting facilities, or for some other suitable reasons.
- B. Whenever the City Council defers the requirement to construct and install any improvement, the *subdivider/applicant* shall pay to the city at the time of *final plat* approval their proportionate share of the costs of constructing and installing such improvement in the future, as determined by the City Engineer. Alternatively, at the City Council's option, the *applicant* may post a financial or other guarantee, as provided in this section, ensuring completion of said improvements upon demand of the City Council. The Mayor shall not sign the *final plat* and the *final plat* shall not be recorded until the requirements of this subsection have been satisfied.

108-3.3 Construction, Inspection, and Completion of Improvements.

- A. The *subdivider/applicant* shall pay for all costs of constructing and removing temporary facilities and improvements required by City Council and shall maintain the same for the period of construction.
- B. All construction shall require a dust permit from the Maricopa County Air Quality Department and a permit for construction from the City of Surprise; permits must be secured before any construction work can begin. Once the City has issued a construction permit for improvements, work shall proceed without interruption until the City accepts the improvements.
- C. The City Engineer shall provide for inspection of required improvements during construction and ensure their satisfactory completion. Any city inspections or approvals performed throughout the course of the construction do not signify that the City has accepted any of the improvements for maintenance.
- D. If the city engineer finds upon inspection that any of the required improvements have not been constructed or installed in accordance with the city's construction standards and specifications, the *subdivider/applicant* shall correct the deficiency and shall complete construction and installation of the improvements according to the standards and specifications. Wherever the cost of constructing or installing required improvements is covered by a financial guarantor, the *subdivider/applicant* and the guarantor shall be jointly and severally liable for completing, constructing and installing the improvements according to the standards and specifications.
- E. If a *subdivider/applicant* has posted a *financial assurance* and either the work has been *abandoned* for a period of one hundred eighty (180) days, or the required improvements have not been satisfactorily constructed, installed and approved within the period specified, the city may utilize the following options regarding *public improvements*.
 - 1. The city shall not issue any *building permit* for any *structure* until all applicable *public improvements* have been constructed to the satisfaction of the city staff, inspected, and accepted.
 - 2. If the *owner* fails to timely and properly construct the *public improvements* as set forth in either a *financial assurance* of Construction or a Development Agreement, the city may take any one (1) or more of the following actions, at the *owner's* expense:
 - a. Decline to process or issue *building permits*, occupancy clearances, or other regulatory approvals or inspections;

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- b. Complete, remove and/or modify the *public improvements* in whole or in part;
 - c. Restore any disturbed land;
 - d. Bring action to enforce the *owner's* responsibility under the Surprise Municipal Code or under the agreement to construct the *public improvements*;
 - e. Bring action to enforce the *financial assurance* to construct the *public improvements*; and/or
 - f. Otherwise mitigate the effects of the *owner's* failure to construct the *public improvements*, including but not limited to, action to *abandon* the *plat*.
- F. Placement of all boundary monuments for each *lot* and permanent reference monuments in all corners, angle points, points of curve, centerline of all *roadways*, and at all *street* intersections as approved by a registered land surveyor and the city's chief land surveyor shall be installed before *building permits*, such as but not limited to *Model home Complex*.
 - 1. Monuments will be permanently marked with the registration number of the registered land surveyor responsible for their placement.
 - 2. Exterior monuments for the subdivision boundaries are to be set prior to recordation of the *final plat*.
 - 3. The interior monuments are to be set after the *streets* are built and the grading has been completed.

108-3.4 Release or Reduction of Financial Assurance.

- A. Once the *public improvements* have passed the final inspection by the City Engineer, the *applicant's* engineer or surveyor shall submit a certified final *as-built* survey of both the *plat* and the constructed improvements, indicating location, dimensions, materials, and that the layout of the line and *grade* of all required improvements is in accordance with the approved construction plans for the improvements.
- B. The *subdivider/applicant* may submit a request for release of the original *financial assurance* only after they submit to the City Engineer the lien release documents along with the new financial warranty of improvements guarantee documents as outlined below in **section 108-3.5**.

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- C. The City Engineer shall make a written recommendation to the City Council to release the original *financial assurance*, accept the *public improvements* for maintenance, and accept the new warranty of improvements *financial assurance*.

108-3.5 Warranty of Improvements Financial Assurance.

- A. The *subdivider/applicant* shall be required to file a Warranty of Improvements *Financial assurance* with the City Engineer prior to City Council action on maintenance responsibilities of the subdivision *public improvements*. The *financial assurance* shall be in a form as outlined in **Sec 108-3.1.A**, in the amount of ten (10%) percent of the actual cost of constructing and installing the improvements. The warranty assurance shall be for a period of two (2) years beginning from the date of “Conditional Acceptance” of maintenance responsibilities for said improvements by the City Council.
- B. The *applicant* shall be required to maintain all improvements for the two (2) year warranty period. If any certificates of occupancy have been issued for *buildings* served by improvements for which the city has not accepted maintenance responsibility, the city may affect emergency repairs and the *applicant* or other *owner* thereof shall pay the cost of such emergency repairs. Prior to effecting such emergency repairs, the city shall give to the person responsible for maintaining the improvements such notice as may be practicable under the circumstances.

108-3.6 Costs, Reimbursements, and City Participation in Public improvements.

- A. All *public improvements* shown on the *final plat* and the improvement plans, and any additional improvements that may be required by the City Council as a condition for approval of the *final plat*, shall be the responsibility of the *developer*; unless otherwise approved by the City Council.
- B. If a *street* within or *adjacent* to the development is improved as an arterial or *parkway street* and dedicated to the public the City, upon completion of the warranty guarantee, will accept maintenance responsibility for *street* lighting, median landscaping, and pavement.
- C. If a *street* within or *adjacent* to the development is improved as a collector or *local street* and dedicated to the public the City upon completion of the warranty guarantee will accept maintenance responsibility for the pavement and curbs. Maintenance responsibilities for landscaping and *street* lighting shall remain with the property *owner* and/or homeowners association.
- D. If a *developer* is required to oversize infrastructure to serve future development in *adjacent* areas that is other than their own property the City may assist the

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developer recoup proportionate costs from those *adjacent* properties through a repayment agreement as further described in Chapter 42 of the City Code.

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101-1.1 TITLE and Effect

- A. Part II of the City of Surprise Municipal Code shall be known as and may be cited as the Surprise Land Development Ordinance (LDO) and may be referred to herein as “this code”, “this Ordinance”, or the “LDO”.
- B. The Surprise LDO shall be effective on _____

101-1.2 Authority

- A. The Surprise LDO is adopted pursuant to the authority contained in the Arizona Revised Statutes (A.R.S.) Title 9, Arizona Revised Statutes (“A.R.S.”), and Chapter 4, Articles 6 and 7, and general laws in order to conserve and promote the public health, safety, and general welfare of the present and future citizens of the City of Surprise.
- B. All ordinances or portions of ordinances adopted before the effective date of the LDO, with the exception of vested Planned Area Developments (PAD) zoning districts, in conflict with this Ordinance, or inconsistent with the regulations of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.
- C. Approved and vested Planned Area Developments (PAD) zoning districts that have not expired may retain entitlements, densities, *plats*, and regulations specifically granted in the adopting ordinance(s). It is the intent that the LDO shall supersede any reference to standardized regulations associated with the previous land development ordinances. Where a provision in a PAD zoning district varies from this Ordinance, the provisions in the PAD zoning district shall govern. **D.** The establishment of new PAD zoning districts is not permitted. Requests to amend an existing PAD is permitted and processed as rezoning application.

101-1.3 Purpose and Applicability

- A. The purpose of this Ordinance is to implement the goals and policies of the *General Plan* and other related plans and documents of the City by providing the minimum requirements to ensure consistency and compatibility between the *General Plan* and the *Zoning districts*, particularly in the following ways:
 - 1. Providing for a range of *uses* and intensities by dividing the City into specific *zoning districts* to promote orderly growth and efficient *use* of land resources and ensure compatibility between land *uses*.

2. Direct growth with priority to those areas where infrastructure and urban services already exist or can be economically provided.
3. Ensuring the protection of the natural, historic, economic, cultural, and scenic resources of the City by establishing standards regulating the *use* and physical development of land.
4. Promoting development that further protects the public's investment in *multimodal* transportation and infrastructure, recreation, *open space*, and other *public facilities*.
5. Promoting a high level of quality in the design and function of both new and existing development in accordance with the Planning and Engineering Design Standards (PEDS).
6. Promoting safety from fire, flood, and other natural or man-made disasters.
7. Providing for coordination of land *uses* with, other municipalities, counties, the state, regional associations, and other agencies, as appropriate, especially with regard to resources and facilities that extend beyond municipal boundaries or have a direct impact on that municipality.
8. Providing for efficient review of development proposals, to clarify the approval process.
9. Providing for procedures that respond uniformly and consistently to development proposals.
10. Promote the conservation of natural resources and energy by encouraging techniques such as *building* orientation and *site planning*, energy-efficient *building* construction, use of active and passive solar energy systems, on-site transportation management, and other energy and natural resource saving technologies into development projects.

- B.** The land *use* regulations and general development standards provided herein shall be applicable to and govern the development and *use*, whether new or existing, of all *buildings*, *structures* and land within the corporate limits of the City of Surprise.

101-1.4 Interpretation

- A.** Interpretation and application of the provisions of this Ordinance shall be regarded as the basic and minimum requirements for the protection of public health, safety, and welfare. Whenever any provision of this Ordinance or any provision of any other applicable law, rule, contract, resolution or regulation of the City, state agency, or the federal government contains certain standards,

covering the same subject matter, the more restrictive requirement(s) or higher standard(s) shall control.

- B.** This Ordinance also is not intended to interfere with, abrogate, or annul any private agreements between *persons*, such as easements, deeds, covenants, except that if this Ordinance imposes higher standards or a greater restriction on land, *buildings* or *structures* than an otherwise applicable provision of a law, ordinance, or a private agreement, the provisions of this Ordinance shall prevail.
- C.** This Ordinance, upon its adoption, amends and supersedes the text of all other *zoning* ordinances previously adopted by the City, except where an earlier *zoning* ordinance is to apply pursuant to a Planned Area Development (PAD) zoning, Development Agreement or other land development agreement that expressly requires such.
- D.** In case of any difference of meaning or implication between the text of this Ordinance and any figure or graphic, the text shall control.

101-1.5 Severability Clause

- A.** It is declared to be the intention of the City that the provisions of the LDO are separable in accordance with the following:
 - 1. If any court of competent jurisdiction shall adjudge any provision of Part II of the Surprise Municipal Code to be invalid, such judgment shall not affect any other provisions of the LDO not specifically included in said judgment.
 - 2. If any court of competent jurisdiction shall adjudge invalid the application of any provision of Part II of the Surprise Municipal Code to a particular property, *building* or other *structure*, such judgment shall not affect the application of said provision to any other property, *building* or *structure* not specifically included in said judgment.

101-1.6 Permits and Approvals

- A.** No development activity shall occur on any property within the City until all applicable reviews, permits, approvals, and certificates have been issued and approved by the staff and/or officials with the authority to act upon said action.

ARTICLE 2 – RULES OF INTERPRETATION AND GLOSSARY OF TERMS

101-2.1 Rules for Measurement

- A. Measuring Distances. All distances are measured along a horizontal plane not by following the topography or slope of the land.
- B. Calculations: When any requirement of this Ordinance results in a fraction of a unit, that fraction will be disregarded and rounded to the nearest whole number to apply the more restrictive regulation.

101-2.2 Glossary of Terms

- A. General Terms. For the purpose of carrying out the intent of this Ordinance, all words shall have their normal and customary meanings, unless specifically defined as follows:

- 1. The word “day” shall mean calendar day for calculation of time, unless specifically defined otherwise.
- 2. Words used in the present tense include the future, words used in the singular include the plural, and words used in the plural include the singular, except where the natural construction of the writing indicates otherwise.
- 3. The words “shall” and “will” are mandatory and the word “may” or “optional” is permissive.
- 4. Words or phrases are expressed using *italics* shall assume the meaning as ascribed in within the LDO. Words or phrases not expressed in italics shall assume the common meaning of the word or phrase.
- 5. In case of any difference of meaning or implication between the text of this Ordinance and any figure or graphic, the text shall control

- B. Abbreviations. The following abbreviations and/or acronyms shall have the following meaning:

ADA	Americans with Disabilities Act
ADEQ	Arizona Department of Environmental Quality
ARS	Arizona Revised Statutes
CD	Community Development
CIP	Capital Improvement Plan
LDO	Land Development Ordinance

PAD Planned Area Development

PEDS Planning and Engineering Design Standards

TUP Temporary use Permit

- C. Definitions. The following additional words and phrases shall, for the purpose of this Ordinance, have the following meanings:

A

Abandon: The discontinuation of use for more than ninety (90) unless a particular timeline is identified.

Abandoned or Inoperable Motor Vehicle: A motor vehicle or any major portion thereof that is unlicensed and is incapable of movement under its own power and will remain so without major repair, including but not limited to repair of the differential, transmission, head, engine block, or oil pan.

Abut: A property having a common boundary or *lot line* not separated by a *street*.

Access: A place, way, or means for entry to or exit from a property, *structure*, or building.

Accessory: A *structure*, *building*, or *use* that is customarily incidental and subordinate to the principal *structure*, *building*, or *use*.

Adjacent: To lie near, border on, not distant or far from, or near but not necessarily touching or *abutting*.

Adult Foster Care Home: A residential setting that provides room and board and adult foster care services for at least one and no more than four (1-4) adults who are participants in the Arizona long-term care system or contracts for services with the United States Department of Veterans Affairs and in which the sponsor or the manager resides with the residents and integrates the residents who are receiving adult foster care into that person's *family*.

Agricultural Animals: *Agricultural animals*, whether kept and maintained for production and sale, *family* food production, education, or for personal enjoyment, are classified below:

1. Livestock: horses, donkeys and mules, miniature horses, cattle, sheep, goats, ox, or other similar domesticated *farm* or *ranch* animal.
2. Rodent: rabbits, chinchillas, and other similar mammals.
3. Fowl: chickens, ducks, turkeys, pigeons, ostriches, peacocks and other similar birds.
4. Bees: honeybees

Agricultural Facility: *Agricultural facilities* shall include, but are not limited to: cotton gins, other than those gins that manufacture or process by-products; the storage, mixing and/or blending,

sale, and distribution of *agricultural* chemicals, but not the manufacture thereof; custom meat processing plants including slaughtering, butchering, and temporary storage of products, but not including rendering or refining of by-products; storage of offal, tanning or storage of hides, and wholesale or retail sales; *agricultural buildings* for the storage of hay, grain, or other horticultural products and large scale breeding and keeping of poultry or livestock and maintenance of specialized agriculture machinery and equipment.

Agricultural Operation: *Farming*, including plowing, tillage, cropping, and installation of best management practices, seeding, cultivating, or harvesting for the production of food and fiber products, wholesale landscape nursery stock, and the breeding, boarding, and pasturing of *agricultural animals* (Also known as *Farming or ranching*).

Alley: A permanent thoroughfare providing a secondary means of access to *abutting* lots.

Alter: To change or cause to change in character or composition the structural elements, *use*, or other features of a *building* or site that requires a permit under this Ordinance or the *Building Code*.

Amendment: A change in the wording, application, or substance of this Ordinance or the Surprise *General Plan*, or any change, deletion, or addition in the *zoning district* boundaries or classifications of the *zoning* map.

Amenity: A natural or created feature that enhances the aesthetic quality, visual appeal, activity, or attractiveness of an area.

Amusement or Theme Park: An outdoor facility, which may include *structures* and *buildings*, where there are various devices for entertainment, including, but not limited to, rides, booths for the conduct of games or sale of items, and *buildings* for shows and entertainment.

Ancillary Use: A *use* that is incidental to and customary associated with the *primary uses* is located on the same *lot* or *parcel* as the *primary uses*.

Animal Boarding Facility: Any *structure*, land, or combination thereof *used*, designed, or arranged for the boarding, breeding, or care of household pets, but excluding livestock.

Animal Clinic: Any facility maintained or used by a licensed veterinarian to provide preventative medical care, minor and preventative procedures, and short-term boarding for animals.

Animal Hospital: Any full-service facility maintained or used by a licensed veterinarian with *in-hospital* capabilities, services, and machines for diagnostic procedures to provide medical care and short-term boarding for animals.

Animal Shelter: A facility used for the confinement, maintenance, safekeeping, and control of animals that are found by a citizen or come into the custody of the animal enforcement officer and that is owned, operated, or maintained by a public body, or organization devoted to the welfare, protection, and humane treatment of animals.

Apartment: A residential *dwelling*; a type of *multi-family dwelling unit*.

Applicant: The *owner* or their authorized agent submitting any type of *development* application on behalf of the *owner* and who is authorized to receive any notices on their behalf for any action taken by the city regarding the development application.

Archaeological Resource: Any material remains of past human life or activities that are of historic or pre-historic significance. Such material includes, but is not limited to, pottery, basketry, bottles, weapons, weapon projectiles, tools, *structures* or portions of *structures*, pit houses, cultural landscapes, rock paintings, rock carvings, intaglios, graves, skeletal remains, or any piece of any of the foregoing items (see *cultural resource*).

Area, Gross: The total sum of square footage or acreage within a *parcel* or development.

Area, Net: The specific square footage or acreage within a *parcel* or development, excluding any land *used* or to be *used* as *rights-of-way*

As-Built: A survey, construction, and/or engineering plans prepared after the completion of construction, by the engineer of record, in such a manner as to accurately identify and depict the location of all on-site improvements, *off-site* and *right-of-way* improvements which includes but is not limited to all *structures*, parking facilities, *retention* areas, curbs, gutters, sidewalks, and utilities.

Assisted Living Center: An *assisted living facility* that provides resident rooms or resident units to eleven (11) or more residents.

Assisted Living Facility: A *residential care institution*, including an *adult foster care home*, that provides or contracts to provide *supervisory care services*, *personal care services*, or directed care services on a continuous basis.

Assisted Living Home: An *assisted living facility* conducted within a *single-family dwelling unit* that provides resident rooms to ten (10) or fewer residents.

Athletic Center: See *Fitness Center*.

Authorized Agent: A *person* with powers as a duly authorized representative has the authority to sign contracts, permits, permit applications, monitoring results and other documents in the company's name and otherwise bind the company.

Auto Salvage Yard: A *junkyard* primarily containing inoperable vehicles.

B

Bar/Nightclub: A *business* primarily devoted to the on-site serving and consumption of alcoholic beverages licensed (Series 6 or 7 licenses) by the proper State agencies and City departments where the service of food and providing of entertainment may be *ancillary*.

Bed and Breakfast: A *single-family dwelling* in which the *owners* or occupants of the *dwelling* provide, for compensation, short term lodging and meals for guests, occupying not more than

five (5) guest rooms, located within the same principal *dwelling* or *accessory dwelling unit*. Any *dwelling* in which more than five (5) guest rooms are provided shall be deemed a *hotel*.

Berm: A mound of earth that is used to shield, *screen*, or *buffer* undesirable views, separate incompatible land *uses*, provide visual and landscape interest, decrease noise, or control the direction of water flow.

Block: Land bounded by *streets*, or by a combination of *streets*, public *parks*, cemeteries, other *rights-of-way*, or boundary lines of municipalities.

Buffer: The technique of providing landscape or other improvements on land set aside or in a *buffer area* used to separate different intensities and types of land *use*.

Buffer Area: An area of land that separates incompatible land *uses* and is utilized to mitigate any potentially negative impacts.

Building: Any *structure* having a roof that is supported by poles, columns, and/or walls for the housing and/or enclosure of *persons*, animals, or personal property.

Building, Attached: A *building* having one (1) or more *common wall* with another *building* when the *primary uses* of each *building* is independent of the other and when no interior entry exists between *buildings*.

Building, Detached: A *building* having no *common wall* or structural connection with another *building*.

Building Envelope: That area of a *lot* lying between the *setback* lines available for construction.

Building Height: The vertical distance from the lowest contact at *grade* of the *building* to the highest point of roofline or *parapet*.

Building Permit: A fee based document issued by the City provided by an authoritative body with the purpose of granting permission to do work on a regulated *building* in compliance with City *building* codes.

Business: *Engaging* in the purchase, sale, barter, or exchange of goods, wares, merchandise, or service; the maintenance or operation of *offices* or recreational or amusement enterprises.

C

Cabinet or Carpenter Shop, Millwork and Wood Product Manufacturing: A *business* that specializes in a craftsman trade which processes wood materials to form end-user products used in the construction or maintenance of *buildings* or creates furniture and a variety of other objects.

Caliper: The size of a tree as determined by the diameter which is measured using a fixed arm scale and movable arm tool.

Campground: Any area of land specifically designed and designated to temporarily accommodate two (2) or more camping parties, including cabins, tents, *recreational vehicles* or other camping outfits.

Carport: A roofed *structure* not more than seventy-five percent (75%) enclosed by walls and attached to the main *building* for the purpose of providing shelter for one (1) or more motor vehicles.

Catering Service: An establishment where the preparation of food and meals on the premises, are delivered to another location for consumption, not including food *manufacturing*. *Catering Services* may be a *primary uses* or *ancillary* to a *restaurant*.

Cemetery: Land utilized for the burial of the dead (human and animal) and dedicated for *cemetery* purposes, including crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such *cemetery*.

Civic Use: Is a *Community Facility* developed for cultural, educational, or institutional purposes for the *public* and *semipublic use*, typically arranged in a manner that is *pedestrian friendly* or focused around a central plaza or *open space* with *amenities* for the public to sit, gather, or attend events; may also include civic or governmental facilities such as fire stations, libraries, *places of assembly*, or *schools* with public *parks*.

Change of Use: A formal change of a *building's* classification *use* or principal land *use* on a *lot* from one (1) type to another.

Clinic: A facility that provides medical, dental, psychiatric, or surgical service for sick or injured patients (human and/or animal) exclusively on an out-patient basis, including urgent care treatment, diagnostic services, training, and administration.

Club, Private: An association which owns, hires or leases a *building*, or a portion thereof, and the *use* of such premises (including but not limited to *uses* allowed in the same *zoning district*) being restricted to *persons* who are bona fide members paying annual dues and their bona fide guests; excluding membership based retail *businesses*.

Cluster Development/Subdivision: The development technique that concentrates *buildings/lots* on a portion of the development site to allow the remaining land to be permanently used for recreation, preserving *open space*, and/or conservation of *environmentally sensitive features* and where possible and practical, support connectivity.

Commerce Center: A development designed as a group of *buildings* and *uses* planned with shared circulation, parking, utilities, drainage, and landscaping that is unified through *open space*, *pedestrian friendly* connections, and architectural style regardless of the number of *parcels* or *pad sites*.

Common Area: An outdoor area that is designed and developed as shared *use* and *pedestrian friendly*, including but not limited to features such as *parks* plazas, terraces, courtyards, patios, stormwater *retention*, *multimodal* paths, and trails.

Common Wall: A dividing partition between two (2) contiguous *buildings* or between two (2) *adjacent lots* shared by the neighboring occupants.

Community Facility: A noncommercial *use* established primarily for the benefit and service of the population of the community in which it is located (typically includes social, entertainment, athletic, or recreational *uses* and may also include *business office* associated with the community such but not limited to Homeowners Association or *apartment rental office*).

Community Garden: Land gardened collectively by a group of people. Gardening may include, but is not limited to, all types of horticulture such as flowers, vegetable or field crops, and orchards containing berry, bush or tree crops.

Community Open Space System: The community's *parks*, playgrounds, active and passive recreational areas, natural features, and *environmentally sensitive features* that collectively provide a continuous and integrated system of *open space*.

Compatibility: The avoidance of placing physical impact land *uses* that are known to or might happen to generate odors, noise, dust, excessive light and glare, *adjacent* to, or in close proximity of, more *sensitive lands* already located in an area.

Conditional Use Permit (CUP): A use permit required as legal authorization for certain *uses* to be considered an entitled, *permitted use* in a particular *zoning district*.

Construction Plan: The maps or drawings showing the specific location and design of improvements to be installed on a parcel or in a subdivision accompanying a *recorded plat* and in accordance with the requirements of the City of Surprise as a condition of the approval of the *plat*.

Construction Trailer: A factory-assembled *structure* or *structures* exceeding eight feet in width, originally equipped with the necessary service connections, and originally made so as to be readily movable as a unit or units on its (their) own running gear and designed to be used as an *office* without a permanent foundation, whether or not said running gear has been removed. (commonly known as a mobile *office*)

Contractor's Yards: *Outdoor storage* of materials, equipment, and surplus goods associated with services provided by related *business*, including but not limited to construction, landscaping, air conditioning, plumbing, and/or remodeling services.

Correctional Facility: A public *building* used for the confinement of people convicted of crimes.

Cottage Industry: A small *business*, owned and operated by the residential occupant, in a residential area conducted within the *dwelling* or in an *accessory building*. The *business* may have employees and customers but must be clearly incidental and secondary to the *use* of the property for *single-family* residential purposes.

Cul-De-Sac: A *local street* with only one (1) outlet and having an appropriate terminus for the safe and convenient reversal of traffic movement.

Cultural Resources: An aspect of a cultural system that is valued by or significantly representative of a culture, or that contains significant information about a culture.

Curb Extension: Generally rounded extensions of a curb located at a *street* intersection that narrow the *street* by widening the sidewalk and/or the *landscape strip* in order to make pedestrian *street* crossings shorter and easier, and to provide a visual narrowing along the *roadway* to help increase driver awareness and slow the movement of traffic in heavy pedestrian areas.

Curb Separated Sidewalk: A sidewalk that is detached from the *street* by a *landscape strip* that is measured from the back of the *street* curb and runs continuously along the length of the *street*.

Cut: The removal of soil, rock, or other materials from a location which shapes and lowers the *grade* at the location.

D

Day Care Center: A *use* where care, supervision, and guidance are provided for pay for five or more minor or adult *persons* unrelated to the proprietor subject to the requirements of the State of Arizona.

Deep Root Barrier: A mechanical barrier that redirects tree root growth downward, eliminating the surface rooting that damages hardscapes such as sidewalks, driveways, and *street* paving.

Density, Gross Residential: The number of residential *dwelling units* per *gross area* of land (du/ac).

Density, Net Residential: The average number of residential *dwelling units* per acre of land for residential only purposes, including *parks*, *open space*, and recreational areas, but excluding any land *used* or to be *used* as arterial *rights-of-way*, *school/public facility* reservations, and nonresidential *uses*. For calculating *net residential density*, the following formula shall apply:

$$D = \frac{du}{A - (c+i+s+a)}$$

Where: D = Residential density

du = Total number of *dwelling units* in project

A = *Gross area* (acres)

c = *Net area* of commercial land (acres)

i = *Net area* of industrial land (acres)

s = *Net area* of *school/public facility* reservations (acres)

a = *Net area* of *arterial rights-of-way* (acres)

Density Transfer: Permitted unused allowable *dwelling units* in one (1) area to be relocated in another area of the same development or an approved *off-site* development, commonly known as *Transfer of Density and Development Rights (TDR)*.

Developer: The *owner* or representative of the *owner* of land proposed to be developed and/or subdivided.

Development: Any man-made change to improve or *alter* real property, including but not limited to *buildings* or other *structures*, mining, dredging, *filling*, grading, paving, excavation or drilling operations.

Development Parcel: A portion of land within an overall master *site plan* or master planned development that includes one (1) or more *lots* with a specific *net residential density*, characteristic, and/or *zoning district*; excluding a *parcel* or *lot* outside of a master planned development.

Donation Bin: Any container, storage unit, or *structure*, other than a primary *building* or *accessory building(s)* that is used for the collection of charitable or for-profit donated items from the general public, including but not limited to *clothing*, household goods, toys, books, and newspapers.

Drive-Through: An *accessory* facility for an establishment that provides service and/or goods at a window or door that the customer drives past without being required to leave the vehicle.

Drive Aisle: The travel way by which cars enter and depart *parking spaces*.

Duplex: See *Dwelling, two-family*

Dwelling: A *building* or portion thereof that contains one (1) *dwelling unit* that is occupied primarily for residential living purposes but not including *hotels*, *motels*, *mobile homes* or *RV's*.

1. **Dwelling, Live-Work:** A *building*, or portion thereof, or a group of *buildings* that combines a *dwelling unit* with the work space (*office*, commercial, or retail) for *uses* permitted in the *zoning district* in which the unit is located; more than a *home occupation*.
2. **Dwelling(s), Multi-Family:** A *building* or *lot* containing four (4) or more *dwelling units* used for residential occupancy by four (4) or more families living independently of each other; includes the general term '*multi-family*' (commonly known as *Apartments*).
3. **Dwelling, Single-family:** One (1) *dwelling unit* on a single *lot* of record; includes the general term '*single-family*'
4. **Dwelling, Two-family:** A *building* or *lot* containing two (2) *dwelling units* used for residential occupancy by two (2) families living independently of each other (commonly known as *Duplex*).

5. ***Dwelling, Three-family:*** A building or lot containing three (3) *dwelling units* used for residential occupancy by three (3) families living independently of each other (commonly known as *Triplex*).
6. ***Dwelling Unit:*** A single unit as a whole *building* or portion thereof, providing complete independent living facilities for one (1) or more *persons*, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
7. ***Dwelling Unit, Accessory (ADU):*** A secondary *dwelling unit* independent of the primary *dwelling unit* on the same property; provided it meets specific standards.

E

Elevation: The front, rear or side façade of a *building* showing the relationship of the site *grade* to floor level, often depicted on a scale drawing that includes such features as design, construction materials, height, dimensions, windows and doors.

Entertainment Establishment, Indoors: An establishment that provides participant or spectator recreation to the general public that may include ancillary *uses* such as retail and *restaurants*, but excluding public *park* and recreation facilities. Entertainment *uses* typically includes but are not limited to roller rink, rock/climbing gym, bowling alley, pool hall, movie theaters, arcade games.

Entertainment Establishment, Outdoors: An establishment that provides participant or spectator recreation to the general public that may include ancillary *uses* such as retail and *restaurants*, but excluding public *park* and recreation facilities. Entertainment *uses* typically includes but are not limited to typically go-cart track, batting cages, miniature golf, paintball course, drive-in theaters, and disc golf.

Environmental Buffer Area: An area of land alongside and/or surrounding a protected or conserved *environmentally sensitive feature* or *cultural resource* in which human activity is restricted to research and maintenance of the feature or resource in order to mitigate negative impacts of edge effects on the land or wildlife.

Environmental Inventory Plan: Development plan rooted in an integrated conservation design approach that identifies, locates, and inventories all the *environmentally sensitive feature(s)*, *cultural resource(s)*, and *environmental buffer area(s)* within and *adjacent* to a proposed development site.

Environmentally Sensitive Feature: Elements in the landscape that play a particularly large role in sustaining the natural environment and ecosystem and supporting wildlife and plant diversity, but at the same time are especially sensitive to degradation such as: *hillside development areas*; *habitat*; *protected native plants*; *significant rock outcroppings*; *significant stands of vegetation*; *ridgelines*; *steep slopes*; *water features*; and *wildlife corridors*. Includes the general term 'environmentally sensitive' and 'environmentally sensitive lands'

Equestrian Center: Commercial horse, donkey, and/or mule facilities including: horse *ranches*, boarding *stables*, riding schools and academies, and horse exhibition facilities. This land *use* includes barns, *stables*, corrals, and paddocks *accessory* and incidental to the above *uses*.

F

Factory-Built Building: A multi-sectional unit manufactured *off-site* in accordance with the Uniform Building Code (UBC) and/or International Building Code (IBC), as adopted by the City, that when joined together forms a *building* or *dwelling unit*.

Fairgrounds: A developed *use* including but not limited to: *agricultural* related *buildings*, animal shows and judging, carnivals, circuses, community meeting or recreational *buildings* and *uses*, concerts, food booths and stands, games, rides, rodeos, sales and auctions, that may include *recreational vehicle* overnight parking and camping areas.

Family: A group of people living together as a single housekeeping unit, within a single *dwelling unit* as distinguished from a group occupying a *hotel*, *motel*, *club*, dormitory, fraternity, sorority, lodging house or *nursing care institution*.

Farm: See *Agricultural operations*.

Farm Stand: An establishment only for the sale of fruits, vegetables, flowers, containerized house plants, eggs, honey, dates, nuts, and other *agricultural* food products that are grown and/or produced on-site.

Fence: An artificially constructed barrier of wood, stone, masonry, metal or combination of materials erected to *screen*, separate, protect, confine, or enclose; not including landscaping or other natural growth. The term *fence* shall include all *walls*, except those as part of *building*.

Fence Return: The portion of a *fence* parallel or approximately parallel to the front line that is between the *dwelling* and *side lot line*.

Fill: Soil, rock or other material, deposited at a location by man that raises the *grade* at that location.

Financial Assurance: A form of security including a cash deposit, 3rd party trust, an irrevocable letter of credit, of funds in escrow in an amount and form satisfactory to the City Attorney and meeting the requirements expressed elsewhere in this Ordinance and/or Surprise Municipal Code.

Fitness Club: Establishments that provides exercise facilities, including but not limited to running, jogging, aerobics, weight lifting, sports courts, and swimming, and may also include locker rooms, showers, massage rooms, saunas and related *accessory uses* (commonly known as *Athletic* or *Health Club*).

Fleet-Based Services: Passenger transportation services, local delivery services, medical transport, and other *businesses* that rely on fleets of 3 or more vehicles. This classification

includes parking, dispatching, and *offices* for *uses* such as but not limited to taxicab and limousine operations, ambulance services, non-emergency medical transport, local messenger and document delivery services, home cleaning services, and similar *businesses*. This classification does not include towing operations or taxi or delivery services with 2 or fewer fleet vehicles on-site.

Floodplain: Any land area susceptible to being inundated by water from any source. It may or may not include a *floodway*.

Floodway, One Hundred-Year: The channel of a river or other watercourse and the *adjacent* land areas which must be kept free of encroachment in order to carry and discharge the 100-year flood without substantial increases in flood height.

Freight Depot/Distribution Center: A location or facility for the receipt, transfer, short-term storage, and dispatching of goods transported by *truck* or rail. Included in the *use* type would be express or other mail and package distribution facilities, including such facilities operated by the U.S. Post Office and includes related administrative *offices*, fueling facilities, dispatch operations and loading facilities.

Frontage: That side of a *structure, building, or lot abutting* on a *right-of-way*.

Funeral Home/Mortuary: An establishment providing services such as preparing the human dead for burial and arranging and managing funerals, and may include limited caretaker facilities, excluding a *cemetery*, crematorium, and columbarium.

G

Gallery: A room or *structure* in which original works of art or limited editions of original art are bought, sold, loaned, appraised, or exhibited to the general public.

Garage: A *building* or portion thereof, designed for the storage of vehicles, boats, and/or trailers and is located on the same property as the *dwelling unit* it serves.

General Plan: The comprehensive plan pursuant to A.R.S. §9-461.05, providing for the future growth and improvement of the City of Surprise and for the general location of *streets, schools* and recreation areas, public *building* sites, and other physical development, and including any part of such plan separately adopted and any *amendment* to such plan, or parts thereof.

Grade: The surface of the ground, paving or sidewalk at any point *abutting* a *structure* or *fence/wall*.

Group Home: A single *dwelling unit* shared as their primary residence by handicapped and/or elderly *persons* living together as a single housekeeping unit in which staff *persons* provide on-site care, meals, supervision, and other support services for the residents. Group homes shall not include *assisted living facilities, nursing care facilities, shelter care facilities, recovery homes, correctional facilities*, or homes for the developmentally disabled as regulated by the Arizona Revised Statutes

H

Habitat: Land area that supports plant or animal species protected by the federal Endangered Species Act and/or other federal or Arizona laws or regulations.

Health Care Institution: An establishment that provides *personal care services* for health maintenance, diagnosis or treatment of human diseases, pain, injury, deformity, or physical condition.

Health Club: See *Fitness Club*.

Hillside: Those lands where the natural terrain has an average cross slope of ten percent (10%) or greater. However, a ten (10%) percent or greater slope, created by a natural wash on land that otherwise would not be classified as *hillside* land shall be exempt from the *hillside* regulations.

Home Occupation: A *business* activity conducted in whole or part and is clearly an *accessory* or incidental *use* and subordinate to a *dwelling unit*.

Hospital: An institution providing primary health services and medical or surgical care, primarily inpatient, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities providing such institution is operated by, or treatment is given, under direct supervision of a persons licensed to practice medicine by the State of Arizona.

Hotel or Motel: A *building* or portion thereof, or a group of *buildings*, in which lodging accommodations are provided and offered to transient guests for compensation and may not serve as a *dwelling unit* or a *person's* primary residence.

I

Impound Lot: A *lot* or *parcel* used for the storage of vehicles that have been towed.

Indoor Shooting/Archery Range: Any *building*, or portion therein, where there are facilities for the firing of handguns, rifles, other firearms, or arrows inside.

Ingress/Egress: The location of entry and exit to a *structure* or property.

Infill: New development which is placed within an existing and already developed site or area.

Integrated Conservation Design: A development concept that considers site characteristics, natural features, and layout in the larger context of the site and its surrounding *parcels*. *Integrated conservation design* is intended to preserve important and unique natural features such as *hillside development areas* and *steep slopes*, *wildlife corridors*, natural *habitat*, and *cultural resources* that are known and those that may be discovered on the site as well as conservation of community view corridors, and the required *open space* per the *zoning district*.

J

Junkyard: Any *lot* or *parcel*, *structure*, or *building* used in whole or in part for the storage, processing, reuse, resale, or disposal of personal property, but not including a landfill, transfer station, or other solid waste disposal site

K

Kennel: Any *lot* or premise with an enclosed, controlled area, inaccessible to other animals, in which a *person* keeps, harbors or maintains five or more dogs under controlled conditions; does not include *Animal Boarding Facility*, *Animal Hospitals and/or Clinics*, or *Animal Shelter*.

L

Laboratory: See *Research Facility*

Landscape Strip: The landscaped area between sidewalk and curb along a *public street*, parking lot, or driveway (commonly known as *Park Strip*).

Loading Area: The area separate from *drive aisles* or *parking spaces*, and is used for the receipt or distribution of material or merchandise by vehicles.

Lot: A single piece of property, including a *parcel* of land, shown in the records of the Maricopa County Assessor's Office, to be used pursuant to all City requirements for the development. For specific types of lots see definitions below and **Figures 101-2a**.

1. **Lot, Corner:** A lot at a junction of and fronting on two (2) or more intersecting *streets*.
2. **Lot, Flag:** A lot with *street frontage* limited to the width of the drive aisle so that the building envelope is back from the street behind another lot (commonly known as panhandle).
3. **Lot, Interior:** A lot other than a corner or *through lot*.
4. **Lot, Irregular:** Nonrectangular *lots*, *lots* with three sides or more than four sides, and other nonstandard *lots* that require special measurement techniques in order to achieve the purpose of setback requirements (commonly known as cul-de-sac, pie, reverse pie, and/or triangular).
5. **Lot, Key:** A lot where the *side lot line* abuts the *rear lot line* of a corner lot.
6. **Lot, Through:** A lot having *street frontage* on two (2) parallel or approximately parallel *streets* (commonly known as double *frontage*).

Lot Coverage: The percentage of the *lot* area covered by a *building* and/or other allowed roofed *structure* used for protection or shielding from the elements or weather.

Lot Depth: The distance between the *front lot line* and the *rear lot line* of a *lot* measured at the midpoint of and a right angle to the *front lot line*.

Lot Line: The boundary that sets the border of a *lot*. (commonly known as a property line). For specific application of specific *lot lines* see the definitions below and **Figures 101-2a**.

1. **Lot Line, Front:** The *lot line* separating the *lot* from the *right-of-way*. In the case of *corner lots*,
 - a. In the case of an interior lot or through lot, a line separating the lot from the street
 - b. In the case of a corner lot, the *front lot line* separating the narrowest street frontage of the lot from the street. For square, *corner lots*, the front shall be determined by Community Development Director or Designee.
 - c. In the case of *flag* lots, the *front lot line* shall be the line closest to perpendicular to the street on which the lot accesses, unless determined otherwise by the Community Development Director or Designee
 - d. In the case of irregular shape lots (see **Figure 101-2a**), the *front lot line* shall follow the right of way line
2. **Lot Line, Rear:** A *lot line* which is opposite and most distant from the *front lot line*. An irregular or triangular shaped *lot* may have more than one (1) rear lot line or a line ten feet in length within the *lot*, parallel to and at the maximum distance from the chord of front *lot line*.
3. **Lot Line, Side:** Any *lot line* that is not a front *lot line* or a rear *lot line*.

Lot Line Adjustment: A minor revision to *lot lines* between two (2) or more existing *lots*, tracts or *parcels* but is not dividing property.

Lot Width: The distance as measured in a straight line, between *side lot lines* as measured along the minimum *front setback*.

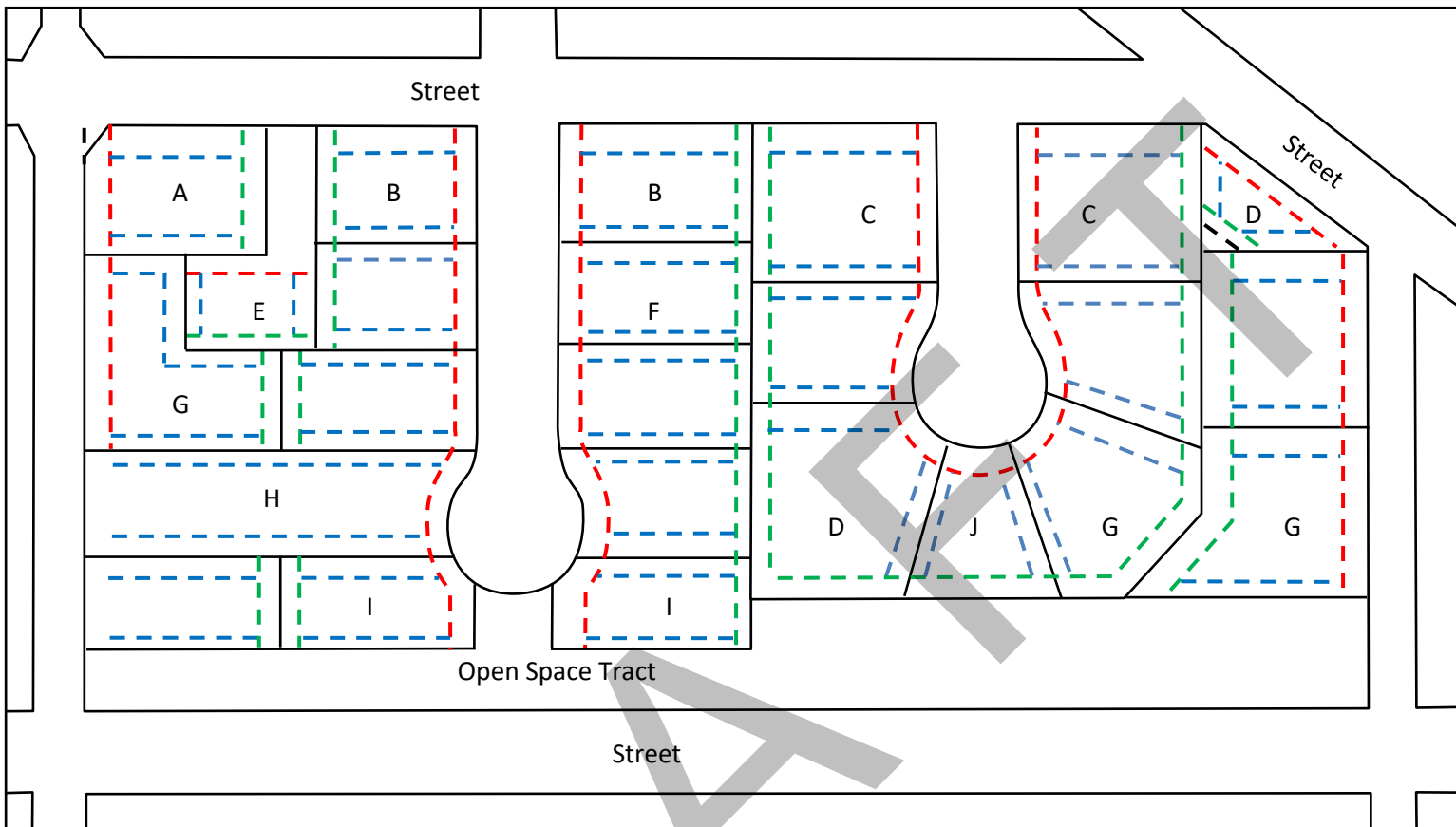


Figure 101-2a- Irregular Lots (not to scale)

A – Angular Corner	E – Flag Lot	I – Cul-de-sac/corner access	--- Artificial Lot Line
B – Corner Lots	F – Interior Lot	J – Irregular Lot	- - - Front Setback
C – Square Corner Lot	G – Multi-rear line		- - - Rear Setback
D – Triangle (No Rear Line)	H – Through Lot		- - - Side Setback

M

Manufactured Home: A residential *dwelling unit* built in accordance with and certified as a *manufactured home* under the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976, and the laws of the State of Arizona Office of Manufacture Housing.

Manufacturing: The creation of products either with machinery or by hand according to an organized plan and with a division of labor. Typical *manufacturing uses*, which may be conducted indoor or outdoor based on the *zoning district*, include but are not limited to general processing and fabrication of biotechnical, cabinet and carpentry, computers and electronics, food production, metal, paper, plastics and/or wood products.

Map of Dedication: A legal instrument prepared by a registered civil engineer and a registered land surveyor that may be used to dedicate *right-of-way*, drainage, flood control, utilities, emergency or service vehicle *access*, or other public uses; not to be used to create *lots*, *parcels*, or tracts owned, or to be owned, by any person not a public agency.

Medical Marijuana Dispensary: A not-for-profit entity defined in A.R.S. § 36-2801(11), that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells, dispenses, or otherwise provides medical marijuana or related supplies and educational materials to cardholders as defined in A.R.S. § 36-2801(2).

Medical Marijuana Dispensary Off-Site Cultivation Facility: An enclosed, locked facility where marijuana is cultivated by a *medical marijuana dispensary* as referenced in A.R.S. § 36-2804(B)(1)(b)(ii).

Medical Marijuana Infusion Facility: A facility that incorporates medical marijuana into consumable/edible goods by the means of cooking or blending.

Medical Office (Health Care Facility): A *building* or portion thereof that provides outpatient *personal care services* in the form of medical services, medical imaging and testing *clinics*, *nursing services*, behavioral health services, health *screening* services, other health-related services, *supervisory care services*, or directed care services; including but not limited to medical *offices*, walk-in *clinics*, outpatient surgical facility, outpatient facility, and urgent care. *Medical Office* excludes *hospitals*, trauma centers with ambulatory services, *laboratory* and research facilities, and all facilities for medical marijuana.

Microbrewery/Distillery/Winery: A *business* primarily devoted to the on-site producing and serving and consumption of alcoholic beverages licensed (Series 3, 13, and/or 18 licenses) by the proper State agencies and City departments where the service of food, retail sales, and providing of entertainment may be *ancillary*.

Minor Land Division: The division of improved or unimproved land or lands within the city for the purpose of financing, sale, or lease, whether immediate or future, into three (3) or less lots, tracts, or parcels of land with no public dedication of property.

Mixed Use: A *building* or *lot* that contains more than one (1) type of land *use* by integrating residential with non-residential *uses*, planned as a whole that functionally share vehicular and pedestrian *access* and *parking areas*.

Mining and Mineral Extraction: The extraction of sand, gravel or other material from the land in the amount of four hundred cubic yards (400 y³) or more and the removal thereof from the site.

Mobile Home: A residential *dwelling* that was fabricated or built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (effective June 15, 1976).

Mobile Vending: A *person* or entity that provides services or retail sales from within a vehicle, trailer, or stand that is intended to be temporary, or is capable of being moved from one (1) location to another.

Model Home: A *dwelling unit* used initially for display purposes which typifies the units that will be constructed in the subdivision and may incorporate sales or rental *offices* for the subdivision prior to residential occupancy.

Motel: Also known as a *hotel*.

Multimodal: Means of traveling within or through a community by a combination that includes buses, trolley, rail, bicycles, *pedestrian friendly* walkways and path and trail systems, and/or any other means in additional typical vehicular traffic.

N

New Construction: Structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in this chapter.

Nonconforming Lot: A *parcel* of land that does not conform to an established, such as but not limited to having minimum area or dimensions less than required in the district in which it is located.

Nonconforming Structures: A *structure*, or portion thereof that does not conform to an established district or district regulation applicable to where the *structure* is located.

Nonconforming Uses: A *land use* that does not conform to this Ordinance or *General Plan* provisions that govern the land.

Noxious Matter: Material capable of causing injury to living organisms by chemical reaction or capable of causing detrimental effects on the physical or economic well-being of individuals.

Nursing Care Facility: A *residential care institution* provides inpatient beds or resident beds and *nursing services* to *persons* who need continuous *nursing services* but who do not require a *hospital* or direct daily treatment from a physician. (commonly known as *nursing home*)

Nursing Services: Those services that pertain to the curative, restorative, and preventive aspects of treatment and care that are performed at the direction of a physician by or under the supervision of a registered nurse licensed in this state.

O

Off-Site: Any *structure* or *use* located outside the property of the *primary uses*.

Office: A *building*, or portion thereof, used for conducting the affairs of a *business*, profession, service industry, or government and internal storage of supplies customary and incidental to the *use*.

Open Space: Land and/or water areas, improved or unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment as active and passive recreational areas or for environmental, scenic, stormwater management, or conservation purposes.

Open Space, Active: Land and water areas specifically designed as an activity-based recreational area to include but not limited to boating, water sports, sports fields, golf courses, local and community *parks* having picnic, playground, recreational and support components and pedestrian, hiking, bicycle and equestrian trails.

Open Space, Passive: Land and water areas that are either partially improved, undeveloped or in a natural state that are intended for scenic, environmental, conservation, and/or resource protection; and include but not limited to such resource-based activities as nature study, nature trails, and any other activities requiring a natural condition that cannot easily be duplicated by human actions.

Ordinance: Any legislative action of a local government, which has the force of law, including any *amendment* or repeal of any ordinance.

Original Lot: Any existing *lot, parcel*, tract of land or combination thereof identified in the official records of the Maricopa County Recorder as of the annexation of the property into the corporate limits of the city or on December 24, 1986, whichever is later.

Outdoor Lighting: Artificial illuminating device that includes the complete lighting unit of a *lamp* or *lamps* and ballast(s) (when applicable) together with the parts designed to distribute the light, to position and protect the *lamps*, and to connect the *lamps* to the power supply; whether permanent or portable, a device used for illumination or advertisement including, but are not limited to, search, spot or flood lights for *buildings* and *structures*, recreational areas, parking *lot* lighting, landscape lighting, *signage* and *street* lighting..

1. **Adaptive CONTROLS:** Devices such as motion sensors, timers and dimmers used in concert with *outdoor lighting* equipment to vary the intensity or duration of operation of lighting.
2. **Ambient Light Level:** The general overall level of background lighting in an area.
3. **Bulb or Lamp:** The source of electric light; to be distinguished from the whole assembly (see luminaire). *Lamp* often is used to denote the bulb and its housing.
4. **Cut-Off Angle of a Luminaire:** The angle, measured up from the nadir (i.e. straight down), between the vertical axis and the first line of sight at which the bare source (the bulb or *lamp*) is not visible.
5. **Direct Illumination:** Illumination resulting from light emitted directly from a *lamp* or *luminaire*, not light diffused through translucent *signs* or reflected from other surfaces (such as the ground, *building* faces, or artistic *structure*).
6. **Fixture:** The assembly that holds the *lamp* in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

7. **Floodlight:** A *fixture* designed to “flood” a well-defined area with light.
8. **Full Cut-Off:** Attribute of a *luminaire* from which no light is emitted by the *fixture*, either directly from the *lamp* or indirectly from the *fixture*, at or above a horizontal plane drawn through the highest light-emitting portion of the *luminaire* and no more than 10% of the *lamp*’s intensity is emitted at or above an angle 10° below that horizontal plane, at all lateral angles around the *luminaire*. A *full cut-off luminaire*, by definition, also is “fully shielded.”
9. **Fully Shielded Luminaire:** A *luminaire* constructed and installed in such a manner that all light emitted by the *luminaire*, either directly from the *lamp* or a diffusing element, or indirectly by reflection or refraction from any part of the *luminaire*, is projected below the horizontal plane through the *luminaire*’s lowest light-emitting part.
10. **HID Lamp:** In a discharge *lamp*, the emitted energy (light) is produced by the passage of an electric current through a gas. High-intensity discharge (HID) include *metal halide* and high-pressure sodium *lamps*. Other discharge *lamps* are low pressure sodium (LPS) and fluorescent. Some such *lamps* have internal coatings to convert some of the ultraviolet energy emitted by the gas discharge into visual output.
11. **High Pressure Sodium (HPS) Lamp:** A *HID lamp* where radiation is produced as a “point source” from sodium vapor at relatively high partial pressures (100 torr) commonly used in *street* lighting; emits an amber color.
12. **LED:** Light emitting diode.
13. **Light Spill:** Unwanted spillage of light onto *adjacent* areas and may affect sensitive receptors particularly residential properties and ecological sites.
14. **Light Trespass:** Excessive light that spills onto *adjacent* property, typically produced by stray light coming from *street* lighting *fixtures*, illuminated *signage* and other *outdoor lighting* sources.
15. **Low-Pressure Sodium (LPS) Lamp:** A *HID lamp* where the light is produced as a “tube source” by radiation from sodium vapor at a relatively low partial pressure (about 0.001 torr) commonly used in *street* lighting; emits a monochromatic light.
16. **Lumen:** A measurement of the total amount of ambient light emitted by a source.
17. **Metal Halide Lamp:** An *HID lamp* where the light source is produced by radiation from metal-halide vapors commonly used for *street* lighting; emits a good quality white light.
18. **Nit:** The industry standard for measuring the specific light intensity (brightness) of Electronic Messaging Center (EMC) *signs* or one (1) candela per square meter.
19. **Partially Shielded:** *Fixtures* that are shielded in such a manner that the bottom edge of the shield is below the plane of the center line of the *lamp* reducing light above the horizontal.

- 20. **Photometry:** The quantitative measurement of light level and distribution.
- 21. **Shield:** An opaque material permanently installed and/or attached that blocks the transmission or emission of light as a means of controlling or directing the light emitted from an *outdoor lighting fixture* to provide for *full cut-off* photometric performance.
- 22. **Spotlight:** A *fixture* designed to light only a small, well-defined area.
- 23. **Stray Light:** Emitted light that falls away from the area where it is needed or wanted (see also *Light trespass*).
- 24. **Temporary Lighting:** Lighting that is intended for uses that, by their nature are of limited duration, e.g. holiday decorations, civic events or construction projects.
- 25. **Wallpack:** A *luminaire*, typically affixed to the side of a *structure*, used for area lighting or security lighting.

Out Parcel: See *Pad site*.

Outdoor Display Area: Any land *used* or occupied for the display of sample goods, materials, or merchandise outside.

Outdoor Sales Area: Any land *used* or occupied for viewing by and direct access for customer of any goods, materials, or merchandise for purpose of retail or wholesale buying, selling, or renting.

Outdoor Storage/Use: Any land *used* or occupied for the storage goods, materials, or merchandise outside or conducting any *use* outside.

Owner: Any person, group of *persons*, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be *subdivided* under this Ordinance.

P

Pad Site: A freestanding *lot* located within a larger development and typically requires shared vehicle *access* from the *street* and coordinated architectural and site design elements (commonly known as *Out Parcel*).

Parapet: That part of any wall extending above the roof line that generally runs around the perimeter of a flat roof *building* at the roofline.

Parcel: Any legally described *lot* created by a partition, subdivision, deed, or other instrument recorded with the appropriate recorder.

Parcel Assemblage: A combination of land within the city which results in the assemblage of improved or unimproved land for the purpose of financing, sale, or lease, whether immediate or

future, from three (3) or less *lots*, tracts, or *parcels* of land with no public dedication of property, into a single property.

Park and Ride: An *off-street parking* facility designed or intended to provide peripheral collection and storage of vehicles to accommodate transit centers where *persons* then board a train, bus, or other multi passenger mode of transportation.

Park: Any public or private land available for recreational, educational, cultural, or aesthetic *uses*, including but not limited to fountains, playground, public art, outdoor amphitheater and performance pad, splash pad, sport courts/fields, and non-commercial disc golf.

Parking Area: Any land area containing one (1) or more *parking space*.

Parking Bay: A paved *parking area* used for *alleys* or on-street parking on local residential *streets*; typically bound by *traffic calming* devices such as bulb outs, chicanes, or curb extensions.

Parking Space: Any land area designated and used for parking of one (1) motor vehicle.

Parking, Off-Street: A *parking space* or *area* on a property that is not in the *right-of-way* or an *alley*.

Parking Structure: Any *structure*, except those defined herein as a *garage*, used for the storage of motor vehicles.

Party Wall: See *common wall*.

Pedestrian Friendly: An environment in which conflict between the automobile and pedestrian is minimized or eliminated through the provision of a comprehensive means of vehicular-separated pedestrian travel that is fast, attractive and comfortable for a wide range of age and abilities groups; and by the design of *buildings* and other *uses* in a manner that is sensitive to the needs of the pedestrian.

Perimeter Street: Any *street* that *abuts* an existing development or the land to be *subdivided*.

Personal Care Services: Assistance with activities of daily living that can be performed by *persons* without professional skills or professional training and includes the coordination or provision of intermittent *nursing services* and the administration of medications and treatments by a nurse who is licensed pursuant to A.R.S. Title 32, Chapter 15 or as otherwise provided by law.

Personal Services: *Businesses* offering non-medical services directly to the customer that may include customary and incidental retail sales, including but not limited to barber shops, beauty shops, nail salons, and tailors.

Persons: Includes any individual or group of individuals, corporations, partnerships, associations, or any other organized group of *persons*, including state and local governments and agencies thereof.

Place of Assembly: A *building* or a portion of a *building* used for people to gather for regularly scheduled programming, including, but not limited to, dance halls, public meeting halls, conference center meeting and exhibit rooms, indoor auction houses, and live action theaters.

Place of Worship: Any *building* or portion thereof, *used* for nonprofit purposes by an established religious organization where such *building* is primarily intended to be *used* for worship. The term includes, but is not necessarily limited to, church, temple, synagogue, and mosque.

Plant Nursery: The *use* of land, *buildings*, or *structures* for the growth, *outdoor display areas*, and/or *outdoor sales area* of flowers, plants, shrubs, trees and may include the sale of commonly used materials such as containers and fountains, soil, rock, bark, or mulch materials.

Plat: A map, survey, plan or *replat* certified by a licensed, registered land survey containing a description of the *subdivided* land with ties to permanent monuments that provides for changes in land *use* or *ownership*.

1. **Final Plat:** A final map of a subdivision, including supporting data, in substantial conformance to an approved *preliminary plat* and all conditions placed upon it by the City Council, prepared by a registered land surveyor, in accordance with this Ordinance and the Arizona Revised Statutes.
2. **Preliminary Plat:** An initial map, including supporting data, recommended by the Planning and Zoning Commission and approved by the City Council, indicating a proposed subdivision design, prepared by a registered civil engineer and a registered land surveyor, in accordance with this Ordinance and the Arizona Revised Statutes. A preliminary *site plan* for a condominium development shall be considered a *preliminary plat*.
3. **Recorded Plat:** A *final plat* bearing all of the certificates of approval required by this Ordinance and the Arizona Revised Statutes and duly recorded in the Maricopa County Recorder's Office.
4. **Replat:** A *plat* for the purpose of reverting previously *subdivided* acreage to *unsubdivided* acreage, or; for the purpose of vacating *rights-of-way* previously dedicated to the public and *abandoned* under procedures prescribed by the City Code, or; for the purpose of vacating or re-describing *lot* or *parcel* boundaries previously recorded.

Portable Storage Container: A device in the shape of a rectangular solid; constructed of metal, consisting of four (4) vertical walls, a floor and a ceiling and in which at least one (1) vertical end is designed as a door and not permanently affixed to the ground. Portable storage containers include devices initially designed to facilitate the shipping of containerized cargo and constructed entirely of steel in a manner consistent with ISO 6346, and are being reused to facilitate secure storage, but not designed as a *building* or habitable space as defined in the City of Surprise *Building Code* unless converted through the permit process.

Printing Plant: A commercial printing operation involving a process that is considered printing, imprinting, reproducing, or duplicating images and using printing methods including but not limited to offset printing, lithography, web offset, flexographic, and *screen* process printing.

Property Line: see *lot line*

Protected Development Right: The right to undertake and complete the development and *use* of property under the terms and conditions of a Protected Development Right Plan, without compliance with subsequent changes in *zoning* regulations and development standards during the term of the Protected Development Right, except as provided by A.R.S. §9-1204.

Protected Development Right Plan: A development plan identified as a Protected Development Right Plan at the time of the *Landowner's* submission that, if approved by the Council, grants to the *Landowner* a Protected Development Right to undertake and complete development and *use* of the property as shown thereon for a specified period of time.

Protected Native Plants: Those species of plants that are native to Arizona which are to be conserved and protected due to their value as *habitat* as specifically listed in Chapter 104; Table 104-2a of this Ordinance.

Public: Having two definitions:

1. Resources, conveniences, facilities, or similar that is open to, enjoyed and *used* by, and/or maintained for the general public
2. Anything owned or operated by the federal government, state government, or any political subdivision.

Public Facility: Any facility, including, but not limited to *structures, buildings*, property, recreation areas, *civic uses*, and *streets*, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity or a private organization that contributes to the municipal infrastructure system.

Public Feature: Any resources, conveniences, facilities or benefits continuously offered to the general public for their *use* and/or enjoyment, with or without charge (e.g., restrooms, information displays, public telephones, rain shelters, drinking fountains, etc.)

Public Improvement: Any drainage ditch, *right-of-way*, sidewalk, pedestrian way, tree, lawn, *off-street parking area*, or other facility for which the City of Surprise may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement where the responsibility rests with the City of Surprise.

Q

Qualifying Commercial and/or Industrial Developments: New or expanding developments that are legally established and in conformance with the regulations of this Ordinance that will occupy vacant in-fill *parcels* or replace dilapidated *buildings*.

R

Ranch: A *Lot*, or portion thereof, designed and *used* for the breeding and raising of horses and large *agricultural animals*; but not an *agricultural operation*.

Recovery Residence (commonly known as Sober Living, Addiction Recovery Homes): A residential setting that provides alcohol-free or drug-free housing for *persons* who need or find benefit in a supervised living environment that provides *structure* and some level of guidance, behavioral health services, and in-house recovery programs.

Recreational Vehicle (RV): A vehicular type portable *structure*, which can be towed, hauled or driven, primarily designed as temporary living accommodation for recreational, camping, and travel use and not designed for permanent residential or commercial purposes that: contains its own motive power, or drawn by another vehicle or is mounted on another vehicle.

Recreational Vehicle (RV), Park Model: A *Recreational vehicle* built on a single chassis, mounted on wheels, has a gross trailer area not exceeding 400 square feet in the set-up mode, and is certified by the manufacturer as complying with the ANSI A119.5 standards for recreational *park* trailer.

Recreational Vehicle (RV) Park: An integrated land-lease development, in accordance with the provisions of this Ordinance, where *recreational vehicles* are used for temporary living or vacation purposes.

Recycling Collection Facility: A *lot* or *structure*, or portions thereof, where the public may donate, redeem, or sell recyclable materials with limited processing activities.

Recycling Processing: Baling, briquetting, cleaning, compacting, crushing, flattening, grinding, mechanical sorting, *remanufacturing*, shredding, and/or preparation for shipment of recyclable materials.

Recycling Processing Facility: A *structure* or enclosed space *used* for the collection and processing of recyclable materials for shipment.

Recycling Reverse Vending Machines: An automated mechanical device which accepts at least one (1) or more type of empty beverage containers including, but not limited to aluminum cans, glass and plastic bottles, and issues a cash refund or a redeemable credit slip.

Repair Service Establishment: An establishment primarily engaged in repairing for household appliances and other personal property including, but not limited to, shoe, jewelry, computers, cellphones, and watch; excluding automotive or heavy equipment.

Research Facility: A *building*, or portion thereof, that is *used* for research, development, and/or testing laboratories that shall not violate any odor, dust, smoke, gas, noise, radiation, vibration, or similar pollution standard as specified herein, excluding mass fabrication, or any *manufacturing*, processing, or sale of products. (commonly known as *Laboratory*)

Residential Care Institution: A *health care institution* other than a *hospital* that provides resident beds or residential units, *supervisory care services*, *personal care services*, behavioral health services, directed care services or health-related services for *persons* who do not need continuous *nursing services*.

Restaurant: A commercial establishment where food and beverages are primarily prepared, served, and/or consumed on the premises.

Restaurant, Convenience/Take Out: A small scale *restaurant* which primarily utilizes window and/or counter service allowing customers to pick up food for on or off-premise consumption. Typical establishments include but not limited to coffee, juices, or sodas shops, bagel or donut eatery, or lunch cafes.

Retention: A stormwater storage facility that stores surface runoff.

Ridgelines: Prominent topographic features connecting a series of major and minor hills, peaks or mountains; often used by raptors to orient, nest and/or catch thermals while migrating.

Right-of-Way (ROW): A designated or otherwise legally established strip of land occupied or intended to be occupied by a *street*, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, trees, or for another special *use*.

Roadway: That portion of a *street* or *alley right-of-way* that is improved and intended for driving or parking.

S

School: An institution providing regular academic instruction traditionally associated with a program of study at the primary, secondary, and tertiary levels equivalent to or greater than standards prescribed by the State Board of Education or the State Board of Regents.

School, Vocational: *Schools* offering instruction in the technical, commercial or trade skills, such as real estate *schools*, *business* colleges, electronic *schools*, automotive and aircraft technician *schools* and similar commercial establishments.

Screening: A solid or nearly solid barrier (i.e., *wall*, *fence*, landscaping) constructed or installed for the purpose of visual separation to shield, protect or obscure.

Self-Storage Facility: A property *building used* for renting or leasing individual storage spaces in which the renters or lessees customarily store and remove their own personal property on a self-service basis. Front *office* may include *ancillary* retail sales.

Semipublic: Resources, conveniences, facilities, or similar that is open to, enjoyed and *used* by, and/or maintained for the authorized members; such as residents using a neighborhood or community association facility, guests within the lodgings such as *hotels/motels*, or members of a *fitness club*.

Sensitive Lands: Land that encompasses wildlife *habitats* and corridors, wash corridors that replenish local groundwater, *archaeological resource* sites, unique plant environments, and scenic vistas.

Service Call Establishment: An establishment that provides *off-site* professional services at the customer's location dispatched from the *business' office* or *home occupation* location, such as but not limited to pest control, catering services, electrician, *personal services*, or plumbing.

Setback: The minimum distance by which any *structure* must be separated from *right-of-way* or *lot line*. For specific application of specific *setbacks* see the definitions below and **Figures 101-2c**.

1. **Setback, Front:** The minimum *setback* line parallel to the *Front Lot line*.
 - a. In the case of an interior lot or through lot, the *front setback* shall follow the *front lot line*
 - b. In the case of a corner lot with a curved or angular ROW line, the *front setback* may extend along an extending artificial *front lot line* in an attempt to make a rectangular *lot*.
 - c. In the case of *flag* lots, the *front lot line* shall be the line closest to perpendicular to the street on which the lot accesses, unless determined otherwise by the director
 - d. In the case of irregular shape lots (see **Figure 101-2a**), the *front lot line* shall follow the right of way line
 - e. In the case of cul-de-sac and corner access lots, the *front setback* shall extend along the shortest, abutting lot line.
2. **Setback, Rear:** The minimum *setback* line parallel to the *Rear lot line*.
3. **Setback, Side:** The minimum *setback* line parallel to any *Side lot line* between the *front* and *rear setbacks*.
4. **Setback, Street Side:** The minimum *setback* line parallel to the *Side lot line* that *abuts* a *right-of-way* between the *front* and *rear setbacks*.

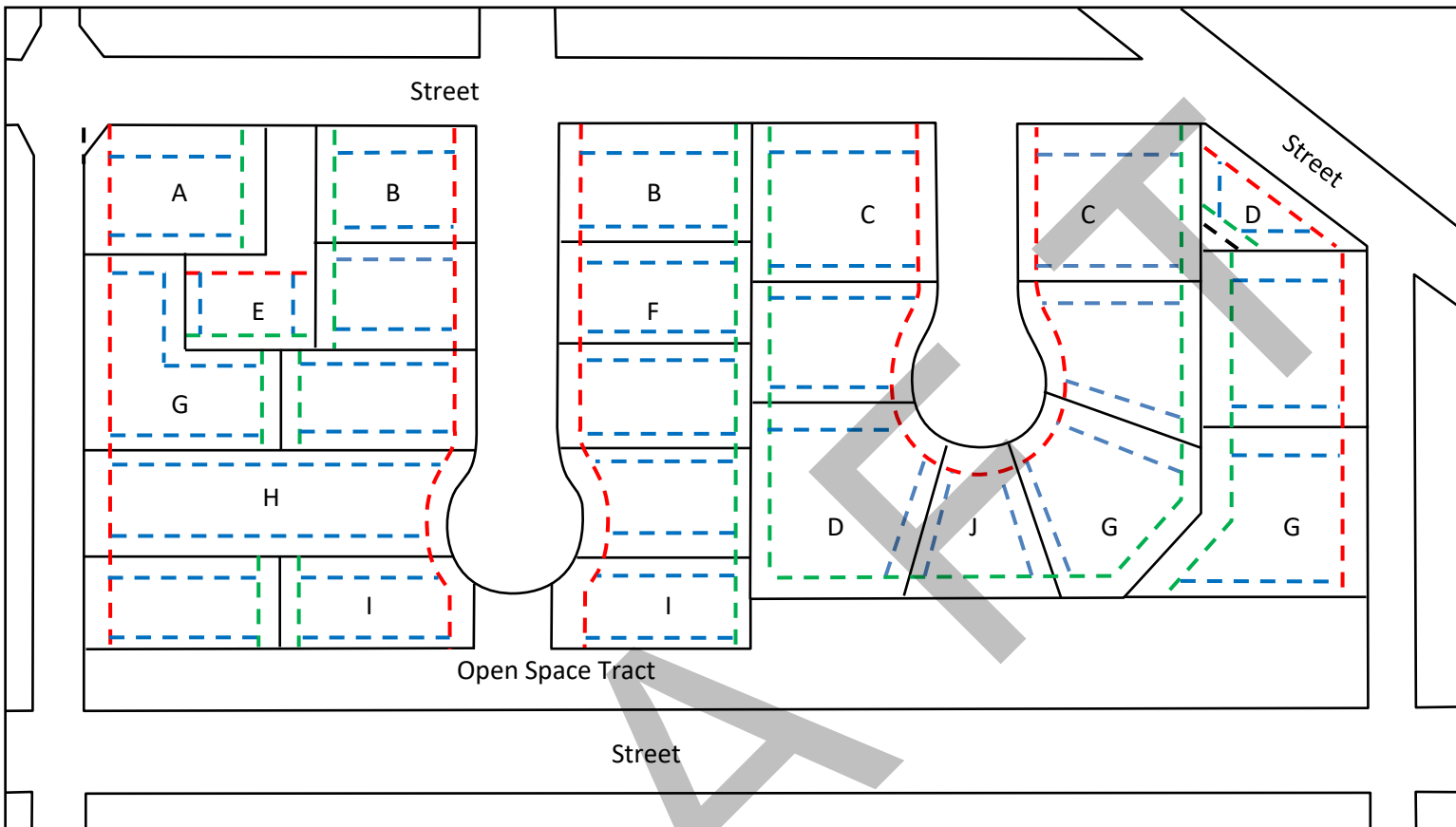


Figure 101-2a - Irregular Lots (not to scale)

A – Angular Corner	E – Flag Lot	I – Cul-de-sac/corner access	--- Artificial Lot Line
B – Corner Lots	F – Interior Lot	J – Irregular Lot	- - - Front Setback
C – Square Corner Lot	G – Multi-rear line		- - - Rear Setback
D – Triangle (No Rear Line)	H – Through Lot		- - - Side Setback

Sewer: Any sewer line owned and maintained by the city, whether or not installed by the city.

Sewer System: Any sewer system, whether treatment plant, septic tank or lagoon, designed with a sewer collection system to be used by a legally constituted association of property owners. The system may or may not be a public system.

Sexually Oriented Business: This term is synonymous with “adult oriented business” and means an adult arcade, adult bookstore, adult cabaret, adult motel, adult novelty store, adult theater, adult motion picture theater, adult video store, escort agency, nude model studio, or sexual encounter center.

1. **Adult Arcade:** Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration or electronically, electrically, or mechanically controlled still or motion picture machines, projectors,

video or laser disc players, or other image-producing devices are regularly maintained to show images to five or fewer *persons* per machine at any one (1) time, and where the images so displayed are distinguished or characterized by their emphasis upon matters depicting, describing or exhibiting *specified sexual activities* or *specified anatomical areas*.

2. **Adult Bookstore, Adult Novelty Store or Adult Video Store:** A commercial establishment that has as a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior *business* or advertising, or maintains a substantial section of its sales or display space for sale or rental for any form of consideration any of the following:
 - a. Books, magazines, periodicals or other printed matter, or photographs, films, computer simulations, holograms, motion pictures, video reproductions, compact discs, slides, or other visual representations, which are characterized by their emphasis upon the depiction, description, exhibition or display of *specified sexual activities* or *specified anatomical areas*; or
 - b. Instruments, devices, or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of the user or others.
3. **Adult Cabaret:** A *nightclub, bar, restaurant*, or similar commercial establishment that regularly features:
 - a. *Persons* who appear in a state of nudity or semi-nude; or
 - b. Live performances that are characterized by the exposure of *specified anatomical areas* or by *specified sexual activities*; or
 - c. Films, motion pictures, computer simulations, holograms, video cassettes, slides, or other photographic reproductions, which are characterized by the depiction, description, exhibition or display of *specified sexual activities* or *specified anatomical areas*.
4. **Adult Motel:** A *hotel, motel*, or similar commercial establishment that:
 - a. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, computer simulations, holograms, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction, description, exhibition or display of *specified sexual activities* or *specified anatomical areas*; and has a sign visible from the public *right-of-way* that advertises the availability of this adult type of photographic reproductions; and, either
 - b. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

- c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
5. **Adult Motion Picture Theater:** A commercial establishment where, for any form of consideration, films, holograms, computer simulations, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown that are characterized by the depiction or description of *specified sexual activities* or *specified anatomical areas*.
6. **Adult Theater:** A theater, concert hall, auditorium, or similar commercial establishment that regularly features *persons* who appear nude or semi-nude, or in live performances characterized by the exposure of *specified anatomical areas* or by *specified sexual activities*.
7. **Adult Video Store:** See *Adult Bookstore*, *Adult Novelty Store* or *Adult Store*.
8. **Escort:** A person who, for consideration, and for another person, agrees or offers to act as a companion, guide, date or to privately model lingerie or to privately perform a striptease.
9. **Escort Agency:** A person or business establishment that furnishes offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.
10. **Nude, Nudity** or a **State of Nudity:** The showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.
11. **Nude Model Studio:** Any place where a person (or persons) who appears semi-nude, in a state of nudity or displays “specified anatomical areas” and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. A nude model studio does not mean a modeling class, or the facility for such class, operated:
 - a. By a proprietary school licensed by the State of Arizona; a college, junior college, or university supported entirely or partly by taxation;
 - b. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.
 - c. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing.
12. **Semi-Nude** or in a **Semi-Nude Condition:** The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human

female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed in whole or in part.

13. **Sexual Encounter Center:** A *business* or commercial enterprise that, as one (1) of its principal *business* purposes, offers for any form of consideration: a place where two (2) or more *persons* may congregate, associate, or consort for the purpose of *specified sexual activities*. The definition of sexual encounter center or any *sexually oriented businesses* shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.
14. **Specified Anatomical Areas:** Human genitals in a state of sexual arousal.
 - a. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
 - b. Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.
15. **Specified Sexual Activities:** Any of the following:
 - a. The fondling or other erotic touching of human genitals, pubic region, anus, or female breasts;
 - b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
 - c. Excretory functions as part of, or in connection with, any of the activities set forth in subdivisions (1) through (2) above.

Shared Parking and Loading: Two (2) or more land *uses* (such as a retail store, *office*, *restaurant*, or other similar *user*) using the same, undivided *parking area* and *loading areas* rather than each designed with their own.

Shelter Care Facility: A *residential care institution* where short-term services including, but not limited to, temporary lodging, meals, and counseling, are provided to individuals and groups such as the homeless, pregnant teenagers, victims of domestic violence, neglected children,

Showroom/Sales Office: A *building* or portion thereof where merchandise is exhibited or where samples are displayed and the sale of services and related products are conducted, excluding storage of retail goods or service merchandise. Typical *uses* include but are not limited to flooring, decor, remodeling services, and other contractors. *Showrooms/sales offices* may be *ancillary* within another *use* or as a *primary use*.

Sign and/or Signage: See Chapter 108 for all definitions related to *signs* and/or *signage*.

Significant Rock Outcroppings: Any surface rock formation having an area of 500 square feet or larger or any surface rock formation having a height greater than ten (10) feet from the surrounding *grade*.

Significant Stand of Vegetation: A single native or protected tree or cactus that is of a height greater than 25 feet, or three (3) or more trees or cacti located within a radius of fifteen (15) feet from each other each having a height greater than eighteen (18) feet.

Site Plan: A drawing showing the accurate location of all *structures, streets, alleys, and parking areas* existing and proposed on subject property or any other information as may be required by the City of Surprise Procedural Manual.

Small Subdivision: The division of land within the City which results in improved or unimproved land or lands for the purpose of financing, sale, or lease, whether immediate or future, consisting of four (4) to ten (10) *lots, tracts, or parcels* of land with all *lots* complying with the size requirements of the *zoning district* within which they are located.

Stable: A *lot* or *buildings, corals, pens and other ancillary features* uses that may also include boarding of horses and limited livestock, breeding or training programs, or arenas; private *stables* are for use of the *owner* or occupant of the *lot* and commercial *stables* are where horses are kept for remuneration, hire or sale.

Steep Slopes: Unimproved land, *parcel*, or tract of land, where the existing natural terrain has an average cross-slope of fifteen (15%) percent or greater and where the natural state of such should be left undeveloped and conserved as *open space*.

Street: A general term used to describe a paved *right-of-way*, municipally or privately owned, serving as a means of travel, usually affording the principal means of *access* to *abutting* property.

1. **Street, Arterial (major and minor):** *Streets* designed to carry large amounts of traffic across or through the city and designated as such by the *Surprise General Plan*.
2. **Street, Collector:** A *street* connecting local residential *streets* to each other, to community facilities and to *arterial streets*.
3. **Street, Dead-End:** A *street* or a portion of a *street* with only one (1) vehicular-traffic outlet.
4. **Street, Local:** A *street* intended to serve and provide *access* exclusively to the properties *abutting* thereon, and not connecting with other *streets* in such a manner as to encourage through traffic.
4. **Street, Private:** Any *street* that is not dedicated to the public and is to be maintained by a private entity.
5. **Street, Public:** Any *street* which has been dedicated or is otherwise publicly owned by the city.
6. **Street, Service:** A *street* running parallel to a freeway, expressway or other *roadway*, and serving *abutting* properties. (commonly known as frontage road)

Streetscape: A design term referring to all the elements between the *buildings* on either side of the *street* that, as a group, define the general appearance of a *block* or group of *blocks* with respect to the *structures, setbacks* from *rights-of-way, open space, landscaping, public art,*

lighting, *signage*, paving materials, *street furnishings* and other elements that contribute to the overall character and image of a city *block*.

Street Frontage: Any *lot line* separating a *parcel* from a *street*.

Street Furnishings: All items that are placed within or *abutting* the public *right-of-way* for both an aesthetic and functional purpose, including, but not necessarily limited to, benches, bus shelters, trash receptacles, plant containers, kiosk *signs*, *lighting fixtures*, tree grates and guards, bicycle racks, bollards, fountains and public art.

Structural Alteration: Any change in the supporting members of a *building*, such as bearing walls or partitions, columns, beams or girders, or any change in the exterior walls or the roof.

Structure: Anything constructed or erected with a permanently secured location on the ground or attached to something having a permanently secured location on the ground.

Substantial Improvement: Any repair, reconstruction, or improvement of a *structure*, excluding those solely necessary to assure safe living conditions or any *alteration* of a *structure* listed on the National Register of Historic Places, the cost of which equals or exceeds 50 percent of the market value of the *structure* either:

1. Before the improvement is started; or
2. If the *structure* has been damaged and is being restored, the value before the damage occurred.

Subdivide: The act of dividing land into two (2) or more parts by *platting*, or by metes and bounds description, into tracts of less than 36 acres for the purpose of sale, lease, *building* purposes, or subdivision.

Subdivider: The individual, firm, corporation, or partnership, association, limited liability company, syndicate, trust or other legal entity that files the application and initiates proceedings for the subdivision of land in accordance with the provisions of this Ordinance and statutes of the State of Arizona; except that an individual serving as representative for such legal entity is not a *developer*; and said *developer* need not be the *owner* of the property as defined by this Ordinance. The City Council may itself prepare or have prepared a *plat* for the subdivision of land under municipal *ownership*. (see also *Developer*)

Subdivision: Improved or unimproved land or lands divided for the purpose of financing, sale, lease, or conveyance whether immediate or future; excluding *minor land divisions*

Supervisory Care Services: General supervision, including daily awareness of resident functioning and continuing needs the ability to intervene in a crisis, and assistance in the self-administration of prescribed medications.

T

Temporary Improvement: Improvements built and maintained by a *subdivider* during construction of the subdivision and prior to release of the performance bond.

Temporary Use Permit (TUP): A *use* permit required for activities that may be appropriate on an interim basis without requiring full compliance with the development standards of the *zoning use* district in which the property is located or by which the city may permit seasonal or transient *uses* not otherwise permitted.

Townhouse: A type of residential *dwelling* that is often, but not necessarily, an attached product type (see also *dwelling*).

Traffic Calming: A technique or method of reducing traffic speeds and/or neighborhood cut-through traffic volumes that utilizes changes in *street* alignment, installation of barriers, and other physical measures.

Triplex: See *Three-family Dwelling*.

Truck: A vehicle weighing 18,000 or more pounds, or a combination of vehicles weighing in excess of 26,000 pounds, or a box *truck* or semi-trailer cab.

U

Urban Development: any land developed in an industrial, retail commercial, office/institutional/civic/public use, and/or residential development having an overall minimum density of one dwelling unit per gross acre or greater

Use: The employment or occupation of a *building*, *structure*, or land for a *person's* service, benefit, or enjoyment.

1. **Use, Permitted:** A *use* which has a lawfully established right in a particular district or districts or has been granted legal authorization, such as but not limited to a *Conditional use Permit (CUP)*, and which conforms to all requirements, regulations, and performance standards of such district(s).
2. **Use, Primary:** A land *use* that is the predominant, principal, or major *use* of the *lot* on which it is located.
3. **Use, Temporary:** A *use* established for a fixed period of time with the intent to discontinue such *use* upon the expiration of the time period as regulated by this Ordinance.

Utility, Public: Any agency under public franchise or *ownership*, or under certificate of convenience and necessity that provides the public with electric, gas, heat, communication, rail transportation, water, sewage collection, or other similar service.

Utility Services: Service to the public of water, *sewer*, electric, gas, communications, cable television, drainage, flood control, or other facilities, owned and operated by any person, firm, corporation, municipal department or board, duly authorized by State or Municipal regulations.

The foregoing shall be deemed to include facilities and appurtenances to the above uses but shall not include *public utility* treatment and generating plants or *offices*.

V

Variance: A modification or variation of the development standards in Chapter 106 of the LDO as applied to a specific piece of property. Dimensional *Variances* only may be allowed; no *Variance* regarding *use* of property shall be permitted; no *Variance* decreasing *lot* area requirements shall be allowed.

Vehicle Fueling Station: A convenience *use* having pumps and storage tanks or other facilities from which gasoline, diesel or *alternative* fuels are dispensed into motor vehicles. (commonly known as *gas stations* or *fueling stations*)

Vehicle Sales and Leasing: The *use* of any *building*, land area, or other premises with *display and sales areas* of new or used automobiles, *trucks*, trailers, or *recreational vehicles* and including any warranty repair work and other *repair service* conducted as an *accessory use*.

Vehicle Service, Major Repair: The *alteration*, rebuilding, reconditioning, upholstery, and collision service, including body, frame, or fender repair or painting of vehicles.

Vehicle Service, Minor Repair: Servicing of motor vehicles including tire repair, battery changing, engine rebuilding and transmission repair, storage of merchandise and supplies related to the servicing of motor vehicles, sale of lubricants, automobile washing and lubrication but not including any operation specified under "*Vehicle service, major repair*".

View Fence: A *fence* that is constructed in a manner that allows for a clear view of an area beyond the *fence* from any angle.

Visibility Triangle: The area at the intersection of *streets* in which a motorist's view must remain free from any visual obstruction.

W

Wall: A *fence* made of a solid material such as CMU block, stone, bricks, or river rock; except those as part of a *building*.

Warehouse/Distribution: An enclosed *building* designed and used primarily for the storage and/or delivery of goods and materials

Water Features: Includes those features as listed and defined below:

1. **Floodplains:** The area along a perennial or ephemeral stream or river that fills with water periodically. *Floodplains* can include *riparian areas* and sometimes have a distinct vegetative community that includes water-loving plants; may also be

characterized simply by dry river or streambeds (refer to Maricopa County Flood Control District).

2. **Riparian Areas:** The ecosystem located along a perennial or ephemeral wash or river. Usually characterized by water-intensive plants/trees, *riparian areas* run parallel to *streams* and *ivers*.
3. **Rivers/Streams:** The lowest point within a watershed where water moves downstream. *Streams* and *ivers* in Maricopa County can be perennial or ephemeral.
4. **Springs/Seeps:** Fixed locations where groundwater emerges from the earth perennially or ephemerally. These features usually have a distinct water-loving plant community associated with them which can include mesic grasses, reeds, rushes, sedges, cattails and a variety of shrubs and trees.
5. **Wetlands:** An area that is saturated by water perennially or seasonally and has a distinct vegetation community associated with water. The term *wetlands* encompasses both the aquatic environment associated with the water saturated area and the distinct vegetative community around the periphery which can be characterized by mesic grasses, reeds, rushes, sedges and/or cattails.

Water Supply, Assurance (100 Years): A written statement from Arizona Department of Water Resources, that states the water supply and flows are adequate and in accordance with City and State requirements and provide evidence that it meets the Arizona Department of Water Resources requirements for a one hundred (100) year assured supply.

Wholesale Shopping. An establishment or place of *business* primarily engaged in selling and/or distributing merchandise to other *businesses* other than the direct to the consumer, excluding bulk merchandise, direct to the consumer *businesses*.

Wildlife Corridors: Pathways or *habitat* linkages which permit animal movement between *habitat* areas, provide escape routes, or travel paths as they wander through their home ranges in search of food, water, mates, or other needs and as may be further defined by the Arizona Game and Fish Department.

Wireless Communication Facility: Any facility that transmits and/or receives signals by electromagnetic or optical means, including *antennas*, microwave dishes, horns, or similar types of equipment, *towers* or similar *structures* supporting such equipment, and equipment *buildings* but not direct-to-home satellite services.

1. **Alternative Tower Structure:** An innovative wireless *tower* design, such as a clock *tower*, grain silo, bell *tower*, false chimney, steeple, light pole, flag pole, windmill, and similar design mounting *structures*, that camouflage or *conceal* the presence of wireless *antennas* or *towers*. *Alternative tower structures* may also include utilization of a traffic signal *streetlight* pole or similar *structure*, or freestanding *structure* within a public *right-of-way* as approved by the city manager or designee on a case-by-case basis.

2. **Amateur Radio Antenna:** A freestanding or *building-mounted structure*, including any base, *tower* or pole, *antenna*, and appurtenances, intended for airway communications purposes by a *person* holding a valid amateur radio (HAM) license issued by the Federal Telecommunications Commission (FCC).
3. **Antenna:** Communications equipment that transmits or receives electromagnetic radio frequency signals and that is used in providing wireless services.
4. **Backhaul:** The connection from a *wireless facility base station* to the core network of the internet.
5. **Base Station:** The *structure* or equipment at a fixed location that enables wireless communications licensed or authorized by the FCC, between user equipment and a communications network. The term does not encompass a *tower* or *monopole* as defined herein or any equipment associated with a *tower* or *monopole*:
 - a. The term includes, but is not limited to; equipment associated with wireless communications services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services.
 - b. The term includes, but is not limited to, radio transceivers, *antenna*, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed *antenna* systems and *small cell networks*).
 - c. The term includes any *structure* other than a *tower* or *monopole* that, at the time the relevant *wireless facility* application is filed with the city, supports or houses equipment, and that has been reviewed and approved under the applicable *zoning* or siting process, or under another state, county or local regulatory review process, even if the *structure* was not built for the sole or primary purpose of providing such support.
 - d. The term does not include any *structure* that, at the time the relevant *wireless facility* application is filed with the city, does not support or house equipment described in subsections (a) and/or (b) above.
6. **Cellular on Wheels (COW):** A mobile cell site that consists of a cellular *antenna tower* and electronic radio transceiver equipment on a *truck* or a trailer designed to be part of a cellular network and temporary in nature.
7. **Colocation:** To install, mount, maintain, modify, operate, or replace *wireless facilities* on, within, or *adjacent* to a *wireless support structure* or utility pole.
 - a. **Colocation, Major:** A *colocation* of a *wireless facility* where the proposed *wireless facility* equipment exceeds ten feet above the supporting *structure* and/or exceeds 50 feet above *grade*.

- b. **Colocation, Minor:** A *colocation* of a *wireless facility* where the proposed *wireless facility* equipment does not exceed ten feet above the supporting *structure* and does not exceed 50 feet above *grade*.
8. **Conceal or Concealment:** *Wireless facilities* designed or disguised to look like something other than a *wireless facility* or *base station* (see also *Alternative tower structure*).
9. **Microcell:** A device that is connected to aerial facilities and used solely for transmitting, processing, and receiving voice and data wireless telecommunications services, without any associated ground mounted equipment. The device is often referred to as an "ASME" (aerial strand mounted equipment).
10. **Monopole:** A *wireless support structure* composed of a single spire used to support communications equipment and having no guy wires or ground anchors. A *monopole* shall not be greater than 40 inches in diameter at *grade* and shall have all of the *wireless facilities* mounted on the pole and wiring contained inside of the pole; includes monopalms, monocactus, monopines, and monobroadleaf wireless towers.
11. **Rooftop Mounted Wireless Facility:** A *wireless facility* with the *antennas* located on the roof of a *building* or on top of a *structure* and consisting of *antennas*, support *structures*, and *accessory* equipment which are adequately *screened* so as not to appear as stand-alone devices above the top of the roof line.
12. **Small Cell Network:** A collection of interrelated small cell facilities designed to deliver personal wireless services.
13. **Small Wireless Facility ("SWF"):** A *wireless facility* that meets both of the following qualifications:
- a. All *antennas* are located inside an *antenna* enclosure of no more than six cubic feet in volume or, in the case of *antennas* that have exposed elements, the *antennas* and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and
- b. All other wireless equipment associated with the facility is cumulatively not more than 28 cubic feet in volume or 50 cubic feet in volume if the equipment was ground mounted before the effective date of this Ordinance. The following types of associated *ancillary* equipment are not included in the calculation of equipment volume pursuant to this subsection:
- (1) An electric meter.
 - (2) *Concealment* elements.
 - (3) A telecommunications demarcation box.
 - (4) Grounding equipment.
 - (5) A power transfer switch.

- (6) A cutoff switch.
 - (7) Vertical cable runs for the connection of power and other services.
- 14. **Structure Mounted Wireless Facility:** A *wireless facility* with the *antennas* located on the wall or roof of a *building* or on the side or top of a *structure*, including *colocation* on an existing freestanding *wireless facility* and consisting of *antennas*, support *structures*, and *accessory* equipment.
- 15. **Transmission Equipment:** Equipment that facilitates transmission for any wireless communication service licensed or authorized by the FCC, including, but not limited to, radio transceivers, *antennas*, coaxial or fiber-optic cable, and regular and back-up power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave *backhaul*.
- 16. **Tower:** Any *structure* built for the sole or primary purpose of supporting any *antennas* and their associated facilities, licensed or authorized by the FCC, such as *structures* that are constructed for wireless communications services, including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave *backhaul*, and the associated site.
- 17. **Wireless Facility:**
 - a. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including both of the following:
 - (1) Equipment associated with wireless communications.
 - (2) Radio transceivers, *antennas*, coaxial or fiber optic cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration.
 - b. Includes *SWFs*.
 - c. Does not include the *structure* or improvements on, under, or within which the equipment is collocated, wireline *backhaul* facilities, coaxial or fiber-optic cable that is between *wireless support structures* or utility poles, or coaxial or fiber-optic cable that is otherwise not immediately *adjacent* to, or directly associated with, an *antenna*.
 - d. Does not include Wi-Fi radio equipment described in A.R.S. § 9-506(I) or *microcell* equipment described in A.R.S. § 9-584(E).

18. **Wireless Facility Monopole Modification, Major:** A modification of an existing *wireless facility monopole* where the proposed *monopole* and *base station* exceeds the greater of either:
 - a. An increase in height of the *tower* greater than ten feet (10'); or
 - b. An increase of *base station* area greater than ten percent (10%) of the existing facility.
19. **Wireless Facility Monopole Modification, Minor:** A modification of an existing *wireless facility monopole* where the proposed *monopole* and *base station* does not exceed the greater of either:
 - a. An increase in height of the *monopole* less than ten feet (10'); or
 - b. An increase of *base station* area less than ten percent of the existing facility.
20. **Wireless Support Structure:** A freestanding *structure* such as a *monopole*, a *tower* (either guyed or self-supporting), a sign or billboard, or any other existing or proposed *structure* designed to support, or capable of supporting *wireless facilities*. It does not include a utility pole.

Wrecking Yard: See *junkyard*.

X

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Y

Yard: An open area of a residential *lot* that is at *grade* level between the *dwelling* and the adjoining *lot lines*, except as otherwise provided in this Ordinance

1. **Yard, Front:** A *yard* extending between two (2) *side lot lines* and the depth of which is the distance between the *front lot line* and the primary *building* and *fence return*, when present. The required *front yard* area is the area of the *front yard* that is bound by the *side* and *front lot lines* and the *front setback line*.
2. **Yard, Rear:** A *yard* extending between two (2) *side lot lines* and the depth of which is the distance between the *rear lot line* and the primary *building*. The required *rear yard* area is the area of the *rear yard* bound by the *side* and *rear lot lines* and the *rear setback line*.

3. **Yard, Side:** A yard extending between the *fence return* or *front yard* and *rear yard* and the depth of which is the distance between the *side lot line* and the primary *building*. The required *side yard* area is the area of the *side yard* that is bound by the *front* and *rear yards* and *side lot lines*.
4. **Yard, Street Side:** A *side yard* which is along the *side lot line* that *abuts* a *street*.

Z

Zoning: The dividing of the City into districts or zones and the establishment of regulations for governing the *use*, placement, spacing, and size of land and *structures* within each zone or district.

Zoning Administrator: The staff position of the Community Development Director or designee.

Zoning District: A portion of the City within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

CHAPTER 102 - REVIEW PROCESS AND APPLICATIONS

ARTICLE 1 – IN GENERAL

102-1.1 Purpose

- A. The purpose of this section is to establish standardized decision-making procedures for reviewing development applications within the City of Surprise. It enables the City, the *applicant*, and all interested parties to reasonably review applications, and participate in the local decision-making process in a timely and effective way. More specifically, this section is intended to:
1. Assure prompt review of development applications through the application of clear and specific standards.
 2. Provide opportunities for public review and comment on development applications that may have an impact on the community.
 3. Establish procedures to determining whether development applications are consistent with applicable codes, policies, regulations, and standards

102-1.2 Applicability

- A. The provisions of this section shall apply to all proposed development projects within the City's municipal boundaries.

102-1.3 Development Procedures Manual

- A. The Development Procedures Manual is the consolidation of the Community Development Department requirements for the various procedure types and development applications including: the application forms, submittal checklists for the various application types, specific procedural steps, review timelines, necessary approvals, and communication expectations.
- B. All development applications in the City of Surprise shall follow the requirements outlined in the Development Procedures Manual, which is available online or may be picked up at the Development Services Counter.

102-1.4 Concurrent Review

- A. When a development proposal requires more than one (1) application for the approval of a given development, multiple applications may be submitted for concurrent review. If the applications are not submitted concurrently, the subsequent applications may not be submitted until previous applications have completed the review procedures, unless this provision is waived by the Community Development Director or designee.

- B. When more than one (1) application is submitted for a given development, and those applications are subject to different types of procedure, then all of the applications are conditioned to the highest type of procedure that applies to any of the applications; however, each development application shall be only subject to the relevant criteria applicable to that particular development application. For example, a development proposal for a *preliminary plat* (a Type 2 procedure) and *rezoning* of the property (a Type 3 procedure) shall be wholly dependent upon the approval of the Type 3 application, but the Type 2 portion of the development proposal shall be decided according to the relevant approval criteria applicable to the Type 2 application.

102-1.5 Exempt Activities

- A. The following development activities are exempt from the procedural requirements of this chapter:
1. Landscaping or landscape *alterations*, unless such landscaping or *alterations* would require approval pursuant to this Chapter for *Site plan* Review or modify or violate an approved *site plan, plat*, or a condition of approval.
 2. Emergency repair or maintenance of public or private *buildings, structures*, landscaping, or utilities.
 3. A change of any legally-established *use* except if the *change of use* requires an *amendment* to the approved *site plan*, such as increased parking requirements, or additional approvals, such as an *Conditional use Permit* or *Conditional use Permit*.
 4. *Building permits* required pursuant to the City-adopted building code for construction not requiring a development application.
 5. On-site utility permits not obtained in conjunction with a specific development application, including but not limited to *sewer* hook-ups, water hook-ups, *right-of-way* permits, grading permits, and fire department permits.
 6. *Business Licenses*.
 7. Sign permits; except for Comprehensive Sign Program approval.

102-1.6 Expiration of Approvals

- A. All approvals, excluding *Temporary use Permits*, shall expire one (1) year after the date of approval unless vested by means of recorded *Final plat*, commencement of construction, or establishment of the allowed *use*. An extension may be granted

by the Community Development Director, but will be contingent upon subsequent applications listed herein and/or permit activity. The request for an extension shall be made in writing prior to the above-mentioned expiration.

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ARTICLE 2 – PROCEDURE TYPES AND SUBMITTALS

102-2.1 Procedure Types

- A.** All development applications shall be decided by using one (1) of the procedure types listed in this Chapter. The procedure type assigned to each application governs the requirements of a public meeting, public hearing, public outreach, public notifications, and the authoritative body, except to the extent otherwise required by applicable state or federal law.
1. **Type 1.** This procedure is for interpretative and administrative applications without a public outreach process, public meeting, or public hearing required. Type 1 applications are processed as administrative review decisions by the Community Development Director. Decisions by the Community Development Director may be appealed to either the Board of Adjustment or the Planning and Zoning Commission as outlined in **Table 102-2a**.
 2. **Type 2.** This procedure is for applications that only require a public meeting and therefore only require the limited public outreach of posting the meeting agenda, unless otherwise indicated in the following table. Type 2 applications are administrative actions. Applications where the approval authority lies with the Planning and Zoning Commission may be appealed to the City Council as outlined in **Table 102.2a**. Applications where the approval authority lies with the City Council may be appealed in a manner prescribed by law.
 3. **Type 3.** This procedure is for applications that generally are legislative in nature requiring a public hearing per A.R.S § 9-462.04 and require Public Notice in the form of “Agenda Posting”, “Newspaper Publication”, “Letter by 1st Class Mail”, and “Site Posting” according to this Chapter. Decisions of the City Council or Board of Adjustment regarding Type 3 applications may be appealed in a manner prescribed by law.
- B.** The following **Table 102-2a** describes the level of public outreach required, decision-making authority, and the appeal authority for the applications processed and the approvals that may be granted under this Ordinance.

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Table 102-2a: Application Type, Procedure, and Decision Authority Summary

	Public Outreach				Community Development Director	Planning and Zoning Commission	City Council	Board of Adjustment
	Agenda Posting	Notice Letter & Newspaper	Neighborhood Meeting	Site Posting				
Type 1 Applications								
Zoning Interpretation					D			A
Site Plan Amendment (minor)					D	A		
Minor land division / Parcel assemblage					D		A	
Conditional use Permits					D			A
Temporary use Permits					D	A		
Home Product Review					D	A		
Corrective Plat					D		A	
PEDS Deviation/Waiver					D	A		
Slope Category Analysis Waiver					D	A		
Administrative Waiver/Extension					D	A		
Type 2 Applications								
Site Plan Review	X				R	D	A	
Site Plan Amendment (major)	X				R	D	A	
Protected Development Rights Plans	X				R	R	D	
Final plats	X				R		D	
Original Townsite Incentive	X				R		D	
Development Agreement	X				R		D	
Hillside Cut & Fill Waiver	X			X	R	D		
Type 3 Applications								
General Plan Amendments	X	X	X	X	R	R	D	
Specific Area Plan Requests	X	X	X	X	R	R	D	
Rezoning Requests	X	X	X	X	R	R	D	
LDO Text Amendments	X	X ⁽¹⁾	X		R	R	D	
Conditional use Permits	X	X	X	X	R	D	A	
Comprehensive Sign Program	X	X	X	X	R	R	D	
Preliminary plats	X		X	X	R	R	D	
Variances Requests	X	X		X	R			D
Annexation	X	X	X	X	R		D	
Key:								
X = Required								
(1) = 1 st Class Letter not required								
R = Reviews and recommends action to decision-making body								
D = Decision-making body								
A = Appeal authority								

102-2.2 Submittal Process

- A. Pre-Application Meetings. The Surprise Community Development Department offers multiple pre-application meetings for the purpose of acquainting City and other agency staff with a sufficient level of detail about the proposed development. The intent is to enable staff to advise the *applicant* as to the applicable City requirements and to identify issues and concerns in advance of a formal application. These meetings are not intended to be a comprehensive review of all the potential issues relating to a development proposal.
1. **Due Diligence Meeting**. This is an optional pre-application meeting for proposed projects that are in the most basic phase of development. This meeting may be used by prospective buyers and/or *developers* in order to better measure the feasibility of a proposed project with informal discussions to identify potential points of conflicts and gain an understand of specific public objectives.
 2. **Concept Review Meeting**. This is a required pre-application meeting for all proposed projects prior to making a formal application submittal. This meeting will include the City's complete development review team in order to determine the required submittal checklist, Development Application, and Procedure Type.
 3. **Concept Review Waiver**. The Community Development Director or designee may waive the Concept Review meeting only if the proposal is determined to be relatively simple (e.g. has few, if any, development-related issues), or it involves subsequent phases of an existing approved development where requirements are known, or an application is substantially similar to a prior proposal affecting the same property.
- B. Formal Application Submittal. Following the Concept Review meeting, the *applicant* shall submit, to the Surprise Community Development Department, a completed City application, all the requested plans and information, required studies and reports, and the required fees. The City may, at its discretion, request additional materials and/or studies if found necessary to adequately review the application. Staff will verify completeness of all applications; review will not begin until submittal materials are fully complete.

ARTICLE 3 – PUBLIC OUTREACH AND PUBLIC NOTIFICATION

102-3.1 Public Outreach

- A. When public outreach is required, it will involve one (1) or more of the following forms depending on the procedure type or complexity of a project (see **Table 102-2a**). Pursuant to A.R.S., *General Plan Amendments* and *Rezoning* for land that is located within the vicinity of a military airport or *ancillary* military facility have additional notification requirements. *(For more detailed content and process requirements on the notification types listed below refer to the Development Procedures Manual).*
1. Legal ad
 2. Mail-out
 3. Site Posting
 4. Neighborhood Meeting
- B. The Public Outreach Process. Although it is not intended to produce complete consensus on all applications the intent of any form of public outreach is to:
1. Ensure that *applicants* pursue early and effective public participation in conjunction with their applications, giving them the opportunity to understand and potentially mitigate any real or perceived impacts their application may have on the community;
 2. Ensure the public and neighboring property *owners* have adequate opportunity to learn about applications that may affect them at an early stage in the process; and
 3. Facilitate ongoing communication between the *applicant* and interested public, neighbors, City staff, and elected officials throughout the application review process.
- C. The *applicant* shall provide a written report that describes the specific actions taken by the *applicant* to meet the Public Outreach requirements. The report shall be submitted to the City thirty (30) days prior to public hearing. If public outreach continues beyond that deadline, a supplemental report may be required prior the public hearing. *(For more detailed information on content requirements for the Public Outreach Report, refer to the Development Procedures Manual).*

102-3.2 Public Notification Methods

- A. Depending on the procedure type, one (1) or more of the following methods of public notification may be required.

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1. Agenda Posting: Posting the agenda at City Hall at least twenty-four (24) hours prior to a public meeting (Type 2 Procedure) and/or a public hearing (Type 3 Procedure), in accordance with Arizona open meeting law.
2. Legal Ad: In a newspaper of general circulation in the City of Surprise, a Public Notice shall be published at least fifteen (15) days for all other applications, prior to the public hearing.
3. Mail-out by 1st Class Mail: An informational letter mail, to all real property *owners* and the head of any homeowners association or registered neighborhood within a 300-foot (300') radius of the *parcel* boundaries and any other potentially affected citizens as determined by the Community Development Director or designee at least or at least fifteen (15) days for all other applications, prior to the public hearing.
4. Site Posting: When proposed development requires Public Notice in the form of Site Posting, the *applicant* shall be responsible for posting the subject property (*see Procedures Manual for examples*).
 - a. Posting shall be in no less than two (2) on-site locations, no less than fifteen (15) days prior to the meeting/hearing; annexations require three (3) locations. For large sites, sites with multiple *street frontages*, sites with no *street frontages*, and modified locations may be approved by the Community Development Director.
 - b. A completed Affidavit of Site Posting form, which includes a minimum of two (2) photographs of each installed sign together with a map showing the locations of the site postings.
 - c. The *applicant* shall remove all *signage* and submit a completed affidavit of removal within seven (7) days after the date of the final public meeting/hearing.
4. Content of Public Notice. When required a public notice in the form of "Newspaper Publication", "Letter by 1st Class Mail", or "Site Posting" of the proposed project will include the following:
 1. The project case number;
 2. The name of the *applicant* requesting the action;
 3. The date, time and location of Neighborhood Meeting, when required;
 4. A vicinity map of the project location;
 5. A brief description of the request;
 6. The date, time and location of upcoming public hearing(s) or meeting(s);

7. A map of the project area.

102-3.2 Neighborhood Meetings

- A.** This is conducted by the *applicant* and/or *developer*.

1. A Neighborhood Meeting is required for all Type 3 Applications that require a public hearing, *Preliminary plats*, and other applications as determined during the Concept Review Meeting. All neighborhood meetings shall be scheduled at a time and publically accessible location near the project that provides reasonable opportunity for assemblage of *adjacent landowners*, other affected publics, and the *applicant* to discuss and express their respective views upon the development request. The *applicant* shall secure a time and location near the proposed project according to the following requirements:
 - a. Conducted by the *applicant*, *developer*, and/or property owner;
 - b. Held Monday through Thursday; shall not conflict with City Council or Zoning and Zoning Commission meetings;
 - c. Begin by 6pm and hosted for at least one (1) hour or more;
 - d. Provide safety, parking, lighting for meeting attendees;
 - e. Provide *signage* to guide attendees to the meeting according to the temporary *signage* and other regulations of Chapter 109.
2. Public notice of the Neighborhood Meeting is required and shall include both “Newspaper Publication” and “Letter by 1st Class Mail” as outlined above. The notice shall also be transmitted to the planning agency of any *adjacent* municipalities and unincorporated areas of the county.

ARTICLE 4 – TYPE 1 APPLICATION AND REQUESTS

102-4.1 Uses, Interpretations, and Administrative Decision

- A. The Community Development Director, pursuant to A.R.S. §9-462.05, is responsible for the administration of this Ordinance and may establish rules and procedures for the implementation of the LDO.
- B. The Community Development Director may not make changes in the specific *uses* permitted in any *zoning districts*, or make changes in the terms of the Ordinance; however, any *use* not appearing in this code which is similar to, and not more detrimental than the *uses* permitted herein, as determined by the Community Development Director, may be permitted based on a code interpretation and similar *use* ruling.
- C. The Community Development Director shall base his/her decision, to either approve or reject Type 1 applications and to prescribe such conditions as deemed necessary, on the definitions and other provisions contained in this Code, relevant city policy, and/or any applicable State or Federal law or case law.
- D. The Community Development Director may, at his/her discretion, refer a Type 1 application to the Commission for a decision.
- E. Code interpretations and similar *use* rulings shall be treated as a Substantive Policy Statement.

102-4.2 Minor *Site Plan Amendment*

- A. Minor *Site Plan Amendments* are requests to *alter* or modify an approved *site plan* described in Section **102-5.1** herein by no more than ten percent (10%) in comparison to the most recent *site plan* approved by Planning and Zoning Commission and/or City Council and which typically has no significant changes to infrastructure, *buildings* and *structures*, circulation, or grading and drainage. Provided the requested changes otherwise meet the requirements of the *zoning district* in which the property is located, modifications approved under a Minor *Amendment* may include, but are not limited to, an increase or decrease in floor area; *building height*; *building setbacks*; or, the number and location of *parking spaces* but not their size.

102-4.3 Minor land division/Plat Corrections

- A. Minimal changes to any existing *lot*, *parcel*, tract of land, or combination thereof in the form of *Minor land division*, *lot line adjustment*, *Parcel assemblage*, and *Plat Corrections* pursuant to **Chapter 108** of the LDO.

102-4.4 Use Permits (Administrative and Temporary)

- A. Those *uses* that are allowed under a *Conditional use Permit* (AUP) and/or a *Temporary use Permit* (TUP) in either the Land use Matrix of **Table 106-1a** or in the *Accessory use* Matrix of **Table 106-1b**, of this LDO, shall be authorized by the Community Development Director.
- B. *Conditional use Permit (AUP)*. Administrative uses are those uses that are generally compatible with the land *uses* permitted by right in a *zoning district*, but require individual review of their location, design and configuration and the imposition of conditions in order to ensure the appropriateness of the *use* at a particular location within a given *zoning district*.
- C. *Temporary use Permit (TUP)*. Temporary *uses* allow for activities that may be appropriate, on an interim basis such as seasonal or transient *uses* not otherwise permitted. A *Temporary use Permit* shall be for a specific *use* on a specific property and not for a particular person or company. The Community Development Director, when reviewing applications, shall have the authority to require conditions of approval.
- D. Criteria. Approval of an AUP and/or TUP shall be based on the *applicant's* ability to demonstrate the following:
1. The proposed *use* will not be detrimental to health, safety, or general welfare of *persons* living or working in the vicinity, to *adjacent* property, to the neighborhood, or to the public in general;
 2. The proposed *use* conforms to the purposes, intent, and policies of the *General Plan* and any applicable area, neighborhood, or other plan adopted by the City Council;
 3. The proposed *use* conforms to the conditions, requirements, or standards of LDO and any other applicable local, state, or federal requirements;
 4. The proposed *use*, as conditioned, would not unreasonably interfere with the *use* and enjoyment of nearby properties.
- E. Validity Limit.
1. The *use* Permit shall be valid for the *use* for which the permit was granted for the length of time indicated on the permit as long as the *use* is in compliance with the conditions of approval and other applicable ordinances.
 2. Time extensions for a *Temporary use Permit* shall be processed in the same manner as the original permit.

102-4.5 Home Product Review

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- A. For any residential development that proposes to utilize, market, sell, and/or construct based off standard plans, an application for a Home Product Review shall be required to be submit to and approved by the Community Development Director (*see Procedures Manual for details on submittal requirements*).
- B. Approval of any Home Product Review application shall be based on the adherence to and compliance with the Planning Design Standards of the PEDS, and the *zoning district* in which the Home Product will be utilized.

102-4.6 Administrative Waivers

- A. PED Deviations and Waivers. Per **Section 107-1.2** of the LDO, the Community Development Director or City Engineer may approve a deviation to the standards or may approve, on a case-by-case basis, a waiver for a study, report, or an analysis that may otherwise be required by the PEDS.
- B. Slope Category Analysis Waivers. Per **Section 104-2.8.A.** of the LDO, applications seeking a waiver for the requirement to submit a Slope Category Analysis may be submitted to and approved by the Community Development Director or City Engineer.

102-4.7 Corrective Plat.

- A. Per **Section 108-3.2** of this Ordinance, an approved and recorded *final plat* may be corrected or amended.

102-4.8 PEDS Deviation/Waiver

- A. A *developer* may propose plans to deviate and exceed the design standards outlined in Volume 1 of the PEDS that are submitted to and approved by the Community Development Director or designee.

102-4.9 CD Director Waiver

- A. A description of this Community Development Director Waiver (and limited examples of why it would be used) needs to be included.

ARTICLE 5 – TYPE 2 APPLICATION AND REQUESTS

102-5.1 Site Plan Review

- A. Initial Site Plan. In order to first establish a design to develop a currently undeveloped property, or redevelop a property, a *Site Plan* Review shall be required to be approved for all development occurring within every *zoning district*; except for interior tenant improvements and *single-family* residential subdivisions, but not including Home Product Reviews (*see Procedures Manual for submittal requirements and process*).
- B. At the discretion of the Community Development Director, the *applicant* may be required to hold a neighborhood meeting if in the opinion of the Director the project may impact the *adjacent* neighborhood.
- C. Major Site Plan Amendment. Substantial *amendments* or modifications to an approved *site plan* shall be processed in the same manner as the original application. The cumulative effect of multiple minor *site plan amendments* that exceed the collective change greater than ten percent (10%) from the most recent *site plan* approved by Planning and Zoning Commission and/or City Council will require a *Major Site Plan Amendment*.
- D. Landscape Plan. A Landscape Plan is focused on plant palette, locations, and/or irrigation pursuant to Chapter 107. Landscape Plans may be approved concurrently with other applications or processed separately under a separate application.
- E. Validity Limits. Approval of a *site plan* or *amendments* thereto, shall run with the land and may continue to be valid upon a change of *ownership* of the site or *structure* for a period of two (2) years following the date of approval.

102-5.2 Protected Development Rights Plan

- A. For details on the specific processing (from pre-application, project construction, and acceptance of improvements) and the necessary submittal requirements and standards refer to the Planning and Engineering Design Standards (PEDS) and Chapter 108 of the LDO.

102-5.3 Original Townsite Incentive

- A. The Original Townsite Incentive, pursuant to **Chapter 111** of the LDO, is a request for financial incentives available as a means to encourage redevelopment within the area of Surprise known as the Original Townsite.

102-5.4 Development Agreements

- A. A development *applicant* and the city may enter into a development agreement if it is agreed to be mutually beneficial by both parties. The requirements for participation in a development agreement shall comply with A.R.S. § 9-500.05. Entering such agreement is at the City's discretion and the burden is upon the *applicant*.
- B. A preliminary discussion regarding establishment of a development agreement will take place at the Concept Review Meeting. Subsequent discussions for the purpose of continued negotiations will be scheduled by the City as needed.
- C. Unless determined as impractical by the Community Development Director or designee, the development agreement shall be considered by City Council concurrent with consideration of the applicable rezone or *site plan*.

102-5.5 Appeals and Waivers

- A. Cut and Fill Waivers (Hillside Development Areas). Per **Section 104-2.8 C.** of the LDO, the Planning and Zoning Commission may, on a site-by-site basis, amend the development limitations outlined throughout the LDO.

102-5.6 Final plats

- A. The *final plat* stage of land division involves submittal, review and approval of the *final plat* that is in conformance with a *preliminary plat*, the improvement plans for all improvements required by this Ordinance and Council, and recording of the *plat* with the County Recorder. A *preliminary plat* approval may be used as an attachment to the Concept Review Waiver.

ARTICLE 6 – TYPE 3 APPLICATION AND REQUESTS

102-6.1 General Plan Amendments and Specific Area Plans

- A. *Amendments* or changes to the Surprise *General Plan* may be initiated by the City Council, Planning and Zoning Commission, Community Development Director, or by a property *owner* or the property *owner's* authorized representative. Any change to the maps or text of the *General Plan* is an *amendment* to the *General Plan*.
1. Major Amendment. An application for a *Major Amendment* to the *General Plan* must be filed prior to April 1st of the calendar year and must be heard by the City Council on the first available Council meeting in December of the calendar year the request was submitted. Any *Major Amendment* must first be submitted for Commission review and recommendation. *Major Amendments* shall require an affirmative vote of at least two-thirds (2/3) of the Council.
 2. Minor Amendment. A *Minor General Plan Amendment* may be submitted independently at any time during the calendar year or processed concurrently with a development or *rezoning* application subject to the procedures herein.
 3. Specific/Sub-Area Plans. Establishing and/or amending a Specific or Sub-Area Plan and its regulations shall be done in accordance with A.R.S. §9-461.06, the Development Procedures Manual, and the provisions described in the Surprise *General Plan*.
- B. In the event that an application for an *amendment* to the *General Plan*, or a Specific or Sub-Area Plan, is denied by the City Council, or that the application is withdrawn after the Planning and Zoning Commission hearing, the City shall not accept another application for the same plan and/or *amendment* within twelve (12) months after the date of withdrawal or Planning and Zoning Commission hearing unless the *applicant's* request is approved by a super majority three-fourths (¾) vote of the City Council.
- C. It shall be the burden of the party requesting the *General Plan Amendment* to prove that the change constitutes an improvement to the *General Plan*. It shall not be the burden of the City to provide a reason that an *amendment* should be denied.

102-6.2 Rezoning Requests and LDO Text Amendments

- A. In accordance with the provisions of Arizona Law (A.R.S. § 9-462.01, et. seq.), the City Council may amend the regulations and boundaries of *zoning districts* set forth in this Code whenever deemed necessary to best serve the public interest, and the health, comfort, convenience, safety, and general welfare of the city.

- B. Applicability.** All applications for LDO text *amendments* and *rezoning* of property shall only be made through the adoption of an amending ordinance by the City Council; except for those guidelines and codes adopted herein by reference. Requests may be made as follows:
1. An application for a change in *zoning district* boundaries (*rezoning*) may be initiated by an *owner* of real property within the City and/or by that *owner's* authorized representative.
 2. An application for an *amendment* to the text of this LDO ordinance may be requested by any person.
 3. The Planning and Zoning Commission or the City Council, by its own motion at a public meeting, may also initiate such *amendments*.
- C. Criteria and Procedure.** The City, in accordance with A.R.S., and after following the public outreach outlined in **Table 102-2a** herein shall conduct the required public hearing(s) and cause the following to occur:
1. The Planning and Zoning Commission shall render a recommendation for: 1) approval, 2) approval with conditions, or 3) denial of the petitioned *rezoning* or *zoning* text *amendment*, which shall be forwarded to the Mayor and City Council in writing by the Community Development Department unless withdrawn in writing by the *applicant*.
 2. The City Council shall: 1) approve, 2) approve with conditions as the council deems applicable in order to fully carry out the provisions and intent of this Code, or 3) deny the *rezoning* or *zoning* text *amendment* request. Approval of a request to rezone land may not be enacted as an emergency measure, but shall become effective thirty (30) calendar days after City Council approval, unless a petition referring the matter to the voters is received prior to the 30th day in a manner consistent with ARS.
- D. Reversion.** The City may approve a change of zone which is conditioned upon a schedule for development of the specific *use* or *uses* for which *rezoning* is requested. If at the expiration of this period the property has not been improved for the *use* for which it was conditionally approved, the City may schedule a public hearing before the City Council to take action to extend or remove the development schedule, or determine compliance with the schedule for development, or take legislative action to cause the property to revert to its former *zoning* classification.

102-6.3 Conditional Use Permits

- A. *Conditional use Permits (CUP)*** are required for certain land *uses* that may be compatible with the other *uses* permitted by right in a *zoning district* but require individual review of their location, design, and configuration in order to ensure

the appropriateness of the *use* at a particular location within a given *zoning district*.

- B.** Purpose. A *CUP* sets forth conditions to protect the public health, safety, and general welfare to assure that the purposes of the *General Plan* and this Ordinance of the Surprise Municipal Code and all other applicable city codes are maintained; without such a *use* has no legal authority.
- C.** Applicability. *uses* which may be subject to a *CUP* are those *uses* enumerated as “*CUP*” in either the Primary Land *use* Matrix of **Table 106-1a** or in the *Accessory use* Matrix of **Table 106-1b**.
- D.** Criteria. The burden of proof for satisfying the *CUP* requirements shall rest with the *applicant*. The approval or denial of *CUP* is discretionary with the final approval authority lying with the Surprise Planning and Zoning Commission. A decision to deny a proposed *CUP* shall not in any way be construed as a diminution of property values or a restraint of development rights.
1. Location and character of the *use* shall not burden or conflict with the established *uses* of surrounding area;
 2. The proposed *use* shall not impair the integrity or character of the community nor shall it be detrimental to the public health, safety or general welfare of the city;
 3. The proposed *use* shall conform to the goals and policies of the *General Plan*;
 4. The proposed *use* shall conform to the goals and policies of any specific district or plans for the area;
 5. The proposed *use* shall conform to any applicable *use* Specific Standards outlined in **Article 10, Chapter 106** of this Ordinance
 6. The proposed *use* shall conform to the development standards of the *zoning district* and shall take into account the following factors:
 - a. Site and *building* design;
 - b. Sensitivity to existing natural features;
 - c. Volume or character of traffic;
 - d. Circulation patterns;
 - e. Connectivity;
 - f. Parking and loading;
 - g. *Screening* and *buffering* of *uses*;

- h. Landscaping;
 - i. Exterior lighting;
 - j. *Signage*;
 - k. Storm water *retention* and drainage;
 - l. Damage or nuisance arising from noise, smoke, odor, dust, vibration, or illumination;
 - m. A demonstrated need for such *use*.
- 7. The proposed *use* shall have adequate *ingress and egress* to property and proposed *structures*, pedestrian and vehicular circulation with particular reference to emergency service *access*;
- 8. Adequate utilities, *access* roads, drainage sanitation; and/or
- 9. Necessary facilities will be provided and the *use* will not contribute toward an overburdening of municipal services.
- E. Validity Limit. Approval of a *CUP* shall become effective immediately. The *CUP* shall become null and void if the *use* permit has not been exercised and the *use* established within twelve (12) months of the approval date. A *CUP* is exercised when the *use* has been established or when a *building permit* has been issued, construction commenced, and the *building permit* remains valid. A *CUP* may be granted for a specified period of time, determined by the City Council, as a term of conditions of the *use* permit.
- F. If such *use* is *abandoned* or discontinued for a period of ninety (90) consecutive days, it may not be reestablished unless reauthorized by the Planning and Zoning Commission.
- E. *Amendments to Conditional use Permits* shall be processed in the same manner as the original permit, except that Minor *Amendments* meeting the requirements of **Section 102-4.2** of this Ordinance may be authorized by the Community Development Director.

102-6.4

Comprehensive Sign Program

- A. Applicability. The purpose of Comprehensive Sign Programs is to provide a mechanism by which a specific set of sign criteria may be approved for a specific property or geographic area in a manner that is appropriate to the character of the community in which the Comprehensive Sign Program will apply.
- B. Criteria. Comprehensive Sign Programs must comply with regulations pursuant to this Ordinance.

102-6.5 Variances

- A. Purpose. This section provides the potential for relief from the *zoning* development standards, but not to the *permitted uses*, densities, or guidelines, of this code. Notification for *Variance* requests shall follow the requirements set forth in A.R.S. §9-462.06 and the provisions outlined in this Chapter.
- B. Applicability. The granting of a *Variance* is not a right. It may be granted at the discretion of the Board of Adjustment only if the *applicant* establishes compliance with all hardship criteria established in A.R.S. §9-462.06 and the following hardship criteria:
1. There are existing special circumstances or conditions applicable to the property referred to in the application, including its size, shape, topography, location, or surroundings, to which the strict application of this Ordinance will deprive such property of privileges enjoyed by other properties of the same classification in the same *zoning district*.
 2. The above special circumstances or conditions are preexisting and are not created or self-imposed by the *owner* or *applicant*.
 3. The *Variance* is necessary for the preservation of substantial property rights. Without a *Variance*, the property cannot be used for purposes otherwise allowed in this *zoning district*.
 4. The *Variance* authorization will not be materially detrimental to *persons* residing or working in the vicinity, to *adjacent* property, or to the neighborhood or the public welfare.
 5. The *Variance* shall not constitute a grant of special privilege.
- C. Conditions of Approval. Any *Variance* granted may be subject to such conditions deemed applicable by the Board of Adjustment. *Variances* shall become void if the subject property does not conform to all conditions, requirements, and standards prescribed by the Board of Adjustment as a condition for approval of the *Variance*.
- D. Validity Limit. *Variance* approvals shall be void if an application for a *building permit* involving the *structure* that was the subject of the *Variance* has not been submitted within six (6) months of the granting of the *Variance* or within the time stipulated by the Board of Adjustment. An expiration of the *building permit* application will result in expiration of the *Variance*. A *Variance* that is not exercised within the time limits specified shall become null and void.

102-6.6 Preliminary plats

- A. The *preliminary plats* involve detailed land division planning. The submittal is reviewed by staff and presented to the Planning and Zoning Commission to give a

recommendation of approval, approval with conditions, or denial of the *preliminary plat* by the City Council. The *applicant* shall provide the City with all information, outlined at the *preliminary plat* concept review meeting and the information listed in Chapter 108 of this Ordinance, essential to determine the character and general acceptability of the proposed development.

102-6.7 Annexation

- A. The City or a *developer* may propose the extension of incorporated City limits according to this Ordinance and **A.R.S. § 9-471.**

CHAPTER 103 - ENFORCEMENT

ARTICLE 1 – IN GENERAL

103-1.1 Purpose

- A. The purpose of this chapter is to establish the administrative and enforcement authority and the subsequent penalties for *persons* and/or properties found to be in violation of the Surprise Municipal Code Part 2 – Land Development Ordinance (LDO).

103-1.2 Enforcement Authority

- A. The Community Development Director or designee shall be responsible for the administration and enforcement of the LDO and his/her designee shall be responsible for the enforcement of the LDO to further the promotion of the public health, safety, and general welfare.
- B. The designee responsible for enforcement shall have authority to enter any *building, structure*, or premises or any part thereof, at any and all reasonable times in accordance with legal requirements governing administrative inspections of private property, for the purpose of performing official duties.
- C. It shall be the duty of the Police Department, Fire Department, Public Works Department, or any other City department to assist in the enforcement of the LDO when requested by the City Manager or designee.
- D. It shall be unlawful for any person to willfully interfere with, hinder, or obstruct enforcement personnel in the discharge of their duties.
- E. This Chapter shall be construed and enforced in conjunction with the various codes referenced in Chapter 105 of the LDO. In the event there is a conflict between the provisions of the various chapters of the LDO or the codes adopted by reference in the LDO, then the provisions of this chapter shall prevail.

103-1.3 Administrative Remedies

- A. Administrative remedies may include the withholding of plan approval, permits, certificates, or any other form of authorization or approval under the authority of the Community Development Director or designee as outlined by the Land Development Ordinance, which is Part 2 of the Surprise Municipal, after determination of any of the following:
 - (1) Any violation of the LDO; or

- (2) Any violation of a condition, stipulation, or qualification of a permit, certificate, approval or other authorization previously granted by the City.
- (2) Revocation of any plan approval, permit, certificate, or any other form of authorization or approval under the authority of the City manager or designee as outlined by the LDO after determination of any of the following:
 - a. There is departure from the plans, specifications, or conditions as required under terms of the permit; or
 - b. The permit was procured by false representation; or
 - c. The permit was issued in error; or
 - d. Any of the provisions of the LDO are being violated.
- (3) Written notice of such revocation shall be served upon the *owner*, the *authorized agent* or contractor, or upon any person employed on the premise for which such permit was issued, or shall be posted in a prominent location; and, thereafter, no such construction shall proceed except to correct such violation or to comply with the order. Such order shall state the nature of the violation, the specific provision violated, and the date and time by which the violation must be corrected.
- (4) The City may stop grading, construction, or work on any *building* or *structure* on any land on which there is an uncorrected violation of a provision of the LDO, or of a permit or other form of authorization issued hereunder.
- (5) The City may seek a court ordered injunction or other equitable relief to stop any violation of the LDO or of a permit, certificate or other form of authorization granted hereunder.
- (6) In accordance with this chapter, the codes referenced in Chapter 105, and A.R.S. § 9-499, the City may abate a violation of the Surprise Municipal Code Part 2 – the LDO.
- (7) The City, at the direction of the City Manager or designee may prohibit, restrict, or revoke occupancy of any *building* by any person or entity in which there has been a failure to comply with any permit, plans, specifications, or conditions required under the terms of the permit or any plan or other approval of the City.

B. In addition to any administrative penalties, any person who violates any provision of the LDO or any provision of any code referenced and adopted by the LDO; or who erects, constructs, *alters* or repairs a *building* or *structure* in violation of the approved construction documents, directive of the City manager or designee, or

of a permit or certificate issued under the provisions of any code adopted by the LDO, may be found guilty of a civil or criminal violation.

103-1.4 **Violations and Penalties**

- A. Violation. Any *building* or *structure* erected or maintained or any *use* of property in violation of this Ordinance shall be declared unlawful and a public nuisance, and the City Attorney shall immediately commence action, or proceedings for the abatement, removal and enjoinder thereof in the manner provided by law; and shall take such other actions to grant such relief as will abate or remove such *building* or *structure* or *use* of any property in violation of the LDO. It shall be the right and duty of every citizen to cooperate with the City officials in the enforcement of the regulations of the LDO.
- B. Penalties. Any person who violates any regulations of this LDO or violates or fails to comply with any order or regulation made may be found guilty of a misdemeanor and upon conviction shall be sentenced to a fine or imprisonment for a term not exceeding that established by the Municipal Court or by both. Every violator shall be deemed guilty of or responsible for a separate offense for each day the violation is permitted to exist.

103-1.5 **Nonconforming Uses and Structures**

- A. Any *use* of land, *building*, or *structure* legally existing at the time of the effective date of this section or *amendments* thereto, may be continued even though such *use* may not conform with the regulations or *amendments* thereto for the *zoning district* in which it is located.
- B. In the event that a *nonconforming use* of land, *building*, or *structure* is discontinued for a period of 90 consecutive days, any future *use* thereof shall be in compliance with this Ordinance.
- C. When any *nonconforming use* of any *structure* or land in any *zoning district* has been changed to a conforming *use*, it shall not thereafter be changed to any *nonconforming use*.
- D. In the event that a *nonconforming structure* is destroyed, the *structure* may be restored to its original *nonconforming* condition, provided:
 - (1) The cost of restoring the *structure* to its condition immediately prior to the event does not exceed 50 percent of the cost of reconstructing the entire *structure*; and,
 - (2) The cost of reconstruction is determined by three (3) state certified appraisers as required by the City Manager or designee; and,

- (3) A *building permit* application is submitted within ninety (90) days from the date of the damage.
- (4) Expiration of a *building permit* application or approved *building permit* related to reconstruction of the *nonconforming use* will be considered a discontinuance of the *nonconforming use*.
- E. A *nonconforming structure* shall not be enlarged, extended, reconstructed, or structurally *altered* unless such *structure* and such enlargement, extension, reconstruction, or structural *alterations* conform to the LDO; however, nothing herein shall prohibit any reasonable repairs or *alterations* to such *structure*. When a *structure* has been declared unsafe by the City's Building Safety Division and/or Code Enforcement Division, it may be placed in a safe condition unless such condition was created as described in the aforementioned Subsection C.
- F. Normal maintenance of a *building* or other *structure* containing or related to a legal *nonconforming use* is permitted, including necessary structural repairs provided such structural repairs do not enlarge or intensify the *nonconforming use*.
- G. A legal *nonconforming use* shall not be changed except in conformance with the *use* requirements of the *zoning district* in which it is located.
- H. If, at the time of the enactment of this Ordinance, any *owner* of a *plot* of land consisting of one (1) or more *adjacent lots* in a legally established subdivision of record does not own sufficient contiguous land to enable conformity to the minimum *lot* size requirements, or does not have sufficient *lot* width to conform to the minimum *lot* width requirements, such *plot* of land may nevertheless be *used* as a *building* site. The dimensional requirements of the district in which the piece of land is located may be reduced by the smallest amount that will permit a *structure* of acceptable size to be built upon the *lot*, such reduction to be determined by the board of adjustment:
 - (1) In the RR or R1 zones, the reductions shall permit only a *single-family* residence.
 - (2) No *lot*, even though it may consist of one (1) or more *adjacent lots* in the same *ownership* at the time of passage of this Ordinance, shall be reduced in size so that *lot* width or *lot* area per *dwelling unit* or any other requirement is not maintained. This section shall not apply when a portion of a *lot* is acquired for a public purpose.

103-1.6

Transfer of Property

The sale and/or transfer of property that has been found to be in violation of the LDO shall not nullify the violation or stay the enforcement timeframes by which the violation is processed and compliance is required.

CHAPTER 104 - FUNDAMENTAL DEVELOPMENT REQUIREMENTS

ARTICLE 1 – IN GENERAL

104-1.1 Purpose and Intent

- A. The purpose of this Chapter is to accumulate fundamental development regulations and performance standards, which apply to any development, redevelopment and/or improvement of public and private property within the City rather than to repeat them several times. The standards and regulations set forth in this Chapter shall qualify or supplement, as the case may be, the regulations set forth elsewhere in this Ordinance.
- B. The following fundamental requirements are intended to be viewed in broad terms with the detailed provisions found within the specific policies, ordinances, plans and guidelines adopted by the City.

104-1.2 Unsuitable Sites

- A. No land shall be used, or *structure* erected if the City Engineer or authorized representative has determined that the land is unsuitable and likely to be harmful to the health, safety, and general welfare of the community. The types of features or physical aspects which may render land unsuitable include, but are not limited to, potential flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, low percolation rate or bearing strength, and/or erosion susceptibility.

104-1.3 Compliance with Other Plans, Regulations, and Contiguity

- A. The adopted plans, policies, regulations, standards, and guidelines listed below may qualify or supplement the regulations of this Ordinance. Each document may be updated or replaced periodically over time and used as a regulation when in effect at the time of a development application. :
 - 1. Surprise General Plan 2035, hereinafter known as *General Plan*,
 - 2. Parks and Trails Master Plan,
 - 3. Integrated Water Master Plan Water Infrastructure July 2009,
 - 4. Integrated Water Master Plan Water Resources Update June 2015,
 - 5. Planning and Engineering Design Standards (PEDS),
 - 6. Building and Fire Codes,
 - 7. Arts and Culture Master Plan,

8. Water and Wastewater Facility Guidelines April 2011,
9. SPA 2 Reclaimed Water and Recharge Master Plan Update September 2017,
10. Other plans adopted to guide development.

104-1.4 Urban Growth Principles

- A. Urban Growth principles encourage and guide the planning of new development to locate near *urban development* areas of the City, with the intent to achieve the following objectives:
 1. The expansion of incorporated City limits and service areas through a timely and orderly annexation program.
 2. The reinvestment in built-up areas of the City through the *infill* development process.
 3. The preservation of rural characteristics, natural areas, and features.
 4. The protection and preservation of *environmentally sensitive features* from the encroachment of *urban development* as required by Section 104-Article 2.
 5. The promotion of the City's individual image, identity, and character through the extensive and enhanced trails for pedestrian *multimodal* connectivity.
 6. The preservation of historical and cultural features.
 7. Account for improved air quality and minimize non-commuter vehicle miles traveled.
- B. Using the regulations within this Ordinance, all *new construction* and development within the City, including residential subdivisions or development having an overall *gross residential density* greater than one *dwelling unit* per acre (1 du/ac) shall;
 1. Demonstrate efficient, timely, and cost-effective extension of new City infrastructure and services and cost-effective for the City's budget program.
 2. Design for multimodal travel to nearby businesses and services as an alternative to private automobile use and accommodate public transit to existing or planned and funded route
 3. Have multimodal connectivity with between the proposed development's boundary and existing *urban development*. All new *uses* and developments

shall be existing *urban development*. All such *uses* and developments are served by completed infrastructure, including paved *streets*, public sewer and water, storm water drainage and other utilities, as well as fire suppression consistent with the current City-adopted fire code.

104-1.5 Public Infrastructure Level of Service

- A. Every development within the City shall be adequately served by public infrastructure, facilities and services consistent with the City's adopted development standards and by other applicable federal, state, regional or county legislation.
- B. No *building permit* shall be issued unless such public infrastructure, facilities and services are in place, or commitments have been made to provide the required infrastructure and level of service standards described herein. No site-specific development plan or *building permit* shall be approved or issued that will reduce the level of service standards below the adopted level of service standards for the affected development.
- C. The following level of service standards shall be used to review and approve proposed development and construction, and to determine if a development or construction project meets or exceeds the minimum requirements for adequate infrastructure, facilities, and services.
 1. Americans with Disabilities Act (ADA). Infrastructure construction and improvements of facilities shall comply with the Americans with Disabilities Act.
 2. Community Circulation. All new development projects and development phases therein, must have physically traversable and legally established *access* that is improved and connected to the City's existing *multimodal* circulation system or to planned *multimodal* circulation improvements for which funds have been appropriated. Except for *model home* complexes, all required *multimodal* circulation infrastructure improvements shall be fully and completely installed and shall be operational and available to serve the new development phase(s) at the time the City issues the first certificate of occupancy for a *building permit* or final inspection.
 3. Water Quality and Wastewater Standards. All water and wastewater infrastructure requirements shall be in compliance with all council adopted and/or approved water and wastewater plans, guidelines, reports and documents and any county, state or federal water quality regulations.
 - a. The development and installation of water supply facilities shall be adequate to provide high quality potable water from a public or community water supply source, and shall be constructed to

conform to City standards and requirements set forth in the City-adopted engineering design standards, the water quality directives of the City, the Maricopa County Environmental Services Department, the State of Arizona Department of Environmental Quality, and the City-adopted Fire Code.

- b. All developments must also be in compliance with all local, state, and federal regulations regarding aquifer recharge, erosion and sedimentation, storm drainage and runoff control, solid wastes, and hazardous substances.
 - c. No materials (organic or inorganic), compounds or chemicals, which can contaminate any water supply, interfere with bacterial process in *sewerage* treatment or otherwise cause emission of elements which are offensive or hazardous to the public health, safety, welfare or comfort shall be discharged at any point into any public *sewer*, private sewage disposal system or stream or into the ground, except in accordance with the standards approved by the Arizona State Department of Health and/or Environmental Quality or such governmental agency as may have jurisdiction over such activities.
4. Drainage and Flooding. Surface water from rooftops or *lots* shall not be allowed to drain onto *adjacent lots*. No *structure* or land shall hereafter be constructed, located, extended, converted, or *altered* within any flood hazard areas that would create a public nuisance or create a hazard to life or property.
- a. In the design of the development, every effort shall be made to utilize the natural slope of the land for the stormwater collection system.
 - b. The point in which natural drainage flows enter and exit a property prior to development shall remain the same after the property has been *altered* for the development.
 - c. Encroachment into a *floodway* shall be prohibited including but not limited to *fill*, *new construction*, substantial improvements, and other development, unless certification by an AZ registered professional Engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
5. Fire and emergency services and facilities. A certificate of occupancy nor final inspection for a specific development shall not be issued until such time that all necessary fire and emergency services and facilities, as required by the City to serve the development, are in place and operational. Each development phase or *building* therein shall provide

paved sufficient *access*, adequate water source and pressure, and facilities for fire protection and suppression as required by the most current City adopted Fire Code. Where required by the City, the *developer* shall reserve a site(s) for a fire station facility unless approved by the Fire Marshal and/or Fire Chief.

6. Fire and Explosion Hazards. Disposal of waste materials by outdoor incineration on the premises shall require a burn permit from ADEQ. All storage of, and other activities involving inflammable and explosive materials shall be provided adequate safety devices against hazards of fire and explosion, together with adequate fire-fighting and fire suppression equipment and devices standard in industry. All storage of inflammable or explosive materials shall further comply with location requirements set forth by the Fire Department or as established by this or other City codes and ordinances.
7. Utilities. Utility services, including electrical, gas, telephone, cable, and any other dry utility, shall be provided underground and in accordance with City policies, guidelines and engineering development standards; as well as with utility companies' service rules and regulations for location and construction of utilities. The policies and procedures of the City shall prevail where policies and procedures regarding location, undergrounding, and *screening* of utilities differ between the City and utility company. Including all financial obligations, it shall be the *developer's* responsibility to plan, design, and coordinate the installation of utilities with applicable utility companies.
8. Park, recreation, and open space facilities. A percentage of gross land area shall be required as *open space* for all new development with residential, mixed use, or commercial *zoning* as prescribed in **Chapter 106** of this Ordinance. The location, size, type, and design of *open space* and/or recreational facilities shall be in accordance with the *General Plan*, the City's adopted Parks and Trails Master Plan, and the PEDS (Chapter 107 of this Ordinance)
9. Public education facilities. If required by the *school* district, the *developer* of a subdivision shall reserve land within the proposed subdivision for a *school* site(s) to be acquired by the applicable *school* district. The provision of a site(s) for educational facilities shall comply with state legislative mandates, and with the location requirements of the applicable *school* district and the City.
10. Construction Standards and Testing specifications.
 - a. Construction and/or installation of public infrastructure shall meet and conform to the requirements, standard specifications, and codes as set forth by the City departments of community development, public works, and fire department. To the extent

there is any inconsistency or discrepancy between standard specifications and codes for construction and/or installation with the provisions of this chapter, the more restrictive provision shall prevail.

- b. Sampling and testing of materials and *laboratory* inspection of materials and processes shall be performed at the expense of the *developer*. Testing shall be in accordance with the City's standards specifications and codes. Any organization providing construction materials testing services must have an established in-house *laboratory* that meets the standards and requirements of the American Society for Testing and Materials.

- 11. Phasing of development. The construction of any planned development authorized under these provisions shall be undertaken to assure full completion of the development in accordance with the adopted rezoning, site plan, preliminary plat, or final plat..

- a. Each phase of development shall be related to surrounding areas and available public facilities in such a manner that failure to proceed to subsequent phases of the approved development will not adversely affect those areas or facilities.
- b. Each completed phase of development shall comply with all applicable standards set forth in this Ordinance.
- c. Infrastructure, as installed, shall be sufficient to accommodate each phase of the development.
- d. The first phase of the development shall ensure connectivity to active and passive recreation, parking, landscaping, pedestrian routes, residential areas, and open space for the master site plan. Residential and commercial development projects to be constructed in phases shall be planned, designed and platted so that each subsequent phase, when completed, will function independently in terms of its vehicular and pedestrian circulation system.
- e. For all projects less than 1,000 acres to be platted and constructed in phases, the minimum size of the first phase of development shall be equal to ten percent of the total gross land area designated and approved for development. For mixed-use development, residential, commercial and recreational uses shall be contained in the initial development phase.
- f. Prior to the applicant obtaining a building permit for permanent structures on the site, all streets that abut, traverse and/or connect with the first development phase, as well as all local streets platted

for the first phase of development, shall be fully constructed in accordance with the street design standards provided in this Ordinance. Additional off-site improvements may be also required by the city manager or designee for the proposed phase.

- g. Prior to the applicant obtaining a building permit for permanent structures on the site, all utilities and drainage and erosion control measures that abut, serve and/or connect with the first development phase shall be fully installed in accordance with the engineering development standards.
- h. Prior to the applicant obtaining approval to construct any subsequent phase of development beyond the first approved phase of development, all streets, roads, alleyways, street lighting, utilities and active and/or passive recreation and open space areas platted in the first phase of development must be completed prior to commencing a second phase of development.

104-1.6 Air Quality Standards

- A. All development within the City shall comply with local, county, state, and federal air quality regulations governing air emissions including, but not limited to, those regulating odor, dust, fumes, gases or other emissions of *noxious matter*, toxic and/or corrosive, as well as suspended solid or liquid particles.
- B. Dust and particulates. Prior to engaging in any earth moving on a site, a plan for controlling dust resulting from construction or other activities on the site shall be submitted by the *developer* at the time of application for a grading permit.
- C. Undeveloped areas that are proposed to be *used* for *buildings*, parking, driveways sidewalks and similar *uses* that have been either disturbed through the grading process or by a previous *use* shall be required to remove weeds, debris, and dilapidated *buildings* and may be required to install dustproof ground cover ahead of construction phase schedule to prevent the intrusion of unwanted dust or blowing debris from the site/*lot*.
- D. Odors. No *use* shall be operated so as to produce the emission of objectionable or offensive odors in such concentration as to be readily perceptible at any point at or beyond the *lot line* of the land on which the *use* is located. The guidelines, policies and standards established by the State of Arizona Department of Environmental Quality and Maricopa County Air Quality Department, as periodically updated, are adopted herewith by the City council as the guides and standards of the City for determining quantities of offensive odors. Special attention shall be given when placing land *uses* in the vicinity of wastewater treatment facilities.

104-1.7 Noise and vibration standards.

- A. Noise restrictions. Land *uses* and/or activities shall not result in or generate any noise perceptible beyond the boundaries of the immediate site in violation of the noise regulations in the City Municipal Code.
- B. Vibration. Every *use* shall be so operated that the ground vibration inherently and recurrently generated by the *permitted use* is not discernable, at any point beyond the site property line, without instruments.
- C. Construction of *buildings* and equipment operations. Any construction or repair work, or operation of any construction-type equipment or device(s) within any residential zone or within any residential designation within a planned area development (PAD) zone shall be unlawful within the hours of 9:00pm to 5:00am, except when the work is associated with an emergency operation or *public improvement*, and subject to the provisions of this section and any noise control ordinances within the Surprise Municipal Code.
- D. Property maintenance. Any outdoor maintenance or cleaning of private property that includes but is not limited to sweepers, tree or weed trimmers, leaf blowers, and lawn mowers shall be unlawful within the hours of 9:00pm to 5:00am, except when the work is associated with an emergency operation or *public improvement*, and subject to the provisions of this section and any noise control ordinances within the Surprise Municipal Code.

104-1.8 Glare and heat standards

- A. Glare and heat standards shall apply to all land development and shall regulate the *use* of building materials, large paved areas, *streets* and *street* widths and composition, sidewalks, exterior *lighting fixtures*, *building* orientations, *street* landscaping, and any other development components that could result in adverse reflected heat or harsh, bright light and/or reflections.
- B. All development shall be planned and designed so as to minimize the amount of heat and/or glare generated by a proposed *use* or activity by incorporating the following design standards:
 - 1. Use of Building Materials. Materials used in the construction of residential, retail commercial, *office*, industrial and institutional *buildings* shall be such so as not to produce intense glare or heat, whether direct or reflected, that is perceptible from any point along the *building* site's property lines.
 - 2. Large Paved Areas. Areas developed as large hard-surface plazas and parking *lots* shall be planned and designed to incorporate canopy trees, arbors or other landscape techniques to reduce radiant heat generated from paved services.

3. Streets and Sidewalks. *Developers* shall plan, design, and install *streets* and *sidewalks* in all residential and nonresidential development in accordance with the *street* and *streetscape* standards set forth in the PEDS.
4. Exterior lighting. Public and private exterior lighting sources shall be placed in a manner so as not to cause *light spillover* or glare beyond the property line onto drivers, pedestrians and neighboring land *uses*. All exterior lighting shall be designed, located, installed, and maintained in accordance with the lighting standards and regulation provided in **Chapter 107** of this Ordinance.
5. Glare. Any activity or *manufacturing* processes that create glare, such as but not limited to welding, shall be conducted within an enclosed *building* or be effectively *screened* from public view. If the source of the glare is proposed to be *screened* with plant material, then the *applicant* must demonstrate that the *screening* will be effective year-round.

104-1.9 Hazardous Materials Standards

- A. The following general hazardous material guidelines and standards shall apply to all development or redevelopment proposals containing the storage or manufacture of hazardous or toxic materials and having the potential to cause *off-site* impacts as a result of the release or discharge of a hazardous material or toxic or *noxious matter*.
 1. No land *use* activity shall, for any period of time, result in the discharge across the boundaries of a *lot* on which it is located, either by surface run-off or by underground plume, a hazardous, toxic, or *noxious matter* in such concentrations as to be detrimental to or endanger the public health, safety, or welfare.
 2. The release of any hazardous, toxic, or *noxious matter* shall not cause injury or damage to *persons*, land or the *use* of land, or render unclean the surface or underground waters of the City to the extent of being harmful to the public health or to animal or aquatic life, or to the *use* of such waters for domestic water supply, industrial purposes, recreation, or other legitimate and necessary *uses*.
 3. Any operation involving ionizing radiation such as the use of gamma rays, X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other atomic or nuclear particles, shall be permitted only in accordance with the codes, rules, and regulations of the Arizona State Department of Health Services.
 4. No person shall operate or cause to be operated for any purpose any planned or unplanned source of electromagnetic radiation, including

overhead utility transmission lines, which does not comply with current federal, state, and local regulations governing the location of such sources.

5. Electromagnetic radiation generated by operating sources in compliance with and the under the regulatory auspices of the Federal Communications Commission shall be deemed unlawful if such radiation causes abnormal degradation of performance of any electromagnetic receptor of quality and proper design. The determination of "abnormal degradation of performance" and of "quality and proper design" shall be made in accordance with good engineering principles and practices, and the standards of the American Institute of Electrical Engineers, the Institute of Radio Engineers and the Electronics Industries Association.
 6. No *use*, activity, or process shall be conducted in a manner that will release airborne hazardous materials.
- B. All development proposals and land *uses* that either manufacture or store a hazardous material or toxic or *noxious matter* shall include a Hazardous Materials Impact Analysis (HMIA). The HMIA shall provide the following information.
1. Information on the specific type of materials manufactured and/or stored on-site.
 2. The magnitude of impact such hazardous materials would have on the site and surrounding area in case of an accidental release of said materials was to occur.
 3. The emergency procedures and containment plans and evacuation plans.
 4. In addition to the above HMIA information also include the following information on the site development.
 - a. How the development shall be planned and designed to comply with all City fire, safety, and building codes regulating the *use* and storage of the hazardous materials.
 - b. How and what special features of the site such as topographical conditions, earthen *berms*, proximity siting to other *buildings* on the site or adjoining property, *building* design, and walls will be utilized to lessen the impact of hazardous material releases.

104-1.10 Open space Requirements and Hierarchy.

- A. Properties that are zoned residential, mixed used, and commercial shall be required to provide a percentage of the gross acreage as *open space*; as further specified in the tables in **Chapter 106** of this Ordinance.

- B.** New residential subdivisions shall plan, design, and provide the required *open space* a subdivision-wide basis that grants public access with the intent to maintain connectivity. The following hierarchical layers identify the most appropriate and preferred location, intent, and design for the required *open space*:
1. In locations that best protects the identified *environmentally sensitive features* and *cultural resources* on or *adjacent* to the property, and
 2. In those areas where there exists opportunities to create any connectivity to a regional network of *open space* and/or trail easements that could maximize the benefit to both the residents and wildlife, and
 3. In those areas where there exists an opportunity for connectivity to the trails and *open space* within *adjacent* developments, and
 4. In those areas that provide a convenient and central location for the most number of *dwelling units* within the development.

104-1.11 Residential Density, Transfer of Density and Development Rights

- A.** Residential Density. The residential *zoning districts* provide for a range in the permitted densities (refer to **Chapter 106** herein). A project may request higher *gross residential density* than the existing entitlement based on the proposal's variety of housing opportunities, generous amount of *open space*, and a creative design around *environmentally sensitive features*. Using the regulations within this Ordinance, applicants must demonstrate meeting the intent of the following hierarchy:
1. Connections made to existing regional network of *open space* and/or trails and to *adjacent* developments.
 2. *Open space* is functional in design for passive or active recreation and not dominated by narrow landscape tracts along the *streets*.
 3. Exceed the number of different housing types, floor plans, and varying *lot* sizes than the minimum required per Chapter 108 of this Ordinance and the PEDS.
 4. Circulation and street layout to accommodate pedestrian scaled *personal services* and neighborhood retail *uses* without the need for driving on arterial streets.
 5. Constructs and installs the *amenities* within the *community open space system* that are not covered by impact fees.
 6. Walkability in the *multimodal* design of the residential neighborhood including but not limited to *curb separated sidewalks*, bicycle paths and

trails, fully protected bicycle lanes along collector and *arterial streets* if applicable.

7. LEED level Neighborhood and *dwelling units*.

B. *Transfer of Density and Development Rights*. The *transfer of density and development rights* shall not be an assumed right and must occur with the approval of the City Council. Approvals of a density and development rights transfer shall be made only upon a finding that the proposed transfer will not be detrimental to the intent of, and will advance the City's interest in, protecting those lands with *environmentally sensitive features, cultural resources*, and larger tracts of *open space*.

1. Lands identified as having *environmentally sensitive features* and/or *cultural resources* along with the associated *buffer areas*, are eligible to transfer density and development rights from those lands provided the following:

a. All lands from which the density and development rights have been transferred from shall be concurrently rezoned to *Open space Conservation (OS-1)* or *Open space Recreation (OS-2)* depending upon the specific details of the site.

b. The portion of the development project that can receive *density transfer* shall have less sensitive environmental conditions than the land from which the density is transferred. Eligible receiving areas are any portions of the development project that do not contain slopes over ten (10%) percent, *environmentally sensitive features, cultural resources*, minor *water features* or major *water features*.

c. The *transfer of density* between slope bands/categories within a *hillside development area* shall only be allowed when transferring from a higher slope band to a lower slope band and may occur at a rate of 1:1 allowable *dwelling units* provided the maximum density within the receiving slope category/area is not exceeded; in which case the density must be transferred into next lower slope category or into a non-*hillside* area.

d. When all of the allowable *dwelling units* are transferred from a *hillside development area* above the ten percent (10%) slope line to a non-*hillside* area, resulting in a minimum fifty (50) acre undisturbed area above the ten percent (10%) slope line, and the resulting undisturbed area is zoned OS-1, the *density transfer* from the *hillside development area* to the non-*hillside* area may occur at a rate of 1:1.25 allowable *dwelling units*.

e. A density bonus may occur at a rate of 1:1.25 allowable *dwelling units* when transferring density and development rights from *water*

features identified as and required for regional drainage facilities, as part of an approved City regional drainage and flood control plan developed by the City.

2. Lands without *environmentally sensitive features* or *cultural resources* may still be eligible for transferring density and development rights within a specific projects provided:
 - a. Density shall be limited to a rate of 1:1 allowable *dwelling units* when transferred for purposes of meeting the required *open space* for a development provided those lands are over five (5) acres in size and zoned *Open space Recreation (OS-2)*.
 - b. The development is proposing to utilize a *cluster development* design and the resulting *open space* is twenty-five (25%) percent greater than the minimum required by the underling *zoning district*.
3. *Off-site Transfers. Density transfers* to noncontiguous *parcels* may be approved, in order to encourage the *transfer of density and development rights* from more sensitive areas to those that are less sensitive. Such transfers shall be limited to a rate of 1:0.75 allowable *dwelling units*. Such noncontiguous transfers shall be identified at the time the application is submitted to the City so that the property *owners* of the less *sensitive lands* may join in a single application with the property *owner* of more sensitive areas, and to transfer development potential from the more sensitive to the less sensitive areas without the need for a second *rezoning*.
4. The overall density of the development site shall not exceed the density permitted for the character area as set forth in the *General Plan* nor the applicable *zoning* requirements of this Ordinance.

104-1.12 Luke Air Force Base Compatibility

- A. The City is located within the vicinity of the Luke Air Force Base and Luke Auxiliary Field 1. The City and any development within high noise contours and accident potential zones as delineated on the City's *General Plan* shall comply with Arizona State Statutes to:
 1. Minimize conflict with high noise levels and hazards generated by aircraft and
 2. Provide additional notification to the public; and
 3. Create orderly, efficient, and functional development patterns that are compatible with the continued operation of Luke Air Force Base.

ARTICLE 2 – ENVIRONMENTALLY AND CULTURALLY SENSITIVE LANDS DEVELOPMENT STANDARDS

104-2.1 Applicability

- A. All properties north of State Route 74 (commonly known as Carefree Highway) and those other areas identified as Scenic Lands Development Sub Areas in the Surprise *General Plan* must comply with the processes, procedures, and regulations outlined herein in addition to any that may be developed specifically for those subareas.
- B. Elsewhere, when any portion of a development site, regardless of the acreage, *zoning*, or location within the City can be identified as having *environmentally sensitive features* or *cultural resources*, the entire development site shall be required to adhere to the following processes, procedures, and regulations:
 - 1. Develop an *Environmental Inventory Plan* and Report of the site;
 - 2. Utilize an *Integrated Conservation Design* approach in the design and development of the project; and
 - 3. Comply with the *Environmentally Sensitive Lands Standards* in the **PEDS - Chapter 5** and the standards outlined in the following sections.

104-2.2 Environmental Inventory Plan and Report

- A. An *Environmental Inventory Plan* and Report shall be submitted along with all development applications, including applications for *General Plan Amendments*, zone changes, *platting*, and *site planning*; except for a *single-family home* on a *lot* in a subdivision with an approved *Environmental Inventory Plan* on file with the City.
- B. The required *Environmental Inventory Plan* and Report shall identify the *environmentally sensitive feature(s)*, and *cultural resource(s)* that are to be conserved and protected within the proposed development and the *buffer area(s)* necessary to mitigate impacts to those features and resources from the development. Boundary determination shall be based upon the biological and ecological characterization of the *environmentally sensitive feature(s)* and the culturally sensitive nature of the land. Using maps, photos, and on-site evaluation, the *Environmental Inventory Plan* shall at a minimum identify and locate the following features and resources as well as others that may be found to be unique to the site:
 - 1. *Hillside development areas, steep and unstable slopes, and ridgelines.*
 - 2. *Habitat areas, wildlife corridors and movement areas.*

- a. The wildlife *use* of the area showing the species of wildlife using the area, the times or seasons that the area is *used* by those species and the “value” (meaning feeding, watering, cover, nesting, roosting, perching) that the area provides for such wildlife species.
 - b. *Habitat* that supports federally endangered plant or animal species, Species of Greatest Conservation Need (SGCN) in Arizona, or *significant stands of protected native plant species*.
 - c. Any special features, such as *habitat*, breeding, and population patches.
 - d. Wildlife movement corridors.
3. *Protected native plant(s) and significant stands of vegetation.*
- a. An inventory of the pattern, species and location of *protected native plants* listed in **Table 104-2a** below as well as other on-site native vegetation that are five inches or greater in *caliper* or cacti that are three feet or greater in height or cacti that have reached their full height at maturity.

Table 104-2a - Protected Native Plants	
Botanical Name	Common Name
TREES: (▲) Denotes trees which are indigenous to the Phoenix metropolitan area	
Acacia farnesiana or smalli	Sweet Acacia
Celtis pallida	Desert Hackberry
Cercidium floridum	▲ Blue Palo Verde
Cercidium microphyllum	▲ Foothill Palo Verde
Chilopsis linearis	Desert Willow
Juniperous species	Juniper
Olneya tesota	▲ Ironwood
Populus fremontii	Fremont Cottonwood
Prosopis velutina	▲ Velvet Mesquite
Cacti and Succulents	
Carnegiea gigantea	Saguaro
Ferocactus	Barrel Cactus
Fouquieria splendens	Ocotillo
Canotia holocantha	Crucifixion Thorn
Peniocereus Greggii	Desert Night-Blooming Cereus
Yucca elata	Soaptree Yucca

4. *Water features* include *floodplains*, desert washes, *riparian areas*, *rivers/streams*, *springs/seeps*, and *wetlands*.
 - a. The boundary of any *wetlands* that might exist on the site and a description of the ecological functions and characteristics provided by those *wetlands*.
 - b. The bank and high water mark of any perennial stream, *floodway*, *floodplain*, wash, or swale on the site (identified by professional engineer).
5. *Archeological or cultural resources*.
 - a. An archeological records survey by the State Historic Preservation Office (SHPO) shall be conducted for the development site.
 - b. A complete on-site archeological assessment, by a qualified archeologist, shall be required if after the initial records check it is determined that:
 - (1) The proposed development site contains lands upon which an *archaeological resource* has been previously identified; and/or
 - (2) SHPO or the Arizona State Museum (ASM) determines that an on-site archeological study is needed due to known, but not formally identified/reported, *cultural resources* are likely present on the site or in the immediate vicinity.
 - (3) A previous SHPO survey has not been conducted for the site.
- C. The Environmentally Inventory Report shall provide a narrative description of the general archeological, biological and ecological functions provided by the *habitats*, *environmentally sensitive features* or *cultural resources*. The report shall also outline the specific mitigation measures to be utilized and the *buffer areas* necessary to protect the *habitats*, features, and resources on the proposed development site.
- D. In *Hillside Development Area*: In addition to the materials listed in **B** and **C above** a detailed Slope Category Analysis shall be required to be submitted for any site that contains slopes of ten (10%) percent or greater (Refer to **Section 104-2.8** for more details). Also, the report shall include a proper soil investigation by a licensed geologist or engineer to determine if any geological hazards or soil bearing provisions shall be required.
- E. Both the *Environmental Inventory Plan* and accompanying report shall be prepared by the *applicant's* design team of professionals with competence and registration or certification in the following area(s): urban planning, civil

engineering, wildlife biology, archeology, landscape (ASLA or certified nurseryman) and any other relevant disciplines as may be appropriate or necessary.

Section 104-2.3 Buffer Area Regulations

- A. An *environmental buffer area(s)* shall be required to protect the ecological and archeological character of any identified *environmentally sensitive feature(s)* and the integrity of any *cultural resource(s)* identified by the *Environmental Inventory Plan* for the development site. The proposed *buffer areas* shall be shown on the *Environmental Inventory Plan* and described by the accompanying report. Once approved by the City, these *buffer areas* shall be indicated on the final development plans and legally described on the *recorded plats*.
- B. These *buffer areas* may be multiple and noncontiguous and may be calculated toward the development's *open space* requirement only if the *buffer area* is zoned as *Open space* Conservation (OS-1) for preservation.
- C. The minimum width of any *buffer area* shall be seventy-five (75) feet as measured from the edge of the *environmentally sensitive feature(s)* or *cultural resource(s)* that is being protected. This width may be increased based upon the significance and sensitivity of the feature, *habitat*, or resource as determined by the City in conjunction with the *applicant's* design team professional qualified in the specific discipline in question. Reduced widths for the *buffer area* may be approved when along and *adjacent* to minor ephemeral desert washes
- D. A designated *buffer area* shall be required for ridgeline protection which shall include the crest of any hill above the ten percent (10%) slope band as shown on the Slope Category Analysis, plus the land located within 300 horizontal feet on either side of the crest of the hill. No development shall intrude into this designated ridgeline protection area.
- E. No disturbance or construction activity shall occur within any *buffer area* and no person shall engage in any activity that will disturb, remove, *fill*, dredge, clear, destroy or *alter* any area, including *protected native plants* and *water features* within the *buffer area*, except for the following limited purposes:
1. Mitigation of development activities.
 2. Restoration of previously disturbed or *degraded* areas or planned enhancement projects to benefit the natural ecological characteristics of the area, feature, or resource.
 3. Emergency public safety activities.
 4. Utility installations when such activities and installations cannot reasonably be located outside the *buffer area* or other nearby areas of development.

5. Construction of a trail or pedestrian walkway that will provide public *access* for educational or passive recreational purposes provided that the trail or walkway is compatible with the ecological character or wildlife *use* of the natural *habitat*, feature, or resource.
 6. Construction or installation of recreational *amenities* such as benches, observation blinds, informational kiosk, trail marker/*signage* and similar items trails, often associated with passive activities such as hiking, photography, nature observation and environmental education programs, provided that such *amenities* are compatible with the ecological character or wildlife *use* of the natural *habitat*, feature, or resource.
 7. Limited construction necessary for *access*; but not including parking *lots* for trailheads.
- F. If the development causes any disturbance within a *buffer area* or to an *environmentally sensitive feature* or *cultural resource*, the *applicant/property owner* shall undertake restoration and mitigation measures to restore the damaged area or lost resources on-site and, if applicable, to those *adjacent off-site* areas or resources. Any such mitigation or restoration measures shall be at least equal in value (ecological, biological, culturally) to the loss suffered because of the disturbance, and shall be based upon mitigation and restoration plans and reports approved by the City's Community Development Director. Any existing *protected native plants* that are destroyed shall be replaced with native vegetation in like kind, size, and density.

Section 104-2.4 Construction Mitigation Measures

- A. Protective measures shall be required to be in place prior to, and remain for the duration of, the development and construction of the project. The following shall be required to ensure protection of the *habitats*, *environmentally sensitive features*, *cultural resources*, and the associated *buffer areas*:
1. Limits of Development (LOD). The precise LOD shall be delineated on the development plan and/or *recorded plat* to identify those areas of the project site where no land disturbance activities can occur during the construction of the project. The location of the LOD line(s) shall consider and account for all construction activities including but not limited to, *ingress/egress* to the project site and all necessary staging and operational areas.
 2. Barrier fence. Prior to the issuance of a grading or *building permit*, and prior to any disturbance activities the limits of development (LOD) shall be clearly staked in the field, with visible plastic fencing, in conformance to the approved development/*site plan*. In locations where such fencing is physically impossible the use of visible roping may be approved. The

disturbance limit boundaries shall be established and staked by an Arizona-registered land surveyor. Appropriate warning *signs* in English and Spanish shall also be posted at least every 100 linear feet on the required fencing. Such fencing and *signage* shall be maintained in place throughout the grading/construction process and shall only be removed after a final inspection or Certificate of Occupancy has been issued by the City. The *fenced* and/or roped area shall include all previously disturbed areas and all areas intended to be disturbed. There shall be no disturbance outside the *fenced* area.

3. Construction Timing. Construction shall be organized and timed to minimize the disturbance of sensitive or specially valued species occupying or using on-site and *adjacent* natural *habitats* or features.

Section 104-2.5 Development Regulations for Specific Environmental Features

A. Lands with *habitat areas*, *wildlife corridors* and movement areas.

1. If the *Environmental Inventory Plan* and Report identifies a *habitat* for a wildlife species classified as a sensitive or Species of Greatest Conservation Need (SGCN) in Arizona or by federal agencies as "threatened" or "endangered", then the development plan shall include provisions to ensure that the *habitat* is protected. Any such natural *habitat*, feature, *sensitive land* area and the *adjacent buffer area*, established for the *use* or survival of any such species, shall not be disturbed or diminished and, to the maximum extent feasible, such *habitat* shall be enhanced.
2. If the development site contains *wildlife corridors* and movement areas that connect to other *off-site* natural *habitats*, features or similar *sensitive land* areas, the development plan shall preserve such natural connections. Such corridors and movement areas shall be designed and constructed to allow for the continuance of existing wildlife movement between natural *habitats*, features or *sensitive land* areas and to enhance the opportunity for the establishment of new connections between other areas for the movement of wildlife.
3. *Fences* along *roadways*, within wildlife movement areas, *wildlife corridors*, and within *open space*, environmentally/culturally sensitive areas, and *buffer areas* shall be designed to allow for safe and controlled wildlife permeability.

B. Lands with *protected native plants* and/or *significant stand(s) of vegetation*.

1. Those plants which must be disturbed due to construction are required to be salvaged unless the *applicant* can demonstrate how conditions such as poor health or orientation make successful relocation impossible. Salvaged

plants are to be replanted within the project to the greatest extent possible.

2. Any project which affects any indigenous plant from the specified *protected native plant* List is required to submit a Native Plant Preservation Plan detailing the existing location and proposed treatment of each protected plant. Protected plants should, at the most optimal situation, remain in place.
3. Native Sonoran Desert vegetation should not be pruned or removed from areas identified as Natural *Open space* or *buffer areas* unless demonstrated to the City that a health, safety or welfare issue exists. This includes removal of dead trees or cacti.

C. Lands with *water features*.

1. For proposed developments that will disturb any existing *water feature* of one-quarter acre (1/4 ac) or greater, the *developer* must provide to the City a written statement from the U.S. Army Corps of Engineers that the development plan fully complies with all applicable federal regulations as established in the Federal Clean Water Act. The *developer* shall also provide to the City written statements from such other governmental agencies having jurisdiction that the development plan fully complies with all applicable federal, state and county environmental regulations. Such written statements shall be provided prior to the scheduling of a public hearing and/or approval for the project.
2. A copy of an approved permit required pursuant to Section 404 of the federal Clean Water Act, if required for the development, shall be submitted to the City prior to issuance of any excavation or grading permit or *final plat* approval.
3. If a development site contains an existing *water feature*, the development plan shall include such enhancements and restoration measures as necessary to provide a reasonable wildlife *habitat* and to improve the aesthetic quality of areas along the high water mark that are in transition, and that are subject to erosion. The development plan shall also include a design for uniform and ecologically and aesthetically compatible treatment of *lots* or tracts that are proposed to surround the *water feature*. Erosion control protection and landscaping plans shall be provided for *parcels adjacent* to the high-water mark.
4. *Water rights*. No development plan shall be approved which would have the effect of injuring or diminishing any water supply determined to be an *environmentally sensitive feature*. The creation of new *water features* shall comply with all City Water Resource Management regulations.

104-2.6 Land Disturbance Regulations

- A.** Whenever the City requires, erosion control, and bank stabilization of *floodways*, washes, swales and streams, the *use* of native vegetation and nonstructural control techniques shall be utilized for such purpose. The *use* of native vegetation shall be the principal means of channel and bank stabilization. The *use* of riprap, concrete, gunite or other similar hard-surface materials for channel and bank stabilization shall be restricted to locations where the *use* of vegetation techniques is not reasonably feasible.
- B.** All stormwater drainage shall utilize nonstructural control techniques to the greatest extent possible and shall provide for safe and controlled wildlife permeability and connectivity through these corridors by using the following methods:
1. Limitation of land disturbance and grading.
 2. Maintenance of vegetated *buffers* and natural vegetation.
 3. Minimization of impervious surfaces.
 4. Use of terraces, contoured landscapes, runoff spreaders, grass or rock-lined waterways.
 5. Use of infiltration devices.
 6. Use of recharge basins, seepage pits, dry wells, seepage beds or ditches, porous pavement, and/or drains.
- C.** All exposed *fill* in the disturbed area shall be contained behind retaining walls or covered with a natural rock veneer and treated with an aging agent and landscaped with indigenous plant material.

104-2.7 Transition Standards

- A.** If the project contains or *abuts* a publicly owned natural area, the development plan shall be designed so that it will be compatible with the environmental management of the public property. In order to achieve this, the development plan shall include measures such as:
1. Appropriate non-vehicular *access* to the natural area from or through the development, and
 2. *Setbacks* or *open space* tracts to provide a transition between the development and the natural area, and

3. Educational *signage* or printed information regarding the natural values, management needs, and potential conflicts associated with living in close proximity to a natural area.
- B. Development plans containing or *abuts* a publicly owned natural area shall include such easements and *rights-of-way* necessary to allow appropriate non-vehicular public *access*, unless such *access* is deemed to be unnecessary and undesirable. Any such *access* requirement or dedication shall be credited towards the *open space* requirements of the development. If the development site contains any privately owned natural area, any *access* provided to such area, whether for private or public *use*, shall be designed and managed in such manner as to minimize the disturbance of existing wildlife using such area.

104-2.8 Hillside Development Area Regulations.

- A. Slope Category Analysis.
 1. The Slope Category Analysis shall include a topographic map, at a scale not less than two hundred (200) feet to the inch, that identifies the different slope bands that exist on the development site in the below categories of slopes. The slope analysis shall be prepared at two (2) foot intervals for slopes less than ten (10%) percent and at five (5) foot intervals for slopes over ten (10%) percent and in a graphic (color coded) method that describes the following range of slope categories:
 - a. 0 to 10% slopes (non-hillside)
 - b. 10% to 15% slopes (*hillside development area*)
 - c. 15% to 20% slopes
 - d. 20% to 25% slopes
 - e. 25% to 30% slopes
 - f. 30% to 35% slopes
 - g. 35% to 40% slopes
 - h. 40% and Over
 2. All contour lines shall be extended onto the *adjacent* properties, a minimum of fifty feet or to a greater distance if necessary, to establish the overall slope of the land.
 3. As part of the Slope Category Analysis and mapping include the location of *ridgelines* and *significant rock outcroppings* and indicate the location and dimensions of the *buffer areas* around or along the perimeter of those

protected *environmentally sensitive features*. Include information on the location and mitigation measures proposed for those unstable *slopes* on the site.

4. *Applicants* seeking a waiver for the requirements for a Slope Category Analysis may submit a written waiver request to the Community Development Director along with an explanation of why a waiver is warranted and shall include such supporting materials as follows:
 - a. Site photographs;
 - b. Site specific topography information;
 - c. All other such information which may provide information on the request.

B. Gross Residential Density Limitations: The maximum number of *lots* into which land located in a *hillside development area* may be *subdivided* shall be the sum of the number of *lots* allowed in each slope category of land as shown in **TABLE 104-2.b** below.

Table 104-2b – Hillside Gross Residential Density Allocation	
Slope of Land/Lot	Maximum Number of <i>Lots</i> Per Gross Acre
0% to 10%	Underlying <i>Zoning</i>
10% to 15%	1.30 *
15% to 20%	1.00 *
20% to 25%	0.70
25% to 30%	0.50
30% to 35%	0.30
35% to 40%	0.20
40% and Over	0.10
Notes: * The allowable gross <i>residential density</i> of these slope categories may exceed the Maximum Number of <i>Lots</i> shown above when density is transferred from a higher slope category (refer to Section 104-1.10 for details). In no case shall the <i>gross residential density</i> exceed the sum of the number of <i>lots</i> allowed by the <i>zoning district</i> and in no case shall units be transferred to a location of higher elevation within the project.	

C. Land Disturbance Regulations.

1. Grading for utility lines, including water and *sewer* lines and lateral lines, electric, gas, telephone and cable services shall be restored to the natural *grade* and revegetated with native plant material as listed in **Appendix B** of the **PEDS**.
2. Mass grading shall not be permitted in any *hillside development area*.

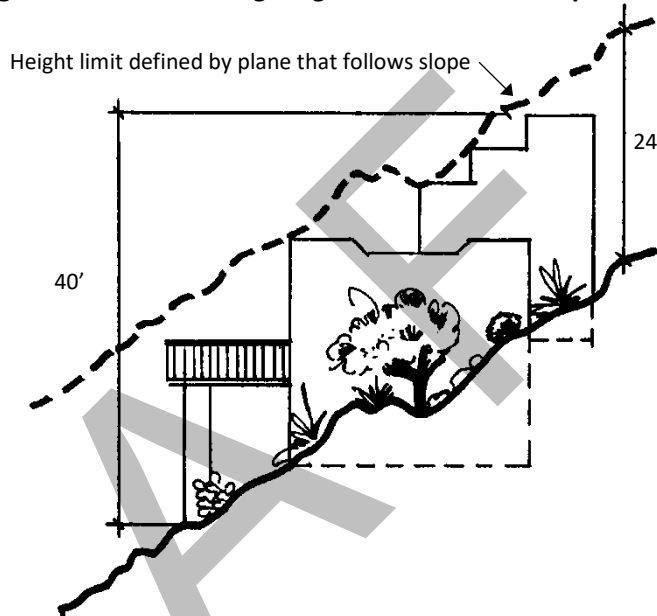
3. Raw spill slopes are prohibited.
4. Vegetation shall be reestablished on all exposed *fill* slopes, *cut* slopes, utility lines, driveway(s), and *graded* surfaces, except for cosmetic landscaping *abutting buildings* in accordance with the landscape standards in **Chapter 107** of this Ordinance pursuant to an approved landscape plan. All surplus excavated material shall be removed from the *lot* prior to any final inspection or the issuance of the Certificate of Occupancy. All *cut* and *fill* areas visible from *off-site* locations shall be treated with a natural staining or aging agent to match *adjacent* areas of the property.
5. The total combined maximum height of any *fill* and/or the depth of any *cut*, including grading for the construction of public or *private streets* or any subsequent grading, along with the establishment of any *building site* or driveway shall be ten (10) feet, as measured from natural *grade*, regardless of whether the *fill* or *cut* is retained, un-retained, or a combination thereof. These limitations may be amended on a site-by-site basis by the Planning and Zoning Commission. However, the Community Development Director may approve unexposed basement *cuts* exceeding the maximum ten foot depth if all of the following criteria are met:
 - a. The *building site* shall not be *graded* so as to create a flat, visible pad surrounding the main residential *structure*.
 - b. All portions of the *cut* in excess of ten feet shall be completely *screened* from view and retained by *building* walls, or retaining walls in the case of light wells.
 - c. Natural *grade* shall be reestablished in accordance with the "*Building height*" definition in Chapter 101 of this Ordinance.
 - d. The total depth of *cut* shall not exceed 24 feet at any point (refer to detail in Chapter 5 of the PEDS).
6. Any un-retained *fill* slope, if allowed, shall have a minimum three feet horizontal to every one foot (1') vertical *fill*. The maximum slope of *fill* grading for *roadway* construction shall be at the discretion of the City Engineer.
7. Maximum steepness of exposed *cut* slopes is dependent on the stability of the material excavated.

D. Architectural Standards.

1. For development within the *hillside development areas*, the height of *structures* shall be determined by the following three (3) sub-sections and not by the *zoning district* regulations that apply to *lots* or *parcels* outside the *hillside development area*.

- a. The height of a *building* or *structure* is limited to a twenty-four foot (24') imaginary plane that parallels the existing pre-development natural *grade*, as measured vertically from any point under the *building* (see **Figure 104-2a** below). The subterranean portion of the *structure* is not included in the total height calculation provided that at least half (½) of the volume of the subterranean portion of the *structure* is below natural *grade*.

Figure 104-2a – Building height in Hillside Development



- b. In the case where the natural *grade* has been *cut* and is not restored back against the *building*, no exposed face in any vertical plane shall exceed a twenty-four (24') foot height measured from the lowest, finished *grade*.
- c. The maximum overall height of the *building* or *structure*, including chimneys and *accessory structures*, shall not exceed forty feet (40') from the highest point of the *building* to natural *grade* at the lowest point *adjacent* to the *building structure* or column (see **FIGURE 104-2a** above).

Section 104-2.9

Archeological or Cultural resources

A. Development Standards and Construction Process

1. Any *developer* whose land has been identified as requiring an archaeological assessment shall adhere to the following standards and procedures:
 - a. An archaeological assessment and survey shall be performed by a qualified archaeologist before any grading or other ground

modification takes place. If cultural features or remains are found, testing and data recovery shall be completed as per Arizona Revised Statutes.

- b. *Landowner(s)* must enter into an agreement to ensure the proper method for conserving or repatriating any remains and/or artifacts founds at the site.
 - c. Copies of final clearance reports from the State Historic Preservation Office (SHPO) shall be submitted to the City prior to construction work commencing.
2. In the event evidence of a significant historic, pre-historic or archeological nature is unearthed during construction on a site proposed for development, all work on the site shall be halted immediately, and the appropriate state agency (i.e. Arizona State Museum (ASM), SHPO) shall be contacted, additionally a professional archeologist shall be retained by the *developer* to confirm or deny the evidence, as well as the extent of land coverage of the find.
3. In the event evidence that is unearthed is determined to be of archeological significance, the *developer* shall be required to make arrangements to either remove the archeological find from the site using acceptable archeological standards and practices, or restore the site to its original condition and set aside the area as *open space*. Documentation of the ASM or SHPO and the archeologist's findings and recommendations shall be submitted to the City.
4. If during construction, human remains and associated burial items are discovered, ground disturbing activities in the vicinity of the discovery shall cease, the discovery site shall be secured, and the Arizona State Museum shall be immediately notified as required under Arizona Revised Statutes.
5. As indicated by the *Environmental Inventory Plan* those areas deemed important as *cultural resource* sites shall be preserved as closely as possible in their natural state and integrated into the development in a manner that makes such land areas part of the development's overall *community open space system*.

ARTICLE 3 – STORMWATER MANAGEMENT

104-3.1 Purpose of Provisions.

- A. The area of the City south and west of Grand Avenue prior to *urban development* was predominantly irrigated *farms*. Presently there are two (2) major systems for conveyance of stormwater to the Agua Fria River via drainage channels located along the west side of Reems Rd and the Loop 303. Understanding these drainage patterns necessitates special attention in order to control stormwater collection and *retention*.

104-3.2 Applicability.

- A. Each subdivision shall provide storm drainage facilities and appurtenances as required by the engineering development standards; as well as by all current City storm drainage master plans, design criteria, and construction standards and requirements.
- B. All required storm drainage infrastructure shall be constructed and in place and available to serve the new development in accordance with an approved storm drainage master plan, an erosion control report, and utility plans.
- C. For projects involving the issuance of only one (1) *building permit* and certificate of occupancy, the installation and acceptance of the certification of the drainage facilities shall be required prior to the issuance of the certificate of occupancy.

104-3.3 Plan and Report.

- A. Conceptual stormwater collection and *retention* plans shall be submitted with a *preliminary plat* or site development plan and approved prior to the approval of such *plat* or plan. The plan shall include, but not be limited to, the following:
 - 1. Method of collection (surface and/or subsurface);
 - 2. Depth, side slopes and area of *retention*;
 - 3. Calculations of volume held and required;
 - 4. High water elevation;
 - 5. Method of disposal of water within 36 hours;
 - 6. Any other data to form a complete plan.
- B. A final drainage report must be submitted with the final plans showing compliance with the conceptual drainage plan, and shall be received and approved by the City engineer.

104-3.4 Development Regulations.

- A. All water from a 100-year storm of a two-hour duration which falls within the area being developed, including the respective one-half (1/2) of all *abutting streets* (whether or not it is a dedicated *street* which may exist by an improvement district and owned by the City), shall be retained within the boundaries of the developed land. No *retention* shall be allowed in public *rights-of-way*. The method of collection and *retention* shall be approved by the department of public works. The method of *retention* calculation, drainage flows and removal of stormwater within thirty-six (36) hours shall conform to **Section 104-3.5**.
- B. Two or more *developers* are encouraged to join together to provide a common *retention* facility. A letter of agreement signed by all *developers* participating in the common *retention area* must be presented to the department of public works, and the *recorded plat* shall indicate that the *retention area* is a joint facility. The joint *retention area* must meet all criteria as a single area.
- C. All *retention* basins shall have a design capacity to preclude a water depth in excess of three feet resulting from a 100-year, two-hour storm. The depth of *retention* basins shall be measured from the lowest *adjacent* top of the curb. In no event shall stormwater stand in the *retention* basins longer than thirty-six (36) hours. Drywells shall be required for any depth of *retention* in excess of one foot (1') and for *retention* basins that have a volume greater than one thousand cubic feet (1,000 f³). Basin bottom percolation shall not be used to reduce the volume used for drywell requirement calculations. Bleed-off pipes are not allowed.
- D. No *retention* basins will be controlled or owned by the City unless dedicated as part of the City's *park* and *community open space system*. Non-dedicated *retention* basins shall be maintained by the *owner*. All non-dedicated *retention* basin areas shall be designated as easement areas for *retention* purposes and shall have a recorded restrictive covenant requiring perpetual maintenance.
- E. Curbed *local streets* shall be designed and constructed to carry the stormwater runoff from a ten-year storm between curbs. Curbed collector and *arterial streets* shall be designed and constructed with no curb overtopping and to maintain one (1) dry twelve-foot (12') minimum driving lane in each direction. No inverted crown *streets*, of any type, shall be permitted. When peak flows from the designated storm exceed the *street* capacity, open area drainage and *retention* systems shall be designed to carry the excess stormwater. The rational methods shall be used to determine peak flows. Fifteen minutes' maximum may be used for the time of concentration for the runoff across the *lots*.
- F. Peak flows from a 50-year storm shall be carried within the cross section between *buildings* (*front setbacks* and *streets*). The finish floor elevation of all *buildings* shall be above the 100-year storm. All finished floors shall be a minimum elevation of 14 inches above the low outfall of the site according to the Surprise Development Directives.

- G. For nonresidential areas the required landscaping areas within the parking *lots* may serve as *retention areas* utilizing LID methods to convey storm water to these areas. In residential areas the *parking areas* may not hold *retention* volume.
- H. The City shall not be responsible for the design, performance, operation or maintenance of the *retention* basin.
- I. The property *owner* of a single *lot* of one acre (1 ac) or smaller will be excluded from the requirements to provide on-site *retention*.

104-3.5 ***Retention* Calculations, Drainage Flows, and Dry Wells.**

- A. Formula. *Retention* calculation shall be submitted as follows:

Total volume required = (intensity for the 100-year, two-hour storm event from the Drainage Design Manual for Maricopa County, Volume I, and Surprise Development Directives) × (drainage area) × (average runoff coefficient)

- B. Runoff factors. The runoff factor used in computations must be justified by a typical cross section or actual area calculation. Refer to the Drainage Design Manual for Maricopa County to determine the runoff coefficients.
- C. Dry wells. Infiltration into the dry well cannot be considered to reduce the size of the *retention area*. The property *owner* of record shall be responsible for the design, performance, operation or maintenance of dry wells used with on-site *retention*. A dry well maintenance program shall be submitted for each dry well and documentation of maintenance performed on each dry well shall be submitted to the City engineer on an annual basis. A percolation rate of 0.5 cfs (or less, if required by the City engineer) per drywell over a 36-hour period shall be used in calculating the number of drywells.

104-3.6 **Right of City to Drain Basin.**

- A. It is unlawful for any person owning or controlling a *retention* basin to permit stormwater to stand therein longer than thirty-six (36) hours. In addition to any penalty provided by law, should the person owning or controlling any privately owned and maintained basin fail, neglect or refuse to drain said *retention* basin within thirty-six (36) hours, as required in **Section 104-3.4**, it shall be the right of the City upon the authorization of the water services director, or appointed designee, to enter upon the privately owned *retention* basin property and take such action as may reasonably be necessary to drain said basin. The draining of said basin shall be at the expense of the property *owner* of record or person controlling such property.

104-3.7 Assessment of Costs for Drainage.

- A. Upon completion of the work, public works director or designee shall prepare or cause to be prepared, a verified statement of account of the actual cost of draining of said basin, the date the work was completed, and the *street* address and the legal description of the property on which said work was done, including five percent for inspection and other incidental costs in connection therewith and shall serve a duplicate copy of such verified statement upon the property *owner* of record or person controlling such property in the manner prescribed in **Section 104-3.9**.

104-3.8 Appeal to Council.

- A. The property *owner* of record or person controlling such property shall have 30 days from the date of service upon him of the assessment to appeal in writing to the council from the amount of the assessment as contained in the verified statement. If an appeal is not filed with the City council within such 30-day period, the amount of the assessment, as determined by the public works director, shall become final and binding. If an appeal is taken, the council shall, at its next regular meeting, hear and determine the appeal and may affirm the amount of the assessment, modify the amount thereof, or determine that no assessment at all shall be made. The decision of the council shall be final and binding on all *persons*.

104-3.9 Service of Notice.

- A. Notice shall be personally served on the *owner* or person controlling such property in the manner provided in rule 4(d) of the Arizona Rules of Civil Procedure, or mailed to the *owner* or person controlling such property at his last known address by certified or registered mail, or the address to which the tax bills for the property were last mailed. If the *owner* does not reside on such property, a duplicate notice shall also be sent to him by certified or registered mail at his last known address.

104-3.10 Lien for Drainage of Basin.

- A. If no appeal is taken from the amount of the assessment, or if an appeal is taken and the council has affirmed or modified the amount of the assessment, the original assessment or the assessment as so modified shall be recorded in the *office* of the county recorder and, from the date of its recording, shall be a lien on the *lot* or tract of land until paid. Such liens shall be subject to and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. A sale of the property to satisfy a lien obtained under the provisions of this section shall be made upon judgment of foreclosure or order of sale. The City shall have the right to bring an action to enforce the lien in a court of competent

jurisdiction at any time after the recording of the assessment, but failure to enforce the lien by such action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording thereof. A prior assessment for the purposes provided in this section shall not be a bar to a subsequent assessment for such purposes, and any number of liens on the same *lot* or tract of land may be enforced in the same action.

ARTICLE 4 – NATIONAL FLOOD INSURANCE PROGRAM (NFIP)**104-4.1 Floodplain Administrator.**

- A. The City of Surprise elects not to assume the responsibility of *floodplain* management from the flood control district of Maricopa County as provided for in A.R.S. §§ 48-3609; 48-3610. The City engineer is designated as the NFIP [National Flood Insurance Program] Floodplain Administrator for the City, is responsible for coordinating with the Flood Control District of Maricopa County, and will serve as the community point of contact on NFIP issues for county, state and federal officials.

104-4.2 Flood Insurance Studies Adopted by Reference.

- A. Those public records entitled "Flood Insurance Study for Maricopa County, Arizona and Incorporated Areas" dated October 16, 2013 with accompanying FIRMs dated October 16, 2013 and all subsequent *amendments* and/or revisions, copies of which shall be kept on file in the *office* of the City clerk, are hereby adopted by reference as the basis for establishing the special flood hazard areas in the City of Surprise. The special flood hazard areas documented in the FIS and FIRMs are the minimum area of applicability of the *floodplain* management regulations and may be supplemented by studies for other areas as allowed in the regulations.

104-4.3 Floodplain Regulations Adopted by Reference.

- A. That public record designated as the "*Floodplain* Regulations for Maricopa County" dated June 25, 2014 and all subsequent *amendments* and/or revisions, copies of which shall be kept on file in the *office* of the City clerk, is hereby adopted as the legal basis for implementing *floodplain* management in this community.

CHAPTER 105 – BUILDING AND BUILDING REGULATIONS

ARTICLE 1 – IN GENERAL

105-1 Removal of rubbish, trash, weeds, filth, debris and dilapidated structures.

- A. The *owner*, lessee or occupant of property shall remove rubbish, trash, weeds or other accumulation of filth, debris or dilapidated *structures* which constitute a hazard to public health and safety from *buildings*, grounds, *lots*, contiguous sidewalks, *streets* and *alleys*.
- B. Upon failure to comply with a violation notice by the city, the responsible party shall correct the violation. In the event the violation is not corrected, the violation is considered a public nuisance that may be abated. This remedy is in addition to any other remedy.

105-2 - 105-18 Reserved.

ARTICLE 2 – TECHNICAL CODES

DIVISION 1 GENERALLY

105-19 Construction codes. The following codes and appendices as published by the International Code Council, and the *amendments* to those codes, as adopted by ordinance, are hereby adopted as amended and declared to be public records. At least three copies of each code and its corresponding *amendments*, if any, shall be filed in the city clerk's *office* and kept available for public use and inspection.

- A. 2012 International *Building* Code.
- B. 2012 International Residential Code.
- C. 2012 International Electrical Code.
- D. 2012 International Mechanical Code.
- E. 2012 International Plumbing Code.
- F. 2012 International Fuel Gas Code.
- G. 2012 International Energy Conservation Code.
- H. 2006 International Property Maintenance Code.
- I. 2012 International Existing *Building* Code.
- J. 2012 International Fire Code.

A certain public record entitled "2016 *Amendments* to the 2012 International Codes," dated September 20, 2016, specifically amends the 2012 *building* code, residential code, mechanical code, plumbing code, fuel gas code, energy conservation code, existing *building* code, and fire code.

State Law reference — Adoption by reference, A.R.S. § 9-801 et seq.; state plumbing code, A.R.S. § 41-619.

105-20 Interpretation of language.

Wherever the word "city" or "town" is used in any code adopted by this article, such word shall be held to refer to the city.

105-21 Code references.

All references to the International *Zoning* Code are hereby deleted in all of the codes adopted by this article.

105-22 Copies on file.

At least three copies of each code adopted by reference in section 105-19, including three copies of any revisions or *amendments* thereto, shall be filed in the *office* of the city clerk and shall be available for public use and inspection.

105-23 Administration and enforcement; conflict of laws.

The administrative authority for enforcement of this article shall be vested in the city manager or such delegate as the city manager may authorize or appoint. This article shall be construed and enforced in conjunction with chapter 125. In the event there is a conflict between the provisions of this article or the codes adopted by this article and any other provision of this Code, then the provisions of this article or the codes adopted by this article shall prevail.

105-24 Extensions and improvements.

Extensions and improvements shall be in accordance with the city's specifications and standards and approved by the city.

105-25 Penalties for violations.

Any person who violates any provision of this article or any provision of any code adopted by this article; or who erects, constructs, *alters* or repairs a *building* or *structure* in violation of the approved construction documents or directive of the *building* official, or of a permit or certificate issued under the provisions of any code adopted by this article, shall be guilty of a civil or criminal violation.

105-26 – 105-53 Reserved.

DIVISION 2 RESERVED

105-54 – 105-89 Reserved.

ARTICLE 3 – RENTAL ACCOUNTABILITY

105-90 General Provisions

This article shall be known as the "Surprise Rental Accountability Ordinance" and may be cited as such.

105-91 Purpose and Scope

The purpose of this article is to promote the health, safety, and welfare of the citizens of Surprise, Arizona, by providing for accountability of property *owners* for slum conditions and criminal conduct. This article shall apply to all *buildings* and *structures* within the City of Surprise without regard to their use or date of construction or *alteration*.

105-92 Definitions. For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them in this section:

"Managing Agent" means a *person*, corporation, partnership or limited liability company that is authorized by the *owner* to operate and manage the property.

"Residential Rental Property" means property that is *used* solely as leased or rented property for residential purposes. If the property is a space rental *mobile home park* or a *recreational vehicle park*, "residential rental property" includes the rental space that is leased or rented by the *owner* of that rental space but does not include the *mobile home* or *recreational vehicle* that serves as the actual *dwelling*, if the *dwelling* is owned and occupied by the tenant of the rental space and not by the *owner* of the rental space.

"Responsible Party" means an *owner*, occupant, lessor, lessee, manager, licensee or other person having control over a *structure* or *parcel* of land; and in the case where the demolition of a *structure* is proposed as a means of abatement, any lien holder whose interest is recorded in the official records of the Maricopa County Recorder's Office.

"Slum Property" means residential rental property that has deteriorated or is in a state of disrepair and that manifests one (1) or more of the following conditions that are a danger to the health or safety of the public:

- (1) Hazardous electrical systems or gas connections.
- (2) Lack of safe, rapid egress.
- (3) Accumulations of human or animal waste, medical or biological waste, gaseous or combustible materials, dangerous or corrosive liquids, flammable or explosive materials or drug paraphernalia.

- (4) Structurally unsound exterior surfaces, roof, walls, doors, floors, stairwells, porches or railings.
- (5) Lack of potable water, adequate sanitation facilities, and adequate water or waste pipe connections.

105-93 Community Development Director—Duties, Appeals

- A. It shall be the duty and responsibility of the Community Development Director to administer the provisions of this article; and, pursuant to this duty, the community development director is authorized to make safe any *structure* in whole or in part, which in the opinion of the community development director, is an imminent threat to the health or safety of any person or *persons* due to the conditions of such *structure*, or to abate any nuisance established herein.
- B. No person shall, by threat or use of violence or physical force or by any other act that can be reasonably anticipated to cause physical harm to any person, including the perpetrator, intentionally obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city who is lawfully and constitutionally engaged in the enforcement or execution of the provisions of this article.
- C. Appeals of designation of slum property:
 - (1) An appeal to a civil hearing officer may be made by filing a written request at the *office* of the code enforcement division within 35 days from the date of the notice of violation.
 - (2) Appeal application form. Appeals to a civil hearing officer shall be made on an application form supplied by the city. The application for appeal shall contain the grounds for appeal, the relief sought and the appellant's mailing address.

State Law reference— A.R.S. § 33-1905.

105-94 Rules and Regulations

The community development director is authorized to make rules and regulations necessary to carry out the provisions of this article.

105-95 Authority and Inspections

- A. The city is authorized to make inspections of property to determine compliance with the provisions of this article as allowable by law.

- B. An inspector may expand the scope of any inspection to include other City Code violations noted during inspection.
- C. If upon inspection, one (1) or more violations of the city's adopted property maintenance code exist, the *owner* or responsible party will be required to correct all violations within a reasonable amount of time.
 - (1) In the event that the *building, dwelling or dwelling unit* is unoccupied or becomes unoccupied, future occupancy will be prohibited until a compliance letter is issued by the city. Upon receipt of a written request by the *owner* or responsible party, the city will re-inspect for the purpose of re-occupancy within a reasonable time.

State Law Reference— A.R.S. §§ 33-1904, 9-1302 and 1303.

105-96 Specified Unlawful Activities—General Penalty

Wherever in this article an act is prohibited or declared unlawful, and wherever in this article the doing of any act is required or the failure to do any act is declared unlawful, the violation of any such provisions of this article is a misdemeanor, punishable by a fine or imprisonment. Officers of any corporation or partners of any firm who is the responsible party pursuant to this article, which is found to have violated any provision of this article, shall be individually subject to fine and/or imprisonment.

105-97 Jurisdiction of Court

- A. Jurisdiction of all proceedings to enforce the provisions of this article shall be in the Municipal Court of the City of Surprise.
- B. Civil actions to enforce this article may be adjudicated by a judge or court hearing officer.
- C. The Municipal Court of the City of Surprise shall have jurisdiction to issue orders permitting the city to abate conditions that constitute a violation of the provisions of this article.

105-98 Prosecution of Civil or Criminal Action

The provisions of §§ 2-233 through 2-237 of the Surprise Municipal Code shall apply to this article.

105-99 Registration of Residential Rental Property

- A. An *owner* of residential rental property shall maintain with the Maricopa County Assessor information required by this section in a manner to be determined by the Maricopa County Assessor.
- B. An *owner* of residential rental property who lives outside this state shall designate and record with the assessor a statutory agent who lives in this state and who will accept legal service on behalf of the *owner*. The *owner* shall designate the agent in a manner to be determined by the Maricopa County Assessor.
- C. Residential rental property shall not be occupied if the information required by this section is not on file with the Maricopa County Assessor.
- D. All records, files and documents that are required by this section are public records.
- E. A *person* who fails to comply with any provision of this subsection is responsible for a civil infraction and shall be assessed a civil penalty.
- F. Notwithstanding subsection (e) of this section, if a *person* complies within ten days after receiving the complaint that notices the violation, the court shall dismiss the complaint and shall not impose a civil penalty.
- G. Nothing in this section shall be construed to prohibit criminal prosecution of the violations of this section in addition to enforcement of any civil penalties.

State Law Reference — A.R.S. § 33-1902.

105-100 Abatement of Slum Property

All *buildings* or portions thereof which are determined after inspection by the community development director to be slum properties as defined in this article are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures allowable by law.

105-101 Designation of Slum Property; Recordation

- A. A residential rental property may be designated as a slum property if it meets all of the following:
 - (1) The definition of slum property, and
 - (2) Has three or more of the conditions or defects described in the city's adopted Property Maintenance Code at the time of the inspection, and

- (3) The conditions or defects set forth in a notice of violation provided per the city's adopted Property Maintenance Code have not been remedied within the time set forth in the notice of violation, and
 - (4) No proper and timely appeal of the notice of violation has been filed.
- B. Where designation of a property as a slum is appropriate pursuant to subsection (a), the community development director shall designate a slum property by filing in the Office of the Maricopa County Recorder a certificate describing the property and certifying that the property is a slum property and that the *owner* has been so notified. Whenever the corrections ordered thereafter have been completed or the *building* demolished so that it no longer exists as a slum property, the community development director shall file a new certificate with the Maricopa County Recorder certifying that all required corrections have been made and that the property is no longer a slum property.

105-102 Notice of Designation

In addition to any notice provided pursuant to this article, a designation of slum property shall contain a warning stating that any residential rental property designated as a slum property is subject to the provisions of Title 33, Chapter 17, of the Arizona Revised Statutes providing for penalties, the appointment of a temporary receiver, annual inspections and payment of costs for inspections.

State Law reference — A.R.S. §§ 33-1903 and 1904.

105-103 Appointment of Temporary Receiver, Property Management Firm and Recovery of Costs

In addition to other remedies provided in the Surprise Municipal Code for the abatement of slum property, the community development director is authorized to seek the appointment of a temporary receiver, require hiring of a property management firm and recovery of costs. Recovery of costs may be collected through any legally permissible means, including fees for inspections, the placement of a lien or assessment on the property.

State Law reference — A.R.S. §§ 33-1903, 1906 and 9-1305.

105-104 – 105-106 Reserved.

105-107 Penalties for Violations.

Any person who violates any provision of this article or any provision of any code adopted by this article shall be guilty of a civil or criminal violation.

105-108 Suspension or Revocation of Business License; Hearing; Appeal

Pursuant to Chapter 26 of the Surprise Municipal Code a *business* license may be denied, suspended or revoked for fraud, misrepresentation, or false statement in the application for license or in the course of conducting *business*; or by conducting a *business* in violation of any city or county ordinance or state law. All such denials, suspensions or revocations of any *business* license shall be administered under Chapter 26 of the Surprise Municipal Code.

105-109 Preferred Rental Property Program

- A. Rental properties in the city that meet the requirements of this chapter, and that satisfy three of the following criteria, shall be eligible for the preferred rental property program:
- (1) *Owner*, manager, or leasing agent, at least once every three years, attends: a crime free training program offered in any Arizona political jurisdictions; or landlord tenant training offered by a non-profit organization or an Arizona Department of Real Estate Certified real estate *school*;
 - (2) Use the crime free lease or lease addendum for all tenants;
 - (3) Conducts background checks on all prospective tenants;
 - (4) Is a certified crime free or Arizona Multihousing Association Five Star program property or the American Rental Property *Owners* and Landlords Association (ARPOLA) Crime-Free Program;
 - (5) The residential rental property is located in a *homeowners'* association or *apartment* community that participates in the Surprise Neighborhood Watch Program.

CHAPTER 106 - ZONING AND USE STANDARDS

ARTICLE 1 – IN GENERAL

106-1.1 Zoning Classification

- A. In accordance with the authority granted in A.R.S. §9-462.01B in order to classify and regulate the *use of land, buildings and structures*, and to regulate the open areas around and between the *buildings and structures*, and to regulate the density of *dwelling units*, the City is hereby divided into the *zoning districts* and overlay districts as incorporated herein **TABLE 106-1a** below:

Table 106-1a Land Development Ordinance (LDO) Zoning districts and Density		
Symbol	District Name	Dwelling Units ratios
RR	Residential Rural	43,560 sf/du
R-1	Residential Low Density	4,950 sf/du
R-2	Residential Medium Density	4,000 sf/du
R-3	Residential High Density	
SHD-RO	Surprise Heritage District-Residential Overlay	Overall 8 du/ac
SHD-CO	Surprise Heritage District-Commercial Overlay	Overall 10 du/ac
TND-R	Traditional Neighborhood Development-Residential	Overall 8 du/ac
TND-C	Traditional Neighborhood Development-Commercial	
TND-MU	Traditional Neighborhood Development-Mixed use	Max. 18 du/ac
TND-OS	Traditional Neighborhood Development-Open space	
MU-1	Mixed use Medium Density	8 du/ac
MU-2	Mixed use High Density	Min. 8 du/ac
MU-3	Mixed use Resort	8-20 du/ac
C-O	Office Commercial	
C-1	Neighborhood Commercial	
C-2	Community Commercial	
C-3	Regional Commercial	
BP	Business Park	
I-1	Light Industrial	
I-2	General Industrial	
I-3	Heavy Industrial	
OS-1	Open space Conservation	
OS-2	Open space Recreation	
PF	Public Facilities	

- B. *Zoning districts*, and the *uses* and/or development standards associated with said districts, may be added or deleted upon the recommendation of the Planning and Zoning Commission and approval by the City Council by the Text *Amendment* process set forth in **Chapter 102** of the Land Development Ordinance (LDO).
- C. The City utilized a Planned Area Development (PAD) *zoning district* prior to the adoption of this Ordinance. The PAD *zoning* designation now serves only to preserve the governing entitlement documents adopted by City Council for each PAD at the time of the adoption of this Ordinance. Existing PADs may have individual development standards, land *uses*, and densities that supersede the *zoning* standards contained within this Ordinance. Any *zoning* standard contained within this Ordinance shall apply that is not explicitly identified in a PAD. General references to *zoning districts* within previous City of Surprise *zoning* codes shall follow the conversion chart listed in **Table 106-1b** of this chapter.
- D. Standards and regulations such as, but not limited to, *lot size*, *building height*, *residential densities*, and *setbacks* herein, assure compatibility of properties within a district; protect the quality of the environment from nuisances associated with certain *uses* or constructions; and provide adequate *open space* for privacy, light, air, connectivity, and green space.

106-1.2 Establishment of Zoning Map

- A. The boundaries of the various *zoning districts* are established and are shown on a map entitled "Zoning Map of Surprise, Arizona" (Zoning Map), which is attached to this Ordinance and made a part hereto.
- B. Any change of *zoning district* for a particular property will be memorialized in a City Council approved ordinance that incorporates a map *amendment* depiction.
- C. In the event that the map becomes damaged, destroyed, or lost, the City Council shall adopt a new *zoning* map consistent with the latest backup and/or all available records pertaining to its adoption or *amendment* that will supersede the previous map.
- D. City staff shall update the *zoning* map upon the effective date of the adopting Ordinance of a *zoning* change. City staff may also correct drafting and clerical errors or omissions, but corrections shall not have the effect of amending the official zones established.
- E. Where uncertainty exists with respect to any of the boundaries of the *Zoning districts* as shown on the Zoning Map, the following rules shall apply:
 - 1. *Zoning* boundaries shall be extended from the *abutting parcel* and indicated as following the center lines of *street*, highway, or railroad *rights-of-way* or such lines extended, such center lines or such lines extended shall be construed to be the boundaries;

2. Where *zoning* boundaries are indicated as approximately following the corporate limit line of the City, such corporate limit line shall be construed to be such boundaries;
3. Where *zoning* boundaries are indicated as approximately following property lines or such lines extended, such property lines or such lines extended shall be construed to be such boundaries;
4. No *zoning* boundary line shall hereinafter be established to divide one (1) *lot* into two (2) or more zones;
5. Where any public *right-of-way* is officially vacated or *abandon*, the *zoning districts* applied to the *abutting* properties shall thereafter extend to the former centerline of the vacated or *abandon right-of-way*; and
6. If determination of boundary cannot be resolved through reference to the preceding rules, the *Zoning administrator* shall determine the location of the district boundary.

106-1.3 Conversion Chart

- A. The following conversion table (**Table 106-1b**) compares the previous terminology used for the *zoning district* classifications from previous City of Surprise development regulations to the *zoning* classifications and regulations established by this Ordinance listed in **Section 106-1.1 (Table 106-1a)** above. Only those *zoning* districts that existed at the time of adoption of the prior regulations that are being changed by this Ordinance appear in the table.

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

Table 106-1b Conversion Table of Zoning Districts Nomenclature

Title 17 and 1986 Code		Surprise Unified Development Code (SUDC)		Land Development Ordinance (LDO)	
Symbol	District Name	Symbol	District Name	Symbol	District Name
R1-43	Single-family Residential	RR or RE	Residential Ranch or Residential Estate	RR	Rural Residential
R1-18	Single-family Residential	RL-2	Residential Low Density	RR	Residential Low Density
		RL-3	Residential Low Density		
R1-8	Single-family Residential	RL-4	Residential Low Density		
R1-5	Single-family Residential	RL-5	Residential Low Density		
R-2	Multi-family Residential	RM	Residential Medium Density	R-2	Residential Medium Density
R-3	Multi-family Residential	RH	Residential High Density	R-3	Residential High Density
		RC	Residential Cluster		(district eliminated)
		CS	Countryside Center		(district eliminated)
		PUD PAD	Planned Unit Development Planned Area Development	PUD PAD	(both districts eliminated for any future use)
		MU	Mixed use	MU-1	Mixed use Medium Density
				MU-2	Mixed used High Density
C-1	Neighborhood Commercial	CN	Neighborhood Commercial	C-1	Neighborhood Commercial
C-2	Community Commercial	CC	Community Commercial	C-2	Community Commercial
C-3	General Commercial	CR	Regional Commercial	C-3	Regional Commercial
		C-RS	Resort Commercial	MU-3	Mixed use Resort
		BP	Business Park	BP	Business Park
I-1	Light Industrial	IP	Industrial Performance	I-1	Light Industrial
I-2	Heavy Industrial	IG	Industrial General	I-2	General Industrial
I-3	Landfill and Mineral Extraction	ILM	Industrial Land Mineral Extraction	I-3	Heavy Industrial
GU	Governmental use	PF	Public Facilities	PF	Public Facilities

106-1.4 Establishment of Land Uses

- A.** The Land use Matrix (**Table 106-1c**) describes allowed primary land *uses* within the different *Zoning districts* and overlay *Zoning districts* on the basis of common functional characteristics and land *use* compatibility. The symbolism used in **Table 106-1c** is defined as follows:
1. “P” designates that the *use* is permitted by right.
 2. “AUP” designates that the *use* is permitted with an “*Conditional use Permit*” as well as any *use* specific standards per Article 10 of this chapter herein; processed as a Type 1 development application (see **Chapter 102**).
 3. “CUP” designates that the *use* is permitted with a “*Conditional use Permit*” as well as any *use* specific standards per Article 10 of this chapter herein; processed as a Type 3 development application (see **Chapter 102**).
 4. “(blank space)” a blank space designates that the *use* is not permitted.
- B.** The *Accessory use* Matrix (**Table 106-1d**) further describes *accessory structures* and land *uses* that may be allowed *accessory* to the legal *primary uses* within the different *Zoning districts* and overlay *Zoning districts*. The symbolism used in **Table 106-1d** is the same as those defined in **Section 106-1.4 A.** above.
- C.** The *Zoning administrator* shall determine if *uses* not expressly listed in **Tables 106-1c** and **106-1d** are significantly similar or dissimilar to particular *uses*:
1. Uses that are found to be similar shall meet the same requirements as the related *use* listed in this section.
 2. Uses that are found to be dissimilar, yet appropriate, shall require a text *amendment* processed in accordance with **Chapter 102**.
 3. Uses that are not listed in this section and are found to be dissimilar and inappropriate shall be prohibited.

106-1.5 Specifically Prohibited Uses

- A.** The following *uses* are either inappropriate or dissimilar from any allowed *uses* as listed in **Table No. 106-1c** below and therefore are specifically prohibited in the City. When annexation of lands that have such land *uses* occurs and those *uses* are lawfully occurring, those *uses* may not prevent such annexation but will be considered to be legal non-conforming *uses* upon annexation.
1. Rendering or refining of animal by-products or the storage of offal, tanning or hides.

2. Concentrated animal feeding operations (CAFO); dairies; livestock and fowl production facilities.
3. *Junkyard, auto salvage yard, or wrecking yard.*

106-1.6 Regulations within Zones

- A. Within each of the zones the *use*, location, *height*, and size of *buildings* and *structures*, the *use* of land the size of *lots*, *yards*, *setbacks*, *open spaces*, and the *density* of population are regulated as set forth in the following Articles of this Chapter, and elsewhere in this Ordinance. Any *site plan*, *structure*, *building*, or *use* that is not in compliance with these regulations is a violation of this Ordinance.

106-1.7 Development Standards and Encroachments

- A. *Setbacks*. *Setbacks* shall not include any *structures*, *parking spaces*, or *drive aisles*; except as listed herein and/or other sections of this Ordinance.
 1. Driveways, *ingress/egress* aisles.
 2. Landscaping, trails, and *multimodal* paths.
 3. Outdoor dining, when allowed.
 4. Utility meters and mechanical equipment.
 5. *Accessory uses* identified in **Table 106-1d** and regulated in Article 10 of this chapter.
 6. Additional design features as regulated in the PEDS and other chapters of this Ordinance (for example: posts, *fences*, *walls*, mailboxes, floodlights, authorized lights for illuminating *parking areas*, and other features) as determined by the Community Development Director or designee.
- B. *Height Limits*. Maximum *height* limitations are measured to the highest rooflines and/or *parapets* necessary to *screen* mechanical equipment.
 1. Chimneys, church steeples, and other appurtenances (such as spires and flues) may be erected at a *height* exceeding the maximum *height* requirements.
 2. Mechanical penthouses and elevator and stair towers (for *multi-family* and nonresidential *buildings* only) may exceed the maximum requirements by no more than ten feet (10').

- C. Lot coverage. Measured by the total square footage of *structures* used for protection or shielding from the elements or weather divided by the square footage of the *lot*.
- D. Encroachments. To further clarify the *setback* requirements, the following exceptions shall be considered as permitted encroachments for *setback* requirements in all *zoning districts* as described in this article and elsewhere in this chapter:
 - 1. Terraces, uncovered porches, *platforms*, exposed ramps, and all other ornamental features that do not extend more than three feet above the *adjacent* natural *grade* may project into the minimum *setback* but shall be at least three feet (3') from the *adjacent lot line* or one foot (1') from any existing or proposed *access drive*;
 - 2. Sills, belt courses, cornices, eaves, lintels, gutters, awnings, and all other ornamental features may project five feet (5') into the *setbacks*, but shall be at least three feet (3') from any *adjacent lot line*;
 - 3. Chimneys may project two feet (2') into the minimum *setback*, but shall be at least three feet (3') from any *lot line*; and
 - 4. Attached covered porches, canopies, and awnings projecting over windows may extend into any minimum *rear setback* by a maximum of five feet (5'), but shall be at least three feet (3') from the *adjacent right-of-way (ROW)* or *lot line*, provided the required *side yard setbacks* are met;

106-1.8 Compliance with Other Provisions

- A. Planning and Engineering Design Standards (PEDS) as referenced in **Chapter 107, Article 1**. The Articles within the PEDS shall apply where applicable, based on the specific *zoning* and *land use*, and will govern the general site design and development, *open space* design, circulation design, landscape and *streetscape* design, and *building* form and architecture of a development in addition to those listed below.
- B. Use Specific Standards. Those *land uses* listed in **Table 106-1c** and **Table 106-1d** that have specific *use* standards associated with them shall comply with the specific standards outlined in **Article 10** herein as well as to the PEDS in **Chapter 107**.
- C. Parking Regulations. In addition to the PEDS, the parking regulations in **Chapter 107, Article 4** herein shall apply.
- D. Landscaping Regulations. All landscaping associated with development shall comply with the PEDS and **Chapter 107, Article 2** herein.

- E. Outdoor lighting. All *outdoor lighting* shall comply with the PEDS and **Chapter 107, Article 3** herein.
- F. Environmentally Sensitive Land Regulations. All development, regardless of *zoning* or *use* of the land, on lands that are determined to contain *environmentally sensitive features* or that contain *cultural resources* shall comply with **Chapter 104, Article 2** herein and **Chapter 5** of the PEDS.
- G. Land Division and Subdivision Regulations. The additional regulations governing the division of land in **Chapter 108** herein shall apply.
- H. Signage. All *signage* proposed shall comply with **Chapter 109** herein.
- I. Life Safety Codes. All life safety codes as adopted per **Chapter 105** herein.

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Table 106-1c- Land Use Matrix for All Zoning Districts

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Table 106-1c- Land Use Matrix for All Zoning Districts

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Table 106-1d – Accessory Land Use Matrix for All Zoning Districts

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ARTICLE 2 – RESIDENTIAL ZONING DISTRICTS

106-2.1 General Standards

- A. Purpose. Residential *zoning districts* create, maintain, and promote various housing opportunities for individual households and lifestyles, and maintain the desired physical character of the City's existing neighborhoods. While the districts primarily accommodate residential *uses*, some non-residential *uses* that are compatible with the residential neighborhoods may be allowed.
- B. Development Standards. In addition to **Section 106-1.8** above and **Article 2** of the Planning and Engineering Design Standards (PEDS) in **Chapter 107**, the regulations specific to residential land *uses*, shall also apply and govern the design of a development.
- C. Residential Density. Requesting *gross residential density* higher than the existing entitlement may be permitted with a Type 3 *rezoning* application district based on the criteria outlined in **Section 104-1.11** of the LDO to meet the intent of a variety of housing opportunities, well-designed and functional *open space*, and have a creative design around *environmentally sensitive features*.
- D. New *recorded plats* shall comply with the regulations of Chapter 108 and the PEDS, Volume 1 for *buffering* and transitioning design requirements.

106-2.2 Rural Residential (RR)

- A. Purpose. The Rural Residential (RR) *zoning district* provides areas for *single-family* homes on large *lots* in a rural setting and acts as an equivalent *zoning* for properties zoned RU-43 within the County prior to annexation by the City.
- B. Applicability and Density. The (RR) *zoning district* reflect the Rural Development Type and is allowed in the Neighborhood Character area, and the Scenic Lands Development Sub Area in accordance with the *General Plan* with a maximum *net residential density* not to exceed one (1) *dwelling unit* per acre and a maximum of one (1) *dwelling unit* per *lot* of record.
- C. Development Standards. **Table 106-2a** below identifies the required development standards for the Rural Residential (RR) *zoning district*.

Table 106-2a - Rural Residential (RR) Zoning district	
Min Lot Area (sf)	≥ 43,560
Min Lot Width	130
Min. Front setback (ft)	30
Min. Rear setback ¹ (ft)	30
Min. Side setback ¹ (ft)	20
Min. Street side setback ¹ (ft)	20
Max. Bldg. Height (ft)	30
Lot coverage	25%
Open space (% of gross acres of residential development) ²	10%
Notes: 1. Garage face and embellishments shall be <i>setback</i> a minimum of twenty-five (25) feet measured from the opposing property line except rear, <i>alley</i> loaded <i>garages</i> , which shall be <i>setback</i> nine feet (9') from edge of <i>alley</i> line 2. The City requires <i>open space</i> on a new subdivision; if recorded as metes and bounds or by a <i>minor land division</i> than <i>open space</i> will be required on each individual <i>lot</i> ; such as <i>open space</i> or trail easements	

106-2.3 Residential Low Density (R-1)

- A. Purpose. The Residential Low Density (R-1) *zoning district* provides areas for *single-family* homes on varying *lot* sizes and a mix of densities together with *schools*, *parks*, and other public services necessary for suburban residential neighborhoods.
- B. Applicability. The (R-1) *zoning district* reflects the Suburban Development Type and is allowed in the Neighborhood Character area in accordance with the *General Plan* with a maximum of one (1) *dwelling unit* per *lot* of record.

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- C. Development Standards. **Table 106-2b** below identifies the required development standards for the Residential Low Density (R-1) *zoning district*.

Table 106-2b - Residential Low Density (R-1) Zoning district						
<i>Lot Categories</i>	A	B	C	D	E	F
<i>General Plan Compatibility</i>	Suburban	Suburban	Suburban	Suburban and Rural	Rural	Rural
<i>Lot Area (sf)</i>	4950-7,999	8,000-11,999	12,000-17,999	18,000-27,999	28,000-43,559	≥ 43,560
<i>Min Lot Width (sf)</i>	45	60	80	90	100	130
<i>Min. Front setback ¹ (ft)</i>	12	12	15	20	20	30
<i>Max. Front setback (ft)</i>	25	25	30	35		
<i>Min. Rear setback ¹ (ft)</i>	15	20	20	25	30	30
<i>Min. Side setback ¹ (ft)</i>	5&8	5&10	10	10 & 15	20	20
<i>Min. Street side setback ¹ (ft)</i>	15	15	15	15	20	20
<i>Max. Bldg. Height (ft)</i>	30	30	30	30	30	30
<i>Max Lot coverage</i>		45%	40%	30%	30%	25%
<i>Open space (% of gross area of residential development) ³</i>	20%	20%	20%	15%	15%	10%
Notes: 1. <i>Garage</i> face and embellishments shall be <i>setback</i> a minimum of twenty-five (25) feet measured from any opposing property line; except rear <i>alley</i> loaded <i>garages</i> , which shall be <i>setback</i> six feet (6') from edge of <i>alley</i> line. 2. The City requires <i>open space</i> on a development/subdivision basis rather than on a <i>lot-by-lot</i> basis.						

106-2.4 Residential Medium Density (R-2)

- A. Purpose. The Residential Medium Density (R-2) *zoning district* allows for a variety of housing opportunities including *detached* and *attached buildings* that *single-family dwellings*, *two-family dwellings*, and *three-family dwellings* together with *schools*, *parks*, and public services necessary for an urban and suburban residential environment. While the district primarily accommodates residential *uses*, nonresidential *uses* that help to support, and are compatible with, residential neighborhoods may also be allowed when compatible with adjoining neighborhoods.
- B. Applicability. The (R-2) *zoning district* is allowed in the Neighborhood Character area in accordance with the *General Plan* with a maximum of three (3) *dwelling units* per *lot* of record. Minimum lot area is four thousand square feet per dwelling unit (4,000 sf/du), except lots in Column A are permitted one dwelling unit (1 du) as shown in **Table 106-2c** below.

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- C. Development Standards. Table 106-2c below identifies the required development standards for the Residential Medium Density (R-2) zoning district.

Table 106-2c - Residential Medium Density (R-2) Zoning district				
Lot Categories	A	B	C	D
General Plan Compatibility	Urban	Suburban	Suburban	Suburban
Lot Area (sf)	3,500-4,949	4,949-7,999	8,000-11,999	≥12,000
Min Lot Width (sf)	40	45	70	80
Min. Front setback ¹ (ft)	10	12	12	15
Max. Front setback (ft)	25	25	25	30
Min. Rear setback ¹ (ft)	10	15	20	20
Min. Side setback ¹ (ft)	5 ² & 7	5 ² & 8	5 & 10	10
Min. Street side setback ¹ (ft)	10	10	10	10
Max. Bldg. Height (ft)	30	30	30	30
Lot Area per Dwelling unit (sf)	3,500	3,500	3,500	3,500
Open space(% of gross acres of residential development) ⁵	25%	20%	20%	20%
Notes: 1. Garage face and embellishments shall be setback a minimum of twenty-five (25) feet measured from any opposing property line, except rear alley loaded garages, which shall be setback nine feet (9') from alley edge line. 2. May be reduced to 0' setback for Single-family dwellings as attached building and separated by a common wall along the property line. End units must maintain the larger setback 3. The City requires open space on a subdivision or development site basis rather than on a lot-by-lot basis				

106-2.5 Residential High Density (R-3)

- A. Purpose. The Residential High Density (R-3) zoning district is to provide for the development of high-density residential uses in areas of the City where adequate semipublic features and services exist with capacity to serve the area. The district is designed to create a high-quality environment by incorporating design excellence as well as substantial recreational and aesthetic amenities.
- B. Applicability. The (R-3) zoning district reflects the Urban Development Type and is allowed in the Neighborhood Character area in accordance with the General Plan. Multi-family residential shall have a minimum of four (4) dwelling units per lot and a net residential density of more than eight (8) dwelling units per acre. The minimum lot size for R-3 zoning is one (1) acre.
- C. Development Standards.

1. **Table 106-2d** below identifies the required development standards for the Residential High Density (R-3) zoning district.

Table 106-2d - Residential High Density (R-3) Zoning district			
Net Density (du/ac)	8-11.9	12-14.9	15+
Min. <i>Setback</i> to Arterial ROW (ft) ²	20	20	20
Min. <i>Setback</i> to Collector and Local ROW (ft) ²	15	15	15
Min. <i>Setback Adjacent</i> to Residential Zoning (ft)	10	15	20
Min. <i>Setback Adjacent</i> to Non-Residential Zoning (ft)	20	20	20
Max. Bldg. Height ¹ (ft)	45	50	60
Open space (sf/du)	150	150	150
Notes: 1. The <i>height</i> of any <i>structure</i> , or portions thereof, shall not exceed thirty feet (30') in <i>height</i> measured at the <i>setback</i> line when <i>adjacent</i> to <i>Single-family, Two-family, Three-family development parcels</i> . The <i>height</i> of the <i>accessory structure</i> may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum <i>height</i> equal to the <i>zoning</i> 2. <i>Setback</i> may be reduced to 10' along Collector or Local <i>right-of-way</i> for units that open to the <i>street</i> and exclude a perimeter wall			

2. All projects shall provide one hundred and fifty square feet (150 sf) of on-site *open space* per *dwelling unit*, which shall include surfacing and safety features such as lighting, and *amenities* that enable residents to *use* the *open space*. Acceptable types of *open space* are listed below.
- Common *open space* (excluding *setbacks*) with a minimum dimension of fifteen feet (15') in any direction that is accessible to all *dwelling units* by sidewalks or local paths. The space shall be oriented maximize afternoon shade, unless site conditions such as topography warrant waiving this requirement by the Community Development Director or Designee.
 - Individual balconies or patios (excluding front stoops) may be *used* for up to twenty-five percent (25%) of the required *open space*. To qualify as *open space*, balconies or patios must be at least forty square feet (40 sf) with no dimension less than five feet (5').
 - Rooftop decks and terraces may be *used* to meet up to fifty percent (50%) of the required *open space*, provided the space provides *amenities* such as seating areas, barbeques, fireplaces, recreational spaces, shade and landscaping.
 - On-site indoor recreation areas may be *used* to meet up to twenty-five percent (25%) of the required *open space* provided the space is designed for communal *use* by all residents and provides space

for entertaining, gathering, or exercise equipment and fitness activities.

- e. Environmentally sensitive areas may count toward *open space* requirements if integrated into the site design to be visible and usable by residents with features such as trails and benches. Sensitive or critical areas meeting these requirements may count for up to fifty percent (50%) of the required *open space*.

ARTICLE 3 – SURPRISE HERITAGE DISTRICT (SHD) ZONING DISTRICTS

106-3.1 General Standards.

- A. SHD Description. The “Surprise Heritage District” (SHD) is the area bounded by Bell Road on the north, Greenway Road on the south, El Mirage Road on the east and Dysart Road on the west.
- B. Purpose. The SHD overlay *zoning districts* enhance and protect the historic character of the Original Town Site (OTS) while providing *infill* opportunities and encouraging redevelopment for both residential and commercial *uses* that further reflect the scale and cultural character of this historic neighborhood.
- C. Establishment of *Zoning districts*. The SHD *zoning district* is an umbrella district that is applicable to all properties within this geographic area and includes either the *zoning* regulations and standards present on the property at the time the SHD *zoning* was adopted or one (1) of the overlay *zoning districts* specifically associated with the SHD *Zoning district* as further described below:
1. SHD-RO: This residential overlay (RO) is permits *uses* allowed as shown in **Table No. 106-1c** and **Table 106-1d**. Designs should be indicative of historic residential neighborhoods and the small scale *cottage industry uses* that are pedestrian-oriented and support the residents and allow for them to live, work, and play within their neighborhood. Limited commercial *uses* and *multi-family uses* shall be designed to match the scale, massing, and appearance of the *single-family* neighborhood may be appropriate on adequately sized *infill parcels*. Commercial *structures* are limited to three thousand square feet (3000sf). A minimum of five thousand square feet (5000sf) of *lot area per dwelling unit* (5000sf/du) is required for all residential *lots*. *Gross residential density* for the SHD-RO *zoning district* shall be compliant with the Suburban Development Type in the *General Plan* for up to eight (8) *dwelling units* per acre.
 2. SHD-CO: This commercial overlay (RO permits *uses* allowed as shown in **Table No. 106-1c** and **Table 106-1d** in **Article 1** of this Chapter. Designs should promote the local arts and culture as well as *business* opportunities that are compatible with and supportive of the Residential Overlay. A mix of neighborhood-scale commercial, retail, *entertainment establishments*, *live-work buildings*, and *mixed use* development shall be the primary land *uses*. Commercial *uses* shall be limited to forty-five thousand square feet (45000sf). *Multi-family* complexes may also be permitted within this overlay district if appropriately located at the fringes of the district to serve as a *buffer* to the *adjacent* residential neighborhood. A minimum of four thousand square feet of *lot area per dwelling unit* (4000sf/du) is required for allowed *multi-family* and *mixed use* developments. *Gross residential density* for the SHD-CO *zoning district* shall be compliant with the *Mixed*

use Residential and Commercial Development Types in the *General Plan* for up to ten (10) *dwelling units* per acre.

D. Development Incentives. Development that is zoned one (1) of the SHD overlay *zoning districts* shall be eligible for any of the following incentives:

1. New *mixed use* projects and *multi-family* projects may be reduced to three thousand square feet of *lot area per dwelling unit* (3000sf/du) when the development provides recreational facilities, community space, and connectivity to existing *adjacent* developments and the greater neighborhood.
2. In lieu of providing on-site parking, participation in a joint *use parking lot* project or a parking improvement district shall be permitted.

106-3.2 Design and Development Standards in the SHD Zoning district.

A. Design Standards.

1. These Design Standards shall apply to any and all new development in the SHD and supersede any conflicting design standards in other parts of this Ordinance. The regulations specific to commercial and *mixed use* land uses, in **Article 3** of the **PEDS**, may apply to the design of new non-residential development when not in conflict with those outlined herein.
2. Prior to any permits being issued for new development, or renovation of an existing *building*, the architectural, site, and landscape plans shall be reviewed by Development Services for adherence to these Design Standards, in addition to other adopted regulations.
3. Plants and landscape materials shall be low water *use*, drought-tolerant plants as delineated in **Appendix C** of the **PEDS**. All areas of bare soil shall be covered with grass, drought tolerant plantings, or decomposed granite to discourage weeds and to control dust. Edible citrus and nut trees are also permitted. All landscaping shall be well-maintained with diseased and/or dead plant material removed and replaced promptly.
4. Trellis work, open front porches, and *cloth* shade sails will not be counted as part of the *lot coverage* allowance.
5. Architectural features of all *buildings* and *structures* shall reflect the historical character of Phoenix-valley architecture from the 1880's to the 1950's. These architectural features shall be present on all *elevations*.
 - a. Residential architectural designs include but are not limited to Bungalow (Classical, California, and Craftsman), Spanish Colonial Revival, California Ranch, Southwest Style, and Pueblo Revival.

- b. All *new construction* should include features and embellishments that were prominent in historical architecture to avoid bland, monotone styles. The features include but are not limited to:
- (1) Projections and reveals; back and side porches on residential *structures*; varied roof and cornice lines; doors, windows, and window treatments such as shutters, awnings, and lintels; and traditional brick or river rock wainscoting, other architectural features such as porte-cocheres, *garage* doors, dormers, chimneys, and patios.
 - (2) *Building* materials, textures, roof treatments and pitches, *building heights*, *building* mass, and proportions indicative of historical Phoenix-valley architecture.
6. An open and covered porch on the front elevation for all new *single-family* residential development shall be required as a means to help create a pedestrian scale connection to the *street*, permit interaction with neighbors, enhance citizen Block Watch programs, and enhance the sense of neighborhood. *Building* orientation shall consider the existing environmental conditions and solar orientation.
7. Although not required, residential *fences* may be built to a *height* not exceeding six (6') feet in a *side* or *rear yard* or thirty-six (36") inches in a *front yard*. The *fence* material shall be compatible with the design style and material of the main *structure*, preferably masonry, wrought iron, or painted wood. The *use* of chain link fencing (with or without slats) is prohibited.
8. All non-residential land *uses*, excluding *parks*, that *abut* residential properties are required to provide visual *screening* from those residences by an opaque fence/wall or landscaping of approved drought-tolerant plant materials in combination with a wall. This *screening* shall include *accessory uses*, *loading areas*, and trash receptacles. The *use* of concertina wire is prohibited when *adjacent* to a public *right-of-way*.
9. On-site *retention* shall be required for all non-residential properties, all *multi-family* residential properties, and residential properties with more than one (1) *single-family dwelling*. Rainwater harvesting for plant irrigation is encouraged.
10. A color palette of earth tones shall be the predominate colors used. The use of accent colors is encouraged to provide a festive and lively *streetscape*. Accent color, contrasting the primary wall color, should be used to accent entryways and special architectural and trim elements (i.e. columns, trellises, lintels, sills, door and window frames, cornices, and moldings).

11. Roof-mounted mechanical equipment shall be *screened* from public view and designed to appear as an integral part of the *building*, with the exception of solar panels. Mechanical equipment, propane tanks, water filters, coolers and air conditioning units, and similar utility equipment installed at *grade* or wall mounted shall be *screened* from public view.
12. Assembly *uses* over 5,000 square feet and *multi-family dwellings* shall adhere to the following *use-specific* standards:
 - a. The residential development shall have a *building frontage* presence to the neighborhood *street* rather than primarily facing a parking lot. The front entry shall include a walkway to the *street* or surrounding neighborhood.
 - b. All multi-story *buildings* shall have unified and stylistic design elements present on all sides of the *building(s)*. A variety of massing and *building heights* and stepping rooflines are strongly encouraged. Straight rooflines should be minimized by using offsets, differing *heights*, stepping, or different orientations to produce variety within a development.
 - c. A color palette of earth tones shall be the predominate color used. The use of accent colors is encouraged to provide a festive and lively streetscape. Accent color, different from the dominate wall color, should be used to accent entryways and special architectural features of a *building*.
 - d. The required *off-street parking spaces* shall be located in the rear, to the side, or beneath the *structures* with cars recessed one-half (1/2) level to avoid interrupting the rhythm of the established *streetscape*, to make land on site available for gardens and courtyards rather than for surface parking, and to provide a pedestrian level connection to the neighborhood.
 - e. Mechanical equipment and similar utility devices, whether at *grade* or roof mounted, shall be *screened* from public view and designed to appear as an integral part of the *building*, with the exception of solar panels. The mechanical equipment *screening* shall be included in the overall allowed *building height*. Mechanical equipment shall be treated to be non-reflective. Electrical meters, service components, and SES cabinets should be *screened* from public view or designed to appear as an integral part of the *building*.
 - f. Reflective *building* materials are prohibited. Metallic surfaces, including roof materials, shall be treated to be non-reflective.

- g. The *use* of metal or corrugated metal as the primary *building* material is prohibited; it may however be *used* as an architectural accent or decorative element.
- h. The *building* materials of a project shall be durable, require low maintenance, and be of the same or higher quality as surrounding developments. The city strongly encourages all new *buildings* to meet LEED (Leadership in Energy and Environmental Design) certification standards and *building* sites to utilize low impact development (LID) technologies.
- i. All *buildings* shall harmonize architecturally with the residential character of the neighborhood.
- j. Assembly *uses* may be required to provide a traffic study, depending on the specific location.

B. Development Standards.

- 1. Existing *mobile homes* and *manufactured homes* that are not in compliance with the use-specific standards of **Section 106-10.24** herein as of the effective date of this Ordinance shall be considered as legal non-conforming *structures*. However, the existing *mobile home* or *manufactured home* may be replaced in its' entirety with a conventional site-built home or with a *manufactured home* that complies with the *use* specific standards outlined in **Section 106-10.24** herein.
- 2. The development standards shown in **Table 106-3a** and **Table 106-3b** below are applicable to all properties within the SHD. These tables identify the development standards for properties zoned into one (1) of the overlay zones.

Table 106-3a – SHD - Residential Overlay Zoning (SHD-RO)

	Commercial	Single-family, Two-family, Three-family	Multi-family Residential
Min. Lot Area (sf)	5,000		15,000
Min. Lot Area (sf/du)		5,000	5,000
Min. Front setback (ft)	15	12 ^{2,3}	15 ^{2,3}
Max. Front setback (ft)	30	30 ⁴	30 ⁴
Min. Side setback (ft)	10	5 w/ 10 total ^{1,3}	20 ³
Min. Rear setback (ft)	12	12 ³	20 ³
Max. Bldg. Height (ft)	30	30	35
Lot coverage %		65%	65%

Notes:

1. May be reduced to 0' setback for *Single-family dwellings* as attached to and separated by a *common wall* along the property line. End units shall maintain the total combined setback.
2. A covered front porch may encroach into the *front setback* by up to five feet (5').
3. *Garage* doors/embellishments shall be setback a minimum of twenty feet (25') measured from the opposing property line, except rear, *alley* loaded *garages*, which shall be setback nine feet (9') from the *alley* edge line.
4. Measured from the primary *dwelling*, excluding front porch.

Table 106-3b – SHD – Commercial Overlay Zoning (SHD-CO)

	Commercial Overlay
Front setback (ft)	15
Side setback (ft)	10
Rear setback (ft)	10
Max. Bldg. Height (ft)	35 ¹
Min. Lot Area (sf)/DU	4000 sf/du

Notes:

1. *Mixed use buildings* that include vertically integrated residential have a max *height* of forty-five feet (45')

ARTICLE 4 – TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND) ZONING DISTRICTS

106-4.1 General.

- A. Purpose. The purpose of the Traditional Neighborhood Development (“TND”) *zoning district* is to provide *alternative zoning district* beyond the typical single use residential *zoning* category. The TND *zoning district* is a hard zone that is ready-made for master planned communities. Consistent and predictable development standards, a specific list of permitted land *uses*, and basic design standards are outlined in this Article and throughout the PEDS to ensure a well-designed and walkable multi-use development. This district provides flexibility to create a sense of place, allows a mix of land *uses* and blended densities, and allows different *building* types to create neighborhoods that are more economically, socially, and environmentally sustainable than would otherwise be obtainable through conventional *zoning* and development methods.
- B. Intent. The intent is to provide for a sustainable development pattern that can reduce trip demand; provide a wide variety of residential *uses* to accommodate diverse *family* sizes, age groups, and income levels; promote a specific range of commercial *uses* focused on meeting the daily needs of the residents while being compatible with and integrated into the residential neighborhoods; promote walkability and a healthy lifestyle; create more viable self-sustaining neighborhoods where people can live, work, and play; and achieve design excellence that will enhance the unique character and setting of the City of Surprise.
- C. General Provisions.
1. The TND *zoning district* may be appropriate for land that is within the Surprise *General Plan* Neighborhood Character Area and may incorporate both suburban and urban residential development types.
 2. The minimum land area for TND *zoning* shall be 320 contiguous acres; all under single *ownership* or unified control and planned as a single comprehensive and complete development. For the purposes of this Ordinance “contiguous” means sharing a common boundary for not less than three hundred feet (300’), exclusive of *rights-of-way*.
 3. The TND *zoning district* allows a phased development with multiple land *use parcels* and a mix of land *uses*.
 4. All land *uses* shall comply with the Land *use* Matrix in **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.
 5. Any residentially designated *lot* within a residential *development parcel* may be *used* for a non-residential land *use* (limited to those *uses*

delineated in **Table 106-1c**) only if the *lot* fronts onto a *collector street*; provided the maximum *building* size is limited to 5,000 square feet.

6. Gated developments and age qualified/restricted communities are prohibited within all TND projects.
7. In addition to the other provisions, as listed in **Section 106-1.8** herein, the TND *zoning district* is intended to work in conjunction with the TND specific standards outlined throughout the PEDS.

106-4.2 Establishment of TND Zoning districts.

- A. The TND *zoning district* shall be applied to all properties within the specific geographic area of the development and in conjunction with one (1) of the overlay zones and associated regulations identified in this Section.
- B. The overlay zones indicate the proposed future land *uses* that are anticipated for the different *development parcels* that are shown on the “TND Plan of Development,” but the definitive boundaries are not confirmed until the *platting* process is completed. The overlay zones associated with TND *zoning district* are described below:
 1. TND-R: This Residential overlay is for those *development parcels* that are predominately designated for residential and the other neighborhood oriented land *uses* listed in **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.
 2. TND-C: This Commercial overlay is for those *development parcels* that are predominately designated for commercial land *uses* listed in **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.
 3. TND-MU: This *Mixed use* overlay is for those *development parcels* that are designated for *mixed use* by vertically or horizontally integrating residential with commercial land *uses* listed in **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.
 4. TND-OS: This *Open space* overlay is for those *development parcels* that are designated as *open space*, to be retained in perpetuity as such, per the percentages required for the particular TND development. *uses* shall be limited to those listed in **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.
- C. Required Mixture of Land Uses.
 1. All TND developments will be required to provide a mixture of land *uses* that include residential, commercial, *mixed use*, and *open space*. **Table**

106-4a below identifies the specific ratios for the required land *uses* based on the approved number of *dwelling units* in the overall TND project.

2. The target *gross residential density* for a new TND development is eight *dwelling units* per acre (8du/ac) with the opportunity for greater or fewer *lot* yield being approved by the City Council based on the overall design and quality of the project, its walkability and overall connectivity, the interface of its various components, and the integration of the project into the overall community (refer to **Section 106-2.1C**).
3. Residential neighborhoods shall be laid out providing different housing types and varying *lot* sizes interspersed on the same *street* within the same subdivision, to prevent creating homogenous subdivisions filled with repetitive housing types. Every residential *development parcel* shall provide a minimum of three (3) distinctly different *lot* sizes; providing:
 - a. A minimum of two thousand square foot (2,000 sf) differential in *lot* area in combination with;
 - b. A *lot* width differential of at least twenty (20) feet; and
 - c. No one (1) *lot* size shall comprise more than sixty percent (60%) of the total number of residential *lots* within a single *development parcel*.
4. Each TND development shall have at least one (1) main *civic use* (excluding utility land *uses*), such as but not limited to a, public library, community center, museum, live performance theater, multi-generational recreation center, or equivalent type use as approved by the Planning Director. The square footage or area of this *civic use* may be calculated as a percentage of the required ratio of commercial land *use* (not to exceed five (5%) of the required commercial ratio).

Table 106-4a - Required Mix of Land Uses –Ratios for TND Zoning District

<i>Gross area</i>	TND Total <i>Dwelling units</i> ^{1,2,3}	Commercial ⁴	<i>Mixed use</i> ^{4, 5}	<i>Open space</i> ¹
320 acres (min.)	Approved with TND rezoning	0.0125 ac/du	0.023 ac/du	0.03 ac/du

Notes:

1. *Gross area* of the whole TND project.
2. Typical *single-family* detached residential may be developed up to a maximum *gross residential density* of 8du/ac. Any *gross residential density* greater than 8du/ac shall be developed as an *attached building* product, shared court, shared cluster, mansion *apartment*, rowhouse/townhouse, *apartment*, or *mixed use* residential units.
3. The *net residential density* of any one (1) *platted* residential *lot* or a *mixed use development parcel* within the TND may be increased, up to a maximum of 18du/ac, if approved by the City Council.
4. Provided specific restrictions are met (see Section 106-4.1.C.5. above) a residentially *platted lot* may be used for a commercial or *mixed use* land *use* that is listed in **Table 106-1c** herein.
5. Not required for TND projects with an overall *gross residential density* of less than 4 du/ac.

5. Golf course(s) (not including disc golf courses) may be calculated as *open space* up to a maximum of fifty percent (50%) of the total required *open space* for a TND development. In order to be credited as *open space* the golf course must be designed so that at least fifty percent (50%) of the course is visible to the public from and along public trails or *rights-of-way*.

106-4.3 Review and Process.

A. Procedures.

1. A “TND Plan of Development” shall be submitted as part the rezoning process pursuant to **Chapter 102** of this Ordinance. The TND Plan of Development is the compilation of exhibits that demonstrate compliance with all requirements of this Ordinance; which at a minimum shall include the following.
 - a. A Master Development Plan Map that identifies the size and location of each *development parcel*.
 - b. Each *development parcel* shall be labeled with one (1) of the overlay *zoning districts* outlined in **Section 106-4.2B**.
2. The final approved TND Plan of Development, which will govern the development progress of a specific TND project, shall reflect the project’s acreage, approved *lot yield*, and land *use* ratios approved by the City.
3. *Platting* of the individual subdivisions within the TND boundary will still be required and shall comply with the PEDS and other design standards as referenced and outlined in **Chapter 107** and the Land Division and Subdivision Regulations in **Chapter 108** of this Ordinance.
4. *Parcels* within a TND development that are proposed for any multiple-*building apartment* complex, *mixed use* development, *civic use*, or a commercial development project shall require *Site plan* Review.
5. The specific overlay boundary lines and associated land *uses* (per **Table 106-1c**) along with the blended *lot* sizes for the residential *parcel(s)* shall be identified at the time of either the *site plan* approval or the *preliminary plat* and recorded on the *final plat*. The *gross residential density* for each residential and *mixed use development parcel* shall be in accordance with the approved TND Plan of Development.
6. At the time of *Final plat* recordation, or approval of the *site plan* if no subdivision is required, the overlay *zoning* boundaries are administratively set for the *development parcel*. The City shall monitor each TND development, from the approval of the TND Plan of Development through the *platting* stage, and then at the *building permit* stage to ensure that the

land *use* mixture agreed upon through the initial *rezoning* process and the required variety of *lot* sizes and housing types is maintained. The City shall amend the official Surprise *Zoning* Map to reflect the approved “TND Plan of Development” and overlay *zoning* boundaries at each stage.

B. Amendments.

1. A Council approved TND Plan of Development may be amended administratively for the following circumstances
 - a. Up to a ten percent (10%) transfer (increase or decrease) in the allowed quantity of *dwelling units* between *development parcels* within the TND;
 - b. Up to a ten percent (10%) increase or decrease to the overall *gross residential density* of the TND as compared to the City Council approval;
 - c. Up to a ten percent (10%) shift in the individual *development parcel gross area* or configuration, as compared to the City Council approval.
2. Requests for an administrative *amendment* shall require the following:
 - a. The master *developer*, or the specific *applicant* if the master *developer* is no longer involved in the project, shall provide the City with a “Revised TND Plan of Development” that reflects any and all administratively approved *alterations* to date.
 - b. No further applications for *plats*, *site plans*, or *building permits* shall be submitted to the City until after the administrative *amendment* request has been determined; and if approved, a new “Revised TND Plan of Development” showing the latest approved *amendment* has been submitted back to the City.
3. Administrative *amendment* to the TND Plan of Development shall not be allowed if:
 - a. Any *amendment* would require backbone infrastructure (water and wastewater) upsizing, or change the parameters for the master drainage design, or change the amount or intent of the *open space* component of the TND as compared to the initial approval.
4. Any *alteration* to the “TND Plan of Development” that exceeds the limits set for administrative approval, as listed above shall require City Council action as a TND *Amendment*.

C. Incentives.

1. The TND *zoning district* complies with the Neighborhood Character Area of the *General Plan* by allowing a variety of residential Development Types and specific supportive commercial. Additionally, the ratios *used* for defining the mix of required land *uses*, delineated in **Table 106-4a**, are based on *dwelling unit* and population as described in the *General Plan*. Thus a *General Plan Amendment* should not be required, provided all other provisions of the Surprise *General Plan* are satisfied.
2. After the TND *Zoning* and the associated TND Plan of Development is approved by the City, through the public hearing process, further *rezoning* of the individual *development parcels* will not be necessary provided development adheres to the approved TND Plan of Development.
3. The City allows for certain infrastructure improvements within the public *right-of-way* to be calculated as *open space* if certain *amenities* are provided or design aspects are utilized (see the PEDS in **Chapter 107** for specific details).
4. The TND Residential (TND-R) overlay is the only *zoning district* where the “shared court” (commonly known as 4-packs and 5-packs), “shared cluster”, “mansion *apartment*”, or rowhouse/townhome housing products are permitted to be utilized in the city (see **PEDS, Sec.2.5D** for specific details).

106-4.4 Development Standards.

- A. The specific development standards for the TND *zoning district* are outlined in **Table 106-4b** and **Table 106-4c** below. Each *lot*, regardless of the product type or land *use*, shall adhere to the development standards outlined in the following tables.
 1. All *multi-family* projects shall provide one hundred and fifty square feet (150 sf) of on-site *open space* per *dwelling unit*, which shall include surfacing and safety features such as lighting, and *amenities* that enable residents to *use* the *open space*. Acceptable types of *open space* are listed below.
 - a. Common *open space* (excluding *setbacks*) with a minimum dimension of fifteen feet (15') in any direction that is accessible to all *dwelling units* by sidewalks or local paths. The space shall be oriented maximize afternoon shade, unless site conditions such as topography warrant waiving this requirement by the Community Development Director or Designee.
 - b. Individual balconies or patios (excluding front stoops) may be *used* for up to twenty-five percent (25%) of the required *open space*. To

- qualify as *open space*, balconies or patios must be at least forty square feet (40 sf) with no dimension less than five feet (5').
- c. Rooftop decks and terraces may be *used* to meet up to fifty percent (50%) of the required *open space*, provided the space provides *amenities* such as seating areas, barbeques, fireplaces, recreational spaces, shade and landscaping.
 - d. On-site indoor recreation areas may be *used* to meet up to twenty-five percent (25%) of the required *open space* provided the space is designed for communal *use* by all residents and provides space for entertaining, gathering, or exercise equipment and fitness activities.
 - e. Environmentally sensitive areas may count toward *open space* requirements if integrated into the site design to be visible and usable by residents with features such as trails and benches. Sensitive or critical areas meeting these requirements may count for up to fifty percent (50%) of the required *open space*.
- B. These development standards shall be the same for any and all TND *Zoning districts* approved by the City and shall be applied consistently throughout the City wherever the TND *Zoning district* has been approved. Deviations or refinements to these specific Development Standards will not be permitted or considered by the city, except through the *Variance* process pursuant to **Chapter 102** of this Ordinance.
- C. All *development parcels* shall adhere to the approved TND Plan of Development.

Table 106-4b – Development Standards for TND-R Parcels

<i>Lot Categories</i>	A	B ¹	C ¹	D ¹	E ¹	F ⁸	G ⁸
Min. <i>Lot Area</i> (square feet)	3,000 - 4,999	5,000 - 7,999	8,000 - 11,999	12,000 - 17,999	18,000 and over	<i>Multi-family</i> 16,000	Commercial & MU 16,000
Min <i>Lot Width</i> (sf)	40	50	70	80	90	N/A	N/A
Min. <i>Front setback</i> (ft)	10 ^{2, 6}	12 ^{2, 6}	15 ^{2, 6}	25 ⁵	30 ⁵	15	15
Max. <i>Front setback</i> (ft)	N/A	N/A	N/A	N/A	N/A	25	25
Min. <i>Side setback</i> (ft)	7/12 ^{3, 4}	8/15 ^{3, 4}	8/15 ³	8/20 ³	10/25 ³	10	10
Min. <i>Rear setback</i> (ft)	10	15 ⁶	20 ⁶	25	30	20	15
Max. Bldg. <i>Height</i> (ft)	30	30	30	30	30	45 ⁷	35 ⁷
<i>Lot coverage %</i>	60%	50%	50%	50%	40%	60%	60%

Notes:

1. Minimum *lot area* of four thousand square feet per *dwelling unit* (4,000 sf/du); except *lots* in column A are permitted one (1) *dwelling unit*.
2. *Garage* face and embellishments shall be *setback* a minimum of twenty-five feet (25') measured from any opposing property line; except rear *alley* loaded *garages*, which shall be *setback* nine feet (9') from *alley* edge line.
3. Minimum *side setback*: one (1) side / aggregate *side setbacks* on same *lot*.
4. May be reduced to zero feet (0') *setback* for *single-family dwellings* as *attached building* and separated by *common wall* along property line. End units must maintain total combined *setback*.
5. A covered front porch may encroach closer to the *street* by up to eight (8') feet.
6. A covered front porch may encroach into the *setback* by up to five (5') feet.
7. The *height* of any *structure*, or portions thereof, shall not exceed thirty feet (30') in *height* measured at the *setback* line when *adjacent* to *Single-family* or *Two-family lots*. The *height* of the *structure* may increase at a ratio of one-foot (1') vertical for every one-foot *setback* horizontally (1':1'), as measured relative to the property line, to the maximum allowed *height*.
8. Minimum *lot area* of twenty-five hundred square feet per *dwelling unit* (2,500 sf/du).

Table 106-4c – Additional Development Standards

	TND-C	TND-MU ¹	TND-OS
Min. <i>Lot Area</i> (sf)	6,000	16,000	N/A
Min <i>Lot Area per Dwelling unit</i> (sf/du)	N/A	2,000	N/A
Min. <i>Setback to Arterial ROW</i> (ft) ¹	20	20	15
Min. <i>Setback to Collector and Local ROW</i> (ft) ¹	15 ²	20 ²	15
Min. <i>Setback Adjacent to Residential Zoning</i> (ft) ¹	10 ³	10 ³	15
Min. <i>Setback Adjacent to Non-Residential Zoning</i> (ft)	15	20	15
Max. Bldg. <i>Height</i> (ft) ⁴	40	45	35

Notes:

1. *Setbacks* shall not include any *parking spaces* or *drive aisles* except *ingress and egress*.
2. *Setback* may be reduced to ten feet (10') for units that open to the *street* and exclude a perimeter wall
3. *Setback* increased to twenty feet (20') from *single-family* residential.
4. The *height* of any *structure*, or portions thereof, shall not exceed thirty feet (30') in *height* measured at the *setback* line when *adjacent* to *Single-family, Two-family, Three-family development parcels*. The *height* of the *accessory structure* may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum *height* equal to the *zoning*

ARTICLE 5 – MIXED USE ZONING DISTRICTS

106-5.1 General.

- A. Purpose. The *Mixed use zoning districts* are designed to provide an integration of residential with commercial activities such as retail and service *uses*, *offices*, *public/semipublic features*, recreational *use* and *entertainment establishments*. The purpose of these districts is to create an area with diverse housing options and lifestyle *amenities* that are incorporated with social, entertainment, and employment opportunities that creates economic and social vitality and provides flexibility in the design of new developments.
- B. Intent. It is intended for the *Mixed use zoning districts* to permit a wider variety of residential *uses* but a more specific range of commercial *uses* focused on meeting the daily needs of the residents while being compatible with and integrated into the residential neighborhoods. It is also the intent of these districts to create the *live-work-play* environment designed to promote a pedestrian scaled walkable development. All land *uses* shall comply with the Land use Matrix in **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.
- C. General Standards.
1. All development, regardless of the land *use* mix, shall comply with **Chapter 107** of this Ordinance and adhere to the Planning and Engineering Design Standards (PEDS) as applicable.
 2. A *mixed use* project may integrate allowed land *uses* either vertically within the same *building* and/or horizontally as separate but *adjacent uses* within the same *development parcel*. Horizontally integrated *mixed uses* shall be both physically and visually connected for pedestrian and vehicular *uses*.
 3. *Mixed use buildings* that contain residential *uses* may be asked to demonstrate, through a report from a qualified acoustical and/or environmental engineer, either that there are no negative impacts in residential livability or that the impacts can be mitigated through appropriate design.
 4. Vertically integrated *mixed use buildings* contain a residential component of some type above or adjacent to a variety of permitted commercial *uses*.
 5. Horizontally integrated *mixed use* developments may have residential and commercial components in separate building that are designed to have:
 - a. A unifying architectural character (style, form, and material);
 - b. An integrated circulation system and parking concept;

- c. An integration of different land *uses* and may include the *use* of vertically integrated *mixed use buildings*;
 - d. Designed as a pedestrian-oriented development.
- 6. A *mixed use* development may achieve an increased *net residential density*, up to twenty-five (25%) percent, when designated as a “receiving site” through the *Transfer of Development Rights (TDR)* regulations (refer to **Chapter 104** of this Ordinance for details on TDR).
- 7. A mix of residential and commercial occupancy shall be constructed in each stage of phased developments so that no single type of land *use* is exclusively developed at any time.
- 8. Within the *Mixed use zoning districts* there shall be no restriction on combining different allowed non-residential *uses* within the same *building* other than those imposed by *building code* (refer to **Chapter 105** of this Ordinance) and Arizona Revised Statutes.
- 9. All projects shall provide one hundred and fifty square feet (150 sf) of on-site usable *open space* per *dwelling unit*; unless otherwise indicated in the following MU development standards tables. Onsite *open space* shall include *amenities* and safety features that enable residents to *use* the *open space*. Acceptable types of *open space* are listed below and the design of such areas is further detailed in the PEDS (see Volume 1, Chapter 3).
 - a. Common *Open space* (excluding *setbacks*) with a minimum dimension of fifteen feet (15') in any direction that is accessible via sidewalks and local paths to all *dwelling units*. The space shall to be oriented maximize the afternoon shade, unless site conditions such as topography warrant waiving this requirement by the Community Development Director or Designee.
 - b. Individual balconies or patios (excluding front stoops) may be *used* for up to twenty-five percent (25%) of the required *open space*. To qualify as *open space*, balconies or patios must be at least forty square feet (40 sf) with no dimension less than five feet (5').
 - c. Rooftop decks and terraces may be *used* to meet up to fifty percent (50%) of the required *open space*.
 - d. On-site indoor fitness, entertainment, and/or recreation areas may be *used* to meet up to twenty-five percent (25%) of the required *open space*.
 - e. Environmentally sensitive areas may count toward *open space* requirements if integrated into the site design to be visible and usable by residents with passive features such as trails and

benches. Sensitive or critical areas meeting these requirements may count for up to fifty percent (50%) of the required *open space*.

- D. Process. A Type 3 review is required to establish any of the *mixed use zoning districts*. All development within a *Mixed use zoning district* shall require a Type 2 *Site Plan Review* prior to the submittal for a *building* and/or grading permit. Some proposed *uses* may require a *Conditional use Permit* (see **Table 106-1c** and **Table 106-1d** in Article 1 herein for requirements).

106-5.2 Mixed Use Medium Density (MU-1).

- A. Purpose. The *Mixed use Medium Density (MU-1) zoning district* provides for the development of a vibrant suburban neighborhood setting through the integration of diverse housing opportunities and a limited range of commercial *uses* as an *amenity*, service, or *business* employment option for the residents within the neighborhood. Generally, the commercial *uses* shall be in keeping with the character and scale of the surrounding neighborhood.
- B. Applicability and Density.
1. The MU-1 *zoning district* may be applicable for land that is within the Neighborhood Character Area of the Surprise *General Plan*; as a suburban development type.
 2. MU-1 developments will be limited to locations at intersections or in conjunction with a *park*, *school*, *civic use*, or public space and shall have *building frontage* along collector *rights-of-way*.
 3. The maximum allowed *gross residential density* of a MU-1 development is eight *dwelling units* per acre (8 du/ac) with a minimum of four (4) *dwelling units* per *lot* of record.
- C. Diversity and Scale. MU-1 developments shall provide a mixture of both residential and non-residential *uses*.
1. Twenty-five to seventy-five percent (25-75%) of the total floor area within a MU-1 development shall be designed and constructed for residential occupancy.
 2. The ground floor of a vertically integrated *mixed use structure* shall be designed for commercial occupancy.
 3. Any individual *building* shall be limited to a maximum footprint of five thousand square feet (5000sf).
- D. Development Standards. **Table 106-5a** identifies the development standards required for the MU-1 *zoning district*.

Table 106-5a - Mixed Use Medium Density (Mu-1) Zoning	
Min <i>Development parcel</i> Size (sf)	1 acre
Min. <i>Lot Area per Dwelling unit</i> (sf/du)	5,500
Min. <i>Setback to Arterial ROW</i> (ft)	20
Min. <i>Setback to Collector and Local ROW</i> (ft) ¹	15
Min. <i>Setback Adjacent to Residential Zoning</i> (ft)	15
Min. <i>Setback Adjacent to Non-Residential Zoning</i> (ft) ₂	10
Max. <i>Bldg. Height</i> (ft) ³	45
Max individual <i>building footprint</i> (sf)	5000
Notes: 1. <i>Setback</i> may be reduced to ten feet (10') for units that open to the <i>street</i> and exclude a perimeter wall. 2. <i>Setback</i> may be reduced to five feet (5') when <i>adjacent</i> to other MU <i>zoning districts</i> 3. The <i>height</i> of any <i>structure</i> , or portions thereof, shall not exceed thirty feet (30') in <i>height</i> measured at the <i>setback</i> line when <i>adjacent</i> to RR, R-1, and R-2 <i>zoning districts</i> and established <i>uses</i> . The <i>height</i> of the <i>accessory structure</i> may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum <i>height</i> equal to the <i>zoning</i>	

106-5.3 Mixed Use High Density (MU-2).

- A. Purpose. The *Mixed use High Density (MU-2) zoning district* provides for the development of a vibrant urban residential setting with a range of high density and *multi-family* housing options mixed with employment and *entertainment establishments*.
- B. Applicability and Density.
1. The MU-2 *Zoning district* may be applicable for land that is:
 - a. Within the Neighborhood Character Area of the *Surprise General Plan*; as an Urban Development Type.
 - b. Within the Commerce and Office Character Area of the *Surprise General Plan*.
 - c. Within the Transit Oriented Development District Sub-Area of the *Surprise General Plan*.
 2. MU-2 developments must have *building frontage* along a collector or arterial *rights-of-way* and be within a quarter (¼) mile of a transit node or transit corridor.

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3. The minimum *development parcel* size to request MU-2 zoning is one (1) acre. The allowed overall *gross residential density* of a MU-2 development is between eight and twenty *dwelling units* per acre (8-20 du/ac).
- C. Diversity and Scale. MU-2 developments shall provide a mixture of both residential and non-residential *uses*.
1. All MU-2 developments shall be designed and constructed to a residential occupancy of twenty-five to seventy-five percent (25-75%) of the total floor area within a development.
 2. The ground floor of all *mixed use structures* shall be designed for commercial occupancy; except residential *structures* in a horizontal *mixed use* plan.
 3. Non-residential land *uses* shall be limited to a maximum tenant space of fifteen thousand square feet (15,000sf) when developed as a horizontal *mixed use* plan.
 4. Any individual *building* shall be limited to a maximum footprint of thirty thousand square feet (30,000sf).
- D. Development Standards. Table 106-5b below identifies the development standards required for the MU-2 zoning district.

Table 106-5b - Mixed Use High Density (MU-2) Zoning		
Lot Categories	A	B
Lot Area (sf/du)	3,700-5,500	2000 minimum
Min. <i>Setback</i> to Arterial ROW (ft)	20	20
Min. <i>Setback</i> to Collector and Local ROW ¹	15	15
Min. <i>Setback Adjacent</i> to Residential Zoning (ft) ²	15	20
Min. <i>Setback Adjacent</i> to Non-Residential Zoning (ft) ³	20	20
Max. Bldg. <i>Height</i> (ft) ²	50	60
Max <i>Building</i> Footprint (sf)	30,000	30,000
Max non-residential Tenant Occupancy (sf)	15,000	15,000
Notes: 1. <i>Setback</i> may be reduced to 10' for units that open to the <i>street</i> and exclude a perimeter wall 2. The <i>height</i> of any <i>structure</i> , or portions thereof, shall not exceed thirty feet (30') in <i>height</i> measured at the <i>setback</i> line when <i>adjacent</i> to RR, R-1, and R-2 zoning districts and established <i>uses</i> . The <i>height</i> of the <i>accessory structure</i> may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum <i>height</i> equal to the zoning 3. <i>Setback</i> may be reduced to fifteen feet (15') when <i>adjacent</i> to other MU zoning districts		

106-5.4 Mixed Use Resort (MU-3).

- A. Purpose. The *Mixed use* Resort (MU-3) zoning district provides for the development of resort areas into the natural environment and setting with *ancillary* recreational *amenities* as well as residential *cluster development*. This

zoning district also allows limited commercial establishments that specifically cater to the needs of the tourist oriented trade and which are designed and located to be walkable from the resort area without interference to other daily functions of the surrounding community and other *uses* in the vicinity.

B. Applicability and Density.

1. The MU-3 *Zoning district* may be applicable for land that is:
 - a. Within the Scenic Lands Development Sub Area of the Neighborhood Character Area, of the Surprise *General Plan*; as a rural development type.
 - b. Within the Commerce and Office Character Area of the Surprise *General Plan*; as a *mixed use* residential development type.
2. The minimum *development parcel* size to request MU-3 *zoning* is twenty acres (20 ac). The allowed overall *gross residential density* of a MU-3 development is between eight and twenty *dwelling units* per acre (8-20 du/ac) when the resort development includes an *ancillary* residential component.

C. Review and Process.

1. Procedures:
 - a. A Resort Master *Site Plan* (MSP) shall be submitted as part of the *rezoning* process pursuant to **Chapter 102** of this Ordinance. The Resort MSP is the compilation of exhibits that demonstrate compliance with all requirements of this Ordinance and shall identify the size and location of each allowed *development parcel* listed below.
 - (1) Residential. A residential *development parcel* does not require space designed for commercial occupancy but is meant for a variety of housing.
 - (2) Non-residential. A non-residential *development parcel* has no residential requirement associated with the land *uses* permitted in **Table 106-1c** and **Table 106-1d**.
 - (3) *Mixed use*. A *mixed use development parcel* incorporates *multi-family* housing with space designed for commercial occupancy. The ground floor of all *mixed use structures* shall be designed for commercial occupancy; except residential *structures* in a horizontal *mixed use site plan*.

- b. *Development parcels* labeled as Residential will be *platted* as per **Chapter 108** of this Ordinance and shall comply with the PEDS and other design standards in **Chapter 107**.
 - c. A *Site Plan* Review will still be required for any multiple-building apartment complex, *mixed use*, or non-residential development.
 2. *Amendments*: A Council approved Resort MSP may be amended administratively for the following circumstances:
 - a. Up to a ten percent (10%) transfer (increase or decrease) in the allowed quantity of *dwelling units* between *development parcels* with the Resort MSP;
 - b. Up to a ten percent (10%) increase or decrease to the *gross residential density* of the Resort MSP as compared to City Council approval;
 - c. Up to a ten percent (10%) shift in the individual *development parcel gross area* or configuration, as compared to City Council approval.
 3. Requests for an administrative *amendment* shall require the following:
 - a. The master *developer*, or the specific *applicant* if the master *developer* is no longer involved in the project, shall provide the City with a “Revised Resort MSP” that reflects any and all administratively approved *alterations* to date.
 - b. No further applications for *plats*, *site plans*, or *building permits* shall be submitted to the City until after the administrative *amendment* request has been determined; and if approved, a new “Revised Resort MSP” showing the latest approved *amendment* has been submitted back to the City.
 4. Administrative *amendment* to the Resort MSP shall not be allowed if:
 - a. Any *amendment* would require backbone infrastructure (water and wastewater) upsizing, or change the parameters for the master drainage design, or change the amount or intent of the *open space* component of the Resort MSP as compared to the initial approval.
 5. Any *alteration* to the “Resort MSP” that exceeds the limits set for administrative approval, as listed above, shall require City Council action as a Resort MSP *Amendment*.

D. Development Standards.

1. The Resort MSP will comply with overall development standards shown in **Table 106-5c** related to the perimeter to the overall development.

2. Each *development parcel* shall further comply with the development standards identified in **Table 106-5d** and **Table 106-5e** related to the internal development within the overall Resort MSP.
3. Each residential *lot* of record will be allowed a maximum of three (3) *dwelling units*, provided that said *lot* has a minimum *lot* area of three thousand five hundred square feet per *dwelling unit* (3,500 sf/du).
4. The individual *building* footprint for a *mixed use* or non-residential land use shall be limited to a maximum of thirty thousand square feet (30,000sf); excluding the main resort *structure* and *ancillary restaurant*.
5. Within the thirty thousand (30,000) *building* footprint limits, non-residential *uses* shall be further limited to fifteen thousand square feet (15,000 sf) per tenant.

Table 106-5c – Mixed Use Resort (MU-3) Zoning Overall Project Development Standards	
Min Resort MSP Project Size	20 acres
Gross Residential Density (du/ac)	8-20
Min. Setback to Arterial ROW	35
Min. Setback to Collector and Local ROW (ft)	20
Min. Setback Adjacent to Residential Zoning (ft)	45
Min. Setback Adjacent to Non-Residential Zoning (ft)	30
Net Open space (%)	30%

**Table 106-5d – Mixed Use Resort (MU-3) Zoning
Residential Development Standards**

<i>Lot Categories</i>	<i>A¹</i>	<i>B¹</i>	<i>C¹</i>
<i>Lot Area (sf)</i>	4,000-7,999	8,000-15,999	16,000-20,000
<i>Min Lot Width (sf)</i>	40 ⁶	60	80
<i>Min. Front setback (ft)</i>	12 ^{2, 3}	15 ^{2, 3}	15 ^{2, 3}
<i>Max. Front setback (ft)</i>	30 ⁴	30 ⁴	30 ⁴
<i>Min. Side setback (ft)</i>	5/10 total ^{2, 5}	5/10 total ^{2, 5}	10
<i>Min. Rear setback (ft)</i>	12 ²	12 ²	20 ²
<i>Max. Bldg. Height (ft)</i>	30	30	30
<i>Lot coverage %</i>	50	40	30

Notes:

- Maximum of three (3) *dwelling units* per *lot* of record, provided that said *lot* has a minimum *lot* area of three thousand five hundred square feet per *dwelling unit* (3,500 sf/du)
- Garage* doors/embellishments shall be *setback* a minimum of twenty feet (25') measured from the opposing property line, except rear, *alley* loaded *garages*, which shall be *setback* nine feet (9') from the *alley* edge line.
- A covered front porch may encroach closer to the *street* by up to five (5') feet.
- Measured from the primary *dwelling*, excluding front porch.
- Minimum *side setback*: one (1) side / total *side setbacks* on a *lot*. May be reduced to 0' *setback* for *Single-family dwellings* as *attached building* to and separated by a *common wall* along the property line. End units shall maintain the total combined *setback*.
- New *blocks* with any residential *lots* that are less than fifty feet (50') wide shall have vehicular access from an *alley*

**Table 106-5e – Mixed Use Resort (MU-3) Zoning
Non-residential and Mixed Use Development Standards**

	<i>Non-residential</i>	<i>Mixed use</i>
<i>Min Lot Area (sf)</i>	20,000 (min)	20,000
<i>Lot Area per dwelling unit (sf/du)</i>	N/A	2,100 – 5,400
<i>Min. Setback to Arterial ROW</i>	15	20
<i>Min. Setback to Collector and Local ROW (ft)</i>	30	15 ¹
<i>Min. Setback Adjacent to Residential Parcels (ft)</i>	10	10
<i>Min. Setback Adjacent to Non-Residential Zoning (ft)</i>	12	20
<i>Max. Bldg. Height (ft)</i>	45 ²	50 ²

Notes:

- Setback* may be reduced to ten feet (10') along Collector or Local *ROW* for units that open to the *street* and exclude a perimeter wall
- The *height* of any *structure*, or portions thereof, shall not exceed thirty feet (30') in *height* measured at the *setback* line when *adjacent* to RR, R-1, and R-2 *zoning districts* and established *uses*. The *height* of the *accessory structure* may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum *height* equal to the *zoning district*

ARTICLE 6 – COMMERCIAL ZONING DISTRICTS

106-6.1 General.

- A. Purpose. The Commercial *zoning districts* are intended to provide locations, standards and regulations for all varieties of retail shopping, service establishments, neighborhood convenience, entertainment, and *office uses* in a manner that is consistent with the *General Plan* while providing employment opportunities for existing and future residents of the City.
- B. Applicability and Intensity.
1. The commercial *zoning district(s)* may be applicable for land that is within the Neighborhood, Commerce and Office, and Employment Character Areas of the *General Plan*.
 2. The Commercial *zoning districts* listed below represent the different levels of allowed intensity of a development or land *use* in relation to the *building* size, scale, and overall impact on surrounding neighborhoods (i.e. corner store vs. traditional grocery store vs. typical big box with *outdoor display area*) as delineated in the Land use Matrix **Table 106-1c** in Article 1 of this Chapter.
 3. Outdoor *uses* such as dining, display, storage, *drive-through* facilities, entertainment *uses*, and sound systems may be allowed only in certain zones and under certain conditions as delineated in the *Accessory use* Matrix **Table 106-1d** in Article 1 of this Chapter.
- C. Process. A Type 3 review is required to establish a commercial *zoning district*. All development within a commercial *zoning district* shall require a Type 2 *Site Plan* Review prior to submittal for a *building* and/or grading permit. Some proposed *uses* may require a Type 3 review for *Conditional use Permits* per **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.

106-6.2. Establishment of Commercial Zoning districts.

- A. **Office Commercial (C-O):** The Office Commercial (C-O) *zoning district* provides for *offices* and services with smaller, supportive shops and dining.
1. The intent of the C-O *zoning district* is to create an employment friendly environment by permitting an *office* and/or service *uses* that limit impact on and can be integrated within the residential neighborhood.
 2. Applicable in Rural, Suburban, Urban, and Community Commercial Development Types of the *General Plan*.
- B. **Neighborhood Commercial (C-1):** The Neighborhood Commercial (C-1) *zoning district* provides for the development of smaller shops, dining, recreation,

entertainment, *offices*, and services in convenient locations to meet the daily needs of the immediate residential neighborhoods.

1. The intent of the C-1 *zoning district* is to create a *pedestrian friendly*, neighborhood environment by permitting a range of commercial, *office*, and/or service *uses* which are limited to a residential scale and integrated within the residential neighborhood.
2. The C-1 *zoning district* may be applicable to the Neighborhood (Rural and Suburban) and Commerce and Office (*Mixed use Residential*) Character Areas of the *General Plan*.

C. **Community Commercial (C-2):** The Community Commercial (C-2) *zoning district* provides for retail, *office*, and service activities to satisfy the needs of the community with emphasis on shopping *commerce centers*, clustered *office commerce centers*, and medium sized commercial developments.

1. The intent of this district is to create a *pedestrian friendly*, neighborhood environment and discourage the sprawl of strip commercial development by assembling community-serving *businesses* and services in *commerce centers* rather than in a strip or linear pattern.
2. The C-2 *Zoning district* may be applicable for land that is within the Neighborhood (Suburban and Urban), Commerce and Office (Office, *Mixed use* and Regional Commercial), and Employment (*Business Park*) Character Areas of the *General Plan*; if the overall development meets the size and intensity guidelines outlined in the *General Plan*.

D. **Regional Commercial (C-3):** The Regional Commercial (C-3) *zoning district* accommodates the development of large-scale planned commercial and *office* complexes that provide goods, recreation, entertainment, food, and services to regional trade areas.

1. The C-3 *zoning district* provides for a diversity of general *business* and commercial *uses* at a large *building* size, scale, and overall intensity. The C-3 *zoning district* shall emphasize safe and convenient pedestrian mobility in many forms, with planning that concentrates *parking areas* for trip reduction and accommodates internal vehicular traffic flow.
2. The C-3 *zoning district* may be applicable for land that is within the Commerce and Office (Office and Regional) Character Area of the *General Plan*.

106-6.3 Commercial Development Standards.

1. Developments within a Commercial *zoning district(s)* shall comply with development standards shown in **Table 106-6a**.
2. Projects designed as *commerce center* will comply with overall development standards regarding perimeter *setbacks* from *abutting* developments.
3. *Pad sites* within a *commerce center* may have reduced *setbacks* along boundaries internal to the *site plan* if the whole development complies with parking and landscaping regulations. Approval by the Community Development Director or designee is required.

Table 106-6a - Commercial Zoning Districts

	C-O	C-1	C-2	C-3
Minimum <i>Lot Area</i> (sf)	12,000	12,000	18,000	90,000 ¹
Min. <i>Setback</i> to Arterial ROW	35	35	35 ^{5,6}	35 ^{5,6}
Min. <i>Setback</i> to Collector and Local ROW (ft)	15	20	20 ^{5,6}	20 ^{5,6}
Min. <i>Setback Adjacent</i> to Residential <i>Zoning</i> (ft)	20	20	30 ^{5,6}	45 ^{5,6}
Min. <i>Setback Adjacent</i> to Non-Residential <i>Zoning</i> (ft)	15	15	15 ^{5,6}	15 ^{5,6}
Max. Bldg. <i>Height</i> (ft)	30	35 ²	40 ²	45 ²
Max. size per <i>use/tenant</i> (sf) ³	5,000	5,000	45,000	No limit
Max size per <i>Commerce center</i> (ac) ⁴	10	10	20	No limit

Notes:

1. Minimum *lot area* may be reduced to eighteen thousand square feet (18,000 sf) for *pad sites* within a *commerce center* with a minimum size of ninety thousand square feet (90,000 sf)
2. The *height* of any *structure*, or portions thereof, shall not exceed thirty feet (30') in *height* measured at the *setback* line when *adjacent* to Rural Residential (RR), Residential Low Density (R-1), and Residential Medium Density (R-2) *zoning*. The *height* increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum *height* equal to the *zoning district*
3. Area combines the total square footage of the *use*, which may include but is not limited to the gross floor areas of the *building*, outdoor activities and dining areas (when allowed), storage areas, and all display or *sales areas*
4. Contain *uses* designed around common circulation, parking, and pedestrian connectivity, including but not limited to shared *access* or *access easements*
5. Projects designed as *commerce center* will comply with overall development standards regarding perimeter *setbacks* from *abutting* developments.
6. *Pad sites* within a *commerce center* may have reduced *setbacks* along boundaries internal to the master *site plan* if the whole development complies with parking and landscaping regulations. Approval by the Community Development Director or designee is required.

ARTICLE 7 – EMPLOYMENT ZONING DISTRICTS

106-7.1 General.

- A. Purpose. The Employment *zoning districts* provide a wide range of employment *uses* to serve the needs of Surprise employers and residents. The standards for the Employment districts are intended to protect employment areas from incompatible *uses* as well as protecting *adjacent uses* from the potential adverse impact of the employment *uses* by establishing standards for compatibility and *screening*, and encouraging quality and variety in *building* and landscape design as further addressed in **Chapter 107** of this Ordinance.
- B. Intent. It is intended for the Employment *zoning districts* to permit a variety of both indoor and outdoor industrial *uses* focused on meeting the needs of the different employment sectors of the community while making certain to *buffer* surrounding land *uses* from the negative impacts that might come from such *uses*.
- C. Applicability and Intensity.
1. The Employment *zoning districts* shall be limited to land that is within the Employment Character Area of the Surprise *General Plan* at locations with appropriate *access* to major roads, transportation corridors, and the necessary utilities.
 2. The Employment *zoning districts* listed below represent the different levels of allowed intensity of a development or land *use* in relation to the *building* size, scale, and overall impact on surrounding neighborhoods and developments. All land *uses* shall comply with the Land *use* Matrix in **Table 106-1c** and **Table 106-1d** herein or otherwise is considered in violation of this code.
 3. The Employment *zoning districts* are intended to work in conjunction with and adhere to Articles 1 and 3 of the Planning and Engineering Design Standards (PEDS) of **Chapter 107** of this Ordinance in general, and any additional *Business Park* or Industrial specific standards outlined below.
- D. Review and Process. A Type 3 review is required to establish any of the employment *zoning districts*. All development within the *Business Park zoning district* or any of the Industrial *zoning districts* shall require a Type 2 *Site Plan* Review prior to the submittal for a *building* and/or grading permit. Some proposed *uses* may require a Type 3 review for *Conditional use Permits* as identified in **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.

106-7.2 Establishment of Employment Zoning districts.

- A. Business Park (BP) Zoning district:** The *Business Park (BP) zoning district* provides for the development of integrated campus-style employment *uses* to serve technology, research and development, *office*, and product distribution along with limited retail and service *uses* primarily to serve the *business park uses*.
1. The standards for the *BP zoning district* are intended to establish and maintain high quality *site planning* and architecture in a landscaped setting to create an attractive and unified development character
 2. Projects within a *BP zoning district* shall develop in a campus-like setting that allows for a variety of *buildings* and sizes that interact through outdoor seating areas, shaded pathways and landscaped areas.
- B. Light Industrial (I-1) Zoning district:** The *Light Industrial zoning district* provides for a mix of industrial activities which have generally negative impacts on the community, and which may be incompatible with other *uses*.
1. Typical Industrial *uses* have limited retail or on-site consumer interaction.
 2. The *uses* permitted within the *I-1 zoning district* are intended to be indoor *uses* with restricted and limited outdoor operations and storage, see **Section 106-10.33**.
- C. General Industrial (I-2) Zoning district:** The *General Industrial zoning district* provides for a mix of industrial activities requiring large land areas unencumbered by nearby residential or commercial development.
1. Typical Industrial *uses* have limited retail or on-site consumer interaction.
 2. The *uses* permitted within the *I-2 zoning district* are a variety of indoor *uses* with outdoor operations and storage, see **Section 106-10.33**.
- D. Heavy Industrial (I-3) Zoning district:** The *Heavy Industrial (I-3) Zoning district* provides for *uses* that require major earth moving activities suitable only in certain locations and may require land reclamation upon completion of the operation.

106-7.3

Development Standards.

- A.** All projects within the *BP zoning district* shall adhere to the development standards listed below:
1. There may be a combination of *warehousing, manufacturing* and *office use* under one (1) development provided all activities are conducted indoors and there is no *outdoor storage*.
 2. Developments shall be designed in a campus-like setting that allows for a variety of *buildings* and sizes that interact through outdoor seating areas, shaded pathways and landscaped areas.

3. The minimum *parcel* size for requesting the BP *zoning district* is fifty acres (50ac).
- B.** All projects within the I-1, I-2, I-3 *Zoning districts* shall adhere to the development standards listed below:
1. Projects designed as *commerce center* will comply with overall development standards regarding perimeter *setbacks* from *abutting* developments.
 2. *Pad sites* within a *commerce center* may have reduced *setbacks* along boundaries internal to the *site plan* if the whole development complies with parking and landscaping regulations. Approval by the Community Development Director or designee is required.
 3. Within the indoor tenant space industrial *uses* may include *ancillary offices, showrooms/sales offices*, retail, and service *uses* (as shown in Table 106-1c) no greater than twenty-five percent (25%) of the gross floor area.
- C.** Developments in I-3 *zoning district* shall also adhere to the additional development standards listed below:
1. Primary *access* from an *arterial street* or *streets* specifically designed for intense heavy equipment *use*.
 2. Appropriate warning *signs* shall be installed upon the property indicating hazards and the type of hazards.
- D.** **Table 106-7a** below is specific to individual *lots* and identifies the dimensional standards required for the Employment *zoning districts*.

Table 106-7a - Employment Zoning Districts

	BP	I-1	I-2	I-3
Minimum <i>Lot Area</i>	20 acres ⁶	20,000 sf	5 acres	40 acres
Min. <i>Setback</i> to Arterial <i>ROW</i>	35	35	35	50
Min. <i>Setback</i> to Collector and Local <i>ROW</i> (ft)	25	35	35	50
Min. <i>Setback Adjacent</i> to Residential <i>Zoning</i> (ft)	75 ¹	50 ²	75 ¹	150 ³
Min. <i>Setback Adjacent</i> to Non-Residential <i>Zoning</i> (ft) ⁴	15	15	25	50
Max. Bldg. <i>Height</i> (ft) ⁵	45	40	85	40

Notes:

1. May be reduced to fifteen feet (15') when the development provides a forty-five feet (45') or greater landscape *buffer "tract"* with a public *access* easement to allow paths or trails that may connect to the Surprise Open Trails system.
2. May be reduced to fifteen feet (15') when the development provides a thirty feet (30') or greater landscape *buffer "tract"* with a public *access* easement to allow paths or trails that may connect to the Surprise Open Trails system.
3. May be reduced to seventy-five feet (75') when the development provides a fifty feet (50') or greater landscape *buffer "tract"* with a public *access* easement to allow paths or trails that may connect to the Surprise Open Trails system.
4. *Setback* may be increased if *abutting* a *parcel* with OS-1 or OS-2 *zoning* that separates residential *zoning* by less than sixty feet (60')
5. *Buildings*, or portions thereof, shall be *setback* an additional one foot for every one foot (1':1') above thirty feet (30') in *height* when *adjacent* to Residential *zoning districts*.
6. Minimum *lot area* may be reduced to one (1) acre for *pad sites* within a *commerce center*

ARTICLE 8 – CIVIC ZONING DISTRICTS

106-8.1 General

- A. Purpose. The purpose of the civic *zoning districts* is to provide *zoning* criteria and development standards for those public land *uses* and facilities that are necessary to serve the community at large, conserve *environmentally sensitive features* and natural areas, or provide recreational *amenities* that enhance the quality of life for the residents of Surprise.
- B. Applicability and Intensity.
1. The civic *zoning districts* are appropriate for land in all character areas of the Surprise *General Plan*. The civic *zoning districts* have no minimum *lot* size
 2. As these civic districts are appropriate in all character areas they are likewise intended to work in conjunction with and adhere to all Articles of the Planning and Engineering Design Standards (PEDS) of **Chapter 107** of this Ordinance and any specific standards outlined below.
- C. Review and Process. A Type 3 review is required to establish any of the Civic *zoning districts*. All development within the Public Facilities or any of the Open Space *zoning districts* shall require a Type 2 *Site Plan* Review prior to application for a *building* and/or grading permit. Some proposed *uses* may require a Type 3 review for *Conditional use Permits* per **Table 106-1c** and **Table 106-1d** in **Article 1** of this Chapter.

106-8.2 Open space Conservation (OS-1) Zoning districts.

- A. Purpose. The purpose of the *Open space Conservation (OS-1) Zoning district* is to conserve, protect and enhance natural *open spaces* such as but not limited to: desert washes and flood plains; *environmentally sensitive lands*, wildlife *habitats*, and steep *hillsides*; historic or archeological sites; and *open space* lands within the community. The primary purpose of designating these areas is to raise the degree of assurance that designated *open space* for conservation will remain undeveloped while allowing limited passive recreational *uses* such as hiking, horseback riding, and bicycling in a natural setting.
- B. Development Standards.
1. Given the conservation purpose of this *zoning district* the minimum *parcel* size necessary to establish OS-1 *Zoning* is ten acres (10 ac) and shall follow the locational hierarchy identified in **Section 104-1.10** of this Ordinance.

2. Private lands that are proposed to be zoned for OS-1 shall require the express written consent of the property *owner(s)*.
3. Unpaved or paved trails or paths are permitted for *use* only by pedestrians, non-motorized vehicles, and horses (where specifically designated). Limited *access* is permitted for maintenance and emergency vehicles only. use of motorcycles all-terrain vehicles (ATVs) or off-highway vehicles (“OHVs”) is prohibited.
4. Picnic areas, sitting areas, scenic lookouts, shade *structures*, and restrooms may be permitted as *accessory uses*, subject to minimal disturbance and revegetation of the areas disturbed during construction of these *amenities*.
5. Drainage facilities and utility easements shall be revegetated to be consistent with the surrounding natural vegetation.
6. **Table 106-8a** below is specific to individual *parcels*, tracts, or *lots* and identifies the dimensional standards required for any proposed improvements within the OS-1 *Zoning district*.

Table 106-8a - Open space Conservation (OS-1) Zoning district	
Min. Arterial, Collector, and Local ROW Setback (ft)	15
Adjacent to Residential Zoning (ft)	50
Adjacent to Non-Residential Zoning (ft)	15
Max. Bldg. Height (ft)	15

106-8.3 Open space Recreation (OS-2) Zoning district.

A. Purpose. The purpose of the *Open space Recreation (OS-2) Zoning district* is to conserve and protect those lands agreed to be developed for recreational *uses* through the plan approval process. The primary purpose of designating these areas is to raise the degree of assurance that designated *open space* for recreational areas will be preserved as such as well as to further the goals and objectives of the Surprise *General Plan*.

B. Development Standards.

1. New residential subdivisions shall plan, design, and provide the required *open space* for usage by the general public on a subdivision-wide basis rather than on a *lot-by-lot* basis and shall follow the locational hierarchy identified in **Section 104-1.10** of this Ordinance.

2. The minimum width of any *open space* area used for active recreation shall be thirty feet (30').
3. **Table 106-8b** below is specific to individual *parcels*, tracts, or *lots* and identifies the dimensional standards required for any allowed development within the OS-2 *Zoning district*

Table 106-8b - Open space Recreation (OS-2) Zoning district ¹	
Min. Arterial, Collector, and Local ROW Setback (ft)	15
Adjacent to Residential Zoning (ft) ²	15
Adjacent to Non-Residential Zoning (ft) ³	15
Max. Bldg. Height (ft) ⁴	35
Notes: 1. Setbacks shall not contain <i>drive aisle, parking spaces, or buildings</i>. Exceptions allowed for <i>ingress/egress</i> only, seating areas, patios, sidewalks/trails, bicycle parking, and pedestrian <i>amenities</i> 2. Used for whole length of any <i>lot line</i> that <i>abuts</i> any residential <i>zoning district</i> 3. Used for any <i>side lot line</i> that <i>abuts</i> any non-residential <i>zoning district</i> 4. Height may be increased by ten (10') (up to a max of sixty (60')) for each additional five feet (5') away from the <i>side or rear lot line</i>.	

106-8.4 Public Facilities (PF) Zoning district.

- A. **Purpose.** The purpose of the Public Facilities (PF) *zoning district* is to accommodate development on federal, state, county, and City of Surprise owned land for those land *uses* necessary to serve the needs of the community and/or protect the public health and safety.
- B. **Development Standards.**
 1. The PF *Zoning district* is intended to work in conjunction with and adhere to all Articles of the Planning and Engineering Design Standards (PEDS) in **Chapter 107** of this Ordinance.
 2. The dimensional standards required for the PF *zoning district* will be determined based on *use* and impact on surrounding developments as part of the *site plan* process.

ARTICLE 9 – OVERLAY ZONING DISTRICTS

106-9.1 Planned Unit Development (P) Overlay

- A.** Purpose. The planned unit development (PUD) overlay zoning district facilitates development by permitting flexibility to accommodate creative and imaginative designs that may not be possible under conventional regulations. It is intended to accommodate site constraints and unique circumstances that may include topography or *environmentally sensitive lands*.
- B.** Applicability. The PUD overlay zoning district is permitted in all Character Areas as set forth in the General Plan. A PUD overlay zoning district provides for the establishment of distinct regulations as adopted by the city council. A PUD overlay may be applied to any zoning district in the City of Surprise, except for the Surprise Heritage District (SHD), Traditional Neighborhood Development (TND), or on any individual residential dwellings. Where a provision in a PUD overlay zoning district varies from this Ordinance, the provisions in the PUD overlay zoning district shall govern.
- C.** Rationale. A application may request deviations from regulations in this Ordinance, as permitted in this section. The proposal shall identify the various constraints associated with site and demonstrate how the design meets the following guiding objectives of a PUD overlay zoning district
1. Development enriches the whole community through creating a unique sense of place for the residents within the PUD overlay zoning district as well as those in surrounding neighborhoods.
 2. Provide for a variety of coordinated and compatible land uses through innovative site planning.
 3. Create a higher standard of development than would be accomplished through the development of individual parcels through conventional zoning regulations.
 4. Planned and integrated comprehensive transportation systems for pedestrian and vehicular traffic as outlined in this Ordinance, which may include provisions for mass transportation and roadways, bicycle or equestrian paths, pedestrian walkways and other similar transportation facilities to meet the site conditions.
 5. Preserve existing *environmentally sensitive lands* that exceeds the minimum open space area required in the ordinance and provide for and well-designed open space *amenities*.

6. Fulfills the goals, objectives, and policies of the General Plan as well as specific plans for city areas that may include, but are not limited to cultural, educational, medical, and/or recreational facilities.
7. Provide for a variety of housing types, employment opportunities, and commercial services to achieve a balanced community for families of a wide variety of ages, sizes, and levels of income.
8. Site structures to take maximum advantage of the natural and man-made environment, provide view corridors, and minimize adverse environmental impact on surrounding areas during the development stages.
9. Avoid premature or inappropriate development that would result in incompatible uses or would create traffic and public service demands that exceed the capacity of existing or planned facilities.
10. All standards set forth in an approved PUD document shall carry the full force of law.

D. *Permitted uses.*

1. All *uses* shall comply with the underlying zoning district.

E. General regulations and permitted deviations.

1. The PUD Overlay District may establish alternate development standards (except lot area per dwelling unit) for those found in Chapter 106 and Chapter 109. Standards developed through the PUD Overlay District rezoning process shall be appropriate to the location and context for the site for which the project is proposed. Standards created through the PUD Overlay should also assist in the fulfillment of the goals, objectives, and policies in the General Plan. Approval of the standards is based on the site plan provided as part of the PUD.
2. All PUD districts shall otherwise adhere to the regulations established in this Ordinance. Any PUD overlay zoning districts containing standards that do not adhere to Chapter 106 or signage standards found in Chapter 109 shall be identified at the time of PUD zoning approval and shall be set forth in the development plan.

ARTICLE 10 – USE SPECIFIC STANDARDS

106-10.1 General Standards for all *use* Specific Development

- A.** The *use* Specific Standards outlined in this Article set forth specific requirements that shall be met before approval may be given for a proposed development.

Theses *use* Specific Standards incorporate requirements to address *uses* that require additional regulations to protect public health, safety, and welfare.

- B. Specific proposals for new development may be subject to more than one (1) set of standards and shall also comply with the requirements listed elsewhere in this Ordinance. In the case of conflict with a *zoning district*, *use* Specific Standards, or requirements of the Planning and Engineering Design Standards (“PEDs”) the more restrictive requirement shall apply; unless specifically provided to the contrary and clearly intended.
- C. Nothing in these provisions shall relieve any property *owner* or property *user* from satisfying any condition or requirement associated with a previous approval, special permit, conditional *use*, *Variance*, or other permit issued under any local, state, or federal ordinance or statute.

106-10.2 Accessory Dwelling Units (ADU).

- A. *Single-family* residential *uses* will be limited to only one (1) *accessory dwelling unit (ADU)* per *lot* of record in the RR, R-1 and R-2, SHD-RO, and TND-R *zoning districts*. A minor *site plan* review shall be required.
 - 1. New *accessory dwelling units* may not be constructed within the 65 DNL pursuant to A.R.S. §28-8481(E) after the adoption of this Ordinance.
- B. The *ADU* shall be located on the same *lot* as the *primary uses* and may not be sold or conveyed as a separate *dwelling unit* nor calculated as a separate *dwelling unit* for the purposes of determining *gross or net residential density*.
- C. An attached *ADU* shall have independent *access* and no direct, internal *access* to the primary *dwelling*. Detached *ADUs* shall not be located in the *front yard*.
- D. The design of any *ADU* shall respect the general *building* scale and architectural character of the primary *dwelling*, and placed to allow sharing of common space on the *lot*, such as driveways and *yards*.
- E. The *ADU* has a maximum area not to exceed fifty percent (50%) of the habitable space of the primary *dwelling unit* or eight hundred square feet (800 sf) of habitable space, whichever is less.
- F. The *ADU* shall not have separate utility services unless the *public utility* determines that a separate meter is required for safety reasons.
- G. One (1) additional *off-street parking space* is required for the *ADU*. Existing required *off-street parking* for the primary *dwelling* shall be maintained or replaced onsite.
- H. Development Standards. **Table 106-10a** below identifies the dimensional standards required for an *ADU*.

Table 106-10a - Accessory dwelling units (ADU)

	Max ADU Size ¹	Building Separation ²	Setback (Front yard) ³	Setback (Side and/or Rear yard)	Height
Detached ADU	50% of primary dwelling	5'	Not permitted	5'	9' ^{4, 6}
Attached ADU ⁵	50% of primary dwelling	n/a	Same as Zoning min setbacks	Same as Zoning min setbacks	Same as Zoning allowed height

Notes:

1. Calculated by the floor area of the first floor of the principal *building*. Maximum area of ADU shall not exceed 800 sf if the primary dwelling exceeds 1600 sf.
2. May be increased as required by the *building* and/or fire codes.
3. The entrance to the ADU shall not face be visible from the *street*, except for entrances that do not have *access* from the ground level, such as entrances from balconies or decks. *Access* shall not create the appearance of a *two-family dwelling*.
4. The *height* of an ADU structure shall not exceed nine feet (9') as measured at the five-foot (5') *setback* line. The *height* of the ADU structure may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum *height* equal to the *zoning district* (See **Figure 106-10a** and **106-b**).
5. The ADU shall be connected to the primary dwelling by a common roof, covered passageway, or common wall without direct access to the primary dwelling unit.
6. On lots 30,000 sf or greater each ADU has a maximum *height* equal to the *zoning district* when constructed within the *building envelope*.

106-10.3 Accessory Uses and Structures.

- A. All residential *accessory uses* (including ADUs), *buildings*, *structures*, and fencing shall be located on the same *lot* as the principal or main *use* and be at least five feet (5') from other *structure* or as required by the *building* and/or fire codes, except that fencing *used* to separate properties in a subdivision may straddle the common property line. *Accessory structures* in residential districts shall not be located within any easement.
- B. An *accessory structure* that is exempt from the *building permit* requirement still must comply with any other provisions, code, or regulation adopted by the city.
- C. No *accessory use*, *building*, or *structure* shall be constructed or developed on a *lot* prior to the establishment/construction of the *primary uses*, *building*, or *structure*; except for open-wire fencing on an otherwise undeveloped residential *lot* in the Rural Residential (RR) *Zoning district* or retaining walls associated with site development.
- D. No *accessory building* shall at any time be *used* as a *dwelling unit*, unless specifically developed as an ADU in compliance with the standards outlined in **Section 106-10.2** above and otherwise complies with the applicable *building* codes.

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- E. A *structure* shall not be considered *accessory* if it is connected to the principal *building* by a common roof *structure* or covered passageway, except an *ADU* may be connected to the primary *dwelling*.
- F. With the exception of attached *ADUs*, and decorative shade *structures* such as gazebos, pergolas, and arbors, a residential *accessory structure* shall not be located in the *front yard* of a residential *lot*; except in the *RR Zoning district*. *ADUs* and decorative shade *structures*, such as gazebos and arbors, may be in the *front yard*, but may not encroach into the minimum *front* or *side setbacks*.
- G. An *accessory structure* shall remain *accessory* to and under the same *ownership* as the *primary uses*, and shall not be *subdivided* or sold separately.
- H. No permit shall be issued for the construction of more than one (1) detached *garage accessory structure* for each *dwelling*.
- I. Apiaries may be permitted, provided the hives shall not be located closer than eighty feet (80') to any *dwelling*, *lot line*, or *right-of-way*.
- J. Development Standards. **Table 106-10b** below identifies the dimensional standards required for an *accessory structure*.

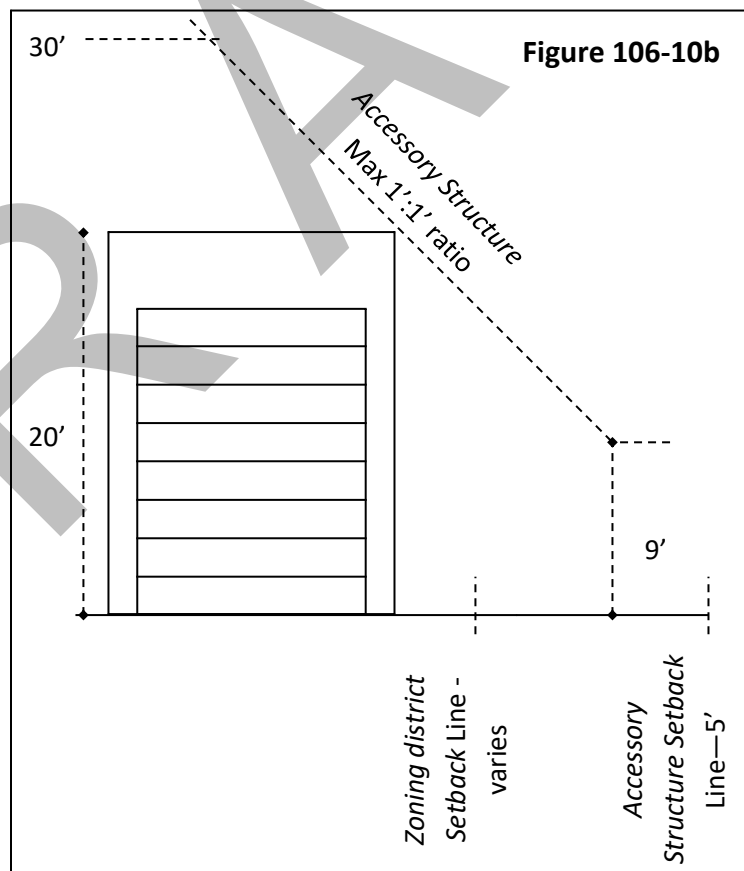
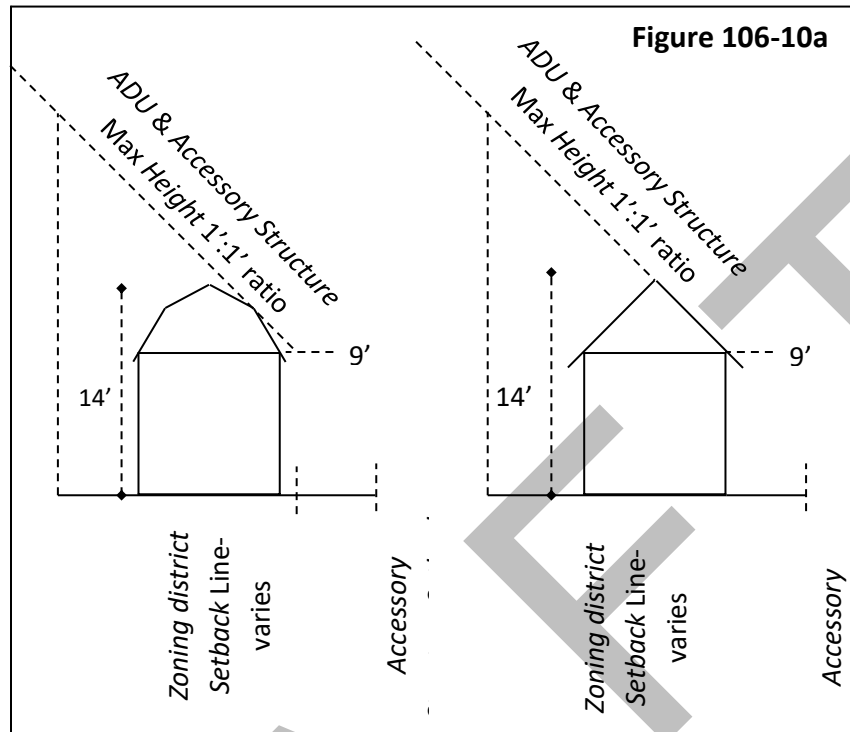
Table 106-10b - Accessory Structures

	Max Accessory Structure Size	Building Separation ²	Setback (Front yard)	Setback (Side and Rear yard)	Height
Shade Structures	400 sf	5'	Same as Zoning min setbacks	5'	9' ³
Other accessory structures	50% of primary dwelling ^{1, 4}	5'	Not allowed ⁷	5' ⁵	9' ^{3, 6}

Notes:

1. Calculated by the finished floor area of the first floor of the principal *building*. Maximum area of *accessory structure* shall not exceed 800sf if primary *dwelling* exceeds 1600 sf.
2. May be increased as required by the *building* and/or fire codes
3. The *height* of an *accessory structure* shall not exceed nine feet (9') as measured at the five-foot (5') *setback* line. The *height* of the *accessory structure* may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum *height* of fifteen feet (15') (See **Figures 106-10a 106-10b**)
4. On *lots* 30,000 sf or greater each *accessory structure* has a maximum area not to exceed 3,000 sf
5. *Fences* used to separate properties in a subdivision may straddle the common property line
6. On *lots* 30,000 sf or greater each *accessory structure* has a maximum *height* equal to the *zoning district* when constructed within the *building envelope*.
7. In *RR zoning districts*, *accessory structures* are permitted in the *front yard* when constructed within the *building envelope*.

- K. *Accessory structures* for *multi-family*, *mixed use*, commercial, and employment projects shall be included as part of an approved *site plan* and comply with setbacks of the *zoning district*.



106-10.4 Agricultural Animal Keeping.

- A. When allowed, the production and sale, boarding and/or breeding of *agricultural animals* for commercial purposes shall meet the provisions as outlined in **Section 106-10.5** below.
- B. The keeping of *agricultural animals* for non-commercial or personal use shall comply with **Chapter 10** of the Municipal Code.
- C. Apiaries may be permitted for beekeeping, provided the *structures* containing the hives shall not be located closer than eighty feet (80') to any *dwelling*, property line or *right-of-way*.
- D. No shows or other activities that would generate more vehicular traffic than is normal to an area with *single-family* residences are permitted unless the site has direct *access* to an arterial or *collector street*. Occasional shows may be allowed provided a *Temporary use Permit* is secured and adequate parking for such shows or other special events can be demonstrated.

106-10.5 Agricultural Operations and Facilities.

- A. *Agricultural operations* may be permitted provided the site is a minimum of forty (40 ac) acres.
- B. No commercial pen feeding or commercial feed *lots* or the commercial feeding of garbage to animals shall be allowed.
- C. *Agricultural structures* for storage of and maintenance of specialized machinery and equipment shall not be located closer than 200 feet from any *lot line*.
- D. Open *outdoor storage* is limited to plants, bulk organic dirt, or packaged fertilizer.
- E. All *plant nursery* or greenhouse enclosures, for commercial and wholesale purposes, shall be located a minimum of fifty feet (50') from any *lot line*.
- F. Wholesale growing of plants, trees, bushes, flowers, vegetables, and other food crops, may include limited onsite retail sales as an *accessory use* provided the *sales areas* complies with the *Farm stand* regulations listed below.
- G. Application of pesticides shall comply with the *buffer* requirements of A.R.S. §3-365 for *schools*, *day cares*, and *adjacent residential uses*.
- H. A *Farm stand* may be permitted as an *accessory use* to *agricultural operations* for the purpose of selling produce or other products principally raised or produced on the premises. Exempt from the provisions in **Section 106-10.3**, the *Farm stand* shall be located and constructed to meet the following requirements:
 - 1. The stand shall be *setback* a minimum of thirty feet (30') from the nearest *right-of-way*.

2. The stand shall be staked or anchored in such a way as to prevent movement into the *right-of-way*.
3. The site has *access* and *off-street parking* shall be provided. When a stand is located *adjacent* to a *parkway*, *access* shall be from a frontage road or intersecting *roadway*. In no case shall *access* be allowed from a *parkway*.
4. The *Farm stand* shall be of portable construction and shall be removed during the seasons when it is not in *use*.
5. The *structure* shall not be more than ten feet (10') in *height* and not be more than four hundred square feet (400sf).
- I. Apiaries may be permitted, provided the hives shall not be located closer than eighty feet (80') to any *dwelling*, property line or *right-of-way*.
- J. In addition to this Section, keeping of animals shall comply with **Chapter 10** of the Surprise Municipal Code.

106-10.6 Airstrip, Private.

- A. Privately owned or operated airports or airstrips for the landing and take-off operations of aircraft and hang gliders; including any fixed-base operations shall be subject to the following requirements:
 1. The land area shall be a minimum of twenty (20) acres.
 2. Landing areas and strips shall be *setback* a minimum of three hundred feet (300') from any property line.
 3. All *buildings* and *structures* shall be a minimum of one hundred feet (100') from any property line.
 4. Hours of operation for any fixed-base operation (FBO) shall not impact surrounding residential land *uses*.
 5. A minimum of one (1) *off-street parking space* per each hanger and/or tie-down space shall be required.
 6. Strobe lights shall be *used* only if no *alternative* lighting is permitted by federal regulation.
 7. Safety fencing, up to six feet (6') in *height* may be required around the fixed-base operations and/or landing strip areas.
 8. Must comply with all federal, state and local regulations, including licensing, and shall not interfere with any governmental or public airport operations.

106-10.7 Amateur Radio Antennas.

- A.** Antennas Permitted. *Amateur radio antennas* and support *structures* are permitted in all residential *zoning districts* without a *Conditional use Permit* provided:
1. *Antenna structures* do not exceed a maximum *height* of thirty-five feet (35') or the maximum *building height* of the *zoning district* in which such *structure* is located;
 2. *Tower* shall comply with *setback* standards for the *zoning district* in which it is located;
 3. Such *structures* shall not be located in the required *front setback*, in *front yard*, or in the *street side yard*;
 4. *Antennas*, including support *structures*, shall not extend beyond the property line;
 5. Not more than two (2) such *structures* may be erected per *lot* or *parcel*; and
 6. When a Federally Licensed Radio Amateur no longer occupies the subject property, the *antenna structure* shall be removed.
- B.** In addition to the provisions outlined in **106-10.7.A** above, all *amateur radio antennas* that exceed thirty-five feet (35') in *height* shall require approval of a *Conditional use Permit* and shall adhere to the following:
1. Such *antennas* shall be of telescoping design and lowered to a *height* of no more than the maximum *building height* of the *zoning district* in which such *structure* is located when not in *use*; and
 2. In no event shall an *amateur radio antenna* exceed the *height* of seventy-five feet (75').

106-10.8 Amusement/Theme Park.

- A.** When allowed, permanent *public features* and *structures* shall be constructed.
- B.** The *lot* area shall be a minimum of ten acres (10 ac).
- C.** The required *frontage* on a *public street* shall be at least four hundred feet 400 in length.
- D.** All points of vehicular *access* shall be from arterial roads, except Fire-Medical may take *access* where appropriate.

106-10.9 Animal Hospital, Clinic, Shelter, or Boarding Facilities

- A. A report from a qualified acoustical and/or environmental engineer, either that there are no negative impacts on neighboring residential *uses* or that they can be mitigated through appropriate design may be required.
- B. The *building* construction methods shall incorporate soundproof barriers and be designed to properly eliminate odors, waste, and other contaminants to protect *adjacent* properties.
- C. Activities shall be located within a fully enclosed soundproof *building*. No outdoor boarding shall be permitted, except in the case of *animal hospital/clinics* that service large *agricultural animals*.
- D. Outdoor exercise areas may not be placed immediately *adjacent* to or within one hundred feet (100') of an *adjacent* residential *use* or residentially zoned property.

106-10.10 Assisted Living Home.

- A. An *assisted living home* shall comply with the following requirements:
 - 1. Shall be licensed by the state and shall remain so licensed for as long as the *assisted living home* is in operation.
 - 2. An *assisted living home* shall not be located on a *lot* within one thousand two hundred feet (1,200'), measured by a straight line in any direction, from another *assisted living home*, as measured from property line to property line.
 - 3. The separation requirements shall not apply to *assisted living homes* separated by arterial roads.
 - 4. An *assisted living home* shall contain three hundred square feet (300 sf) of overall living space for each resident.
 - 5. Shall include the installation of an automatic fire sprinkler system.
 - 6. In the event that the state revokes or terminates a *person's* license to operate an *assisted living home*, then the person operating the *assisted living home* shall immediately inform the city of such revocation or termination of their license.
- B. The above regulations are not intended to apply to the following facilities, as defined by this Ordinance, provided the appropriate and/or required licensing by the state is obtained.
 - 1. Group home as defined by A.R.S. § 36-551.

2. Adult development home as defined by A.R.S. § 36-551.
 3. *Assisted living center.*
 4. *Residential care institutions* as defined by A.R.S. § 36-581.
 5. *Nursing care facility*
- C. A *group home* or an *adult development home* shall not be permitted any *signage*, *graphics*, *display*, or other visual forms of identification, other than that permitted for a residential *dwelling*.

106-10.11 Bar/Nightclub

- A. *Bars* and *nightclubs* shall comply with A.R.S. § 4-207 separation requirements.
- B. A report from a qualified acoustical and/or environmental engineer, either that there are no negative impacts on neighboring residential *uses* or that they can be mitigated through appropriate design may be required.
- C. Site locations and *site plan* design, such as but not limited to compatibility with *adjacent* neighborhoods and/or being developed within an established entertainment *commerce center*, shall be factors to be considered with the application for a *CUP*.

106-10.12 Bed and Breakfast Establishment.

- A. The *bed and breakfast* establishment shall be owner-occupied, and the guest rooms shall be part of the *single-family dwelling*.
- B. No more than four (4) bedrooms per residence may be *used* for the *bed and breakfast* establishment.
- C. A fire escape plan shall be developed and graphically displayed in each guest room. Such plan shall be filed with and approved by the city fire department.
- D. Maximum guest stay at a *bed and breakfast* establishment is limited to thirty (30) consecutive days.
- E. Meals may be served only to overnight guests and residents.
- F. No *alterations* to the exterior of the residence that *alters* the residential character, except fire escapes, accessible entrances and other features may be added to protect public safety as required by the applicable life-safety codes.
- G. There shall be one (1) *off-street parking space* per rental room.

106-10.13 Cemetery.

- A. Cemeteries intended for human burial shall contain a minimum of ten acres (10'). Cemeteries intended for small animal burial shall contain a minimum of five acres (5'). Cemeteries shall be located on a collector or *arterial street*.
- B. The *cemetery* may include *accessory uses* and *structures* such as, but not limited to, a *business office*, chapel, columbarium, mausoleum, and equipment storage that are incidental to the operation of a *cemetery*. A crematorium is not an *accessory use*. *Accessory uses* and *structures* shall be set back at least fifty feet (50') from any property line.
- C. No required *setback* shall be occupied by graves. There shall be a minimum of a fifty-foot (50') landscaped *buffer* between the property line or *roadway right-of-way*; and any *building, structure, or gravesite*. The fifty-foot (50') *setback* shall not apply to roads designed for internal circulation within the *cemetery*.

106-10.14 Community Gardens

- A. A *fence* shall be provided on the perimeter of the garden built to a *height* not to exceed six feet (6') along the *side or rear lot lines* or thirty-six inches (36") along the front property line. The *fence* material shall be compatible with the design style and material of all *structures*.
- B. The site shall be designed and maintained so that water and fertilizer will not drain to *adjacent property or right-of-way*.
- C. Hours of operation shall be limited to the hours between 6 a.m. and 8 p.m.
- D. Waste receptacles shall be provided and *screened* from neighboring properties. Refuse shall be removed so as not to be a nuisance.
- E. Composting equipment and containers, if provided, shall be specifically designed for that purpose and shall be located away from *adjacent* residences, *businesses*, and *parks* and *screened* from public view. Open composting piles are prohibited.
- F. Permitted *Buildings*:
 - 1. One (1) shed limited to two hundred square feet (200 sf) shall be permitted for the storage of any tools, fertilizers, equipment or other materials *used* in conjunction with the *community garden*. If provided it shall be adequately secured and meet *setback* requirements according to Section 106-10.3 of this article.
 - 2. Greenhouses, limited to two hundred square feet (200 sf), may be permitted if constructed of glass or other transparent materials and situated in compliance with all required *setbacks* of the *zoning district* in which it is located.

- G. *Amenities* such as raised/accessible planter beds, rain barrels, picnic tables, benches, bike racks, and garden art may be permitted.
- H. The property shall be maintained in a neat and orderly fashion as required by the Surprise Property Maintenance Code.
- I. Outdoor retailing of fresh produce or flowers grown on the site is permitted with an *Conditional use Permit* in accordance with **Section 106-10.5H**.
- J. The *community garden signage* shall comply with the Chapter 109 of this Ordinance.
- K. If a *community garden* is no longer in operation or left fallow, for longer than one hundred-eighty (180) days, the site shall be returned to its original form, unless otherwise developed in accordance with this Ordinance. Any reestablishment of a *community garden* on the same site shall require processing and approval of a new *Conditional use Permit*.

106-10.15 Cottage Industry.

- A. Not more than forty-nine percent (49%) of the *dwelling unit* may be used for *cottage industry*. Up to one hundred percent (100%) of *accessory buildings* may be used for a *cottage industry*.
- B. The aggregate *building area*, including portions of the *dwelling* together with any and all *accessory buildings used* in conjunction with a *cottage industry*, shall be limited to four thousand square feet 4,000 (sf) or not more than sixty-five percent (65%) *lot coverage*, whichever is less.
- D. A *cottage industry use* that receives patrons, students, or any *business-related* individuals may only do so between the hours of 8:00 a.m. and 8:00 p.m.
- E. *Accessory buildings* and outdoor areas used for *cottage industry* purposes are intended to be limited to low intensity *uses* that produce or repair a product, and operate in such a way that they do not adversely affect *adjacent* properties. Parking and storage of *business* related commercial-rated vehicles, equipment, and products shall be limited to an enclosed *building* or within the *rear yard* and *screened* by an opaque *fence* or landscaping of approved drought-tolerant plant materials in combination with a fence.
- F. Outdoor dining *ancillary* to a *cottage industry*:
 - 1. Shall not be located within the *front setback*, shall be a minimum of fifteen feet (15') from an *adjacent* residential use, and *screened* by a minimum three foot (3') high opaque *fence* or landscaping of approved drought-tolerant plant materials in combination with the barrier.

2. Shall not be more than fifty percent (50%) of the *dwelling unit's* ground floor *gross area*.
3. Shall not operate outside of the indoor *restaurant's* hours of operation.
- G. A *cottage industry use* may not change the character of the *structure* or *alter* the residential character of the neighborhood.
- H. Cottage industries may employ up to 5 employees in addition to those residing in the residence.
- I. *Signage* shall be limited and shall comply with the regulations outlined in **Chapter 109** of this Ordinance.

106-10.16 Day Care Center

- A. A minimum of seventy-five square feet (75') of *fenced* in outdoor play space per child shall be provided. *Fenced-in*, outdoor play space shall not include driveways, *parking areas* or land unsuited by virtue of other usage or natural features for children's play space.
- B. The minimum *lot* area shall be no less than six thousand square feet (6,000 sf) or the minimum required by the *zoning district* in which the *day care* facility is proposed, whichever requirement is greater.
- C. Access to the *day care* facility shall be by means of a collector or *arterial street*.
- D. A minimum of one (1) drop off space per every five (5) children or a maximum of five (5) spaces, located out of the main travel way, shall be provided. A five-foot (5') wide sidewalk running from the drop-off spaces to the *day care* entrance shall be provided.
- E. *Day care uses* as a *home occupation* are exempt from this Section and shall comply with **Section 106-10.22**.

106-10.17 Donation bins.

- A. A *Temporary Use Permit* ("TUP") is required, subject to the following:
 1. *Donation bins* may be placed with a TUP for up to twelve (12) months out of a calendar year with a TUP or prorated through the end of the calendar year.
 2. The TUP for any *donation bin* shall be renewed annually. Each renewal requires a new TUP application and fee. *Donation bin TUPs* shall be

renewed within sixty (60) days prior to the first day of every calendar year. If an *applicant* submits for a *TUP* prior to the 60-day renewal period, the permit shall not exceed the duration of the current calendar year and the permit fees will be prorated.

3. The property *owner* will control the *TUP*, and as such, the *owner* or *authorized agent* may rescind their authorization by submitting a cancellation request to the City in writing. At the request of the property *owner* or *authorized agent*, the permit will be revoked.
 4. The Community Development Director or designee may revoke the *TUP* issued under the provisions of this section when the *TUP* is issued in error or on the basis of incorrect, inaccurate, incomplete, or fraudulent information.
 5. Failure to comply with the requirements of this section may result in revocation of the *TUP* by the Community Development Director or designee.
 6. A *site plan* shall be submitted as part of the *TUP* process. The *site plan* shall indicate the proposed location of all bins on the specific site.
- B. Arizona state law regarding drop boxes will apply to *donation bins* as defined in this Ordinance.
- C. *Donation bins* within residential *zoning districts* may only be permitted in conjunction with *places of assembly* and other *public facilities*.
- D. Locational Standards:
1. *Donation bins* shall be located on a paved surface.
 2. *Donation bins* shall not be located within the *setbacks*, required landscaped areas, or within required *parking spaces*.
 3. *Donation bins* shall not obstruct pedestrian or vehicular circulation, or be located within the public *right-of-way*, *drive aisles*, fire lanes, loading zones, or any other location that may cause hazardous conditions, or constitute a threat to the public health, safety, and welfare.
- E. Size and Quantity Standards:
1. There shall be no more than one (1) *donation bin* on properties less than one acre (1 ac) in size, no more than two (2) *donation bins* on properties or *commerce centers* of one to three acres (3 ac) in size, and no more than four (4) *donation bins* on a *commerce center* greater than three acres in size. No more than two (2) *donation bins* shall be clustered together and located within one thousand feet (1,000') of any other *donation bin* within a *commerce center*.

2. *Donation bins* shall have a capacity no greater than seven cubic yards (7 c³).

F. Appearance Standards:

1. Each *donation bin* shall have a firmly closing lid.
2. Each *donation bin* shall be clearly marked to identify the specific items and materials requested to be collected for donation.
3. Each *donation bin* shall be clearly marked to identify the City of Surprise *TUP* permit number with contrasting paint. The numbers shall be a minimum of two inches (2") high and located on the deposit face of the *donation bin*.
4. The name and telephone number of the entity obtaining the *TUP* shall be affixed to the *donation bin* on an area no larger than one foot by one foot (1'x1').
5. If a *donation bin* is damaged or vandalized, it must be removed within five *business* days of discovery or notification. If there is a public health, safety, or welfare concern pursuant to the authority granted to the city, the *donation bin* must then be removed within 24 hours of discovery or notification.
6. It is the responsibility of the entity obtaining the *Temporary use Permit* to maintain the *donation bin* painted or otherwise un-rusted and un-dented and in good repair.
7. It is the joint responsibility of the property owner or *authorized agent* and the entity obtaining the *Temporary use Permit* to keep the area around the donation boxes free of litter and debris, and remove any graffiti within 24 hours of discovery or notification, whichever occurs first.

- G.** All donated items must be collected and stored in the *donation bin* and all contents cleared no less than once a week. Any items or materials left outside of the *donation bin* shall be removed within 24 hours of discovery or notification, whichever occurs first.

- H.** This Ordinance authorizes the city and property owner to remove and dispose of any *donation bin* (including its contents) which is unauthorized, unpermitted, or is otherwise in violation of this Ordinance.

106-10.18 Drive-through Window/Facilities.

- A.** *Drive-through* facilities shall be located a minimum of twenty-five feet (25') from a public *right-of-way* and a minimum of seventy-five feet (75') from a residential district.

- B.** *Drive-through* aisles shall be clearly identified through the *use* of striping, landscaping, and *signage* and shall be designed to
1. Contain aisles that are a minimum eleven feet (11') wide. Any curved sections shall be a minimum of twelve feet (12') wide with a minimum radius of twenty-five feet (25') on curved section;
 2. Minimize the conflict between pedestrians, parking and the *building* entrance. Pedestrian walkways should not intersect the *drive-through* aisles, but where they do; they shall have a minimum of fifteen feet (15') clear visibility and be emphasized with enhanced paving. Appropriate pedestrian crossing *signs* shall be visible from both the vehicle *drive aisle* and the pedestrian walkway; and
 3. Be integrated with the on-site circulation of the larger development.
- C.** *Drive-through* exits shall be directly onto a public *right-of-way* and shall be separated by fifteen feet (15') from a parallel, main *ingress/egress drive aisle* to avoid conflicts with other vehicular traffic.
- D.** Each *drive-through* lane shall have the following minimum distances
1. Forty feet (40') between the entry point and the ordering facility (i.e. *restaurant* menu board, teller machine or ordering window)
 2. One hundred feet (100') between pick-up/service window and ordering facility or entry point if no ordering facility is present
- E.** *Drive-through* speakers shall not be audible from the right-of way or *adjacent* residential *uses*. Additional landscaping, sound attenuation walls, or other mitigation measures may be required to reduce the sound level.
- F.** *Drive-through* facilities shall orient pick-up/teller windows away from *adjacent* residential *uses* or from facing the arterial or *collector street*.
- G.** *Drive-through* lanes shall be *screened* from the *right-of-way* and *adjacent uses* through the incorporation of a landscaped *berm* with continuous, dense landscaping at least four feet (4') in *height* to effectively *screened* the headlights of the vehicles in line. In cases when a *berm* may not be feasible because of space constraints, a *screen fence/wall* may be *used* in connection with landscaping.
- H.** *Drive-through* facilities shall incorporate either an attached canopy over the *drive-through* window or teller area of the facility or plant shade trees within the landscape *screening* areas at the window location. The canopy shall not exceed fourteen feet (14') in *height*, measured from the ground to underside of the canopy. If canopy support pillars are *used*, they shall be finished with the same body and accent materials as the primary *building*. All *lighting fixtures* in the canopy area shall be fully recessed.

- I. The architecture of *drive-through uses* shall reflect the architecture of the principal *building*.

106-10.19 Equestrian Centers and Commercial Stables

- A. Shall have a minimum site area of ten (10) acres unless the site is *adjacent* to equestrian trails in which case the minimum site area requirement may be less; to be determined on a case-by-case basis.
- B. All livestock *structures*, containment areas of facilities *used* for the stabling, storing, showing or training of livestock and for temporary manure storage shall be set back a minimum of one hundred feet (100') from any property line. Normal *setbacks* apply to all other *structures* and *uses*.
- C. An attendant must be in residence on the property.
- D. All activity and pasture areas shall be grassed, sprinkled or treated with regularly tilled organic soil mix for dust suppression.
- E. All livestock turnout areas and pens shall be enclosed with *fences* at least five feet in *height*. The design of these enclosures shall be shown on drawings submitted with the *Conditional use Permit* application.
- F. A specific plan for the physical containment and location of manure storage and/or disposal, which minimizes odor and fly impacts on *adjacent lots or parcels*, must be provided. The spreading and tilling of manure into the soil of the paddock, pasture or arena areas may be considered manure disposal.
- G. No shows or other activities that would generate more vehicular traffic than is normal to an area with *single-family* residences are permitted when located in a RR zone unless the site has immediate *access* to an arterial or *collector street*. Occasional small shows may be allowed per stipulations of the *Conditional use Permit* in other zones. A public address system or other means of outdoor amplification may be *used* as a convenience for announcements and administration during special equestrian events only.
- H. Outdoor activity shall be limited to the hours of 6:00 a.m. and 10:00 p.m. daily.
- I. A minimum of one (1) *off-street parking space* shall be provided for each three stalls. Additional parking must be provided for shows or other special events.
- J. In the review for an *equestrian center*, commercial *stables*, and/or boarding *stables*, the City may also consider lighting, landscaping, *signage*, plan of operation, and neighborhood impact.

106-10.20 Farmer's Market

- A. The sales area shall be a minimum of 50 feet from any residential dwelling.
- B. Outdoor display of only fresh fruits and vegetables is permitted. Seasonal sales that require additional storage area may be permitted in accordance article V. Motor vehicles, including vans, trucks, semi-trucks, mobile homes, travel trailers, and other permanent or temporary structures shall not be used for storage or display purposes.

106-10.21 Group Home

- A. No group home or *recovery residence* shall be located on a *lot* within 1,320 feet, measured by a straight line in any direction, from the *lot line* of another group home or *recovery residence*.
- B. Evidence of license, certification, or registration with the appropriate local, state or federal agency, if required by such local, state or federal agency.
- C. No identification from a *public street* shall be permitted by *signage*, graphics, display, or other visual means, except for *signage* otherwise permitted by **Chapter 109** herein.
- D. Compliance with all applicable *building*, fire and safety regulations. Such homes must be reviewed and approved by the community development department for *building* code and land *use* compliance prior to the *use* commencing.
- E. No exterior change that would *alter* the *building's* residential character shall be made to the exterior of the *building(s)* and the grounds.
- F. The Community Development Department maintains authority to approve the location of any group home or *recovery residence*. An administrative record of all homes shall be maintained with the community development department.

106-10.22 Heliport.

- A. A heliport may be permitted as an *accessory use* for a *hospital*, medical facility, news station, emergency service, or similar *use*; with a *Conditional use Permit*.
- B. Helicopter landing pads shall be a minimum of 600 feet from all residentially zoned property or residential *uses*; and a minimum of 100 feet from property lines in all other *zoning districts*.
- C. All take-off, landing, and *parking areas* for helicopter landing facilities must be surfaced with a dust proof material.
- D. Evidence of Federal Aviation Administration approval of the air space and air traffic of the proposed operation and a planning report analyzing environmental

impacts including, but not limited to, noise levels and mitigation, traffic generation, land use compatibility, number of daily operations, hours of operation, flight corridor, and the identification of any adverse impacts to the operation of other airports shall be approved and implemented prior to the issuance of any permit for a helicopter landing facility.

106-10.23 Home Occupation.

A. A *home occupation* shall be considered a permitted *accessory uses* in all residential *zoning districts* provided that they are operated and maintained to not interfere with the peace, quiet, and dignity of the property *owners* or neighbors, if it complies with the following standards and requirements:

1. The *use* of the *dwelling* as a *home occupation* location must be clearly incidental and subordinate to its *use* for residential purposes. A valid City *Business License* shall be required for all *home occupations*.
2. All *home occupation* activities shall occur entirely within the residential *dwelling, garage, or accessory building* unless the Community Development Director or designee determines that the *business* activity conducted outside the *dwelling* is similar to noncommercial activities normally associated with *single-family* residences. Exceptions to this provision shall be made for swimming lessons or in-home day care.
3. The *use* shall occupy no more than fifty percent (50%) of the gross floor area of the residence or four hundred square feet (400sf) of a *garage* or *accessory structure*.
4. Employees shall be limited to *persons* residing in the *dwelling unit* immediate *family* members, or up to two (2) individuals who are not residents of the *dwelling unit* or immediate *family* members.
5. A *home occupation* that is authorized to receive patrons, students or any *business*-related individuals at the *home occupation* location may only do so between the hours of 8:00 a.m. and 8:00 p.m., unless further regulated by a *Conditional use Permit*.
6. There shall be no exterior displays, no *outdoor storage* visible from the *street* of equipment or goods, including equipment, materials, vehicles, trailers, or open *lot* storage.
7. The *home occupation* shall not produce offensive noise, vibration, smoke, electrical interference or fluctuation in *off-site* line voltages, dust, odors, heat or other nuisances discernable beyond the property lines or beyond the *common walls* if the *home occupation* is conducted within a multiple-*family* unit.

8. The *home occupation* shall not require *structural alterations* to the principal residence that would change the outside appearance of the principle residence or change the character of the property from that of a residential use.
9. The *home occupation* shall not involve the use of electrical or mechanical equipment that would change the fire rating of the *structure* or include storage of flammable, combustible, or explosive materials. The *home occupation* shall not use or create any hazardous waste.
10. The *home occupation* shall not require the installation of equipment or machinery creating utility demand, noise, fumes or other impacts in excess of equipment or machinery that is customarily found in a residential area.
11. On-site advertising for the *home occupation* is prohibited, except a Class I Temporary Sign as defined in **Chapter 109** of this Ordinance may be displayed during *business* hours within the property of the residence. Window areas must not purposely, intentionally or unintentionally be used as *display areas* or to offer merchandise for sale.
12. No pedestrian or vehicular traffic shall be generated by the *home occupation* in greater volumes than would normally be expected in a residential area.
13. No *home occupation* will be permitted which requires receipt or delivery of merchandise, goods or equipment by a large semi-tractor/trailer truck nor substantial retailing or wholesaling of stocks, supplies, or products conducted on the premises.
14. No *home occupation* shall cause an increase in the use of any utilities (water, sewer, garbage, or electric) so that the combined total use for *dwelling* and *home occupation* purposes exceeds the average for residences in the neighborhood.
15. The *home occupation* shall not be conducted in such a manner or advertised in such a way as to attract consumer traffic or other nonresidential traffic. Advertisements that are displayed in any media, including telephone directories, may not give the *street* address of the *home occupation* location.
16. All vehicles of patrons or students of the *home occupation* must be parked in authorized parking locations either on the *lot* where the *home occupation* is located or in the public parking *adjacent* to the *home occupation* location.

- B.** In case of any question as to the suitability of a *home occupation*, the Community Development Director or designee shall determine which *uses* may be allowed as *home occupations*. The following are some examples of *uses*, which would be

acceptable as *home occupations*, provided they comply with the above regulations: (this list is not all inclusive and listed *uses* do not automatically qualify as a *home occupation*)

1. Home *office uses* for *service call establishments*, *mobile vending*, professional occupations, and consulting services (accountant, architect, attorney, medical, dental, therapy, insurance or real estate) without client contact at the home.
2. Art studio that includes but is not limited to painting, sculpting, writing, or composing.
3. Home crafts such as jewelry making, pottery, weaving and rug making, woodworking, metal working, and home cooking and preserving
4. *Off-site* sales and/or the *use* of retail shipping services than would normally be expected in a residential area.
5. Music lessons, swim lessons, and tutoring with no more than four (4) *persons* at any a time.
6. In-home *day care* with no more than four (4) children or adults that are not related to the caregiver.
7. Services such as *catering*, dressmaking, sewing and tailoring services, (non-vehicular) *repair services*, door-to-door sales, and off-premise party sales without client contact at the home.
8. Telephone answering, message services, word processing and other computer applications.

C. The following *uses* have a pronounced tendency, once started, to rapidly increase beyond the limits permitted for *home occupations* and thereby impair the *use* and value of a residentially zoned area for residential purposes. Therefore, the following *uses* shall not be permitted as *home occupations*: (this list is not all inclusive)

1. *Animal clinics*, *veterinary offices*, and *kennels* or *boarding facilities*.
2. Dance or gymnastic instruction, and photo studios.
3. Medical, dental, physical therapy, or psychotherapy *offices*, ambulance services, and mortuary.
4. Motor vehicle repair or paint shops, storage, restoration or conversion, engine repair or similar *uses*; except on a vehicle personally owned by the resident.
5. Repair shops, machine shop, furniture refinishing and upholstering.

6. *Restaurants.*
 7. Private *schools* with organized classes
 8. *Stables* or *kennels* for commercial purposes.
 9. Beauty shops and barber shops
 10. *Contractor's yards*
 11. Sales of weapons or ammunition, retail sales in general, *banks*, credit unions or payday lending
- D. Complaints by citizens or local residents may be cause for immediate termination of the *home occupation use* if appropriate measures cannot be undertaken to mitigate the complaint or violations. All complaints or violation of the above conditions shall be registered with, and reviewed by, the *Zoning administrator*.

106-10.24 Medical Hospitals.

- A. The minimum *lot* area shall be five acres.
- B. The minimum *lot frontage* shall be 300 feet or the minimum requirement of the district, whichever distance is greater.
- C. Bio-hazardous waste incinerators with an allowable operating capacity equal to or less than 1,000 pounds per hour may be allowed as an *accessory* to a *hospital use* with the following *use* standards:
 1. An incinerator *use* shall be set back a minimum of 500 feet from any property line *abutting* a residential *zoning district* or *use*.
 2. A *site plan* shall be provided illustrating how the operation functions including circulation routes and the locations, square footage, *height* and location of *buildings*, incinerator and storage areas.

106-10.25 Live-work Dwelling

- A. The maximum size of a development designed exclusively for *live-work* units shall be 3 acres.
- B. The living space must be occupied by the *business owner* of the work space and not separately leased.
- C. The work space shall be located within the *building frontage* and/or on the ground floor or may be permitted above the ground floor through a *CUP* process.

- D. The work space shall be limited to only the non-residential *permitted uses* for the specific *zoning district* as listed in **Table No. 106-1c** with a maximum work space size of 4,000 square feet and a maximum of two (2) employees in addition to the *family* members residing in the *dwelling unit*.
- E. A *live-work* unit should mirror the *adjacent* residential *structures* in mass and design to be compatible with the diverse neighborhood in which they are located.
- F. There shall be direct pedestrian *access* at the *street frontage* or near *grade* level to each individual *live-work* unit.
- G. A *live-work* unit that has employees or walk-in commercial trade (not just by appointment) shall be fully accessible and meet ADA requirements where these commercial activities occur.
- H. *Mixed use buildings* that contain residential *uses* may be asked to demonstrate, through a report from a qualified acoustical and/or environmental engineer, either that there are no negative impacts on residential livability or that they can be mitigated through appropriate design.

106-10.26 Manufactured Homes.

- A. When permitted a *manufactured home* shall be designed and situated on the *lot* in a manner that assures similarity in exterior appearance and in keeping with, the architectural character of conventional site-built *dwellings* and the character of the surrounding neighborhood in general as required by the PEDS and with the additional specific standards outlined below.
- B. All *manufactured homes* shall be required to meet the current HUD Code standards, be certified under the National Manufactured Housing Construction and Safety Standards Act of 1974, and comply with State of Arizona Office of Manufactured Housing regulations.
- C. A *manufactured home* shall be both multi-sectional in design and not constructed more than ten (10) years prior to the date of application for *building* installation permit.
- D. A *mobile home, recreational vehicle, or park model* is not a *manufactured home* and shall not be *used* as or considered to be a primary residential *dwelling*.
- E. Foundations. The *manufactured home* shall be pit set and placed on an excavated foundation with a permanent masonry stem wall. Skirting material is not permitted; rather the stem wall shall be treated to have the appearance of a foundation wall similar to conventional site built homes.
- F. Exterior Building Materials. Reflective *building* materials are prohibited. Metallic surfaces, including roof materials, shall be treated to be non-reflective. The

building materials shall be durable, require low maintenance, and be of the same or higher quality as the surrounding site-built homes. Acceptable siding materials include: wood, stucco, brick, stone, or other masonry materials or any combination of these materials. Other *building* materials may be considered on a case-by-case basis provided they meet the codes and addendums adopted by the City of Surprise.

- G. Garage or Carports. The design and materials of any *garage* or *carport* shall be compatible with the design and materials of the main *structure*.
- H. Steps. If the *dwelling unit* has steps leading to the front entry the steps shall be attached to a permanent foundation and designed and constructed to compliment the architectural style of the *dwelling unit*.
- I. Anchor Ties. The *structure* shall be anchored to the ground, in accordance with engineered plans and/or approved *manufactured home* installation standards.

106-10.27 Medical Marijuana Uses.

- A. All medical marijuana *uses* shall comply with all regulations and laws pursuant to the Arizona Revised Statutes. The following provisions will not be construed as permitting any *use* or act which is otherwise prohibited or made punishable by law.
- B. A *medical marijuana dispensary facility*, *medical marijuana dispensary off-site cultivation location*, and a *medical marijuana infusion facility* shall:
 - 1. Be located in a permanent *building* and may not be located in a trailer, cargo container, storage unit, or motor vehicle.
 - 2. The *business* location shall not exceed a maximum size of 2,500 gross square feet.
 - 3. Not have a drive-thru service.
 - 3. Not emit dust, fumes, vapors or odors into the environment.
 - 4. Not provide *off-site* delivery of medical marijuana.
 - 5. Prohibit consumption of marijuana on the premises.
 - 6. Not have outdoor seating areas.
 - 7. Disposal of marijuana remnants, by-products, and/or infused products shall not to be placed within the facilities exterior refuse containers.
- C. A *medical marijuana dispensary*, *medical marijuana dispensary off-site cultivation*, and a *medical marijuana infusion facility* shall meet the following minimum separations, measured in a straight line from the boundary of the *parcel*

containing the *medical marijuana dispensary*, *off-site* cultivation, or infusion location to the property boundary of the *parcel* containing any *uses* as listed below in (see **Table 106-10c**).

- D. A *medical marijuana dispensary off-site cultivation* location or a *medical marijuana infusion facility* not associated with a *medical marijuana dispensary* is prohibited.
- E. A *medical marijuana dispensary, off-site* cultivation facility, or an infusion facility lawfully operation is not rendered in violation of these provisions by the subsequent location of a *place of worship*, public or private primary or secondary *school*, public or private *day care*, preschool, kindergarten facility, public *park*, or playground closer than the separation distances outlined below in **Table 106-10c**.

Table 106-106-10c - Separation Distances for any Medical Marijuana Facility	
Land use	Dispensaries Off-site Cultivation Facilities Infusion Facilities
From any residentially zoned property	500 feet
From any <i>place of worship</i>	500 feet
From any <i>dwelling unit</i>	500 feet
From any public or private charter, primary, or secondary <i>school</i>	1,500 feet
From any public or private <i>day care</i> , preschool, or kindergarten facility	1,500 feet
From any public <i>park</i> or playground	1,500 feet
From any other medical marijuana facility of any type	3,000 feet
From any <i>sexually oriented business</i>	3,000 feet
From any residential substance abuse facility	3,000 feet

F. Medical marijuana designated caregiver cultivation and qualifying patient cultivation locations shall further comply with the follow requirements:

1. Cultivation locations will be an enclosed, locked facility such as a closet, room, greenhouse or other *building* that does not exceed 50 square feet of cultivation space.
2. Cultivation locations will not be visible from beyond the boundaries of the property on which the cultivation location is situated.
3. Medical marijuana cultivation as an *accessory use* to the qualifying patient primary residence will only be permitted if the residence is located at least 25 miles from a *medical marijuana dispensary*.

106-10.28 Mining and Mineral Extraction

A. Extraction and processing of minerals and natural resources, such as mines, quarries and gravel pits and including concrete or asphalt batch plants as an *accessory use* shall comply with the following standards:

1. No excavation or processing of excavated materials shall be permitted within thirty (30) feet to the exterior boundaries and within one hundred fifty (150) feet to any residential zoned property or existing residence.
2. Material shall be excavated in such a manner so as to assure the

convenient, efficient, and successful restoration of the land to hold to a minimum any adverse effects to *adjacent* and surrounding land as a result of piling or storing the overburden material.

3. Material shall be excavated in such a manner that leaves a minimum of two (2) feet of undisturbed sand, gravel, or soil over the entire excavation tract to provide a water bearing strata for any ground water; or more if the required geological report indicates that it is necessary.
4. The excavation operator shall maintain haul roads within the premise covered by the permit and the perimeter public roads in a dust-free condition.
5. The hours of operation, unless otherwise specified by the City, shall not be prior to 6AM or after 10PM unless the City grants special permission, for temporary expansion of the hours.
6. Operations shall be conducted in such a manner that excavated areas will not collect or permit stagnant water to remain therein.
7. The required development plan shall indicate compliance with the above standards and shall include the following topographic information at a minimum of 5 foot contour intervals:
 - a. pre-excavation contours;
 - b. proposed excavation contours;
 - c. degree of slope of banks for all excavations;
 - d. location of any *public facilities*, irrigation canals, ditches, or streambeds;
 - e. post excavation re-use and contours.

106-10.29 Model Home Complex

A. A *site plan* shall be required of all *model home* complexes. All requirements, (e.g. *garage* conversions, temporary sales trailers, landscaping, *building permits*, inspections), related to the construction of a *model home* complex shall be satisfied before a certificate of occupancy shall be issued.

1. Sewage disposal lines and service stub to the *model home lot(s)* shall be installed and operable.
2. The subdivision water mains and service stub to the *model home lot(s)* shall be installed and operable.

3. Fire hydrants, as required by and in accordance with the City's Fire Code and the standards outlined in the PEDS, shall be installed and operable.
 4. *Streets* and *alley* improvements are complete.
- B.** The *model home* complex shall be *used* only to market homes being built in the subdivision or master development in which it is located. No *off-site* sales are allowed.
- C.** *Building permits* for the sales/construction *office* in a *model home*, sales trailer, or *construction trailer* within the *model home* complex can be processed before or concurrent with the *Model home* Complex application. These permits can also be processed after approval of the *model home* complex. The location and parking for trailers shall be included in the *site plan* for the *Model home* Complex application if they are to remain during the public *use* of the *model home* complex.
- D.** All *model home* complexes shall prominently display a map identifying all existing and planned land *uses* and *zoning* within the subdivision and within a mile of the boundary of the subdivisions. The map shall also include the location of any proposed *major arterials* or freeways said boundary area; and the type and location of any public or private trails that will be constructed through or *adjacent* to the subdivision. The map shall be colored and a minimum of 24 inches by 36 inches in size.
- E.** All *model home* complexes for residential developments must provide notice to prospective buyers and tenants that the project is located within the influence area of Luke Airforce Base and shall be subject to the requirements of Surprise Municipal Code regarding the display of the Surprise/Luke Notification Map.
- F.** Models shall be converted to a residential *use* when the last home in the development has been sold. The time limit does not apply to models located within *apartment* complexes or *manufactured home parks*, provided the residential character of the model is maintained. Prior to occupancy as a residential unit, the *model home* complex must remove any temporary parking, sales *office*, lighting, trap fencing, flagpoles, *signage*, and similar improvements and replace *garage* doors, *fences*, and driveways to those typically found within the residential neighborhood.
- G.** All site improvements shall be completed and the complex shall have adequate *access* per the adopted City International Fire Code.
- H.** *Outdoor storage* of construction materials, supplies, or equipment shall not be permitted.
- I.** Where *model homes* complexes consist of two (2) or more than homes, xeriscape landscaping techniques shall be *used* for a minimum of one-third (1/3) of the models.

106-10.30 Plant Nursery

- A. Retail *plant nursery*, providing all incidental equipment and supplies such as but not limited to soil, fertilizer and empty containers, shall be kept within a completely enclosed *building* or within an area enclosed on all sides by a solid *fence/wall* at least six feet in *height*. No goods, materials, or objects shall be stacked higher than the *fence/wall*.
- B. A minimum *setback* of fifty feet (50') from *abutting* residential *zoning district* shall be maintained for *structures* outlined above; except sales *display areas* for plants and other goods may be outdoors and within *setbacks*.
- C. Outdoor public address systems shall not be allowed.
- D. Only low-level lighting shall be allowed.

106-10.31 Outdoor Dining/Seating.

- A. Outdoor dining, patios, and seating areas must be associated and in conjunction with a *permitted use* that serves food and/or beverages for on-site consumption. For purposes of state liquor license spacing regulations the outdoor dining, patio, and seating areas shall be considered part of the premises.
- B. Outdoor dining/seating shall be limited to locations on private property and may encroach into *setbacks* up to ten feet (10') but shall be a minimum of five feet (5') from any property line and not within the public *right-of-way*.
- C. Outdoor dining/seating shall not obstruct sidewalk or trail pedestrian or bicycle traffic or create public health and safety hazards.
- D. Roof material covering an outdoor dining/seating area may be temporary, fixed, or retractable and shall be opaque. Awnings, canopies, or similar protective shelter must be fire-treated or nonflammable.
- E. Any definable decorative barrier element physically separating the outdoor dining/seating area from *adjacent* pedestrian traffic provided shall be handicapped accessible and not exceed forty inches (40") in *height*. The design and materials of such barrier element shall complement and be compatible to the architectural design of the primary *building* façade.
- F. Decorative/accent lighting may be incorporated into the outdoor dining/seating area, landscape, awning, or canopy and shall meet all City code requirements.

106-10.32 Outdoor Display and Sales Areas.

- A.** When allowed as an *accessory use*, *outdoor display areas* for the sale, rental, or lease of new or *used* automobiles, *trucks*, boats, trailers, *recreational vehicles*, and *farm* and construction equipment may be permitted provided:
1. The maximum *display area*, which is *used* to highlight sale items excluding the sales *lot* area, shall not exceed ten percent (10%) of the total net *lot* area. Displays may encroach into *setbacks* up to ten feet (10') but shall be a minimum of ten feet (10') from any property line and not within the public *right-of-way*.
 2. All sales, repair, and rental activities are conducted within a *building*. Openings to service bays shall not face public *rights-of-way* and shall be designed to minimize the visual intrusion into adjoining properties.
 3. The *outdoor display areas* shall be included on an approved *site plan* and on a paved or other hard-surfaced area. Display *platforms* shall be a minimum of thirty feet (30') from other display *platforms*, not exceed four feet (4') in *height* and incorporate the design components of the primary *building* or landscape features.
 4. The sales or rental display of new or *used farm* and/or construction equipment shall have the equipment in the down and transportable position.
 5. The areas designated for the parking and/or storage (not *display area*) of all of the above vehicles and/or equipment shall be paved and properly *screened* with a *fence/wall*, hedge, or landscaped *berm* or combination thereof. Adequate *loading areas* must be allocated, specifically identified, and reserved on the site for the unloading of all such vehicles and equipment brought to the site by carriers.
 6. The installation and *use* of an outside public address or bell system is prohibited.
- B.** Other retail *businesses* may be permitted *outdoor display areas* as an *accessory use* provided:
1. The *outdoor display area* is only for merchandise sold on the property with the sale of the merchandise being conducted within the *business building*; no open *outdoor sales* shall be permitted.
 2. The *display area* is located on private property (not within the public *right-of-way*), not displayed within the landscaping areas, and does not displace any required parking for the *permitted uses*.
 3. The merchandise is displayed in a manner allowing for shopping with a clear walkway and displayed only during *business* hours with the

merchandise being brought inside at the close of each *business* day, except for permanent *outdoor displays*.

4. The *outdoor display* shall be in a manner that presents a display vignette rather than lined-up and/or chained together, and has no *signage*, blinking lights, movable or audible aspects to the display.
5. The *display area* shall be limited to only twenty-five (25%) percent of the *business store frontage* and located within twenty-five feet (25') of the customer entrance.
6. Permanent *outdoor display areas* may be permitted as part of an approved *site plan* for C-3 Zoning districts.

106-10.33 Outdoor Storage and Use

- A. When allowed as an *accessory use*, *outdoor storage and use* areas may be permitted provided:
1. Permanent *outdoor storage and use* areas may be permitted as part of an approved *site plan*.
 2. *Outdoor storage* of materials and *use* areas are not permitted in the required *setbacks*.
 3. *Outdoor storage* of materials and *use* areas shall be *screened* from residential *uses* and any public *right-of-way*

106-10.34 Portable Carports.

- A. Portable *carports* may be permitted in all residential districts, subject to the following provisions.
1. Portable *carports* shall not be permanently anchored to concrete slabs or footings or otherwise anchored in a manner that would impede ready removal and portability; but shall be tied down in such a manner to prevent wind uplift.
 2. Portable *carports* shall remain open on four (4) sides and shall be limited to a maximum of two hundred square feet (200 sf) in size.
 3. Portable *carports* shall not be located in the *front yard* of a residential *lot*.
 4. Portable *carports* shall be limited to one (1) per *lot*.
 5. Portable *carports* shall not encroach into required *front* or *side setbacks* when adequate area and *access* otherwise exist.

- B. If the *lot* size, area, *access*, or configuration limitations do not permit the installation of portable *carports* without encroaching into the required front, *side* or *rear yard setbacks*, the *Zoning administrator* may authorize encroachment into the *setback* by issuing a *Conditional Use Permit* pursuant to **Chapter 102** of this Ordinance.

106-10.35 Portable Storage Containers and Construction trailers.

- A. The dimensions of a portable storage container shall not exceed 102 inches (eight feet, six inches) in *height* and 96 inches (eight feet) in width. Lengths may vary but shall not exceed 40 feet in length.
- B. The temporary placement of a portable storage container on any residential *lot* for the purpose of loading and unloading household contents shall be permitted for a period of time not exceeding seven days in a calendar year.
- C. In all non-residential districts, portable storage containers are permitted only in accordance with the following:
1. Portable storage containers may be a *temporary use* during the construction, remodeling, or redevelopment of permanent on-site *building* and facilities. In addition to specifying and limiting the number, size, location, and duration of the storage containers, the Community Development Director or designee may require additional measures to ensure compatibility with *adjacent land uses* such as increased *setbacks*, *screening*, landscaping, exterior materials and color.
 2. Portable storage containers may be an *accessory* to a *temporary use* such as a special events or temporary retail sale that is periodic, intermittent, or isochronal. In addition to specifying and limiting the number, size, location, and duration of the storage containers, the Community Development Director or designee may require additional measures to ensure compatibility with *adjacent land uses* such as increased *setbacks*, *screening*, landscaping, exterior materials and color.
 3. Portable storage containers shall not be located in landscape areas, *open space*, *retention* basins, *drive aisles*, fire lanes, required *parking spaces*, loading zones, or any other location that may cause hazardous conditions, constitute a threat to public safety, or create a condition detrimental to surrounding *land uses* and developments.
- D. *Construction trailer* shall be subject to the following requirements:
1. The *construction trailer* shall remain on site only for the duration of an active permit. *Abandon* trailers shall not be permitted on the site.

2. The *construction trailer*, attendant parking and storage areas shall be located on site so as not to interfere with safe *ingress and egress* to developed areas or areas under construction.
3. The *construction trailer* shall be removed prior to issuance of a final certificate of occupancy.

106-10.36 Racetrack.

- A. Auto racetracks and Animal racetracks shall have the following requirements:
 1. The minimum *lot* size area shall be forty (40) acres.
 2. The site shall not be *adjacent* to *single-family* residential properties.
 3. All *buildings, structures*, and facilities associated with the activity shall be no closer than one hundred feet (100') from any property line.
 4. A public address system or other means of outdoor amplification may be only during race hours or special events times.
- B. In addition to the standards listed in (A) above, animal racetracks shall have the following requirements:
 1. Exercise tracks for animal racetracks and any additional activity areas shall be maintained in non-dust condition at all times.
 2. A manure waste management plan and fly control plan shall be prepared.
 3. All *buildings* shall be maintained in a safe and healthy manner and applicable federal, state or local statute or ordinance.
- C. Other racetracks (e.g. bicycle, motocross) shall follow the requirements as outlined in (A) above with the exception that the minimum *lot* size may be reduced to ten (10) acres.

106-10.37 Recreational Vehicle (RV) Park.

- A. A *recreational vehicle (RV) park* shall provide adequate *streets*, driveways, walkways, proper sanitary facilities, adequate fire protection, adequate water supply, adequate lighting, and adequate protection of surrounding properties. All *RV parks* shall be land-lease developments that comply with the following standards:
 1. No "*park model*", *manufactured homes*, or site built *dwelling units* shall be permitted except for that of the *owner/manager*.

2. *RV parks* shall be a minimum of ten (10) acres in size and all spaces shall be a minimum of 50 feet from the exterior *recreational vehicle park* exterior property lines
3. *RV parks* shall not be *used* as permanent residences except for that of the caretaker or manager. All *recreational vehicles* within an *RV park* shall display current license *plates/tags* and shall not be *parked* nor occupied for more than one hundred eighty (180) days per calendar year.
4. There shall be a maximum *net residential density* of twenty (20) spaces per net acre.
5. There shall be a minimum of twenty-five percent (25%) *open space* required within the development; excluding the *private streets*.
6. Dimensional requirements for each individual *RV* space are as follows:
 - a. Minimum of two thousand square feet (2,000sf)
 - b. Minimum *frontage*/driveway shall be fifteen feet (15') and space width shall be forty feet (40')
 - c. Minimum space length shall be fifty feet (50')
 - d. The following minimum *setbacks* for *RVs* shall be required for all individual *lots*:
 1. *Minimum front setback*: fifteen feet (15')
 2. *Minimum side and setback*: eight feet (8')
7. Each *park* must provide an adequate and easily identifiable *office* or registration area. The location of the *office* shall not interfere with the normal flow of traffic into and out of the *RV park*.
8. *RV park* developments shall be improved with paved *private streets* built to City specifications. *Private streets* shall be maintained by the private owner of the *RV park*.
9. No *RV* space within the *park* shall have direct *access* to a *public street* outside of the development.
10. An approved decorative perimeter *fence* shall be constructed around the entire *RV Park*.
11. Each designated space in the *park* shall have a concrete slab for the parking of only one (1) *RV* unit per space. There shall be no *RV* parking other than on the paved surface area within the designated space. The concrete slab shall directly connect to the paved *street* system of the *RV park*. A

minimum of one (1) *off-street parking space* shall be provided on or *adjacent* to each space.

12. Each *RV* unit shall be equipped with wheels, which remain on the unit; however, the wheels may be blocked for stability.
13. No permanent room addition shall be attached to the *RV* unit nor shall the unit be attached to any permanent *structure*.
14. Recreational *amenities* such as a swimming pool, shuffle board, and tennis and/or social centers, which may be *used* for dancing, crafts, hobbies, games, meeting, banquets, and similar recreational *uses* shall be developed and may be of conventional construction.
15. Restroom and shower facilities shall be provided separately for men and for women. A common *use* laundry facility shall be provided at a ratio of one (1) washer and one (1) dryer for each twenty (20) spaces or fraction thereof.
16. Each *RV park* shall be master metered for both electric and water/*sewer* service. Individual lease spaces shall be developed with a hook-up to these utilities. If approved by the City, the *park* may be allowed some short-term lease spaces without utility hook-ups. Additionally, each development shall provide at least one (1) approved disposal site/pumping station for both water and *sewer* holding tanks for the *RV* units.

106-10.38 Recycling Operations and Facilities.

- A. Indoor *recycling collection facilities* will be subject to the following requirements:
 1. Will be located a minimum of 200 feet from any residential *zoning district*, measured by a straight line in any direction from property line to property line.
 2. Storage and operations will only be performed within an enclosed *building*.
 3. Processing operations are limited to cleaning, compacting, sorting, wire stripping, shearing, and baling.
- B. Outdoor *recycling collection facilities* will be subject to the following requirements:
 1. Will be located within I-1, I-2, or I-3 *zoning districts* and a minimum of 1,320 feet from any residential *zoning district*, measured by a straight line in any direction from property line to property line.
 2. Processing operations are limited to cleaning, compacting, sorting, wire stripping, shearing, and baling.

3. All operations and storage, including all equipment *used* in conducting such *use*, other than parking, will only be conducted within an enclosed *building* or within an area enclosed by a minimum six-foot (6') high *screen wall*.
 4. Storage is not permitted above the *height* of the *screen wall*.
 5. All areas of the facility open to vehicular passage will be paved.
- C.** Reverse vending machines will be subject to the following requirements:
1. Will be located a minimum of 200 feet from any residential *zoning district*, measured by a straight line in any direction from the reverse vending machine to any residential property line.
 2. Will occupy no more than 350 square feet of space.
 3. Will not reduce the number of required *parking spaces* for the hosting site.
 4. Will be clearly marked to identify the name and telephone number of the reverse vending machine *owner* and display a notice stating that no material will be left outside of the *building* or *recycling reverse vending machine*.
 5. Will be located a minimum of one hundred feet (100') from any *right-of-way access point*.
- D.** In addition to the standards listed in (B) above, *recycling processing facilities* will allow for other types of processing operations to occur.

106-10.39 Schools and Universities

- A.** Pre-K through 12 *schools* shall be subject to the following requirements:
1. *School sites* shall not have public *access* directly from a *parkway* or arterial.
 2. *Building setbacks* shall be a minimum of 50 feet for front, side and *rear setbacks*.
 3. Maximum *lot coverage* shall be sixty (60%) percent.
 4. *Open space*, including play area, shall be a minimum of twenty-five (25%) percent.
 5. Designated and separate bus and parental drop off/pick up areas with separate pedestrian pathways shall be provided. The parental drop off/pick up area shall accommodate a minimum of five cars at a time. The bus drop off/pick up area shall accommodate a minimum of three buses at a time.

6. Special paving, brick, striping, or other methods shall be *used* for pathway areas that cross vehicular *use* areas.
7. Dumpster and trash receptacles shall be *screened* and located a minimum of 75 feet from any residential property lines.
8. All lighting shall be directed down and fully shielded. All *building* mounted lighting and freestanding pole mounted lighting shall be a maximum of 16 feet in *height* above *grade*. All pole lighting *adjacent* to residential districts shall be *setback* a minimum of 30 feet from the property line. All lighting, other than security, shall be turned off by 10:00 p.m., unless otherwise approved through a special event permit.
9. Parking may be allowed in the *front setbacks* of the *lot* for *schools* on a *right-of-way* designated as a collector or greater. There shall be a three-foot high landscaped *berm* or *fence/wall* or combination thereof along the *street frontage* where parking occurs. On all other *street* classifications, parking shall be meet minimum *setbacks*. A minimum of 15 percent of all *parking areas* shall be landscaped. A twenty-foot (20') minimum landscaped *setback* shall be provided where parking is *adjacent* to residential districts.
10. Security fencing of the campus and/or outdoor play areas shall be view fencing and shall allow for emergency vehicle *access*.
11. All *buildings* shall be designed in accordance with the PEDS (see **Chapter 107** herein) and to be compatible with the surrounding residential neighborhood.
12. New *schools* shall not be located in areas within the 65 DNL Noise Contours.
13. *Off-site* improvements may be required to accommodate peak traffic volumes.

B. University, college or trade *schools* shall be subject to the following requirements:

1. *School* sites may have public *access* from a *parkway* or *major arterial*.
2. The site shall have pedestrian and bicycle accessibility.
3. Campus-like development site shall include a minimum of twenty-five (25%) percent *open space*.
4. New *schools* shall not be located in areas within the 65 LDN Noise Contours.
5. *School* sites shall provide adequate on-site parking or participate in the improvements of *off-site* parking facilities or *structure(s)* that would

adequate serve student needs without impacting the surrounding neighborhoods or *uses*.

6. All *outdoor lighting* shall be directed down and fully shielded. All *building* mounted lighting and freestanding pole mounted lighting shall be a maximum of 16 feet in *height* above *grade*. All pole lighting *adjacent* to residential districts shall be *setback* a minimum of 30 feet from the property line.

106-10.40 Self-storage Facilities.

- A. *Self-storage facilities* may be appropriate in the Neighborhood and Commerce and Office Character Areas of the *General Plan*, except are not permitted in the Transit-Oriented Development (TOD) and Scenic Lands Sub Areas.
- B. There are four different “types” of *self-storage facilities*; each with different land *use* needs and varying degrees of regulations.
 1. “Garage style” with single story *buildings* that allow customers to drive directly up to the front of each individual roll-up door storage unit/bay.
 2. “Multi-story/climate controlled” in a single *building* providing *access* to the individual units from an interior hallway within the *building*.
 3. “Parking style” allows *outdoor storage* of vehicles, boats, *RV*’s, and trailers. This type can be a standalone facility or combined with either the garage style or multi-story climate controlled facility.
 4. “Portable container” is the remote facility where small roll-off containers are stored after they have been delivered to and picked up from the customer’s location; with no public or customer *access* to the storage facility.
- C. *Self-storage facilities* are for storage purposes only. No on-site retail sales are permitted from a rented storage unit.
- D. Regardless of the “type” the minimum size of any storage facility site shall be one acre (1 ac). When the site is *adjacent* to a residential *zoning district* or a residential *use*, the site shall be limited to a maximum of two acres (2 ac).
- E. The site shall be contiguous to an arterial or collector road, although *access* may or may not be directly onto such arterial or collector, as determined through the review process.
- F. All *buildings* that are visible from a *public street* shall exhibit architectural enhancements, including variation of rooflines, *uses* of multiple material types, and color variations compatible with surrounding *uses* as set forth in the PEDS (see

Chapter 107) herein. Architectural plans, including material and color samples, shall be submitted for review at the time of application.

- G.** A minimum eight-foot (8') high masonry *wall* with architectural enhancements shall be provided around the perimeter of the property or storage area. When *adjacent* to a right-of way or public area, the perimeter wall or *building* wall will be designed in accordance with **item F** of this section.
- H.** *Outdoor storage* shall be limited to boats, trailers, or *recreational vehicles*. The storage of these vehicles in conjunction with either the garage style or the “multi-story/climate controlled” storage facility shall be limited to a maximum fifteen percent (15%) of the net site area. All outdoor vehicle storage shall be located in the interior of the site and shall be *screened* from view from surrounding properties. Parking style and garage style storage facilities shall provide an eight foot (8') decorative view-obscuring *wall* to *screen* the entire storage area. There shall be no storage of *abandon*, damaged, or junked boats, trailers or *recreational vehicles* in any storage facility.
- I.** Site Design for Garage style facilities:
1. Each site shall provide a minimum of two (2) exits, one (1) of which may be for emergency vehicle *use* only.
 2. All driveways, parking, loading, and circulation areas shall be paved with concrete, asphalt, or similar material.
 3. All one-way driveways shall provide a fifteen-foot (15') travel lane. Signing and painting shall be *used* to designate traffic direction and parking.
 4. All two-way driveways shall meet the Surprise Standard Details in the PEDS.
 5. When the main driveway directly serves storage areas or cubicles, a ten-foot (10') wide parking lane shall be provided in addition to the travel lane(s).
 6. No garage style *self-storage building* shall be more than two hundred feet (200') long.
- J.** The maximum *building height adjacent* to a residential *zoning district* or within fifty feet (50') of a residential *dwelling* shall be fourteen feet (14') in *height*. *Building height* may be increased one foot in *height* for every two feet of additional *setback* (1':2') to a maximum twenty-four feet (24') in *height* from finished *grade*. The maximum *building height adjacent* to a non-residential *zoning district* shall be a maximum of thirty-five feet (35') in *height* from finished *grade*.
- K.** The required landscape areas shall be provided along all *street frontages* between the *street* and sidewalk, and within areas of the site visible from public view, including areas *adjacent* to all perimeter *fences/walls*.

- L. No hazardous or flammable materials shall be stored in a mini-storage development.
- M. No auctions, commercial sales/rentals, garage sales, or other activities not consistent with the approved storage use shall be conducted on the premises.

106-10.41 Sexually Oriented Businesses (SOB).

- A. A *sexually oriented business* shall not be established or operated any closer to and shall maintain a separation from those *uses* as outlined in **Table 106-10d** below.
- B. Such distances shall be measured between subject *lot lines* at their closest proximity on an aerial view without regard for intervening *structures*, topography, political boundaries, or other objects.
- C. An *SOB* lawfully operating as a conforming *use* shall not be rendered a *nonconforming use* by the subsequent location of a residential district or residential *use*, or any of those *uses* previously listed in **Table 106-10.41a** above. If the *SOB use* is *abandoned* or the *business* license is not renewed, it becomes *nonconforming* and subject to the provisions herein.
- D. Advertisements, displays or other promotional materials displaying or depicting “*specified anatomical areas*” or “*specific sexual activities*” shall not be shown or exhibited so as to be visible or audible to the public from *adjacent streets*, sidewalks or walkways or from other areas outside the establishment.
- E. A map showing the particular property or properties for which the application is being requested and the *adjacent* properties, *buildings* and *structures*, land *uses*, and *public streets* and ways within a radius of 1,320 feet of the exterior boundaries thereof shall be submitted along with the application for a *Conditional use Permit*.
- F. No *sexually oriented business*, except for an *adult motel* and *adult theaters*, may remain open at any time between the hours of one o'clock (1:00) A.M. and eight o'clock (8:00) A.M.
- G. Site locations and *site plan* design, such as but not limited to compatibility with *adjacent* neighborhoods, shall be factors to be considered with the application for a *CUP*.

Table 106-10d - Sexually Oriented Businesses

Land use	Separation Requirement (feet)
Another <i>sexually oriented business</i>	1,000
Establishment having an Arizona Spirituous Liquor License Series #06: <i>Bar</i> License or Series #07: Beer and Wine <i>Bar</i> License	500
Public <i>park</i> , playground, or public recreational facility	1,320

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

<i>Schools</i> (public or private)	1,320
<i>Day care</i> facility or preschool	1,320
<i>Place of Worship</i> , cultural institutions	1,320
Residential district boundary	1,320

106-10.42 Special Events and Seasonal Activities

- A.** Special events that necessitate additional parking, special equipment (such as generators or portable sanitation facilities), or security measures, including but not limited as those listed below, shall require a *Temporary Use Permit (TUP)* from the City.
1. Carnivals, circuses, festivals, fairs, firework shows, and holiday events;
 2. Concerts, exhibitions, special performances or other outdoor live entertainment;
 3. Farmer's markets and temporary retail sales of arts, crafts, souvenirs, gifts, food, and other goods;
 4. Grand opening events, tent sales, sidewalk sales, and other events that include commercial activities or commercial related activities in areas that are not *used* for commercial purposes;
 5. Religious/revival gatherings;
 6. Political/organizational rallies;
 7. Parades, races, walk or bike-a-thons, and sports tournaments;
 8. *School* events beyond the typical *use* of parking or traffic congestion;
 9. Garage or yard sales held in excess of thirty-two (32) hours or two (2) times a year.
- B.** Seasonal activities, as those listed below, shall require a *TUP* from the City.
1. Special events that exceed the time limit of seven (7) consecutive days;
 2. Temporary retail sales such as but not limited to Christmas trees, pumpkins, fireworks, or other seasonally related *outdoor sales*;
- C.** A time limit shall be established for each event.
1. Special events shall be no more than seven (7) consecutive days and no more than four (4) event periods during a calendar year shall be permitted on any single site.

2. Seasonal activities shall be no more than forty-five (45) consecutive days per event, and may not occur more than ninety (90) cumulative days per calendar year per property, or in the case of a *commerce center*, per tenant.
- D. Special events and seasonal activities that are minor and do not require additional parking, equipment (such as generators and portable sanitation facilities), or security measures such as those listed below do not require a *TUP*:
1. Sports tournaments.
 2. *School* events.
 3. City operated events.
 4. Garage or yard sales held for a maximum of 32 hours or two times a calendar year.
 5. *Temporary use* of portable storage containers in residential districts for the purpose of loading and unloading household contents is only permitted for a period of time not exceeding seven days in a calendar year.
 6. Live entertainment, such as ancillary to a restaurant.
 7. Peaceful assembly.
- E. Permanent facilities or *structures* shall not be permitted under a *TUP*. The site shall be cleared of all temporary facilities and *uses* and cleaned of trash and debris when concluded.
- F. If applicable Maricopa County Health Department approval shall be obtained prior to the City issuing the *TUP*.
- G. All *parking areas* must be paved or have a method of dust control. If the *temporary use* is within the existing *parking area* the number of *parking spaces* shall not be reduced by more than ten (10) percent of the total spaces existing.
- H. Any *TUP* that includes retail sales must comply with necessary *business* and/or vendor license. Any *TUP* is subject to revocation if any activities related to the *TUP* are in violation of a Surprise Municipal Code.

106-10.43 Sport Courts.

- A. Outdoor sport courts in residential and *mixed use zoning districts*, including the enclosure and lighting elements, may be built as follows:
1. Sport courts other facilities shall not be permitted in the *front yard* when used an *accessory* to a *dwelling unit*;

2. Sport courts other facilities without lighting shall be set back five feet from all *lot lines* (measure from the edge of the playing surface) and when *used* an *accessory* to a *dwelling unit* shall maintain *height* limitations defined in **Section 106-10.3**;
3. Sport courts with lighting shall be set back 20 feet from all side and *rear lot lines* (measured from the edge of the playing surface or base of the lighting standard);
4. Photometric foot-candles shall be zero along property lines and shielded to prevent *light spillage*.
5. Protective fencing/netting may be allowed along the residential property line that *abuts* a ballfield, sport courts, or golf course.

106-10.44 Swimming Pools.

- A. Outdoor swimming pools, in-ground or above-ground, wading pools, hot tubs, spas, or other similar pools *used* for swimming, wading, purposes are subject to *building* code requirements with the following additions:
1. Private facilities listed above located in residential *zoning districts* are prohibited in the *front yard*. No water surface shall be closer than three feet (3') from any property line.
 2. It shall be the responsibility of both the property *owner* and the occupant of the premises to install and maintain the *fences*, locks, latches, and gates in good condition and proper working order when water is in the pool and both may be deemed in violation of this section for failure to do so.
 3. Swimming facilities listed above as ancillary or as an *amenity* to multi-family or non-residential *uses* shall comply with development standards of the *zoning district*.

106-10.45 Tattoo and/or Body Piercing Establishment

- A. Tattoo and/or body piercing establishments shall maintain the following minimum separations, measured by a straight line in any direction:
1. Shall not be located within one thousand feet (1,000') from the *lot line* of another tattoo shop or body piercing establishment.
 2. Shall not be located within five hundred feet (500'), from the *lot line* of a residential district.

3. Shall not be located within five hundred feet (500') from the *lot line* of a *school*, which provides elementary or secondary education.
- B. A tattoo and/or body piercing establishment lawfully operating as a conforming *use* shall not be rendered a *nonconforming use* by the subsequent location of a residential district or residential *use*, or any of those *uses* previously listed in above. If the tattoo and/or body piercing establishment is *abandoned* or the *business* license is not renewed, it becomes *nonconforming* and subject to the provisions herein.
- C. Site locations and *site plan* design, such as but not limited to compatibility with *adjacent* neighborhoods *commerce center*, shall be factors to be considered with the application for a *CUP*.
- D. Permanent facial cosmetics service shall be exempted from this section

106-10.46 Truck Stop/Travel Plaza

- A. The *lot* or *parcel* for a travel plaza/*truck stop use* shall be no more than 500 feet from an interstate or state highway interchange *right-of-way* and the minimum *lot* or *parcel* size shall be twenty (20) acres.
- B. On-site improvements, including but not limited to: 1) turning radius; 2) *drive aisle* dimensions and; 3) parking stall dimensional standards shall be in compliance with the American Association State Highway and Transportation Officials standards (AASHTO) when not included in the City of Surprise PEDS.
- C. A masonry sound attenuation *wall* of at least six (6') feet shall be installed along all property lines that *abut* or are *adjacent* to a residential *zoning district* or *use*.
- D. Any fuel dispenser along with underground storage tanks or pumps shall be a minimum of one hundred feet (100') from any residential *zoning district* and at least forty feet (40') from any property line or public *right-of-way* line.
- E. *Amenities*, such as but not limited to, shower and restroom facilities, laundry facilities, driver lounge, and *restaurant* or food services shall be provided.

106-10.47 Vehicle fueling stations

- A. All activities and operations shall be conducted entirely within an enclosed *structure*, except as follows:
 1. The dispensing pumps and plug-in stands, water and air facilities;
 2. Trash receptacles and windshield cleaning paraphernalia.

- B. The total site area shall not be less than 20,000 square feet unless it is planned to be part of a functionally integrated commercial complex.
- C. All *structures* shall be of a unique design character that is appropriate to the area. If present, pump island plug-in stand canopies shall be architecturally similar to and compatible with the main *structure* unless otherwise approved through the *site plan* review process.
- D. Landscaping shall account for a minimum of 15 percent of the site. For sites that are located at intersections, a landscaped area shall be provided at the intersection and shall extend a minimum of 150 feet in both directions from the *street* corner. Paving shall be limited to functional vehicle and pedestrian areas. All unpaved areas shall be maintained with landscaping.
- E. Sites located on arterial intersections or in other areas of significant pedestrian *use* shall locate pump islands, plug-in stands, and queuing lines away from intersections, driveways, sidewalks and other pedestrian areas.
- F. Site improvements such as *buildings* or *structures* (permanent or temporary) shall be separated from any residential property line by a minimum of 75 feet. *Parking areas* shall be separated from any residential property line by at least 25 feet.
- G. Pump islands and plug-in stands shall be located a minimum of 50 feet from a *street right-of-way* line or non-residential property line and 75 feet from a residential property line.
- H. All sources of artificial light shall be hidden and all lighting shall be *full cut-off* and designed so there is no glare or spillover on *adjacent* properties and *roadways*. Lighting under canopies shall *use* flat lenses (rather than drop lenses or refractors) and/or be fully recessed within the canopy.
- I. No vehicle shall be *parked* on the premises for the purposes of offering the vehicle for sale.
- J. Noise from bells or loudspeakers shall not be audible beyond the property line at any time.
- K. Interior curbs of not less than six inches in *height* shall be constructed to separate driving surfaces from sidewalks, landscaped areas, and *street rights-of-way*.
- L. Driveways for *fueling stations* shall be developed in conjunction with *adjacent uses* and shall be located as part of the total circulation element of such *adjacent uses*. Single *use* driveways for *fueling station use* will only be allowed when environmental or topographic constraints prohibit such shared driveway *access*.
- M. Lighting shall not exceed 50 foot-candles under canopies.
- N. No existing *fueling station* or *abandoned fueling station* may be converted to any other *use* unless the following standards are met:

1. All pumps, canopies, *signs*, insignia, and corporate trademarks, supporting *structures*, mountings, and foundations, and all other aboveground improvements which are uniquely associated with *fueling station* operations shall be taken down, dismantled, and removed from the site.
 2. All fuel storage tanks, fuel lines, pumps, and other below ground apparatus related to the delivery or disposal of fuel products shall be excavated and removed from the site or *filled* in accordance with the provisions of the Fire Code as currently adopted by the city and all other applicable law.
 3. Upon the removal of the tanks, *structures*, and apparatus specified in subsections 1 and 2 of this subsection, the proposed converted fuel station site shall be resurfaced and landscaped in a manner appropriate to the proposed commercial or industrial *use*.
- O. If fuel canopies are fronting on an arterial and/or *parkway*, a minimum of 3.5 kW photovoltaic shall be required to be placed on the top of the canopy.

106-10.48 Vehicle Rental Facilities

- A. The primary *business* of a vehicle rental/leasing facility must be the rental and leasing of automobiles and light passenger *trucks*.
- B. No rental or leasing of other vehicles such as utility *trucks*, trailers or RVs shall be allowed.
- C. No more than six (6) vehicles shall be stored on-site in cases where the rental location is located in a *commerce center* or commercial complex that includes other retail *uses*.
- D. No outside storage of any type shall be permitted, except for passenger vehicle storage.
- E. On-site service and repairs of automobiles is prohibited, except for hand washing, vacuuming, window cleaning and checking fluids. Openings to the service bays shall not face public *rights-of-way* and shall be designed to minimize the visual intrusion into adjoining properties.
- F. The area *used* for parking and/or vehicle storage shall be properly *screened* with a *fence/wall*, hedge, plantings or combination thereof.
- G. The area *used* for parking and/or storage shall be paved.
- H. The installation and *use* of an outside public address or bell system is prohibited.
- I. Site improvements such as *buildings* or *structures* (temporary or permanent) shall be separated and *screened* from all residential zones by a minimum of 50 feet.

106-10.49 Vehicle Retail Sales.

- A. The primary *business* of a vehicle and boat sales establishment must be the retail sale of new products, except classic cars and in CR zoned properties.
- B. When on-site servicing and repair are permitted, the site also shall meet the requirements in **Section 106-10.50**.
- C. Site improvements such as *buildings* or *structures* (temporary or permanent) shall be separated from a residential zone by a minimum of 150 feet.
- D. Adequate *loading areas* must be allocated, specifically identified, and reserved on the site for the unloading of vehicles and boats brought to the site by carriers.
- E. Outside loudspeakers shall not be permitted. Digital pagers or other means must be *used* to communicate between employees in the *office* and on the premises.
- F. The maximum area for vehicle or boat display shall not exceed 20 percent of the total net *lot* area.
- G. Vehicle or boat display shall be limited to hard-surfaced areas and shall be incorporated into a setting of significant *open space*.
- H. All areas designated for vehicle or boat storage (not *display area*) shall be *screened* from view through approved landscape *berms* and *screens*.

106-10.50 Vehicle Service.

- A. Major repair. When allowed, *major repair vehicle service* facilities shall be subject to the following requirements:
 - 1. All repair and service work shall be performed within a completely enclosed *building*.
 - 2. Openings to the service bays shall not face public *rights-of-way* and shall be designed to minimize noise and visual intrusion into adjoining properties.
 - 3. No *used* or discarded automotive parts or equipment shall be located or stored in any open area outside of the enclosed *building*.
 - 4. No dismantling, *remanufacturing*, or *rebuilding* shall be permitted unless it is clearly incidental to the *business* and the product is sold at retail at the location.

5. All disabled vehicles shall be stored in an area that is *screened* from view from the surrounding properties and adjoining *streets*. Vehicles shall not be stored on the property longer than 30 days.
- B.** Minor repair. When allowed, *minor repair vehicle service* facilities shall be subject to the following requirements:
1. If an installation service is offered, the service shall be restricted to the installation of minor parts only, including batteries, windshield wipers, hoses, fuses, lights, radios, tires and similar minor elements, but excluding engine, transmission and differential service, or similar installation.
 2. All repair and service work shall be performed within a completely enclosed *building* with the exception of gasoline sales.
 3. Service bays shall not face public *rights-of-way* and shall be designed to minimize the noise and visual intrusion into adjoining properties.
 4. No new stock, or *used* or discarded automotive parts or equipment, shall be located or stored in any open area outside of the enclosed *building*.
 5. No dismantling, *remanufacturing* or *rebuilding* shall be permitted.
 6. All vehicles waiting for repair shall be *screened* from view through the *use* of a landscape *screen* such as *berms* and dense landscaping.
 7. *Outdoor storage and displays* are prohibited.

106-10.51 Vehicle Washing Facilities (also known as car washes)

- A.** *Vehicle washing facilities* may be self-serve or full-serve as a *primary* or an *accessory use* to *vehicle fueling stations* or *vehicle service* facilities.
- B.** *Vehicle washing facilities* shall be subject to conditions (c) - (f), (h), (j) - (l), under *vehicle fueling stations* as outlined in **Section 106-10.47** above.
- C.** Sufficient area on the premise to provide stacking shall be provided. The size of each individual stacking space shall be twenty feet by nine feet (20'x9'). When the stacking lane is adjacent to the *street*, it shall be *screened* by a landscaped *berm*, *screen wall*, or combination thereof not less than three feet (3') in height.
- D.** All wash water disposal facilities including sludge, grit removal and disposal equipment shall be subject to the approval of the city engineer, and shall conform to all city ordinances regarding sewage and health and shall be designed so as not to detrimentally affect the city *sewer system*.
- E.** The wash tunnel exit shall be oriented away from all *adjacent* residential *uses*.

- F.** Self-service and accessory *vehicle washing facilities*. Stacking lanes shall have a minimum capacity two (2) vehicles.
- G.** Full-service *vehicle washing facilities*. Stacking lanes shall have a minimum capacity of ten (10) vehicles.

106-10.53 Zoos, Indigenous Wildlife Rescue Facilities

- A.** Animals shall be confined at all times within a secured, enclosed or *fenced* area;
- B.** Animals that are kept outdoors must be located at least 2,640 feet from any residential *dwelling, school, or day care* facility;
- C.** The site must have a minimum area of six acres; and all operations and activities shall be in accordance with Surprise Municipal Code.

CHAPTER 107 DESIGN AND DEVELOPMENT REGULATIONS

ARTICLE 1 – PLANNING AND ENGINEERING DESIGN STANDARDS (PEDS)

107-1.1 Incorporation into the LDO.

- A. The Planning and Engineering Design Standards (PEDS) have been developed to be incorporated into the City of Surprise LDO by reference herein and reproduced as a stand-alone booklet for ease of readability by the development community.
- B. With the formal adoption of the LDO the PEDS along with all appendices are likewise formally adopted and considered to be incorporated herein as a part of this Ordinance.

107-1.2 Deviations and Waivers.

- A. The Community Development Director may approve a deviation to the standards through a Type 1 Procedure when an *alternative* method provides an equal or better approach to solving the problem addressed by the standard.
- B. The Community Development Director may approve through a Type 1 Procedure, on a case-by-case basis, a waiver for a study, report, or an analysis that may otherwise be required by the PEDS when such information has previously been submitted to the City and the circumstances and site conditions have not changed since said information was originally provided to the City.

ARTICLE 2 – LANDSCAPE AND SCREENING REGULATIONS

107-2.1 Purpose and Applicability.

- A. The purpose of the Landscape regulations in this article is to encourage quality development within the city; to provide *buffering* between different land *uses* to mitigate any negative impacts between the different intensities of *use*; to provide *open space* and recreational areas to serve the needs of the residents of the city; to improve erosion and storm-water runoff control; to reduce the particulate matter in the air; and to aid in conserving water and the native *habitat* with the *use* of xeriscape methods and low water *use* drought tolerant plants as specifically listed in Appendices B and C in Volume One of the Planning and Engineering Design Standards (PEDS).
- B. Landscaping shall be provided for all developments and conform to the design standards outlined in the PEDS. The regulations in this Article shall be considered to be the minimum requirements applicable to all *Zoning districts*, all land *uses*, and all applications within the City of Surprise. The regulations set forth in this Article shall qualify or supplement, as the case may be, Chapter 106 and the design standards set forth in the PEDS.
- C. Where there exists extraordinary conditions of topography, land *ownership*, site boundaries and dimensions, *adjacent* development characteristics or other circumstances not provided for in this section, the Community Development Director or designee may modify or vary the strict provisions of this section in such a manner that the purpose and intent of this Article is maintained with such modification.
- D. Any proposed *building*, *building* additions, or *use* of land that requires *Site Plan* Review by the City shall also include, either on the *site plan* or on a separate sheet, information on the required landscaping designed in compliance with the PEDS and, if applicable, the Subdivision Regulations. The Landscape Plan shall be prepared by an Arizona Registered Landscape Architect, an Arizona Certified Nurseryman, or other qualified professional. The landscape plans shall be submitted at the time of application for *rezoning*, *use* permit, *platting*, or at the time of *building permit* if none of the above applications are required. Specific plan submittal requirements are outlined in the PEDS, Volume One, Appendix D.
- E. Projects containing *environmentally sensitive features*, such as but not limited to properties identified in the Surprise *General Plan* as *Open space* Character Area or in Scenic Lands Development Sub Area, natural washes, *floodways*, *wildlife corridors*, and *hillside* slopes above 10% shall maintain undeveloped areas in a preserved desert environment in conformance with the PEDS.F. The intent of the landscaping requirements in this Ordinance is to enhance, conserve, and stabilize property values by encouraging pleasant and attractive surroundings and

thus create the necessary atmosphere for the orderly development of a pleasant community. Landscaping also contributes to the relief of heat, noise, air pollutions, and glare through the proper placement of green plants, trees, and desert landscaping.

- G. If any section, subsection, sentence, clause, phrase, or portion of this article or any part of the code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.
- I. All projects within the City of Surprise must follow chapter 58, article VII of the Surprise Municipal Code.
- J. Any *use* not in compliance with the requirements of this Article will be a violation of this Ordinance.

107-2.2 Maintenance

- A. The maintenance of all required landscaping whether located on the property or within the adjoining *right-of-way frontage, landscape strip, open space, buffer areas, setbacks, parks, retention basins, or pathways* shall be the responsibility of the property owner; unless otherwise accepted by the City for maintenance purpose.
- B. The *developer* must put in place an improvement district, or other City approved mechanism, that shall fund the maintenance of landscape, *open space*, recreation, and/or *retention areas*; unless otherwise accepted by the City.
- C. All projects required to be landscaped shall pass a landscape inspection prior to the issuance of a final inspection or a certificate of occupancy by the city. Landscaping installation shall be in substantial conformance with the approved plan. Significant *alteration* in the design or installation without appropriate plan *amendment* approval is subject to the withholding of final inspection approval.
 - 1. The city shall have the right to deny any project not meeting the provisions of this section.
 - 2. The city shall also have the right to reject landscape materials as being substandard as to size and/or condition prior to installation.
 - 3. The *owner* shall, prior to *building permit* approval, provide evidence that all plant materials are guaranteed for a minimum period of 120 days from the date of final approval by the city. Trees, shrubs, vines, ground cover, and turf which have to be replaced under terms of the guarantee shall be guaranteed for an additional 120 days from the date of replacement.

- D. No *setback* and/or landscaped area required by this Ordinance shall be *used* for the parking of vehicles or the storage or display of materials, supplies or merchandise.
- E. Landscaping shall be maintained in accordance with the approved site and landscape plan. Required landscaped areas shall be kept free of trash, debris, weeds, and dead plant material, and shall in all respects be maintained in a neat, clean, and healthful condition. This includes proper pruning, mowing of lawns, weeding, removal of litter, fertilizing, replacement of dead plants, and the regular watering of all plantings.
- F. The removal or destruction of plants and landscape material, previously approved by the city as part of the landscape plan, shall constitute a violation of this Ordinance. All dead or removed plants shall be replaced with plants of the same variety, and size in accordance with the approved final landscape plan.
- G. Any plant material, that does not survive, shall be replaced within 30 days of its demise or damage.
- H. Plant material shall not be severely pruned but rather maintained based on the specific plant species such that the natural growth pattern, flowering cycle, and characteristic form are not significantly *altered*. Refer to the Arizona Landscape Contractors Association (ALCA) for best practices.
- I. Palm trees shall be pruned once each year to remove dried fronds to eliminate fire hazard and insect infestation.
- J. The property *owner* is responsible for the pruning of any tree overhanging any sidewalk, path or trail, *street*, or *right-of-way* within the city to the degree that maintains visibility of intersections, clearance for large vehicles, and prevent interference with pedestrians and other *multimodal* means of travel.
1. Refer to the PEDS in reference to landscape, fences, and other *structures* regarding potential impacts on sight *visibility triangles* on all *streets*.
 2. A minimum vertical clearance of fifteen feet (15') from the top of road pavement shall be required for tree limbs extending over roads and above fire *access* lanes.
 3. All dead, diseased or dangerous trees with broken or decaying limbs which the Community Development Director or designee constitutes a hazard to the public shall be removed. A *street* tree that interferes with the proper spread of light along the *street* from a *street* light, or interferes with the visibility of any traffic control device shall be correctively pruned.
 4. The City shall have the right, at the expense of the property *owner*, to prune or remove landscaping that the *owner* fails to remove within the time period provided in a notice by the City Code Enforcement. The costs

of pruning or removing such hazardous tree or limbs from the public property or *right-of-way* shall be assessed against the property owner and shall constitute a lien on the property until paid.

- K.** All landscaped areas shall be supported by an automatic irrigation system which may be a spray, soaker, or drip type system.
1. The irrigation system shall terminate in an appropriate number of sprinklers or bibs to ensure a sufficient amount of water to sustain plants within the landscape areas.
 2. A reduced pressure-type vacuum breaker shall be required with the installation of all sprinkler systems.
 3. All irrigation systems and landscaped areas shall be designed, constructed, and maintained so as to promote water conservation and prevent water overflow or seepage into the *street*, sidewalk, or *parking areas*.
- L.** Landscaping provided in utility easements
1. If a power line utility easement is included as part of the *open space* of a project, the corridor must be fully landscaped with native and drought tolerant shrubs and tree, which will not exceed a height of twenty-five feet (25'), per Appendices B and C of Vol 1, PEDS. Decomposed granite application shall not be required.
 2. The destruction or removal of plant and landscape material, or *fences*, located in a public utility easement (PUE), water easement or *sewer* easement resulting from installation or maintenance of utility infrastructure by a service provider shall be replaced in accordance with the approved landscape plan by the property owner.
- M.** Sidewalks, medians, and *landscape strip* construction and the landscaping within these areas shall adhere to the Property Maintenance regulations as referred to in Chapter 105 of the LDO.

107-2.3

General Landscaping Standards

A. Tree Specifications and Standards.

1. The required trees in the Article are listed in "box size" as the industry standard when identified on landscape plans. All trees materials at the time of planting shall have a specified in the "Container Grown Tree Guide", published by the Arizona Nursery Association (ANA). A copy of the latest edition of the specification list will be maintained by the City of Surprise.

2. Standard trees with one trunk will be measured at six inches above the soil line. The *caliper* of multiple trunked trees is established by taking the average of the *caliper* of the two (2) largest trunks. *Caliper* is measured at six inches above origination point of the second largest trunk or six inches (6") above ground if all trunks originate from the soil.
3. All trees shall be located, planted, and staked in accordance with this Article and the design standards of the PEDS. Trees to be planted at *street* intersections, extending over roads and *drive aisles*, and above fire *access* lanes shall have an intact leader.
4. All trees shall be planted at a minimum distance from any property line equal to at least half of the typical mature canopy radius.
5. For the purposes of establishing a healthy root system and for water harvesting, deep-root irrigation well may be required for trees near sidewalks and streets, such as but not limited to a perforated PVC pipe, appropriately sized and placed *adjacent* to the rootball, placed at the *grade* surface and extended vertically two feet deep (2') and *filled* with *screened* one-quarter-inch minus gravel.
6. A root barrier shall be required, for species with a known aggressive root system, when trees are planted five (5) feet or closer to a walk or curb.
7. Palm trees, identified as an 'accent plant' in Appendix C of the PEDS, shall not be substituted for any required trees along *streets* and driveways. Palm trees may be utilized in a landscape plan in appropriate locations as approved and permitted by the City of Surprise.
8. Saguaro may be substituted for up to five percent (5%) of the total required shade trees along *streets* and driveways when sized according to Table No 107-2a below.

Table No 107-2a – Saguaro Sizing Standards	
Required Tree Sizes	Substitute Saguaro Heights (minimum)
24" Box	10'
36" Box	15'

B. Shrubs: Where required by this Ordinance, shrubs shall be, upon installation, a minimum of one (1) gallon size for fast growing shrubs and five (5) gallon for slow growing shrubs; unless otherwise indicated.

1. The *use* of cactus and/or succulents may be substituted for up to fifty (50%) percent of the required shrubs.

2. Accent material (cacti and succulents) shall be a minimum of five (5) gallon in size upon installation.
- C. Organic Groundcovers:** Where required by this Ordinance organic groundcovers shall be, upon installation, a minimum of one (1) gallon size; excluding turfed areas (where allowed and outlined in the PEDS) and flowerbeds.
1. All turf areas equal to or greater than five acres (5 ac) in size shall be overseeded with a winter lawn and watered exclusively with reclaimed water, when reclaimed water is available in the *adjacent arterial street*. All infrastructures needed to accept reclaimed water shall be installed as a part of the development.
 2. All turf areas and flowerbeds shall be separated from areas of decomposed granite application by a six-inch (6") wide concrete header; except in golf course applications.
- D. Inorganic Groundcovers:** All landscaped areas shall be finished with an inorganic groundcover which may include decomposed granite (minimum size one-quarter (¼) inch minus), river rock, boulders, expanded shale or a combination thereof.
1. Inorganic groundcovers shall be applied having a depth of two inches (2") or greater and maintained as weed free environment.
 2. All landscape areas shall be *graded* so that finished *grade* surfaces of all inorganic groundcovers are one and one-half inches below *adjacent* concrete or other paved surfaces.
 3. All drainage scuppers, spillways, energy dissipation pads and drywell areas that contain rip rap or river rock shall be separated from turf and decomposed granite landscape areas by a six-inch (6") concrete header.
 4. Use of plastic under ground cover materials is prohibited.
- E. Prohibited:** The *use* of fruit producing species of Olive and Mulberry trees shall be prohibited. The *use* of turf is prohibited within the public *rights-of-way*. Natural turf is also prohibited in the *front yard* of residential lots, except established turf in existence at the adoption of this Ordinance.

107-2.4 Quantity, Size, and Spacing Requirements.

A. Adjacent to Public Utility Infrastructure

1. Trees measured from trunk center shall be placed a minimum of five feet (5') from rear of fire hydrants. Shrubs as measured from their mature perimeter shall be located a minimum of five feet (5') from the rear of a fire hydrant. All plant materials, other than groundcover, shall not be place

between a fire hydrant and *street* or *roadway* and shall be a minimum of fifteen feet (15') away from either side of a fire hydrant.

2. All trees, shrubs and cactus having significant spines or thorns shall be placed at least ten feet from all public sidewalks, private pathways and gathering spaces as to not harm pedestrians.
3. All perimeter landscaped areas surrounding public works utility sites are to incorporate thorn bearing plant material to discourage entry into said facilities.

B. Within the Public Rights-of-way

1. Landscaping shall be provided within all areas of the public *rights-of-way* not being *used* for *street* pavement, curbs, gutters, sidewalks, or driveways and shall be installed by the contiguous development site in addition to the required on-site landscaping areas for the development.
2. All *arterial street rights-of-way* shall contain *street* trees and additional plant material in conformance with the **PEDS, Appendix B**.
3. **Table 107-2b** describes the minimum quantity of trees, shrubs, and groundcovers when *adjacent* to specific *street* types, as calculated across *frontage* widths. The priority location shall be in the center medians and the *landscape strip* when present and shall be only those plant materials listed in the PEDS, Appendix B Table 1 and Table 2.

Table No 107-2b – ROW Planting Quantity & Size			
	15 Gallon Tree	24-inch Box Tree	5-gallon Shrubs ² and/or 1-gallon Groundcover Plants
Local (residential <i>lot</i> up to 50' wide)	2		4
Local (residential <i>lot</i> over 50' wide)	1	1	6
Local (nonresidential <i>lot</i>)	1 per 20 linear feet	1 per 40 linear feet	4
Collector	1 per 20 linear feet	1 per 40 linear feet	4
Minor arterial	1 per 25 linear feet (10% comprised of 15 gallon trees)		4
Major arterial	1 per 20 linear feet Secondary Tree Type	1 per 40 linear feet Main tree type ¹	4
Parkway	1 per 20 linear feet	1 per 40 linear feet	4
Notes:			
1. If no Secondary Tree Type is designated then spacing shall be an average of 1 per 25 linear feet.			

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2. Up to 50% may be 1-gallon Groundcover Plants

4. Landscaping within center medians and *landscape strips* shall not obstruct the required site visibility lines at median breaks or intersections and shall not create other safety issues. **Table 107-2c** describes the minimum quantity of plants and materials within the ROW while layout and design is subject to the site.

Table NO. 107-2c – Additional Plants/Materials per Median Size			
Minimum Width Curb to Curb	Decorative Brick	Shrubs and Groundcovers	Trees
Under 3'	Only	N/A	N/A
3' to under 10'	N/A	6 plants every 50 linear feet	N/A
10' and wider	N/A	6 plants every 50 linear feet	1 additional tree every 50' linear feet

5. Irrigation systems shall be installed by the *developer* and/or home builder and maintain according to the provision in this Article.

C. Parking areas/Lots and Non-residential Setbacks

1. On site landscaping shall be provided in parking facilities for *multi-family* and non-residential development within the landscape islands, parking medians, and *setbacks* at the minimum quantities and sizes outlined in **Table 107-2d** below.

Table 107-2d – Parking Lot/Area Landscape		
	24-inch Box Tree	5-gallon Shrubs
Landscape Islands	1	4
Parking Lot Medians/Walkways	1 every 40 linear feet	1 per 5 linear feet
Setbacks	1 every 400 sf ¹	5 every 400 sf
Notes: 1. Thirty percent (30%) of the trees may be fifteen (15) gallon.		

2. Shrubs within a landscape island or parking median shall be maintained to a maximum height of three feet (3'), and all trees at maturity shall maintain a minimum vertical clearance of eight feet (8') from the lowest branch to the *adjacent grade* elevation.

3. Trees and shrubs planting locations shall not interfere with vehicles, *parking area/lot light fixtures*, pedestrian movement, or *access to parking spaces*.
4. Plant quantities for *setbacks* and *buffer areas* shall be distributed throughout the *setbacks*, appropriate to the site conditions with priority towards pedestrian shade, *screening*, and *ROW* visibility.

D. On-Site Landscaping Requirements

1. On site landscaping shall be provided in *single-family* residential *front yards* and the required minimum *setbacks* for *multi-family* residential and all non-residential development.
2. *New construction* on individual R-1 and R-2 residential *lots* shall provide landscaping in addition to the *ROW* landscaping identified in **Table No 107-2b**. Dust control measures, such as inorganic ground cover with a minimum size of one-quarter-inch minus, consisting of decomposed granite or other rock, shall be provided in all remaining unpaved areas.
 - a. A *front yard* landscape package shall be provided by the homebuilder with the Home Product review. These packages may be included with the purchase price of the home or replaced by a “landscape budget” for an *alternative* landscape plan to be approved by City Staff.
 - b. All *front yards* for residential shall provide a minimum of one 24-inch box tree.
 - c. The landscaping shall include a minimum of one (1) five-gallon shrub or accent plant and one (1) one-gallon shrub, accent or groundcover plant per one hundred and twenty-five square feet (125 sf) of unpaved area. Plants must be installed on both sides of the driveway.
 - d. An automatic irrigation system appropriate for the plant material shall be provided.
 - e. Initial landscaping for new homes shall be maintained in conformance with the approved landscape plan for a minimum of one (1) year.

3. In addition to the minimum quantity and sizes, additional trees at the fifteen (15) gallon size and additional shrubs at a smaller size may be installed.
4. Plant location shall be distributed throughout the *setbacks*, appropriate to the site conditions with priority towards pedestrian shade, *screening*, and *ROW* visibility.

107-2.5 Screening and Fence Standards

- A. *Fences* may be provided, unless restricted by other provisions within this Ordinance or PEDS, as part of any development to separate properties, *screen* portions of a property, as a pool barrier complying with Chapter 105 of this Ordinance, or as a boundary to control animal movement.
- B. No *fence* or *wall* shall be constructed that does not comply with the *screening* and/or *wall* standards outlined in the PEDS and without first making an application for and securing a *building permit* as required by Chapter 105 of the LDO.
 1. All *fence* or *wall* locations, materials, and colors must be specifically identified in a *wall* plan submitted in conjunction with a subdivision *preliminary plat*, or as part of the *site plan* review for *multi-family* and non-residential developments.
 2. *Fences* are prohibited from blocking or impeding connections designed for pedestrian and *multimodal uses* and gates leading to other *adjacent parcels* must provide owner authorization allowing such *access*.
 3. All *fences* shall be *setback* two feet (2') from a P.U.E that is *abuts* a *ROW*.
- C. *View fences* may be *used* as a preferred approach to enclose areas or restrict *access*, except when visual *screening* is required.
- D. The height of any *fence* shall be measured from the top of the footer to the top of the *fence* or column, except that a four inch (4") architectural embellishment or decorative cap may be permitted (see **Figure 107-2a**)
 1. Placing *fill* solely for the purpose of adding additional height to a *wall* or *fence*, *view fence* or combination thereof is prohibited. If a *wall*, *fence*, or *view fence* is placed on a *berm*, the height shall be measured vertically from the base of the *berm*.
 2. *Fences* located in a residential *zoning district* shall not exceed six (6') feet. In no case shall the height of either side of the *wall* or *fence* exceed eight (8') feet (including architectural embellishment). This requirement does not pertain to *fences* that surround utility installations.

3. *Fences* in all commercial and industrial districts shall adhere to the *screening* standards outlined in the PEDS.

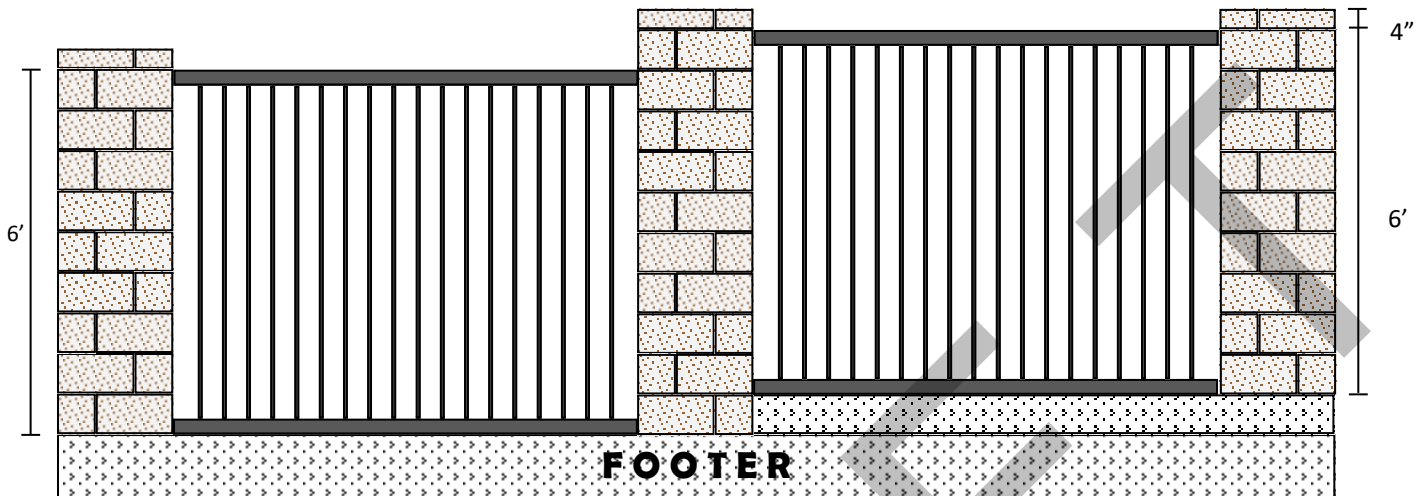


Figure 107-2a

(Illustrates how measurements follow footers; design shall comply with PEDS)

4. *Fence* height shall follow the contour of the natural terrain and step when the change in *grade* exceeds eight (8") inches. Columns and/or posts may exceed maximum *fence* heights to meet *grade* changes.
- E. Chain link, razor wire, barbed wire, and electrified wire fencing shall be prohibited, with the following exceptions:
1. Chain link *fences* may be utilized for an approved *temporary use*.
 2. Chain link may also be *used* for *public facilities* and recreational *uses*, including but not limited to, enclosures for sport courts/fields, as a protective means with baseball fields, batting cages, golf ranges or other such recreational *amenities*; in which case the fencing may exceed the allowed fencing heights.
 3. Barbed wire may be utilized in association with *Agricultural operations* pursuant to **Section 106-10.5** of this Ordinance.
- F. Residential *fence* requirements.
1. *Fence returns* shall be set back a minimum of five feet (5') from the front of the *building*. At least one (1) gate that is a minimum of three foot (3') wide should be provided per *lot* to permit emergency *access* to the side and rear yard.
 2. *RV gates* may be even with the front of the *building*.
 3. A solid *fence* located within any required *front setback* shall not exceed two feet (2') in height. A *view fence* may be permitted to a maximum of

four (4') feet in height, except Rural Residential zoned properties may be permitted a view fence up to a maximum of five feet (5') in height.

4. A *fence*, up to six feet (6') in height may be permitted within the required *front yard* along the side lot line of a *key lot* when located along the rear property line of the *adjacent lot*.
- G. *Off-street parking*. All *off-street parking areas* for *multi-family* and non-residential developments shall be *screened* from *street view* by a landscaped *berm*, *screen wall* or combination thereof not less than three feet (3') in height.
- H. When permitted, *outdoor storage and use areas* for materials, trash, equipment, vehicles or other similar items shall be *screened* with a masonry *screening wall* no less than six feet (6') in height.

ARTICLE 3 – OUTDOOR LIGHTING REGULATIONS

107-3.1 Purpose, Intent and Applicability

- A. The purposes of this Article is to protect the community and its neighborhoods with appropriately regulated and properly installed *outdoor lighting* that will contribute to the safety, security and wellbeing of *persons* engaged in outdoor public activities at night, while maintaining *access* to the dark night sky. The City will prevent the negative impact created by excessive glare, *light trespass*, and unnecessary waste of energy and resources caused by improper design and installation of *outdoor lighting*.
- B. It is the intent of this article that *outdoor lighting* be installed with the idea of safety and being a "good neighbor" by keeping unnecessary direct light from shining onto *abutting* properties or *streets*. Establishing environmentally responsible lighting regulations that limit the area that certain kinds of *outdoor lighting fixtures* can illuminate will balance the need for safe lighting with the need for dark skies.
- C. All outdoor illuminating devices shall be installed in conformance with the provisions of this article, the **PEDS**, the sign regulations in **Chapter 108**, and the electrical code as adopted by the city under appropriate permit and inspection.
 - 1. The development standards provided herein shall apply to all proposed new land *uses*, developments, *buildings*, *structures*, or *building* additions within the City of Surprise.
 - 2. Any new or modified *outdoor lighting* on an existing *building*, *structure*, or site shall meet the requirements of this article with regard to shielding and *lamp* type; the total amount of lighting after modifications are complete shall not exceed that on the site before the modification, or that permitted by this article, whichever is more restrictive.
 - 3. Legal non-conforming *lighting fixtures* may continue to be *used* provided such *fixtures* are turned off between the hours of 10:00 p.m. and sunrise. This requirement does not apply to *fixtures used* for safety or security purposes. Sign lighting cannot be *used* for security lighting purposes.

107-3.2 General Standards

- A. All *fixtures* installed anywhere in the City of Surprise shall at a minimum be *full cut-off fixtures*; excluding seasonal holiday lighting and decorative string lighting for outdoor seating areas. Other exceptions to *full cut-off fixtures* may be approved on a case-by-case basis by the Community Development Director provided it can be shown that the proposed *fixture* includes *alternative*

technology luminaries or artistic attachments/shields that provide similar photometric results as *full cut-off fixtures*.

- B. Fully shielded *fixtures* are generally preferred and may be required in some installations depending on location and *adjacent land uses*. Internally shielded *fixtures* are required except when retrofitting existing *light fixtures* with external shields treated to be non-reflective. See **Figure 107-3a**

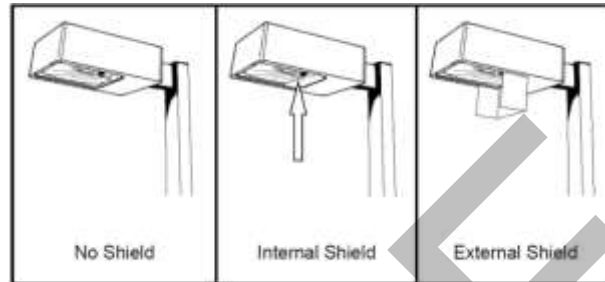


Figure 107-3a

- C. *The maximum light output per acre for new commercial, industrial, mixed use, and multi-family residential developments in the LZ2 Lighting Zone shall not exceed 150,000 lumens per acre when adjacent to residential and 200,000 lumens when not adjacent to residential in order to control the amount of visible light on the property and thus reducing the overall brightness.* Unshielded fixtures or lighting sources shall not exceed 3,000 lumens per luminaire.
- D. *Outdoor lighting* installations shall be served by underground electrical service and include *adaptive controls*, including but not limited to, timers, dimmers and/or sensors in order to reduce overall energy consumption, eliminate unnecessary lighting, and to comply with the city's automatic lighting reduction requirements of **Section 107-3.4** herein.
- E. The city is not mandating a specific design, material or *lighting fixture* other than all *lighting fixtures* shall meet the "Fixture Seal of Approval" (FSA) program established by the International Dark-Sky Association (IDA). Below, for illustrative purposes only, are examples of both unacceptable and acceptable *lighting fixtures* for use in the City of Surprise. See **Figure 107-3b**

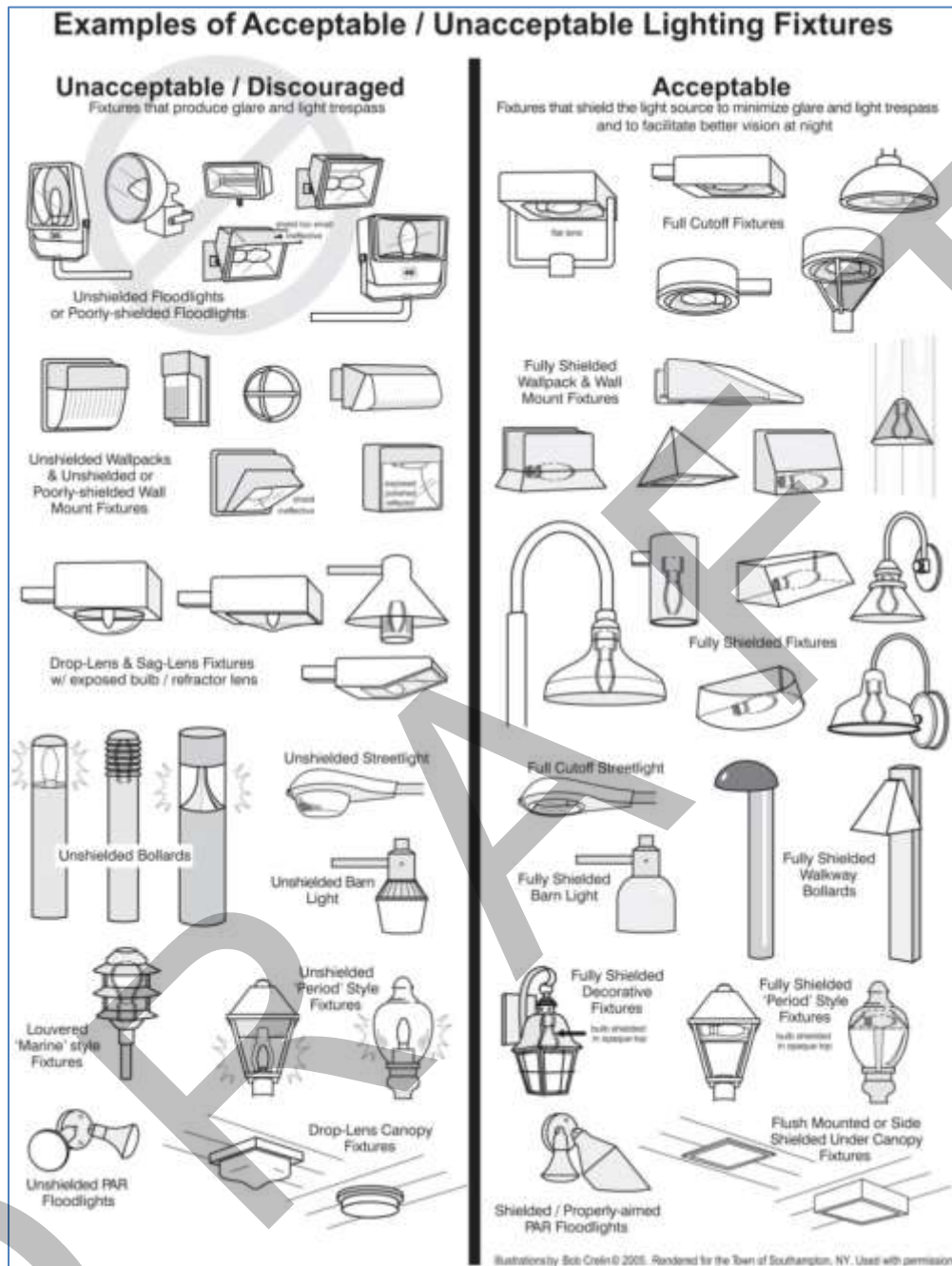


Figure 107-3b

- F. The style of light standards and *fixtures* should be consistent with the style and architectural character of the proposed development site and in compliance with the light source and shielding requirements for the specific lighting zone per **Table 107-3a** below. The pedestals for pole-mounted *fixtures* are to be finished in a manner and with a material that complements the architectural character of the proposed development site.

- G. All *light fixtures*, including security lighting, shall be located, aimed, and shielded so that the *direct illumination* from the *fixture* will be confined entirely within the property boundaries of the source.
- H. The overall height shall be measured from the finished *grade* to the top of the *light fixture*. Any pedestals upon which pole-mounted *fixtures* are placed shall be included in the overall height measurement. Exceptions to the height limitations shall be allowed only for those *structures* and facilities where lighting must be *used* to illuminate potential obstructions and/or hazards to air navigation.
- I. An approved site lighting plan photometric indicating the lighting zone, type of light source, *fixture* detail, and schedule is required prior to the issuance of a *building permit*.

107-3.3 Outdoor lighting Zones and Lighting uses

- A. There are different lighting zones throughout the City of Surprise. The lighting source, shielding requirements, and automatic lighting reductions are determined by both the lighting zone and the specific *use* of the property. The lighting zones are further delineated as follows:
 - 1. **Lighting Zone 2 (LZ2):** Areas within this lighting zone includes the neighborhood areas that are developed at the suburban and urban level, high *use* recreational and play fields, commerce and *office* areas of the city, and within the Transit Oriented Development District as designated by the Surprise *General Plan*. Lighting levels in the LZ2 are medium to high ambient brightness due to the higher levels of night time activity and the concentration and types of land *uses* allowed by the *zoning districts*; particularly where color rendition is important for the effectiveness and safety of the permitted activities.
 - 2. **Lighting Zone 1 (LZ1):** Areas within this lighting zone includes the neighborhood area that is developed as large *lot single-family*, rural residential, and surrounding natural *open space* as well as *business parks* and industrial areas with limited nighttime activity. Lighting levels in the LZ1 are low ambient brightness with general illumination for safety or security focused at activity centers and along travel corridors.
 - 3. **Lighting Zone 0 (LZ0):** Areas within this lighting zone includes those lands within a Scenic Lands Development area as designated by the Surprise *General Plan* and for other lands determined to have *environmentally sensitive features* or to be located in *environmental buffer areas*. In these areas, the preservation of an intrinsically dark environment both in the sky and in the visible landscape is considered of paramount value and special review will be required for any permanent lighting in this zone.

4. A property located in more than one (1) of the lighting zones described in subsections (1) to (3) above shall be considered to be only in the more restrictive lighting zone.
- B.** *Outdoor lighting fixtures* will be permitted for the following *uses* and activities provided they are allowed in the lighting zone and designed to meet the standards further outlined herein and in the PEDS:
1. *Street* lighting.
 2. Parking *lot* lighting.
 3. Architectural illumination and structural lighting.
 4. Landscape lighting and the illumination of trees, shrubs, *water features*, and *open space* plaza areas.
 5. Outdoor recreational sports fields/courts and play area lighting.
 6. *Signage* (external and internal lighting).
 7. Product *display area*.
 8. *Building* overhangs and open canopies.
 9. Outdoor seating areas at eating and drinking establishments.
 10. Security lighting.
 11. Walkways and trails.
 12. *Agricultural uses*: arenas, corrals and animal containment areas.
- C.** The lighting zones delineated in section **107-3.3** above have specific permitted/prohibited lighting sources and shielding requirements associated with them as outlined in the following **Table 107-3a** and in other subsections herein.

Table 107-3a – Allowed Lighting and Shielding Standards

Lighting Activities in Lighting Zones	LZ2	LZ1	LZ0
Street lighting	LED, (1),(7)	LED, ENV, (1),(7)	ENV, (1),(5),(7)
Parking lot lighting	LED, MH, (2),(5),(7)	LED, MH, (2),(5),(7)	ENV, (1),(6),(7)
Commercial <i>signage</i> (external and internal lighting).	LED, (1),(5)	LED, (1),(5)	LED,(1),(6)
School and Community Facilities such as Sports Field/Court and Play Area Lighting	LED, MH, (1),(6),(7)	LED, MH, (1),(6),(7)	LED, MH, (1),(6),(7)
Architectural/structural illumination,	LED, (1)	ENV, (1)	ENV, (1),(6)
Landscape lighting (trees, shrubs, <i>open space</i> features)	ENV, (2)	ENV, (2)	ENV, (1),(6)
Vehicular sales lot lighting	LED, MH, (1),(5),(7)	X	X
Building overhangs and open canopies	LED, MH, (1),(5),(7)	LED, MH, (1),(5),(7)	ENV, (1),(6)
Plazas and outdoor seating areas at eating and drinking establishments	LED, (3),(4),(5)	LED, (3),(4),(5)	ENV, (3),(4),(5)
Security lighting	MH, (1),(7)	MH, (1),(7)	ENV, (1),(7)
Walkways and trails	LED, MH, (2),(5),(7)	LED, MH, (2),(5),(7)	ENV, (1),(6)
Agricultural uses: arenas, corrals & animal containment areas	X	MH, ENV,(2),(6)	X

Notes:

- (1) Fully shielded
- (2) Partially shielded
- (3) Unshielded – shielding not required but highly recommended
- (4) Decorative unshielded low-wattage incandescent *lamps* will be permitted.
- (5) Lighting reductions are required.
- (6) Lighting shut-off required.
- (7) *Adaptive controls* shall be utilized.

Light Source Code:

ENV = “narrow-spectrum amber” LEDs

LED = **filtered to have a Correlated Color Temperature (CCT) maximum of 3,000K** unless otherwise indicated.

MH = metal halide

X = Not allowed.

107-3.4 Lighting Reduction Requirements

- A.** Table 107-3a above delineates specific lighting zones and certain types of lighting *uses* that require lighting to be reduced or extinguished. The following sections further detail those requirements; which shall be accomplished by providing *adaptive controls* for the automatic reductions and/or extinguishment of the *lighting fixtures*.

- B.** Lighting reductions and/or shut off is not required for any of the following:
1. With the exception of landscape lighting, lighting for *multi-family* residential properties having *common areas*.
 2. When the *outdoor lighting* consists of only one (1) luminaire.
 3. Code required lighting for steps, stairs, walkways, and *building* entrances.
 4. When in the opinion of the Community Development Director, lighting levels must be maintained.
 5. Motion activated lighting.
 6. Lighting governed by special *use* permit in which times of operation are specifically identified.
 7. Lighting *used* to illuminate potential obstructions and/or hazards to air navigation.

107-3.5 Street Lighting Standards

A. General Requirements

1. All *lighting fixtures* along public and *private streets* should be non-reflective and consist of *full cut-off, fully shielded luminaires* to prevent any glare or *light trespass* onto adjoining property and *adjacent* areas; primarily lighting the pedestrian sidewalk, specifically at intersections and crosswalks, and secondarily to light the driving lanes.
2. Lighting sources shall adhere to **Table 107-3a** and the overall height of the lighting standard, measured from finish *grade* to the top of the *fixture* should be as follows:
 - a. Along *local streets* serving residential areas should not exceed sixteen (16) feet in height in all lighting zones. *Local streets* serving non-residential areas in the LZ0 lighting zone shall not exceed sixteen (16) feet and in all other lighting zones shall not exceed twenty-five (25) feet in height.
 - b. Along *collector streets* serving residential areas should not exceed sixteen (16) feet in height in all lighting zones. *Collector streets* serving non-residential areas in the LZ0 and LZ1 lighting zone should not exceed sixteen (16) feet and in the LZ2 lighting zone should not exceed thirty (30) feet six (6) inches in height.

- c. Along the city's primary arterials should not exceed thirty (30) feet in height in the LZ0 and LZ1 lighting zones and thirty-nine (39) feet six (6) inches in the LZ2 lighting zone.

3. In residential neighborhoods where *curb separated sidewalks* exist, pole-mounted *lighting fixtures* on local residential *streets* shall be placed within the *landscape strip* between the curb and sidewalk, and spaced in an *alternate* pattern using both sides of the *street*; utilizing the lighting source specified for the lighting zone in which the development is located.

4. The *use* of *adaptive controls* that regulate and automatically reduce the amount of light based on the traffic flows should be utilized in all circumstances and in all lighting zones.

B. Street Lighting in the LZ2 Lighting Zone

1. Arterial and *collector streets* shall utilize *LED's* filtered to have a CCT of 3,000K.

C. Street Lighting in the LZ1 Lighting Zone

1. Due to the rural nature of the lighting zone limited *use* of *street* lighting should be expected with lighting provided only as outlined below:

- a. Major intersecting rural roads.
- b. Intersections where local roads of a rural subdivision intersect with a major rural road.
- c. Those areas identified as dangerous and hazardous to vehicular travel due to significant changes in *roadway* alignment, bridges, or hazardous *structures* such as curbs, piers, *abutments* or culverts.
- d. Locations along roads and highways where police reports indicate nighttime accident rates exceed those of daytime hours.
- e. Locations along a highway or rural road where traffic turning movements to and from *adjacent* commercial developments threaten public safety.

2. *Arterial streets* only should utilize *LED's* filtered to have a CCT of 4,000K all others shall be limited to 3,000K or a narrow-spectrum amber *LED*.

D. Street Lighting in the LZ0 Lighting Zone

1. Due to the environmentally sensitive nature of the lighting zone minimal *use* of *street* lighting should be expected with lighting provided only as outlined below.

- a. Locations along a highway or arterial road where traffic turning movements to and from *adjacent* commercial developments threaten public safety.
 - b. Intersections where the entrance of a subdivision intersects with a major road.
2. *Adaptive controls* for the automatic reduction of lighting by 30% between 11:00 p.m. and sunrise will be required for all street lights.

107-3.6 Parking Lot and Loading Area Lighting Standards.

- A. Ornamental parking lighting may be permitted provided it is complimentary to the architecture and meets the intent of this Ordinance and the design aspects of the PEDS.
- B. The maximum height of parking *lot* lighting standards (poles) shall be sixteen (16) feet within the interior of the parking *lot* and twelve (12) feet at or along the perimeter of the parking *lot* and shall be located in such a manner as to not conflict with tree locations within the planting islands and *buffers*.
- C. *Parking area* lighting for all *uses* and within all lighting zones shall achieve, as near as possible, an equal luminance uniformity throughout the *parking area* with a reduced level at the property line when *adjacent* to the public *right-of-way* or a residential property.
- D. Within LZ2 and LZ1 Lighting Zones.
 1. For any non-residential land *use* the minimum lighting intensity shall be 2 *lumens* (2.0 fcs), the maximum intensity shall not exceed 5 *lumens* (5.0 fcs), as measured within the parking *lot*, and shall not exceed 1 *lumen* (1.0 fcs) measured at the property line for parking *lots* adjoining the public *right-of-way* or a residential property.
 2. All lighting shall at a minimum be reduced by 50% between 11:00 p.m. (or 30 minutes after close of *business* whichever is later) and sunrise.
- E. Within LZ0 Lighting Zone.
 1. For any non-residential land *use* the minimum lighting intensity shall be 1 *lumens* (1.0 fcs), the maximum intensity shall not exceed 2 *lumens* (2.0 fcs), as measured within the parking *lot*, and shall not exceed 0.5 *lumen* (0.5 fcs) measured at the property line for parking *lots* adjoining the public *right-of-way* or a residential property.

2. All lighting shall be extinguished between 11:00 p.m. (or 30 minutes after close of *business* whichever is later) and sunrise; except for *businesses* that operate on a 24hour basis.

107-3.7 Outdoor Advertising Signs.

A. General Requirements.

1. External *fixtures* shall be fully shielded, mounted on top or above the sign, and directed downward onto the sign face.
2. *Lamps used* for internal and external illumination of *signs* shall be counted toward the total *lumen* cap described in Section **107-3.2 C.** above.
3. Illumination for all advertising *signs* both externally illuminated and internally illuminated shall be either reduced or turned off as noted in **Table 107-3a** as further described below.

B. Within the LZ2 and LZ1 Lighting Zones.

1. Electronic Message *Signs* (EMS) where permitted per **Chapter 109** of this Ordinance shall adhere to the following:
 - a. The maximum *lumen* level for all land *uses* shall not exceed 200 *nits*.
 - b. *Signs* shall be required to be equipped with photo cell sensors that are factory locked to dim the sign at night (2 hours after dusk) to 100 *nits*. An affidavit from the manufacturer attesting to the brightness level shall be submitted with the sign permit application.
 - c. The electronic message center portion of the sign shall be turned off when the *business* activities cease (or 11 pm whichever occurs last). *Signs* shall include timers that will automatically turn off the digital display.
2. All *signage* within a non-residential development shall be reduced by thirty (30%) percent by 11:00 p.m. or when the *business* closes whichever is later.

C. Within the LZ0 Lighting Zone.

1. The maximum *lumen* level for any type of sign shall not exceed 100 *nits*.
2. All free-standing *signs*, EMC or otherwise, shall not have white backgrounds.
3. Electronic Message *Signs* (EMS) where permitted per Chapter 109 of this Ordinance shall adhere to the following:

- a. The sign was to be factory locked at 100 *nits* with an affidavit from the manufacturer attesting to this brightness level.
 - b. The electronic message center portion of the sign shall be turned off when the *business* activities cease or 11 pm whichever occurs last. *Signs* shall include timers that will automatically turn off the digital display.
 - c. The sign shall be equipped with photo cell sensors, reducing the surrounding sign brightness to reflect the surrounding ambient light when the EMS portion is turned off.
4. All *signage* within both residential and non-residential development shall be shut-off by 11:00 p.m. or when the *business* closes whichever is later.

107-3.8 School and Community Facility Sports Field/Court and Play Area Lighting

- A.** The City's intent is to follow the IES Recommended Practice for Sports and Recreational Area Lighting and the International Dark-Sky Association (IDA) Criteria for Community-Friendly Outdoor Sports Lighting.
1. The measurement of on-field illuminance values will be those appropriate for the application per IESNA RP-6-15 Sports and Recreational Area Lighting criteria (or equivalent CIE guidance) together with modeled initial illuminance targets. To limit over-lighting, the design may vary by no more than 10% above the average target illuminance levels for each Class.
 2. The IES TM-15-11 Luminaire Classification System for *Outdoor lighting* is not appropriate for sports lighting.
- B.** Provide advanced *adaptive controls* and documentation for the following:
1. Automatic and/or remote control system via smartphone apps, or direct remote communication to the company/agency/department facility responsible for handling the lighting controls, to enforce shut-off at the established curfew time per the Lighting Zone in which the facility is located, not to be later than 11:00 PM. Illumination of the playing field, court or track shall be permitted after the curfew only to conclude a scheduled event that was unable to conclude before the curfew due to unusual circumstances.
 2. On-site manual and/or remote control system shall also be provided to allow for the lights to be turned on or off at will (before curfew) to assure that only active sports fields are lighted.

3. Provide readily accessible controls to implement uniform and variable adaptive illumination levels for different task lighting needs on field, e.g. IES class of play, competition athletics, band practice, striping, mowing, sports practice, etc. Adaptive dimming shall be possible across the range of 25% to 100% of full illumination.
- C. Maximum mounting heights, measured from the finished *grade* to the top of the *fixture*, for recreational lighting shall be in accordance with the following:
1. Pedestrian and bicycle pathways throughout a *park* or developed *open space* area should not exceed 12 feet in height and should be spaced in a manner to provide continuous illumination of the pathway.
 2. Sport court activities such as basketball, tennis, volleyball, and handball should not exceed 25 feet in height.
 3. Recreational activities such as, but not limited to, horseshoes, lawn bowling and bocce ball courts, shuffleboard, miniature golf, and swimming pool aprons/decks should not exceed 20 feet in height.
 4. Athletic fields for football, soccer, baseball, lacrosse, and nighttime practice golf ranges should not exceed 80 feet in height. Little League baseball fields should not exceed 60 feet in height for fields with a radius of 200 feet and 70 feet in height for fields with a radius of 300 feet.
- D. Lighting for outdoor athletic fields, courts or tracks shall be exempt from the *lumens* per acre limits of Section **107-3.2 C** herein. All such lighting shall utilize *full cut-off* luminaires that are installed in a fashion that maintains the *full cut-off* characteristics unless certified by a registered engineer that such shielding is impractical. Every such lighting system design shall be certified by a registered engineer as conforming to all applicable restrictions of this Ordinance. Where *full cut-off fixtures* are not utilized, acceptable luminaires shall include those which:
1. Are provided with internal and/or external glare control louvers and installed so as to limit direct up-light to less than five percent (5%) of the total *lumens* exiting from the installed *fixtures* and minimize *off-site light trespass* as required herein, and
 2. Are installed with minimum aiming angles of twenty-five (25) degrees downward from the horizontal. Said aiming angle shall be measured from the axis of the luminaire maximum beam candlepower as certified by independent testing agency.

107-3.9 Architectural and Landscape Lighting

- A. Architectural/structural and landscape lighting *used* to illuminate the wall of a *building* or elements are permitted in all lighting zones per **Table 107-3a**. Subject to the review and approval of the Community Development Director or designee, said lighting must satisfy the criteria in the following sections:
1. *Lighting fixtures* shall be selected, located, aimed and shielded so that *direct illumination* is focused exclusively on the *building façade*, plantings and other intended site features and away from *adjacent* properties and the public *right-of-way*;
 2. Any lighting that directly shines onto neighboring properties or the public *right-of-way* shall be prohibited. Wall mounted (downward lighting) flood or spot *lamps* must be fully shielded, except that unshielded wall mounted lights, whose glare is mitigated by features such as porches and *building* overhangs and minimizes *light trespass* onto neighboring properties.
 3. The lighting will illuminate an architectural feature or landscape feature that is unique to the particular project due to the *use* of materials, colors or design characteristics which are not commonly found within the city. Such *fixtures* should be located and designed in such a manner that the actual *lamp* and reflector are shielded so that it is not seen from normal public viewing; such as but not limited to direct glare be protected from vehicular and pedestrian traffic.
- B. Architectural and landscaping lighting in the LZ0 lighting zone shall be shut off from 11:00 p.m. to sunrise except when lighting is required by code for steps, stairs, walkways, and *building* entrances. *use* of motion sensors is encouraged.

107-3.10 Multimodal Pathways and Trails, Plazas, and Outdoor Seating Areas.

- A. Lighting within fifty feet (50') of a residential property line shall not exceed a maximum standard height of twelve feet (12').
- B. Lighting shall be aimed or directed in a manner that any changes in the elevation or turn of the pathway are illuminated so that such pathway features are clearly discernible through the *use* of, but not limited to, freestanding poles, bollards, in-place step, and/or *structure/building-mounted fixtures*.
- C. Bollard lighting shall be a maximum of four (4) feet in height with the *fixture* standard made primarily of concrete. All *fixtures* shall be shielded, have some type of control mechanism for the reduction or shut off , and *use* a low ambient light source as indicated above in **Table 107-3a** herein.
- D. Trailheads, Plazas, and outdoor seating areas, including their entrances and exits, shall be illuminated one-half (½) hour before sunset to one-half (½) hour after sunrise to facilitate natural surveillance opportunities and discourage unsafe

activities. All lighting shall be pedestrian scaled and integrated into the total design in a manner that brings definition, order and a sense of security that welcomes pedestrian use.

107-3.11 Canopy Lighting.

- A.** Canopies include, but are not limited to, the following applications:
1. All canopies associated with *vehicle fueling stations* and convenience stores.
 2. Canopies over store and *office* fronts.
 3. All marquees and projecting overhangs.
 4. Exterior canopies over driveways and *building* entrances.
 5. Pavilions and gazebos.
- B.** Overhead lighting *used* to light *building* overhangs and open canopies shall have a maximum lighting intensity (eye illumination levels) under the canopies no greater than 5 *lumens* (5 fcs) when measured directly under the overhang or canopy or greater than 1 *lumen* (1 fcs) when measured at the property line. Areas outside canopies and pump areas shall be regulated by the type of lighting application and the lighting zone in which the development is located as delineated in other sections herein.
- C.** Overhead lighting *used* to light *building* overhangs, open canopies, fueling facility canopies, *drive-through* canopies, customer loading canopies, and similar *structures* shall be a recessed *fixture* incorporating a lens cover that is either recessed or flush with the bottom surface (ceiling) of the canopy. No portion of the *fixture* shall project below the ceiling of the canopy *structure*.
- D.** Canopies for pavilions and gazebos may utilize indirect lighting beamed upward and then reflected down from the underside of the canopy. Such *fixtures* shall be shielded such that *direct illumination* is focused exclusively on the underside of the canopy.
- E.** Canopy lighting shall be reduced by thirty (30%) percent between the hours of 11:00 p.m. to sunrise. Except for *businesses* open 24 hours, canopy lighting in the LZ0 lighting zone shall be shut off by 11:00 p.m. or thirty (30) minutes after the close of *business* or at such time as the last employee leaves the *business* premises, whichever is later.

107-3.13 Security Lighting.

- A. **Security lighting shall use** the lowest possible illumination level to effectively allow surveillance **and reduce the negative impacts of crime.**
- C. Security lighting systems shall utilize the light sources delineated in Table 107-3a herein, be fully shielded *fixtures*, and aimed so that illumination is directed to the designated areas.
- D. The use of sensor technologies, timers or other means to activate lighting during times when it will be needed may be required by the Planning and Zoning Commission to conserve energy, provide safety and promote compatibility between different land *uses*.

107-3.14 Exposed String Lighting.

- A. Lights that are blinking and/or chasing are not permitted in non-residential zones. Only during seasonal periods identified herein may residential zones utilize blinking and/or chasing lights.
- B. Permanently exposed string lights are permitted the following criteria are satisfied:
 - 1. Exposed permanent string lights shall be exclusively a white light with a clear bulb as a commercially available maximum 2.8-watt system and may require a *building permit* according to Chapter 105 of this Ordinance.
 - 2. Exposed string lights shall be limited to designated areas for outside dining, seating, or gathering and main pedestrian entry to a project site.
 - 3. Lighting of living landscape features (trees) may be permitted if *used* in combination with other highlighting or pedestrian *lighting fixtures* within these immediate areas. Lighting of landscape features shall be secured to the landscape feature with bands that will not puncture the skin of the plant.
 - 4. Residential string lights must comply with regulations of this Article herein with regards to *light trespass* and spillage.
 - 5. Applications considered with the development review process may require string lights details to be included with final approval made with the Community Development Director or designee upon satisfactory compliance with the limitations and design parameters above.

107-3.15 Outdoor Display and Sales Areas.

- A. All site lighting not directly associated with the *outdoor display* and *sales areas* shall conform to the lighting standards described in other sections of this Article, including but not limited to the lighting source and shielding requirements of

Table 107-3a and the *lumens* per acre limits of Section **107-3.2 C**.

- B.** Lighting for the *outdoor display* and *sales areas* shall be designed to not exceed the luminance recommendations for the activity as defined by the most current recommended practice of the Illuminating Engineering Society of North America (IESNA). All such lighting shall utilize *full cut-off* luminaires that are installed in a fashion that maintains the *full cut-off* characteristics. Every such lighting system design shall be certified by a registered certified engineer as conforming to all applicable restrictions of this Article.
- C.** Maximum lighting standard (pole) heights, measured from the finished *grade* to the top of the *fixture*, should not exceed sixteen (16) feet in height along the perimeter of the *display area* and twenty-five (25) feet within the interior of the *display area*.
- D.** *Display area* lighting shall be turned off by 11 p.m. or within thirty (30) minutes after closing of the *business*, whichever is later. Security lighting shall be exempt from these turn-off requirements.

107-3.16 Prohibited Outdoor lighting.

- A.** The *use*, installation, sale of any mercury vapor *lamps* is prohibited per AR §49-1104.
- B.** The *use* of laser source light or any similar high intensity light for outdoor advertising or entertainment when projected above the horizontal is prohibited.
- C.** The operation of searchlights for advertising purposes in the LZ2 lighting zone is prohibited between ten (10:00 p.m.) and sunrise the following morning and prohibited at all times in lighting zones LZ1 and LZ0.
- D.** Bottom-mounted outdoor sign lighting attached to the sign shall not be *used*.

ARTICLE 4 – PARKING AND LOADING REGULATIONS

107-4.1 Purpose and Applicability.

- A. The purpose of this article is to set standards for *off-street parking* and loading requirements for *new construction* and the expansion of or changes to existing *uses*. The city sets both minimum and maximum levels to avoid congestion on surrounding *streets* while avoiding excessive on-site parking. *On-street* parking is also encouraged in some locations in order to provide a *buffer* between pedestrians and vehicular traffic.
- B. *Applicability*. The standards herein apply to all residential, commercial, industrial and public *uses*.
- C. The Community Development Director or designee shall determine the parking and loading requirements for *uses* that do not correspond to the categories listed in **Table 107-4b** and **Table 107-4d**. In such instances, the *applicant* shall provide adequate information by which the proposal can be reviewed, which includes but may not necessarily be limited to the following:
 - 1. Type of *uses*.
 - 2. Number of employees.
 - 3. *Building* design including square footage of public areas, *sales areas*, *display area*, service area, restricted areas, and *ancillary* outdoor spaces.
 - 4. *Parking spaces* proposed on site.
 - 5. *Parking spaces* provided elsewhere.
 - 6. Hours of operation.

107-4.2 General Provisions

- A. Calculations for the minimum number of required spaces shall be based on Gross Floor Area (GFA) that combines the total square footage of all the *uses*, multiple *uses*, and *accessory uses*; which may include, but is not limited to, the floor areas of the *building(s)*, outdoor activities and dining areas, storage areas, and all sales *display areas*.
- B. When units or measurements determining the number of required *off-street parking* and *loading spaces* result in a fractional space, then such fraction equal or greater than one-half (1/2) shall require a full *off-street parking space*.
- C. With the exception of a *shared parking* agreement, *off-street parking* facilities shall be located on the same *lot* as the *use* they are intended to serve.

- D. All vehicular egress from parking *lots*, *parking structures*, or from any development site to a public *right-of-way* shall be by a forward motion only. All *parking areas* shall be designed with a turnaround area that permits vehicles to turn around without utilizing a *parking space* to do it or without backing onto the public *right-of-way*. Exceptions may be made for a residential *use* in the R-1 or R-2 *Zoning district* that load onto collector or local *ROW*.
- E. Only spaces that are designed consistent with this section are counted toward the minimum number of required *parking spaces*. Spaces at fueling pumps, bays for auto repair/service, and drive through aisles are not counted toward the minimum parking required.
- F. In lieu of *parking spaces applicants* may participate in a parking improvement district or make payments to a parking fund specifically set aside to provide public parking within one-quarter mile (1/4 mi) of the exterior boundaries of the proposed development. The amount of the payment for each space shall be established by a resolution of the City of Surprise and shall be reasonable and based on the actual or estimated cost to provide such spaces. No development approvals shall be issued until improvement district agreement is secured or the complete payment to the parking fund has been received by the City of Surprise.
- G. Provisions in this Article shall work in support of Chapter 54 of the Municipal Code. In the event of conflicting regulations, the more restrictive shall be applied.
- H. Any *use* not in compliance with the requirements of this Article will be a violation of this Ordinance.

107-4.3 R-1 and R-2 Residential Provisions

- A. Required *off-street parking* shall be utilized solely for the parking of licensed and operable passenger vehicles and in addition to Chapter 54, Article IV of the Municipal Code the regulations below shall apply:
 - 1. The *recreational vehicle* or utility trailer stored in the rear or *side yard* shall be behind the front line of the primary *structure*.
 - 2. Placement of a *recreational vehicle* or utility trailer in other than the rear or *side yard* for loading and unloading purposes may be permitted for a period not to exceed seventy-two (72) hours up to two (2) times per month.
 - 3. No person shall *park* a *truck* on any *lot*, except while loading and unloading the *truck*, while services are being provided to the residence by the *truck's* occupant, or for a period of time to exceed twenty (24) hours.

- B. The required *off-street parking spaces* shall not be *used* for storage of commercial equipment.
- C. Residential parking and driveway areas shall be constructed and maintained, with the required *parking space(s)* being located on and *accessed* by a dust-proof surface.

107-4.4 Multi-family, Mixed use, and Non-residential use Provisions

- A. The minimum number of required *off-street parking spaces*, as outlined in **Table 107-4d**, may be reduced by the number of *on-street parking spaces abutting* the property lines of the *lot* or *parcel*.
- B. *Off-street parking* facilities shall be designed, constructed, and maintained in accordance with Volume 1 of the PEDS and the specifications described below:
 - 1. Parking, loading, and driveway areas will be paved with asphalt, brick, concrete, or other approved surfaces of comparable durability.
 - 2. Parking, loading, and driveway areas will be *graded* and drained utilizing Low Impact Design (LID) methods and water harvesting of surface water run-off for watering of the required landscaping.
 - 3. Parking is prohibited in required *setback* and landscape areas.
- D. *Off-street parking* facilities shall provide landscape islands and landscape medians/walkways to provide shade trees and aid in capturing storm water as follows:
 - 1. One parking *lot* island with one foot (1') of ribbon curbing shall be provided every ten (10) *parking spaces* and at the end of each parking row.
 - 2. Landscaped medians/walkways shall be provided for every third double rows of parking when the parking exceeds thirty (30) spaces per row.
 - 3. Where wheel stops are not *used* the width of the *abutting* landscape median or sidewalk shall be increased in by at least two feet (2').
 - 4. Exceptions may be made for *parking spaces* that are covered utilizing solar panels as the shade *structure*.
- E. When permitted in commercial or industrial *zoning district* parking and storage of *trucks* shall be within the *screened* storage area or a loading zone of an approved *site plan* and under the specific conditions outlined within the Surprise Municipal Code.

107-4.5 Dimensions

- A. All vehicular *parking space* and *drive aisle* dimensions within on-site parking *lots* shall be as outlined in **Surprise PEDS Standard Detail**; except for spaces identified below.
1. Motorcycle, Scooter, and Golf Cart. *Parking spaces* shall be a minimum of five feet wide by nine feet deep (5'x9'). Parking *lots* with forty (40) *parking spaces* or more may substitute up to two and half percentage (2.5%) of the standard *parking spaces* with motorcycle, scooter, and/or golf cart spaces.
 2. Compact vehicles. Compact vehicles shall be a have the dimensions of eight feet in width and sixteen feet in length (8'x16'). Up to thirty percent (30%) of the required *parking spaces* may be designated for *use* by compact vehicles. Each compact vehicle *parking space* shall be identified with a sign or pavement marking.
- B. Landscape Islands. Each landscape island shall be a minimum width of six feet and length of fifteen feet (6'x15'), measured from back of curb to back of curb.
- C. Landscape Median/Walkways. Each median shall be a minimum width of fifteen feet (15'), measured from back of curb to back of curb.
- D. Off-street loading spaces. The number of such required spaces is outlined in **Table 107-4a** and the dimensions, exclusive of *access* or maneuvering area, *platform*, and other appurtenances, are as follows:
1. Each large space shall have an overhead clearance of at least fifteen feet (15'), shall be at least twelve feet wide and at least fifty feet (12'x50') long.
 2. Each small space shall have an overhead clearance of at least ten feet (10'), shall be at least eight feet wide and at least feet long (8'x20').

107-4.6 Bicycle Parking

- A. Bicycle spaces will be provided at the rate of one (1) bicycle space for every 20 vehicle *parking spaces* in accordance with the below specifications; with the exception of residential *uses* in RR, R-1, and R-2 *zoning districts*.
1. Bicycle racks and other fixtures must be securely affixed to the ground and allow for the bicycle to be locked and chained.
 2. Bicycle spaces shall be located within fifty feet (50') of the primary entrance on paved, drained, and well lighted area. If required bicycle spaces are not visible from the *street* or vehicle *parking area*, *signs* must be posted indicating their location.
 3. The location and design of bicycle racks and fixtures shall be included and identified on *site plans*.

4. Bicycle racks may be *used* as an architectural embellishment or functional art piece to coordinate with the site or land *uses*.

107-4.7 Off-street loading

- A. *Off-street loading* facilities are required for all *structures* and/or developments containing non-residential *uses* and shall be constructed, maintained, and operated in accordance with the specifications described in this article.
- B. When *off-street loading areas* are *abutting* residentially zoned areas, *truck* usage is only to occur between the hours of 6:00 a.m. to 9:00 p.m.
- C. *Off-street loading* spaces and appurtenances, such as but not limited to trash enclosures, compactors, and storage shall be *buffered* and *screened* by utilizing internal *site plan* design, *structures*, or *screen fences/walls* to ensure residential *uses* and pedestrian connectivity is not unreasonably disturbed by the movement of vehicles or noise of the activities either during the day or at night.
- D. The number of *off-street loading* spaces shall be based on the gross floor area of each *structure* as delineated in **Table No 107-4b**. The Community Development Director or designee may approve a reduced number of spaces based on the varied usage times by the individual *users* and the character of the merchandise. The loading spaces may be designed in a common *loading area*, not more than three hundred feet (300') from the service entrance for the *structure* or tenant space(s) for which they are provided.

Table 107-4a Loading Spaces for Commerce Structures/Centers

Gross Floor Area in <i>Structure</i>	Required Number of Spaces
0 up to and including 12,500	1 (small)
12,501 up to and including 25,000	2 (small)
25,001 up to and including 40,000	1 (large)
40,001 up to and including 100,000	2 (large)
For each additional 80,000 over 100,000	1 (large)

- E. The required *off-street loading* spaces will in all cases be on the same *lot* as the *use* they are intended to serve. In no case will required loading spaces be part of the area *used* to satisfy the parking requirement.
- F. *Off-street loading areas* shall be properly *graded* for drainage; surfaced with concrete, asphaltic concrete, or asphalt; and maintained in a clean and functioning condition free of weeds, trash, and debris.

- G. *Off-street loading areas* may require design with one-way entrances and exits to minimize traffic congestion.

107-4.8 Shared Parking and Loading

- A. *Off-street parking spaces* and *loading areas* required under this section may be provided cooperatively for two (2) or more *uses* in a development or for two (2) or more individual *uses* with a *shared parking* agreement, subject to the requirements of this section.
1. The quantity of *off-street parking spaces* provided under the *shared parking* agreement meet the minimum requirements of this Article.
 2. The *owner(s)* of the land to be included within the *shared parking* agreement shall submit an application and parking plan with the following information:
 - a. The name and signatures of all *owner(s)* and parties having a legal interest in all *structures*, land, and *uses* associated with the *shared parking* agreement.
 - b. The parking plan (as an Exhibit to the agreement) showing the location of the *uses* or *structures*, the design and layout of the parking facilities, and the schedule of times *used* by those sharing parking in common.
 - c. A written agreement between the *owners* and lessees for cross *access*, *ingress/egress*, loading and *shared parking* to be executed for a minimum of 20 years.
 3. Upon approval, the *shared parking* agreement and parking plan will be recorded with the Maricopa County Recorder.
 - a. Should the lease expire or terminate, the *uses* for which the *off-site* parking provided shall be considered *nonconforming* with this article including *CUPs*, which may be subject to a standard *CUP* revocation process.
 - b. Continuation or expansion shall be prohibited unless the *use* is brought into compliance with the parking regulations of this article.
 4. Pursuant to the same procedure and subject to the same limitations and requirements by which the *shared parking* agreement and plan was approved and registered, any such agreement and plan may be amended or withdrawn, either partially or completely, if all land and *structures* remaining under such plan comply with all the conditions and limitations of the agreement and plan, and all land and *structures* withdrawn from such agreement and plan comply with the regulations of this article.
- B. *Off-street parking* requirements of a given *use* may be met with an *off-site* parking facility that is within one thousand three hundred and twenty feet (1,320') provided the following:
1. The *owners/applicants* have submitted the appropriate parking funds to the City for the necessary *parking spaces* within a public parking facility.
 2. The *owners/applicants* have submitted a signed agreement to participate in a parking improvement district for which the *public facility* is included.

- C. *Recorded plats* shall convey, within the dedication statement, agreement to *shared parking* and *ingress and egress* as follows:
 - 1. “Owner hereby grants to the ultimate *owner* of each *parcel* created by this *plat* an easement over, upon and across the entire *plat* for the purpose of providing continuous and uninterrupted *ingress and egress* and parking to each *parcel* created by this *plat*”.
- D. *Commerce centers* that contain *uses* designed around common circulation, parking, and pedestrian connectivity may replace the quantity of required parking in **Section 107-4.9** according to **Table 107-4b**.

Table 107-4b Commerce Center Parking Standards		
<i>Zoning</i>	Min. Spaces per Non-residential GFA (square feet)	Min. Spaces per <i>Dwelling unit</i> (DU)
OC and C-1	1 per 400	
MU-1, MU-2, TND-MU	1 per 500	1.5
C-2, TND-C, SHD-CO	1 per 200	1
C-3	1 per 500	
I-1 and I-2	1 per 1000	

- 1. Projects that only utilize *shared access* or *access easements* without an overall design that incorporates *shared parking* and internal circulation do not qualify as a *Commerce center*.
- 2. *Commerce centers* that include more than two (2) *Medical Offices* shall still calculate the minimum required number of *parking spaces* per **Table 107-4c**

107-4.9 Minimum Off-street Parking Requirements

- A. Each individual land *use* within the different *zoning districts* and overlay *zoning districts* shall provide the required number of *off-street parking spaces* as described in **Table 107-4c** below.
- B. The Community Development Director or designee will determine if *uses* are significantly similar or dissimilar to particular *uses* not expressly listed in **Table 107-4c**. The parking requirement for *uses* that are significantly dissimilar to *uses* listed in **Table 107-4c** shall be determined by the Community Development Director or designee. In such instances, the *applicant* will provide adequate information by which the proposal can be reviewed, which includes but not limited to the following:

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1. Type of *use(s)*.
2. Number of employees.
3. *Building* design capacity.
4. Square feet of *sales areas* and service area.
5. *Parking spaces* proposed on site.
6. *Parking spaces* provided elsewhere.

Table 107-4c – Parking Standards

Uses	Min Off-street Parking spaces	Max Off-street Parking spaces
Residential		
<i>Assisted Living Center</i> (more than 10 residents)	0.5 per sleeping room	1 per room
<i>Assisted Living Home</i> (10 or less residents)???	2 per <i>dwelling unit</i> plus 0.5 per sleeping room	2 per <i>dwelling unit</i> plus 1 per sleeping room
Dormitory	0.5 per sleeping room	2 per sleeping room
<i>Dwelling, Live-work</i>	2 per DU	
<i>Dwelling, Multi-family</i> (4 or more)	Studio-1B=1/unit, 2+B=2.0/unit plus 1 per 250 sf of <i>office uses</i>	
<i>Dwelling, Single-family</i>	2 per DU	
<i>Dwelling, Two-family (Duplex)</i>	2 per DU	
<i>Dwelling, Three-family (triplex)</i>	2 per DU	
<i>Group Home</i>	Same as Residence	
Commercial		
Airport (private)	1 per 100 sf GFA of waiting room space or 2 spaces per craft staging/tie down pad	
<i>Amusement &/or Theme Park</i>	1 per 600 sf outdoor public activity area	1 per 500 sf outdoor public activity area
<i>Animal Boarding Facility</i>	1 per 375 sf GFA	
<i>Animal Clinic</i>	1 per 200 sf GFA	
<i>Animal Grooming</i>	1 per 200 sf GFA	

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Table 107-4c – Parking Standards

Uses	Min Off-street Parking spaces	Max Off-street Parking spaces
<i>Animal Hospital</i>	1 per 200 sf GFA	
<i>Animal Shelter</i>	1 per 300 sf GFA	
<i>Athletic or Fitness Club (Commercial)</i>	1 per 250 sf GFA	1 per 100 sf GFA
<i>Bank</i>	1 per 250 sf GFA	
<i>Bar</i>	1 per 100 sf GFA	
<i>Bus Terminal</i>	Determined by <i>Site Plan</i>	
<i>Catering Services</i>	1 per 500 sf GFA	
<i>Cemetery and Mausoleum</i>	Determined by <i>Site Plan</i>	
<i>Cemetery, Pet (Limited to small animals)</i>	Determined by <i>Site plan</i>	
<i>Club, Private</i>	1 per 300 sf GFA	
<i>Community Facility</i>	3 spaces when on-street parking is prohibited or 1 per 500 sf GFA	
<i>Community garden</i>	2 spaces when on-street parking is prohibited or 1 per 500 sf GFA	
<i>Day care Center (Child or Adult)</i>	1 per 375 sf GFA	1.5 per 375 sf GFA
<i>Entertainment Establishment - Indoor</i>	Bowling, billiards, pool, etc. 2 per lane or gaming table	
	Miniature golf establishment-1 per hole	2 per hole
	1 per 4 seats or 1 per 50 sf GFA of if no permanent seats	1 per 2 seats or 1 per 25 sf GFA of if no permanent seats
	Skating rinks-1 per 200 sf GFA	1.5 per 200 sf GFA
	Theater (movie and performance)-1 per 4 seats	
<i>Entertainment Establishment - Outdoor</i>	Miniature golf -1 per hole	2 per hole
	Driving Range - 2 per tee	
	1 per 4 seats or 1 per 50 sf of activity area if no permanent seats	1 per 2 seats or 1 per 30 sf GFA of if no permanent seats

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

Table 107-4c – Parking Standards

Uses	Min Off-street Parking spaces	Max Off-street Parking spaces
<i>Fairground/Stadium</i>	TBD by Parking Study with <i>Site Plan</i>	
<i>Funeral Home, Mortuary</i>	1 per 4 seats	1 per 2 seats
<i>Galleries, Museums</i> (including display & production space)	1 per 1,000 sf GFA	1.5 per 1,000 sf GFA
Golf Course (public or private)	2 per hole plus <i>ancillary uses</i>	
Gunsmith	1 per 400 sf GFA	
<i>Hotels, Motels, Resort</i>	0.8 per room plus 1 per 800 sf GFA of public meeting area and <i>restaurant space</i>	1 per room plus 1 per 400 sf GFA of public meeting area and <i>restaurant space</i>
Library	1 per 500 sf GFA plus <i>ancillary uses</i> (i.e. <i>places of assembly</i>)	
Medical <i>Hospital</i> , Overnight Surgical Facility	1 per 400 sf GFA	1 per 100 sf GFA
Medical Marijuana <i>Off-site</i> Cultivation Facility	1 per 1000 sf GFA of activity area	
<i>Medical marijuana dispensary</i>	1 per 400 sf GFA	
<i>Medical marijuana infusion facility</i>	1 per 1000 sf GFA of activity area	
<i>Medical Office (Health Care Facility)</i>	1 per 200 sf GFA	1 per 100 sf GFA
<i>Microbrewery, Distillery, Winery</i>	1 per 100 sf GFA	
<i>Nursing care facility</i>	0.5 per room	1 per room
<i>Office</i>	1 per 250 sf GFA	1 per 140 sf GFA
<i>Park, Recreation, and Open Lands</i>	1 per 1000 sf GFA of activity area	
<i>Park and Ride</i>	TBD by Parking Study with <i>Site Plan</i>	
<i>Parking Lot, Parking structure</i>	TBD by Parking Study with <i>Site Plan</i>	
<i>Personal service</i> Establishment	1 per 400 sf GFA	
<i>Places of Assembly</i>	1 per 4 seats or 1 per 50 sf GFA of if no permanent seats	1 per 2 seats or 1 per 30 sf GFA of
<i>Places of Worship</i>	1 per 4 seats or 1 per 50 sf GFA of if no permanent seats	1 per 2 seats

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

Table 107-4c – Parking Standards

Uses	Min Off-street Parking spaces	Max Off-street Parking spaces
<i>Plant Nursery</i>	1 per 400 sf GFA of sales areas and service building	1.5 per 375 sf GFA of sales and service building
Post Office	TBD by Parking Study with <i>Site Plan</i>	
<i>Public Facility</i>	TBD by Parking Study with <i>Site Plan</i>	
Racetrack	1 per 4 seats or 1 per 50 sf GFA of if no permanent seats	1 per 2 seats or 1 per 30 sf GFA of
<i>Recreational vehicle (RV) Park</i>	1 per 4 camp sites, plus 2 per laundry and shower facility (camping related establishments) and 1 space <i>adjacent</i> to each lot	
<i>Recreational vehicles (RV) Storage</i>	1 per 20 RV parking space	
<i>Residential Care Institution</i>	0.5 per room	1 per room
Restaurant	1 per 100 sf GFA	1 per 50 sf GFA
Restaurant, Convenience/Take Out	1 per 150 sf GFA	1 per 75 sf GFA
<i>Repair Service Establishment</i>	1 per 400 sf GFA	1 per 200 sf GFA
Retail Shopping Establishment	1 per 400 sf GFA	1 per 200 sf GFA
<i>Schools: Pre-K through 12 (Private)</i>	2 per classroom, 1 per 6 students for grades 10-12	3 per classroom 1 per 2 students for grades 10-12
<i>Schools: Universities or Colleges (Public or Private)</i>	1 per 4 students	1 per 2 students
<i>Schools: Vocational (Technical or Trade)</i>	1 per 200 sf GFA	1 per 150 sf GFA
<i>Self-storage facility</i>	Drive-up Storage-1 per 300 sf GFA of office/retail space Multi-story/climate controlled-1 per 50 storage unit	1 per 35 storage spaces
<i>Service Call Establishment</i>	1 per 400 sf GFA	
<i>Sexually Oriented Business</i>	1 per 400 sf GFA	
<i>Showroom/Sales Office</i>	1 per 400 sf GFA	

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

Table 107-4c – Parking Standards

Uses	Min Off-street Parking spaces	Max Off-street Parking spaces
<i>Shooting Range-Indoor Only</i>	2 per stall	
State Vehicle License & Inspection Station	TBD by Parking Study with <i>Site Plan</i>	
Tattoo and Body Piercing	1 per 400 sf GFA	1 per 200 sf GFA
Technology/ <i>Business</i> Incubator Space	1 per 300 sf GFA	
Utility Equipment Infrastructure	1 spaces when on-street parking is prohibited	
Utility Service Yard	TBD by Parking Study with <i>Site Plan</i>	
<i>Vehicle fueling station</i>	1 per 300 sf GFA retail areas	1 per 375 sf GFA , including service bays, wash tunnels, and retail areas
Vehicle Rental Facilities	1 per 500 sf GFA retail areas	1 per 200 sf GFA
<i>Vehicle sales & Leasing: New or used (Commercial, including Equipment)</i>	1 per 300 sf GFA of <i>office</i> and covered <i>sales areas</i>	1.5 per 375 sf GFA of sales and service <i>building</i>
<i>Vehicle sales & Leasing: New or used (OHV, motorcycles, boats, or similar)</i>	1 per 300 sf GFA of <i>office</i> and covered <i>sales areas</i>	1.5 per 375 sf GFA of sales and service <i>building</i>
<i>Vehicle sales & Leasing: New or used (Personal)</i>	1 per 300 sf GFA of <i>office</i> and covered <i>sales areas</i>	1.5 per 375 sf GFA of sales and service <i>building</i>
<i>Vehicle service: Major Repair</i>	1 per 500 sf GFA, including service bays, wash tunnels, and retail areas	1 per 375 sf GFA, including service bays, wash tunnels, and retail areas
<i>Vehicle service: Minor Repair</i>	1 per 500 sf GFA , including service bays, wash tunnels, and retail areas	1 per 375 sf GFA , including service bays, wash tunnels, and retail areas
<i>Vehicle washing facilities</i>	1 per 300 sf GFA <i>office</i> and retail areas OR Self-serve car washes-3 per property	
Wireless Telecommunication Facilities	1 space per facility *excluding <i>small wireless facility</i>	
Zoo & Exotic Animal Keeping	TBD by Parking Study with <i>Site Plan</i>	

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

Table 107-4c – Parking Standards

Uses	Min Off-street Parking spaces	Max Off-street Parking spaces
Employment/Industrial		
<i>Agricultural operations</i>	1 per 1,500 sf GFA	
Auction–Vehicle (passenger, commercial) & heavy equipment	TBD by Parking Study with <i>Site Plan</i>	
Batch Plant, Paving Material Mixing Plant	TBD by Parking Study with <i>Site Plan</i>	
Brick, Clay, Concrete, or Similar Product	TBD by Parking Study with <i>Site Plan</i>	
<i>Contractor’s Yard</i>	1 per 1,000 sf GFA plus 1 per 400 sf GFA of sales and service <i>building</i>	
<i>Correctional Institutions/Facilities</i>	TBD by Parking Study with <i>Site Plan</i>	
Data Center	TBD by Parking Study with <i>Site Plan</i>	
<i>Equestrian center, Commercial Stables</i>	1 per 3 stalls	
<i>Farm and Heavy Equipment Sales, Service or Storage</i>	1 per 300 sf GFA of <i>office</i> and covered <i>sales areas</i>	
Feed and Tack Sales	1 per 400 sf GFA	
<i>Fleet-Based Services</i>	TBD by Parking Study with <i>Site Plan</i>	
Food <i>Manufacturing & Processing</i>	1 per 1,500 sf GFA	
<i>Freight Depot/Distribution Center</i>	1 per 1,500 sf GFA	
Grain Processing; including Milling, Drying, Storage	1 per 1,500 sf GFA	1 per 300 sf GFA
<i>Laboratory—Research and Testing Facility</i>	1 per 1,500 sf GFA	
Laundry, Dry Cleaning: Bulk Operation (Pick-Up & Delivery)	1 per 1,500 sf GFA	
Machine Shop, Welding Shop	1 per 1,000 sf GFA	
<i>Manufacturing</i>	1 per 1,500 sf GFA	1 per 300 sf GFA
<i>Manufactured home Sales, Portable Building, (new only)</i>	1 per 375 sf GFA of sales and service <i>building</i>	1.5 per 375 sf GFA of sales and service <i>building</i>
<i>Mining and Mineral Extraction</i>	1 per 300 sf GFA of <i>office</i> and covered <i>sales areas</i> plus <i>ancillary uses</i>	
Moving Company	1 per 300 sf GFA of <i>office</i>	

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

Table 107-4c – Parking Standards

Uses	Min Off-street Parking spaces	Max Off-street Parking spaces
<i>Plant Nursery</i> (Growing Facility & Wholesale)	1 per 1,000 sf growing area plus 1 per 400 sf GFA of sales and service building	
Oversized and Recreational (RV) <i>Vehicle sales</i> and Service Sales	1 per 375 sf GFA of sales and service building	1.5 per 375 sf GFA of sales and service building
<i>Printing Plant</i> (commercial scale)	TBD by Parking Study with <i>Site Plan</i>	
<i>Recycling, Collection Facility</i>	TBD by Parking Study with <i>Site Plan</i>	
<i>Recycling, Processing Facility</i>	TBD by Parking Study with <i>Site Plan</i>	
Sand and Gravel Operation	1 per 300 sf GFA of office and covered sales areas plus ancillary uses	
Sanitary Landfill	TBD by Parking Study with <i>Site Plan</i>	
Stone Product Curing, Fabrication	1 per 1,500 sf GFA	
Tank Farm	1 per 600 sf GFA	1 per 350 sf GFA
Taxidermist	TBD by Parking Study with <i>Site Plan</i>	
Testing Facility	TBD by Parking Study with <i>Site Plan</i>	
Tile, Roofing & Waterproofing Production	1 per 1,500 sf GFA	
<i>Truck Stop</i> (full service & repair permitted)	1 per 500 sf GFA , including service bays and retail areas	
Vehicle Towing & Impound Lot	1 per 300 sf GFA of sales and service building	
<i>Warehouse/Distribution</i>	1 per 600 sf GFA	1 per 350 sf GFA
Water Aquafer Recharge/Storage Facility	TBD by Parking Study with <i>Site Plan</i>	
Water Reclamation or Wastewater Facility	TBD by Parking Study with <i>Site Plan</i>	
Wholesale Shopping	1 per 400 sf GFA	
Accessory uses		
<i>Accessory dwelling unit (ADU)</i>	1 per ADU plus spaces for primary residence	

Table 107-4c – Parking Standards		
Uses	Min Off-street Parking spaces	Max Off-street Parking spaces
Cottage Industries	2 plus spaces for primary residence	

ARTICLE 5 – WIRELESS FACILITIES REGULATIONS

*THE TEXT FOR THIS SECTION IS BEING SEPARATE REVISED AND AMENDED AS PART OF CASE NUMBER **FS20-114**. AFTER APPROVAL BY THE PLANNING AND ZONING COMMISSION AND THE CITY COUNCIL, THAT TEXT WILL BE FORMATTED TO MATCH THE LDO AND INCLUDED IN THIS ARTICLE*

CHAPTER 108 - LAND DIVISION AND SUBDIVISION REGULATIONS

ARTICLE 1 – GENERAL PROCESS AND OVERVIEW

108-1.1 Purpose and Intent.

- A. The purpose of the Land Division and Subdivision Regulations is to ensure that all development conforms to the goals, objectives, and requirements adopted and contained in the Surprise *General Plan*. Specific land division considerations include the location and shape of the site, proposed *lot* and/or tract size, *lot* orientation, circulation and *street* layout, area drainage, and legal as well as physical *access*. Further that all subdivision projects provide legally established *lot(s)* that comply with the specific *zoning district* requirements; all *lots* provide legal as well as physical *access*; that each development provides the required public infrastructure; to ensure that adequate provisions for utility services, utility easements, *roadways* that meet PM10 nonattainment area requirements, and other health and safety concerns are addressed.
- B. Additionally, all land division and subdivision projects are reviewed to ensure that they address any environmental concerns that may arise including but not limited to, water quality and *floodplain* concerns, native vegetation and *habitat* conservation and maintenance, the proposed site grading, and the protection of *environmentally sensitive features*.

108-1.2 General Provisions.

- A. Recording any assemblage, split, or subdivision of land with the Maricopa County Recorder's Office, without prior review and approval by the City in accordance with the provisions of this Ordinance will not create a legal *lot* and *building permits* will not be issued.
- B. All land divisions and subdivisions must result in the creation of *lots* that are developable and capable of being built upon. No land division or subdivision shall create *lots* that are impractical of improvement due to location of water courses, problems of *sewerage* or driveway *grades*, steepness of terrain, or natural physical conditions.
- C. Where, in the opinion of the Council, and after review by the Community Development Director and/or Planning and Zoning Commission, there may exist extraordinary conditions of topography, land *ownership* or *adjacent* development, or other circumstances not provided for in the LDO or this Chapter, the Council may modify these provisions in such a manner and to such an extent as it may deem appropriate to the public interest. In modifying the standards or requirements the Council may make such additional requirements as appear

necessary to secure substantially the objectives of the standards or requirements so modified.

- D. The regulations herein apply to subdivisions and any other division of land within the City of Surprise creating a legally developable *lot*. For a legally enforceable division or assemblage of property to occur in the City of Surprise, any properties assembled, split, or *subdivided* must be approved by the city through one (1) of the following means:
1. *Map of dedication*;
 2. *Minor land division, lot line adjustment, or parcel assemblage*;
 3. Subdivisions;
 4. Condominium *plat*.

108-1.3 Map of dedication.

- A. A *map of dedication* may be *used* to dedicate land to the city or other public agency or to grant an easement to the city for *roadway*, drainage, flood control, utilities, emergency or service vehicle *access*, or other public *uses*.
- B. A *Map of dedication* shall be *used* for the purpose of dedicating property to the city or public agency such as but not limited to *street rights-of-way*
- C. A *map of dedication* will be prepared and processed in accordance with procedures and requirements for a subdivision *final plat*.

108-1.4 Minor land division, Lot line Adjustment, or Parcel assemblage

- A. The provisions of a *minor land division* will only apply to *original lots*.
- B. The Community Development Director or designee will determine the specific *final plat* submittal requirements necessary for appropriate review of the *minor land division, lot line adjustment or parcel assemblage* at the time of the concept review meeting.
- C. If the Community Development Director or designee in concurrence with the City Engineer finds that the proposed *minor land division, lot line adjustment, or parcel assemblage* meets all of the requirements of the LDO and the PEDS, the *final plat* will be approved and the Director and City Engineer will date and sign the approval block on the *final plat*.
- D. After approval, City will record the *final plat* and the *applicant* will pay to the city the fee charged by the Maricopa County Recorder.

- E. An *applicant* aggrieved by the decision of the Community Development Director may file for an appeal of the decision to the Board of Adjustment.

108-1.5 Subdivisions.

- A. The standard *subdivision* process involves both a *preliminary plat* and a *final plat* process
1. A proposed division of improved or unimproved land or lands divided for the purpose of financing, sale or lease, whether immediately or in the future, into four (4) 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 four (4) parts.
 2. If a new *street* is involved, a proposed division of improved or unimproved land or lands divided for the purpose of financing, sale or lease, whether immediately or in the future, which is divided into two (2) or more lots, tracts or parcels of land.
 3. If the boundaries of which have been fixed by a recorded plat, a proposed division into more than two (2) parts of improved or unimproved land or lands divided for the purpose of financing, sale or lease, whether immediately or in the future.
 4. A standard land division also includes any condominium, cooperative, community apartment, townhouse or similar project containing two (2) 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 Community Development Director or designee may at their discretion allow a concurrent submittal of both the preliminary and *final plats* when, in their judgement, the project scope is minor and the concurrent submittal will not cause problematic coordination between the preliminary and *final plat*. In the event that a change of *zoning* is necessary, the *zoning* application and subdivision may be processed concurrently, but in no event will the *preliminary plat* be approved until the change of *zoning* is adopted by the Council.
- C. *Preliminary plat* Overview.
1. The *preliminary plat* stage of land division involves detailed land division planning, including the submittal, review (by staff and Commission), and approval of the *preliminary plat* by the City Council. The *applicant* shall provide the City with all information, outlined at the *preliminary plat* concept review meeting and the information listed in Article 2 herein,

essential to determine the character and general acceptability of the proposed development.

2. *Preliminary plat* approval constitutes authorization for the *subdivider* to proceed with preparation of the *final plat* and the engineering plans and specifications for *public improvements*. *Preliminary plat* approval **does not** authorize the *developer* to begin site preparation and grading, or any similar such work **unless authorized in writing** by the City Engineer or designee. Preliminary approval is based upon the following:

- a. The *preliminary plat* shall be valid for twelve (12) months from the date of approval. The *applicant* may apply in writing for a single, twelve (12) month extension to be granted by the Community Development Director or designee if in the opinion of the Director there is no change in conditions within or adjoining the *preliminary plat* that would warrant a revision in the design of the original *preliminary plat* and that substantial progress has been made towards the *final plat*.
- b. The approval of the *preliminary plat* that was granted shall not be substantially changed prior to the expiration date and subsequent *final plat*. If the *preliminary plat* has expired and/or substantial changes have been made the land area shall not be allowed to proceed with *final platting* until a new *preliminary plat* is submitted and approved.
- c. Preliminary approval, in and of itself, does not assure final acceptance of *streets* for dedication nor constitute authorization to record the *plat*.

D. *Final plat* Overview.

1. The *final plat* stage of land division involves submittal, review and approval of the *final plat*, the improvement plans for all improvements required by ordinance and Council, and recording of the *plat* with the County Recorder.
2. The *applicant* shall provide the City with all information, outlined by the Community Development Director or designee in conjunction with the *final plat* concept review meeting and consistent with information outlined in Article 3 herein, essential for review of the improvement plans and *final plat*.
3. The *final plat* shall conform to the approved *preliminary plat* and/or *site plan/Conditional use Permit*.
4. Prior to the *final plat* being placed on the Council's agenda for action the following must have occurred:

- a. The City Engineer or designee has approved the associated improvement plans and related final reports; and,
 - b. Letters from all involved utility companies approving the utility installation improvement plans and confirming both the availability of services and the intent to serve the subdivision with said services have been received by the City; and
 - c. All required certifications from State and County agencies have been procured; and
 - d. The City Engineer has received the project cost estimate; and
 - e. The Community Development Director has received the *financial assurance* document or the *Alternative Improvements Contract*, per the development option chosen, in the form and amount to the City's satisfaction; and
 - e. Documents, easements, and the necessary recording fees have been submitted; and
 - f. In the event the *Final plat* or *Map of dedication* includes the dedication of *rights-of-way* to the City, a completed Phase I Environmental Assessment that has been prepared within the previous 90 days and which indicates no contaminations occurring within the *right-of-way* to be dedicated.
5. Once the City Council approves the *final plat*, the Mayor shall sign the *plat* and the City Clerk shall attest the Mayor's signature.
 6. The *final plat* will be transmitted by City staff to the County Recorder's Office for recording; at the appropriate time and depending upon the development option being utilized as outlined below.
 7. The simple approval by the City Council of a *final plat* shall not constitute acceptance of dedication by the city of any *street*, easement, or other public area, shown on said *plat*. Recordation of a *final plat* shall constitute such acceptance and a statement of dedication along with signatures shall be included on the *plat*.

E. Amended or Corrected *Final plat* Overview.

1. If, after the approval and recording of a *final plat*, errors are found in the language or numbers on the *recorded plat*, the *subdivider/applicant* shall file a properly signed, corrected or revised original Mylar with the Community Development Director. The *plat* shall be noted "Corrected *Plat*" under the name of the subdivision. Notations shall be made on the face of the *plat* listing all corrections made and the book and page numbers

where the original *plat* was recorded. The Community Development Director shall review the *plat* for corrections, secure the signatures of the proper public officials on the corrected *plat* and present the *plat* to the City Council for the reaffirmation of their approval and to the Maricopa County Recorder for recording. The recording of the corrected *plat* shall void the incorrect original *plat*, and the Maricopa County Recorder shall note "Void" across the face of the incorrect *plat*.

2. If, after the approval and recording of a *final plat*, a *subdivider/applicant* wishes to modify the location of *lot lines* on part or all of the *recorded plat*, the *subdivider/applicant* shall submit a new *final plat* drawing with the revised *lot* arrangement. The *plat* shall be marked the "Replat of _____" under the name of the land division and shall be processed as a *final plat*. If the change is found to be substantial by the Community Development Director, a new *preliminary plat* and *final plat* will be required as described herein.
3. If, after the approval and recording of a *final plat*, the *subdivider/applicant* wishes to substantially change the *street* and *lot* arrangement of a part or all of the *platted* area, the resulting subdivision shall be treated as a new submittal with both a *preliminary plat* and a *final plat* required. The subdivision shall be identified as the "Replat of _____."

- F. Exception. For any subdivision that consists of four to ten lots, tracts or parcels, each of which complies with the size requirements of this LDO, it may proceed without the requirement to prepare, submit and receive approval of a preliminary plat as a condition precedent to submitting a final plat. Requirements for dust-controlled access and drainage improvements shall not be waived.

108-1.6 Condominium Plats

- A. The application and processing requirements outlined for both *preliminary plat* and *final plat* shall apply to all condominium developments.
- B. The *developer* shall submit any plans, specifications and analysis needed to show that the proposed condominium subdivision is in compliance with the LDO and the design standards in the PEDS. The submittal material shall clearly indicate the location of the *buildings*, the manner in which the airspace is to be divided when conveying the condominium clearly defined, and may include grading plans, *site plans*, floor plan, *elevations*, and improvement plans.

108-1.7 Abandonment of Recorded Subdivision.

- A. Pursuant to provisions of Title 28, Chapter 14, Article 1, Subsections 28 - 1901 through 28 - 1908, ARS, the abandonment of all or part of a recorded subdivision

may be initiated by written petition to the Council, said petition to be signed by all *owners* of real property in said subdivision requesting abandonment of all *streets, alleys* and easements within said subdivision and giving the legal description and recording information thereof.

- B.** Applications for abandonment of a recorded subdivision are filed with the Community Development Director and referred for recommendation to the appropriate city departments and utility companies concerned. After approval of the abandonment of the *streets, alleys* and easements by the Council and upon recordation of the abandonment Resolution the subdivision is removed from official maps.

ARTICLE 2 – REPORTS, PLANS, AND DESIGN STANDARDS

108-2.1 General Requirements.

- A. The development standards of the *zoning district* as well as the City's Parks and Trails Master Plan, the Integrated Water Master Plan, both Volume 1 and Volume 2 of the Planning and Engineering Design Standards (PEDS), and any supplemental design criteria that may be adopted by the city from time to time shall be followed when designing any subdivision.
- B. Except where modified by the City Council, upon recommendation by the Planning and Zoning Commission, each subdivision and map thereof shall also be in conformity with the standards set forth in this Article. Unless otherwise noted herein, this article shall apply to all new residential and non-residential subdivision development within the City of Surprise.
- C. In addition to ordinances and standards adopted by the City of Surprise, subdivision improvements shall be in conformance with the following rules and regulations:
 - 1. Rules of the Arizona Department of Transportation (ADOT) relating to provisions for the safety of *ingress and egress* with the *abutting* state highway.
 - 2. Rules of the Flood Control District of Maricopa County (FCDMC) and where applicable, rules of the Maricopa County Department of Transportation, the Arizona Department of Water Resources, Federal Emergency Management Agency, and the National Flood Insurance Program.
 - 3. Rules of the Arizona Department of Health, Arizona Department of Environmental Quality, the Maricopa County Department of Health and Maricopa County Environmental Services Department as they relate to water supply, sanitary sewage disposal, and dust control.
 - 4. Manual on Uniform Traffic Control Devices (MUTCD) standards and guidelines
 - 5. Maricopa Association of Governments (MAG) standards and guidelines unless modified within the Surprise PEDS.
- D. Where a tract of land to be *subdivided* contains all or any part of a *park, school, flood control facility, or other public improvement* or facility as shown in the *General Plan*, or as recommended by the Planning and Zoning Commission, such site shall be either dedicated to the public or reserved for acquisition by the city, appropriate public agency, or land trust within a specified time period. A development agreement shall be prepared between the *subdivider* and the city, appropriate agency, or land trust regarding the time, method and cost of land acquisition. Said acquisition shall be completed within one (1) year from the date

of recording the *final plat*, or within such extensions of time as may be mutually agreed upon. In the event a development agreement cannot be reached between the *subdivider* and the city, agency, or land trust relative to the acquisition of the land, the City Council shall make a determination relative to the reserved area's compliance with the requirements of this chapter for subdivision.

- E. Land that is subject to periodic flooding, cannot be properly drained, has unstable soils or slopes, rock formations, adverse earth formations or topography, major utility easements or land which is otherwise unsuitable for subdivision *use* due to safety, health and welfare concerns, shall not be *subdivided* but shall be set aside for *uses* that shall not involve such a danger. The City Council may approve subdivision of such land upon receipt of evidence provided by the *applicant* and approved by the City Engineer or designee that the construction of specific improvements can be expected to render the land suitable; thereafter, construction upon such land shall be prohibited until the specified improvements have been planned and construction guaranteed.
- F. All land proposed for subdivision and development within the city shall be served by services and infrastructure. No *building permit* shall be issued for development of a subdivision not served by existing infrastructure, or proposed extensions thereof. In no case shall temporary package water and/or *sewer* treatment plants be permitted as a means of providing water and *sewer* service to the development, unless designated in the Integrated Water Master Plan and approved by the Water Resource Director.
- G. A proposed subdivision name shall not duplicate, or approximate phonetically, the name of any other subdivision located within the city, unless a clear distinction between the two (2) subdivisions is evident. The City Council shall have final authority to designate the name of the subdivision which shall be determined at the *preliminary plat* approval.
- H. Any contiguous property owned by the *subdivider/applicant* shall not be excluded from the boundaries of a subdivision when needed or required for traffic, drainage, or flood control facility for the subdivision, or dedication of *rights-of-way*, unless said property is dedicated through a *Map of dedication* or other instrument acceptable to the City.
- I. If the subdivision is traversed by or is *adjacent* to any *water features* the *subdivider/applicant* shall provide tracts or easements for storm drainage substantially in line with the natural alignment of the *water features* and in designed in accordance with the PEDS.
- K. The *developer* shall be responsible for all costs, including improvement plan review fees, for installation of the improvements as a condition of *zoning* and/or *plat* approval which shall at least include, but not limited to, the improvements outlined in the following sections.

108-2.2 Specific Report(s) Required.

- A.** During evaluation of development proposal, the following reports may be required during the preliminary or *final plat* process
1. Drainage Report in accordance with the PEDS
 2. A geotechnical/soils report, when required, shall be submitted in a separate bound folder
 3. The Traffic Impact Analysis (TIA), when required, shall be prepared by an Arizona Registered Professional Engineer with experience in transportation and traffic engineering and submitted in a separate bound document; with the category of study listed on the cover.

108-2.3 Specific Plan(s) Required.

- A.** The *developer* will be responsible for the installation of all improvements. The improvement plans for these improvements shall be submitted as part of the *Final plat/Improvement Plan* application and shall include at a minimum improvement plans for the following:
- a. Water and Sewer Improvements (refer to **Volume 2, Chapter 9** of the PEDS for required plan information).
 - b. Paving, Grading, and Drainage Improvements (refer to **Volume 2, Chapter 9** of the PEDS for required plan information).
 - c. Dry Utility Improvements; including electric, telecommunications, gas, and *street* lights (refer to **Volume 2, Chapter 9** of the PEDS for required plan information).
 - d. All final reports listed in **Section 108-2.2** above.
- B.** A Preliminary Landscape and *Open space* Plan shall be submitted as part of the *Preliminary plat* application, as required in **Article 2** herein, and a Final Landscape and *Open space* Plan shall be submitted as part of the *Final plat/Improvement Plan* submittal package. The format and information required for both submittals can be found in **Volume 1, Appendix D** of the PEDS.

108-2.4 Circulation Design Standards.

- A.** Access Requirements:

1. No land division shall be approved unless the area to be divided has direct *access* to an existing *street*. Further, all subdivision developments must have dedicated *access* to the city's *arterial street* network or to a dedicated *street* that connects to the *arterial street* network. The *developer* of any property which does not have such *access* or connection to the improved *arterial street* network shall be required to improve the impacted intervening *streets* in accordance with the Planning and Engineering Design Standards (PEDS).
2. All *streets* that connect to the improved *arterial street* network shall include the width and improvements necessary to maintain a level of service "C" as defined in the *General Plan* and **Volume 2, Chapter 4** of the PEDS.
3. *Off-site* public *access* improvements shall be required for all primary *access* routes that will, in the judgment of the City Engineer or designee, carry the most trips (per travel mode) generated by the development as defined by the Traffic Impact Analysis (TIA) required herein. The City Engineer or designee shall utilize the transportation/circulation plan set forth in the Surprise *General Plan* as the basis for identifying the improvements to be made as a condition of approval of the development.
4. Where a subdivision borders on or contains an existing or proposed arterial or *parkway street*, the City shall require that *access* to such *street(s)* be limited and direct *access* to arterials or *parkways* shall be prohibited from residential *lots*; unless otherwise provided herein or as prescribed in Volume 1 of the PEDS.

B. General Design.

1. The *street* design will include multimodal travel as further outlined in this Ordinance and Volume One of the PEDS.
2. The location and arrangement of *streets*, *cul-de-sacs*, and *alleys*, and multiuse pathways in new subdivisions shall be in a manner that ensures maximum connectivity to permit the safe, efficient, and orderly movement of traffic, cyclists and pedestrians while presenting an attractive *streetscape* and respecting the natural features and topography of the site.
3. Whenever a tract of land to be *subdivided* encompasses any part of an arterial, *parkway*, or major *collector street* designated in the *General Plan Roadway* Functional Classification Plan, such *street* shall be *platted* in conformance therewith. *Street* layout shall provide for the continuation of such arterial, *parkway*, and *collector streets* as the *General Plan* or City Engineer may designate.

4. Unless prevented by topography or other physical conditions, all proposed *streets* and *multimodal* pathways shall be extended to the boundary of the subdivision being developed in order to provide future connection with adjoining lands.
5. *Streets* shall be so arranged in relation to existing topography as to produce desirable *lots* of maximum utility and to facilitate adequate drainage.
6. *Grades* of *streets* shall conform as closely as possible to the original topography, unless otherwise approved by the City Engineer.
7. Sidewalks shall be included within the dedicated non-pavement *right-of-way* of all *streets*. If public sidewalks are located outside of the *rights-of-way*, a public easement shall be recorded on the *final plat* for said path and/or sidewalk.
8. Installation of *streetlights* shall be in accordance with design and specification standards detailed in **Chapter 107, Article 3** of the LDO.
9. Curb location markers for refuse containers may be required in conjunction with certain development situations.

C. Types of Streets.

1. All chapters of Volume 1 of the PEDS contains circulation design standards varying by the type of *roadways* and *land uses*, and shall be adhered to for all types of subdivisions.
2. *Cul-de-sac*. The use of *cul-de-sacs* will generally be denied, exceptions may be allowed in those site-specific areas where topography or *environmentally sensitive lands* would prevent extension and connection to adjoining and surrounding *streets*.
 - a. Where a *cul-de-sac* is permitted, they must comply with the design standard provided in both Volume 1 and 2 of the PEDS.
 - b. When approved, the maximum length of any *cul-de-sac* shall be seven hundred fifty (750) feet or twenty (20) homes, whichever is more restrictive, as measured from the curb line of the intersecting *street* to the curb line at the end of the *cul-de-sac*, along the centerline.
3. *Alley*. *Alleys* in traditionally designed residential subdivisions are encouraged and shall be designed and arranged to provide a means of easement placement and *access* to *lots*. The *alley* shall contain the following characteristics

- a. Minimum *right-of-way* or easement width of twenty feet (20’);
 - b. A twelve-foot (12’) wide paved surface centered in the *right-of-way*, with pavement material, texture, pattern and strength selected to accommodate automobiles, garbage disposal *trucks* (when garbage pick-up is planned at the rear of the property), pedestrians, and bicycles;
 - c. A four-foot (4’) wide well-landscaped strips located on either side of the paved area of the *alley*. Landscaped strips shall contain a combination of trees and shrubbery and architectural lighting consistent with the character of the neighborhood. The placement, type, height and spacing of landscape and lighting shall comply with the landscape and lighting standards set forth in this Ordinance;
 - d. Opaque fencing along the rear property line *abutting* the *alley* line shall not exceed four feet (4’) in height, except *view fences* may be permitted up to six feet (6’) in height;
 - e. Ribbon curbs (no gutters) to permit natural recharge of groundwater shall be required; except or unless, because of drainage conditions, additional engineered measures are required by the city manager or designee to facilitate stormwater runoff and drainage;
 - f. No parking shall be permitted on an *alley* unless *parking bays* or pull outs *adjacent* to *garages* have been included and approved as part of the rear lane design; and
 - g. When the *alley* is also *used* to collect garbage, storage bins containing trash for pick-up shall be placed on a designated surface integrated into the design of the *landscape strip*, and that are easily accessible by waste removal vehicles.
4. *Private streets*. *Private streets* shall not be permitted, except within gated communities.
- a. Where *private streets* are approved, such *streets* shall be constructed to City specifications and the PEDS and shall be placed into specific “*street tracts*” of land. Statements shall be contained on the *plat* and in the deed restrictions declaring those *streets* as private and subject to an easement authorizing *use* by emergency and public service vehicles and public utilities.
 - b. Maintenance agreement. The city shall not maintain *streets*, *signs* or drainage improvements on *private streets*. A private maintenance agreement between the *developer* and the city that

is recorded by Maricopa County shall be required for any *private street* allowed. Said agreement shall clearly set forth the terms and conditions of responsibility for maintenance methods and standards, distribution of expenses, remedies for noncompliance with the terms and agreement, right-of-use agreements and other considerations. The agreement shall also create a *private street* maintenance fund and the annual assessment for property *owners* served by the *private street*. Said agreement may contain provisions for the establishment of an assessment district to maintain *private streets* in the event of a default by the property *owners*.

- c. Limits of liability. A statement shall be required on the face of any *plat* having an approved *private street(s)* that the *private street(s)* shall be maintained to city standards by the *developer* or an authorized homeowners' association at said *developer* or association's expense.
- d. Acceptance of *private streets* as *public streets*. No existing *private street* shall be accepted for designation as a *public street* unless it shall satisfy the following procedures and conditions:
 - (1) The subject area must be *platted* or *replatted* in order to dedicate *street rights-of-way*, sidewalk, drainage and utility easements, and other easements as necessary for the *platted* area;
 - (2) Where easement rights to any person, utility or corporation have been previously dedicated within the proposed *rights-of-way*, a release must be obtained from each person, utility or corporation agreeing to retain only those rights they would have in a *public street right-of-way*;
 - (3) The existing *street* construction details must be certified by a licensed professional engineer as being in compliance with city standards; with said certification accompanied by surveys, sketches and test borings giving the paving material and thickness, cross-section, *grades*, vertical curves and drainage data, including storm drainage analysis of current conditions based upon the city's storm water management regulations and requirements;
 - (4) The date of the *street* construction and a history of maintenance, including type of maintenance treatment and dates, must be provided to the city;

- (5) *Street* lighting that complies with city standards set forth herein shall be installed, unless the city determines that existing lighting or *alternatives* thereto, are sufficient and necessary to protect the character of the neighborhood and are APS compliant for maintenance. SLID (*street* light improvement district) application will be required at the time of *platting* or *replatting*.
5. Rural Roadways. A “Rural Roadway” cross section may be utilized in areas with Rural Residential (RR) *zoning*, where there are *environmentally sensitive features*, or in low density residential developments with two (2) or less *dwelling units* per acre (2 du/ac).
- a. The rural *roadway* cross section utilizes a reduced *right-of-way* at fifty (50) feet;
- b. The construction of a twenty-eight (28) foot wide paved *access* road with a two (2) foot wide modified ribbon curb. The required drainage report may determine the need for a different curb and gutter.
6. Half-streets. Half-streets shall be discouraged and *street* systems in new subdivisions shall be laid out so as to avoid any new perimeter half-streets.
- a. Where an existing half-street is *adjacent* to a new subdivision, the other half of the *street* shall be improved and dedicated by the *subdivider*.
- b. The City may authorize a new perimeter *street* where the *subdivider* improves and dedicates the entire required *street right-of-way* width within the subdivision boundaries. In the event that the entire required *street right-of-way* width is improved and dedicated, arrangements for reimbursement at the time the adjoining land is *subdivided* will be in accordance with Chapter 42 of the City Code.
- c. Half-streets will only be allowed when such a concession is granted by the mayor and city council as part of an approved development agreement. Said half-streets shall only be permitted when:
- (1) A traffic impact assessment has been approved by the transportation director for the property in question and the assessment concludes that the property in question does not generate the traffic warrants that justify the full *street* improvements; or,

- (2) Traffic safety can be assured with less than full *street* improvements; or,
 - (3) The full improvement cannot be constructed due to insufficient *right-of-way*; or,
 - (4) All evidence is provided to the city manager or designee that illustrates all possible efforts have been exhausted to obtain full-*street rights-of-way*.
7. *Dead-end streets*. *Dead-end streets* will not be approved except in locations recommended by the City Engineer as necessary to future development of *adjacent* lands; with an acceptable all-weather *access* emergency turnaround.
8. *Phased Construction*. When the *developer/property owner* is allowed to phase construction of the *roadway* improvements to an ultimate full *street* improvement said phasing shall be a component of the approved phasing plan and development agreement and shall be based on project absorption such as housing units constructed and/or the amount of leased commercial space, such that the property build-out generates the traffic volume that warrants the full *street* improvement. When full *street* improvements are required, the City shall institute the City's repayment policy in accordance with the provisions of Chapter 42, such that the *property owner/developer* that paid for the full *street* improvements is reimbursed for half-*street* improvements that are the responsibility of another *property owner*.

D. *Block Planning*

1. A *block* shall have a length ranging from four hundred (400) feet to no more than one thousand three hundred twenty (1,320) feet in length; unless otherwise restricted by the PEDS or deviated by the Council when considered necessary for safety reasons or in order to secure efficient *use* of the land.
 - a. A residential neighborhood *block* within a subdivision shall have a length ranging from 400 to 800 feet as measured along the centerline of the *street* and between intersecting *street* centerlines; and
 - b. Be designed to accommodate no more than ten *single-family* residential *lots* on either side of a *local street* to equal a not-to-exceed combined total of 20 *single-family*, detached residential *lots* per *block*.

- c. A longer perimeter *block* may be approved by the City Engineer and Council when *adjacent* to a major *street* in order to reduce the number of intersections
 2. *Blocks* which are over six hundred feet (600') in length shall provide a landscaped pedestrian easement, not less than thirty feet (30') wide, mid-*block* to allow easier *access* to the subdivision *open space*, the community pedestrian circulation system, or direct pedestrian *access* to the exterior *arterial streets*.
 3. *Block* endcap landscape tracts shall be required; unless an acceptable *alternative design* is proposed. Endcap landscape tracts shall be a minimum of ten feet (10') wide when *adjacent* to *local streets* and fifteen feet (15') wide *adjacent* to collector and arterial roads. These tracts shall be landscaped in accordance with the **Chapter 107** and shall be maintained by the *adjacent property owner* and/or Homeowners Association.
- E. *Street Names and Signage*
1. The name of a new *street*, unless an extension of Maricopa County *street* grid alignment, shall not duplicate existing or *platted street* names in Maricopa County, or approximate such names in spelling, sound, or pronunciation in conformance with the MAG Address and *Street* Assignment Policy. A *street* shall bear the same name of an existing *street* when planned as a continuation of or when in alignment with an existing or *platted street*.
 2. The City's GIS department shall propose the *street* names at the *preliminary plat* submittal stage and the names shall be recommended by the Commission and approved by the Council.
 3. The *applicant* shall deposit with the City at the time of *final plat* approval an amount equal to the cost of each required *street* sign. *Street* name *signs* are to be placed at all intersections within or *abutting* the land division, and be in place by the time the *street* pavement is ready for *use*. Specifications for design, the type and location shall conform to "Manual on Uniform Traffic Control Devices" (M.U.T.C.D.) standards as approved by the City Engineer.

108-2.5 Lot Planning

- A. The *lot* arrangement and sizes shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing *building permits* to build on all *lots* in compliance with Chapter 106 of the LDO or in providing driveway *access* to *buildings* on such *lots* from an approved *street*. Prior

to *final plat* approval the City may require additional documentation, including but not limited to engineering concept plans, for *lots* with questionable development ability.

- B. *Lots* shall be arranged in a contiguous pattern within a *block*; except where the *block* length or an *environmentally sensitive feature* warrants an easement either through the *block* to accommodate drainage or *access* for *multimodal* (pedestrian/bicycle/golf cart) traffic to adjoining *open space* or to preserve the *environmentally sensitive feature*.
- C. Flag lots or panhandle lots and other unorthodox *lot* layouts shall not be *platted*; unless approved by Council, such as topographic constraints in environmentally sensitive areas or design methods that enhance *multimodal* (pedestrian/bicycle/golf cart) traffic.
- D. *Lot* dimensions.
 - 1. The minimum *lot* size shall comply with the *lot* ranges within the *zoning districts* as described in Chapter 106 of this Ordinance; except that utility facilities using land or a *building used* only for equipment purposes (and not for human occupation) and requiring less than one thousand square feet (1,000 sf) of site are exempt from the minimum *lot* size standards of all *zoning districts*. Individual tracts within a subdivision are also exempt from this provision.
 - 2. The depth-to-width ratio of the usable area of a residential *lot* shall not be greater than 3:1, except in a *hillside* development area where flexibility may be allowed based on topographical considerations.
 - 3. Depth and width of properties reserved or laid out for *business*, commercial, or industrial purposes shall be adequate to provide for the *off-street parking* and loading facilities required for the type of *use* and development contemplated.
 - 4. Dimensions of *corner lots* shall be large enough to allow for erection of *buildings*, observing the minimum *setbacks* from both *streets*.
 - 5. All residential *lots* shall be designed such that the minimum *lot* width may be achieved at both the *front* and *rear setback* lines.
 - 6. Residential *lots* that are less than fifty feet (50') wide shall have vehicular access from an *alley*.
- E. *Side lot lines* shall be at right angles to the *street* the *lot* faces, or radial to curved *street* lines, unless topographic conditions necessitate a different arrangement acceptable to the Community Development Director or designee.
- F. *Lot Frontage*.

1. Every *lot* shall have a minimum *frontage* width of thirty feet (30') on a public or *private street* and every *lot* shall have direct *access* to the improved circulation system either by said *street* or by *alley*.
 2. No residential *lot* of record shall derive direct *access* to a *roadway* classified as an arterial or *parkway*, except *multi-family* developments designed with an on-site turnaround and comply with *roadway access* management policy standards.
 3. Residential *lots* that are zoned Rural Residential (RR) and have a minimum *lot* width of two hundred feet (200') may take direct *access* to collector *roadways*; egress from the *lot* shall be only in a forward motion.
 4. Commercial and industrial *lots* may take *access* to a *roadway* classified as an arterial or *parkway* when designed with an on-site turnaround and comply with *roadway access* management policy standards.
 5. Commercial and industrial *lots* may be required to be served by a combined shared *access* drive to limit the number of possible traffic hazards; driveways shall be designed and arranged so vehicles *ingress and egress* from the property in a forward motion.
 6. Double *frontage* and reversed *frontage lots* shall be avoided except where necessary to provide separation of residential development from traffic arterials or to overcome specific constraints of topography and orientation.
- F. Narrow Lot Subdivisions. Subdivisions with a homogenous design of *lot widths* narrower than fifty feet (50') cause numerous long-term conflicts and constraints for city services, design standards, parking, and quality of pedestrian movement over the life of the neighborhood. In order to mitigate these problems, the following restrictions in lot design apply to residential subdivisions in zoning districts that permit any given lot to be narrower than fifty-feet (50') wide.
1. Up to ten percent (10%) of the *lots* within a new final plat may be less than fifty feet (50') wide. No more two such *lots* shall *abut* one another.
 2. Up to twenty-five percent (25%) of *lots* within a final plat may be less than fifty feet (50') wide, if at least 1 mitigating design is included in the plat.
 3. Up to fifty percent (50%) of the *lots* within a final plat may be less than fifty feet (50') wide if alleys as outlined in **Sec 108-2.4.C** are incorporated in the plat design.
 3. Mitigating factors that can be incorporated into the design of the plat include but are not limited to single-car driveways and garages, open carports, shared driveways, public parking areas within one-eighth mile (1/8 mi) of every *lot*. The Community Development Director or designee

may modify or vary the strict provisions of this section in such a manner that intent is maintained with such modification.

108-2.6 Stormwater Drainage and Environmental Water features

- A. All development within the City must comply with the Grading and Drainage Design standards outlined in the PEDS as well as the following minimum standards.
- B. The drainage system of a subdivision shall be governed by the Drainage Design Manual for Maricopa County, published by the Maricopa Flood Control District and the City of Surprise Engineering Development Standards (Volume 2 of the PEDS). The stormwater drainage system shall be separate and independent of any sanitary *sewer system*. Stormwater drainage shall be accommodated in the *streets, gutters, retention* basins or detention basins that drain to natural washes unless otherwise indicated by the City Engineer.
- C. The stormwater drainage shall in each case accommodate potential runoff from its entire upstream watershed, whether inside or outside the land division. The City Engineer shall determine the size of any necessary facilities, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development and the final subdivision drainage report.
- D. The required drainage report (per **Sec. 108-4.2A**) must address the effect of the proposed subdivision on existing upstream and downstream drainage facilities outside the area of the land division. No land division shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility. The City Engineer will determine the adequacy of the drainage facilities for purposes of Council review, but such determination will not relieve the property *owner* from any responsibility related to storm water or drainage; such responsibility shall remain that of the property *owner*.
- E. Unless the diversion of stormwater is required to conform to a comprehensive drainage plan for a drainage district or regional master plan, *off-site* stormwater runoff shall be received and discharged at the locations which existed prior to development and as nearly as possible in the same manner which existed prior to development. If a diversion is required, sufficient work shall be done upstream and/or downstream to provide all affected properties at least the same level of flood protection that existed prior to the diversion. Post development flows cannot exceed pre-development flows in peak runoff, volume, or velocity and may not concentrate sheet flows without downstream *off-site* control.
- F. Whenever a development site contains a *water feature* (stream, wash, *floodway*, or *wetlands* area) identified by the Maricopa County Flood Control or FEMA the *plat* shall adhere to the following:

1. If the ephemeral flow of the *water feature* is less than 250 cfs the *water feature* may be diverted within the development provided it enters and exits the *development parcel* in its general historic location.
 2. If the ephemeral flow of the *water feature* is over two hundred and fifty cubic feet per second (250 cfs) the *water feature* must be retained *unaltered* in its historic location within and throughout the *development parcel*, except when approved through drainage master plan.
 3. The subdivision shall provide for an overflow zone along the bank of said *water feature*. The width of the overflow zone shall be sufficient in times of high water to contain or move the water, and no *fill* shall be placed in the overflow zone nor shall any *structure* be erected or placed therein. The boundaries of the overflow zone shall be delineated in the drainage report and approved by the City Engineer and Community Development Director.
- G. The City Council may, when it deems it necessary for the health, safety or welfare of the present and future population of the area and necessary to the conservation of water, drainage and sanitary facilities, prohibit the land division of any portion of the property which lies within the 100-year *floodplain* of any *water feature* as determined by the City Engineer, the flood control district of Maricopa County, and/or the U.S. Army Corps of Engineers. These *floodplain* areas shall be preserved from any and all destruction or damage resulting from clearing, grading or dumping of earth, waste material or stumps, except for the limited development of trails with approval by the City Council.
- H. *Lots* shall be laid out so as to provide positive drainage away from all *buildings* and individual *lot* drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each *lot* onto *adjacent lots*.

108-2.7 Sanitary Sewage Disposal.

- A. The *applicant* shall install sanitary *sewer* collection facilities in a manner prescribed by the Uniform Standard Details and Specifications, the City of Surprise Engineering Development Standards, and the city engineer.
- B. Pubic sanitary *sewers* shall be installed in accordance with plans, profiles and specifications outlined in the PEDS and approved by the City Engineer and in certain cases Maricopa County Environmental Services Department. Sanitary *sewer* lines shall be extended to the boundaries of the *plat* to provide service connections to *abutting unsubdivided* land.

- C. Every *lot* (residential and non-residential) shall be provided a *sewer* service and connect to the City's *sewer* collection system unless such connection will not be available (in the estimation of the City Engineer) for at least 20 years. Service stubs extended to the *platted lots* shall be placed to such lengths as not to necessitate disturbance of the paved (*street* or *alley*) improvements when service connections are made.
- D. Where public sanitary sewage collection systems are not reasonably accessible, but will become available within twenty (20) years, the City may allow one (1) of the following *alternatives*:
1. Central *sewerage* system, where the maintenance cost to be assessed against each property benefited. If plans for future public sanitary *sewerage* systems exist, the *applicant* shall install the *sewer* lines, laterals, and mains to be in permanent conformance with such plans and ready for connection to such public *sewer* mains; or
 2. Individual disposal systems, where the *applicant* may be required to install sanitary *sewer* lines, laterals and mains from the *street* curb to a point in the subdivision boundary where a future connection with the public *sewer* main shall be made. *Sewer* lines will be laid from the house to the *street* line, and a connection will be available in the home to connect from the individual disposal system to the *sewer system* when the public *sewers* become available. Such *sewer systems* shall be capped until ready for *use* and shall conform to all plans for installation of the public *sewer system*, where such exist, and will be ready for connection to such public *sewer* main.
- E. Where public sanitary *sewer* collection systems are not reasonably accessible and will not become available for a period in excess of 20 years, the City may allow the installation of *sewerage* systems as follows:
1. For Residential Low Density (R-1) *zoning*, a central *sewerage* system only. No individual disposal system will be permitted. The *applicant* shall install all *sewer* lines, laterals, and mains to be permanent and ready for connection to the public *sewer system*, should it become available.
 2. For Rural Residential (RR) *zoning*, individual disposal systems or central *sewerage* systems shall be *used*. If individual disposal systems are proposed, minimum *lot* areas shall be one acre (1 ac) or larger depending upon the results of the required percolation tests and test holes as directed by the City Engineer. The individual disposal system, including the size of septic tanks and size of the tile fields or other secondary treatment device, shall be approved by the City Engineer and Maricopa County.
- F. If a public sanitary *sewer* is accessible and a sanitary *sewer* is placed in either an easement or within a *street* or *alley* that *abuts* the property, the property *owner*

shall be required to connect to the *sewer*; and it is unlawful for any such *owner* or occupant to maintain upon the property an individual sewage disposal system.

108-2.8 Water System.

- A. Each *lot*, *dwelling unit* or *building* shall be supplied with potable water in sufficient volume and pressure for domestic *use* and fire protection purposes.
- B. Where a public water main is accessible, the *subdivider* shall install adequate water facilities (including fire hydrants) subject to the specifications of the City engineer. Design and construction of any and all facilities relating to the supply, storage, transmission, treatment and distribution of potable water within or outside of any subdivision shall be the responsibility of the *subdivider* and shall be accomplished under generally accepted construction techniques in accordance with the PEDS (Volume 2, Chapter 6), those of ADEQ, and with the written approval of the City Engineer.
- C. Where it is necessary to extend a water main from an existing adequate main to the subdivision, the *subdivider* will be required to pay the full cost of the line extension; costs of the extension may be eligible for repayment agreements. Water main extensions shall be approved by the City Engineer. All water mains shall be a minimum eight inches in diameter.
- D. Water distribution lines shall be extended to the boundaries of the *plat* to provide service connections to *abutting unsubdivided* land.
- E. No vertical construction or *structure* shall be permitted within the subdivision until fire protection for the subdivision is operable.
- F. Service stubs shall be extended to all *platted lots* and landscaped tracts within the subdivision and to such a length as not to necessitate disturbance of *street* improvements when service connections are made.

108-2.9 Public Utilities.

- A. The city has determined the need to improve the visual character of the community through the undergrounding of all new and existing utility lines except as noted below. This subsection addresses the requirements for undergrounding utilities in conjunction with a development or redevelopment project that has been submitted for approval under provisions of this Ordinance. The undergrounding requirements herein shall apply to primary distribution lines as well as secondary and service lines, for both on-site and *off-site* locations; except

said requirements shall not be applied in a manner inconsistent with any franchise or license agreement that may exist between the city and any utility company

- B. All public and private utilities to be installed within the City shall comply with the design and construction standards set forth in the Planning and Engineering Design Standards (PEDS).
- C. New and existing utility lines including, but not limited to primary distribution lines as well secondary and service lines for, gas, electric power, telephone, fiber optic cable, overhead transmission lines having a line voltage of less than sixty-nine thousand (69KV), and *off-site* locations that may need to be extended to serve the subdivision shall be located underground to and throughout the subdivision; placed within a public utility easement (PUE).
- D. All utility easements existing and proposed throughout the subdivision shall be shown and labeled as such on the *preliminary plat*.
- E. When as a result of the subdivision development, it is necessary to relocate, renew, or expand existing facilities within or *adjacent* to the *platted* area, the *developer* shall make the necessary arrangements with the serving utility for these installations to be placed underground at the time of development of the property as part of the required *off-site* and on-site improvements. The *developer* shall be responsible for the costs of the underground construction, in accordance with the underground policy of the City and the serving utility.
- F. Service stubs to *platted lots* within the subdivision for underground utilities shall be placed to the *right-of-way* line or the public utility easement (PUE) whichever is greater.
- G. As a condition of project approval, the development *applicant* of a project shall be responsible to make necessary arrangements with the affected utility companies for the installation of required underground facilities, including arrangements for the payment of any cost. The required undergrounding shall be completed prior to approval and occupancy of the project. In cases where utility undergrounding construction may not be completed at the time the rest of the project is completed, the *developer* shall produce written proof from the utility company(ies) that undergrounding will be accomplished with all necessary moneys having been paid to the utility company(ies).
- H. In those instances where poles to be removed include *street* lights, the *street* lights will be replaced with freestanding poles and luminaries by the *developer/redeveloper* or the utility company when acting as a *developer/redeveloper*. Replacement of *street* lights shall comply with the PEDS and the regulations in Chapter 107 of the LDO.
- I. Underground utilities shall be extended to the boundaries of the *plat* to provide service connections to *abutting unsubdivided* land.

- J. No appurtenant or *ancillary* above ground equipment shall be placed without prior review and approval of siting and *screening* plans by the City of Surprise Public Works and Community Development Departments.

108-2.10 Easement Planning.

- A. Uniform and continuous easements shall be provided to accommodate both municipal and private utilities and, where necessary, such other *uses* such as drainage, transit shelters, multi-use pathways, and emergency *access*. Said easements shall be delineated on the *preliminary plat* and dedicated on the *final plat*. The *subdivider* shall be responsible for coordinating with the appropriate utility company and when necessary with *adjacent* property owner(s) for the continuation of easements established in adjoining properties.

B. Utility easements.

1. City maintained easements for water, *sewer*, and storm *sewer* lines located outside of the *right-of-way* they shall be a minimum twenty feet (20') in width or as required by the City Engineer.
2. Easements for gas, electric, telecommunications, *streetlights*, water meter, and water/*sewer* service lines shall be a minimum of eight (8) feet in width and provided outside of the public *right-of-way* along each side of the *street* and around a *cul-de-sac*.
3. For those subdivisions where *alley* are provided, gas, telephone, fiber optic cable, cable television utilities may be located within a four (4) foot wide public utility easement (PUE) provided along the *rear lot lines adjacent* to, and outside of, the *alley*; in which case the width of the front PUE may be reduced from eight (8) feet to four (4) feet when accommodating only the water meter and water/*sewer* service lines.

C. Drainage easements.

1. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, a stormwater easement or drainage *right-of-way* shall be provided, conforming substantially to the lines of such watercourse, and of such width and construction, or both, as required by the City Engineer based upon the subdivision drainage report. The drainage shall be maintained by an open channel designed in accordance with Volume 1 of the PEDS with landscaped banks and adequate width for maximum potential volume of flow; unless determined otherwise by the City Engineer.
2. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road *rights-of-way*, perpetual,

unobstructed easements at least 15 feet in width for such drainage facilities shall be provided across property outside the road lines and with satisfactory *access* to the road. Easements shall be indicated on the *plat*. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.

3. When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the *plat*.
 4. All *retention* areas shall be in tracts with drainage easements.
- D. Land within a drainage way or within an easement for major power transmission (tower) lines or pipelines shall not be considered a part of the minimum *lot* area.
 - E. Development *adjacent* to a designated transit stop, as identified in the City's Transit Feasibility Study or by Valley Metro, may be required to provide transit shelter easements. The size of a transit shelter easement shall be in accordance with Valley Metro's RPTA Bus Stop Program and Standards.
 - F. *Lots abutting* existing or proposed multi-use trails or pathway corridors as designated in the *General Plan* may be required to provide a multiuse trail easement having a width and design in accordance with the PEDS.
 - G. Emergency *access* and fire lane easements shall be provided in locations where designated by the City Fire Department. Said easements shall have a minimum width of twenty feet (20'), with a minimum vertical clearance of fifteen feet (15').

108-2.11 Open Space

- A. The hierarchy, types, and locations of *open space* required by the City are detailed in **Chapter 104** of this Ordinance. The design standards for the required *open space* are detailed throughout the different chapters of **Volume One** of the PEDS.
- B. For residential subdivisions and Traditional Neighborhood Development (TND) the specific percentage of required *open space* is prescribed within the development standards tables in **Chapter 106** of this Ordinance.
- C. For *mixed use*, commercial, *business park*, and industrial subdivisions the required amount of *open space* shall be those areas that are required for the specific *zoning* and land *use* as detailed in **Chapters 104, 106 and 107** of this Ordinance. The design standards for the required *open spaces* are detailed throughout the different chapters of **Volume One** of the PEDS.

- D. Where a proposed *park*, playground, *open space*, or other public use shown on the *General Plan* and/or Parks and Trails Master Plan, is located in whole or in part in a subdivision, the area be shown on both the preliminary and *final plats* and such area(s) shall be reserved to the City by the *subdivider* if the City Council approves such reservation. The City or other public agency shall enter into an agreement on the method of acquiring such reserved land area(s) prior to approval of the *final plat*.
- E. Unless a public entity has accepted primary maintenance responsibility for all *common areas* within a subdivision, the property *owner/developer* shall create a method, acceptable to the Community Development Director to provide for the long term maintenance of the *common areas* in perpetuity.

108-2.12 Gated Communities.

- A. The size of the gated community, or multiple *adjacent* gated communities, shall not exceed 40 acres, unless designed to properly connect with *adjacent* communities by both vehicular and pedestrian connections, with a minimum of thirty (30) percent of the gross land area set aside as improved *open space*.
- B. The planning and design of the gated community shall not impede connectivity of *streets*, improved *open space*, multi-use pathways or other *public improvements* from adjoining and *abutting* property, and in no case shall any connection be greater than 1,320 feet apart. Connections shall remain open and accessible at all times.
- C. The perimeter of the gated community shall be designed with view fencing and that said view fencing is to provide continuous visual connections with *open space* areas of adjoining properties.
- D. There shall be a minimum of two (2) separate entry/exits to the gated community; except when constructed as an *infill* development.
- E. The ongoing maintenance of all *private streets*, water and sewer mains, fire hydrants and any other infrastructure required by the City shall comply with the City's minimum operational standards, and shall be fully maintained by the *developer* and/or homeowners association.
- F. The installation of drainage systems, *retention* basins, landscaping, multi-use pathways, *street/pedestrian* way lighting, *screening* and *buffering* shall comply with the City's standards set forth in the PEDS and the Parks and Trails Master Plan.
- G. A public service and emergency *access* easement shall be granted over all *private streets*.

- H. Gate designs shall include emergency hardware to ensure proper 24-hour emergency *access* to the satisfaction of the City fire, police, public works, and utilities departments.
- I. A minimum of one (1) pedestrian *access* gate shall be provided at each gated driveway entrance.
- J. Such "anti-directional" devices as metal spikes that can cause tire damage shall not be allowed at entrances and exits.
- K. Sufficient queuing space between the gated entrance and the gate controller shall be provided such to ensure there is no conflict with *adjacent public street* traffic, and to avoid vehicular stacking across sidewalks, *streets*, bike paths and similar facilities.
- L. The gate entrance shall be designed to allow vehicles to turn around within the driveway without backing into the *adjacent street*.
- M. The style and color of gates and other enclosures shall be coordinated with nearby *structures* and approved by the Community Development Director.

ARTICLE 3 – SUBDIVISION CONSTRUCTION, INSPECTION AND ACCEPTANCE

108-3.1 Construction of Improvements Financial Assurance.

- A. An *applicant* shall submit a *Financial assurance* to the City thirty (30) days prior to a *Final plat* being placed on the City Council agenda for action. The amount of this *financial assurance* shall be no less than one hundred twenty-five (125%) percent of the total cost necessary to complete the required improvements, including but not limited to, the costs of labor, and materials, permits, management fees, insurance costs and any other capital costs.
- B. The *financial assurance* shall secure to the city the satisfactory construction, installation, and dedication of required *street*, utility, drainage, water and *sewer systems*, and other improvements, including any portions of such improvements which are located in the public *rights-of-way*, easements, and upon individual *lots*. Improvements may include, but are not limited to, *streetlights*, landscaping, drainage facilities, *street* improvements, perimeter *fences/walls*, water and *sewer* distribution lines, and *common area* and *open space* improvements.
- C. The *financial assurance* shall comply with all statutory requirements and shall be satisfactory to the City Attorney as to form, sufficiency, and manner of execution, as set forth herein. The periods within which required improvements must be completed shall be incorporated in the *financial assurance* and shall not exceed twelve (12) months from the date of *final plat* approval by City Council.
- D. Nothing in this section may be interpreted to limit the application of A.R.S. §34-222 et seq., including but not limited to that statute's requirements with respect to *financial assurance* for public projects.
- E. In the event *temporary improvements* are required by City Council, the *applicant* shall provide a separate *financial assurance*, in addition to any *financial assurance* required for permanent improvements, that covers all costs of constructing, maintaining, and removal of the temporary facilities and improvements.

108-3.2 Financial Assurance Options

- A. There are two (2) *financial assurance* options related to the timing of the construction of the required subdivision *improvements* and the recordation of the *final plat* available to the *subdivider/applicant*. Following the review and approval of all subdivision *improvements plans* and final reports, and after securing all certifications and written proof of service from all applicable agencies, utilities, and/or districts the *subdivider/applicant* may choose to follow one (1) of the two (2) development options outlined below.
 - 1. *Financial assurance / Record Plat:* The *subdivider/applicant* provides a "Construction of Improvements *Financial assurance*" to the City and

recordation of the *final plat* occurs prior to, or in conjunction with, construction of the subdivision improvements.

- a. The *subdivider/applicant* provides the required form of financial guarantee, acceptable to the City Attorney, which assures construction of all of the required subdivision improvements (see **Sec. 108-3.1** herein for information on the amount and specific forms of *financial assurances* accepted by the City).
 - b. The City Council approves the *final plat* and the Community Development Director subsequently transmits the *final plat* for recordation. After a *final plat* has been recorded, the City Engineer may, in his/her discretion, allow a *subdivider/applicant* to substitute one (1) type of *financial assurance* for another.
 - c. In the event the *subdivider/applicant* fails to initiate construction within twelve (12) months of approval, and after reasonable notice to the *subdivider/applicant* of default, the City may choose to take formal action to either *abandon* the recorded *final plat* or to do/have done all work; in which case the *financial assurance* instrument will be charged with all costs and expenses incurred.
 - d. The Community Development Director may, upon proof of difficulty, recommend to the City Council, and the Council may approve a one-time extension of the completion date for a maximum of an additional twelve (12) months provided the “Construction of Improvements *Financial assurance*” form is amended by the *subdivider/applicant* to cover the extended time period.
2. **Alternative Assurance Agreement:** In lieu of providing a “Construction of Improvements *Financial assurance*” to the City, the recording of the approved *final plat* is withheld until after all required *public improvements* have been completed by the *developer* and approved for acceptance by the City.
- a. The *subdivider/applicant* submits an executed standard contract (*Alternative Assurance Agreement*), as approved by the City Attorney, regarding the installation of improvements. The contract shall require that all improvements be completed no later than twelve (12) months from the date the *final plat* was approved by the City Council and that no *lot* may be sold. The terms of this contract shall run with the land and shall be binding upon all subsequent *subdividers* and shall survive the expiration or other termination of this agreement.

- b. The *subdivider/applicant* pays the construction permit fees and the City issues a construction permit for the subdivision improvements.
- c. All improvements and construction shall be in conformance with the approved subdivision improvement plans. When the completed improvements are inspected and approved by the City Engineer and a warranty of improvements *financial assurance* is submitted to cover the completed improvements the Community Development Director will transmit the *final plat* to the County for recordation and the sale of *lots* may commence.
- d. If the *subdivider/applicant* fails to initiate construction within twelve (12) months from the date of Council approval, the Council shall take formal action to rescind approval of the *final plat* which shall then become null and void and of no force or effect.
- e. A request for a one-time extension to the required completion of the improvements may be approved by the city for an additional twelve (12) month period. A revised Alternative Improvements Contract, as approved by the City Attorney, regarding the construction of the unfinished portions of the improvements shall be submitted along with the request for the time extension.
- f. Should the construction of improvements be found to be contrary to the improvement plans or contrary to good construction practices, the recordation of the *final plat* shall be withheld until appropriate construction remedies are made to the satisfaction of the City Engineer.

108-3.2 Deferral of Required Improvements.

- A. The city council may defer or delay installation of development-required improvements to coincide with *adjacent* work, future planning, or because of incompatible *grades*, inadequacy or lack of connecting facilities, or for some other suitable reasons.
- B. Whenever the City Council defers the requirement to construct and install any improvement, the *subdivider/applicant* shall pay to the city at the time of *final plat* approval their proportionate share of the costs of constructing and installing such improvement in the future, as determined by the City Engineer. Alternatively, at the City Council's option, the *applicant* may post a financial or other guarantee, as provided in this section, ensuring completion of said improvements upon demand of the City Council. The Mayor shall not sign the *final plat* and the *final plat* shall not be recorded until the requirements of this subsection have been satisfied.

108-3.3 Construction, Inspection, and Completion of Improvements.

- A.** The *subdivider/applicant* shall pay for all costs of constructing and removing temporary facilities and improvements required by City Council and shall maintain the same for the period of construction.
- B.** All construction shall require a dust permit from the Maricopa County Air Quality Department and a permit for construction from the City of Surprise; permits must be secured before any construction work can begin. Once the City has issued a construction permit for improvements, work shall proceed without interruption until the City accepts the improvements.
- C.** The City Engineer shall provide for inspection of required improvements during construction and ensure their satisfactory completion. Any city inspections or approvals performed throughout the course of the construction do not signify that the City has accepted any of the improvements for maintenance.
- D.** If the city engineer finds upon inspection that any of the required improvements have not been constructed or installed in accordance with the city's construction standards and specifications, the *subdivider/applicant* shall correct the deficiency and shall complete construction and installation of the improvements according to the standards and specifications. Wherever the cost of constructing or installing required improvements is covered by a financial guarantor, the *subdivider/applicant* and the guarantor shall be jointly and severally liable for completing, constructing and installing the improvements according to the standards and specifications.
- E.** If a *subdivider/applicant* has posted a *financial assurance* and either the work has been *abandoned* for a period of one hundred eighty (180) days, or the required improvements have not been satisfactorily constructed, installed and approved within the period specified, the city may utilize the following options regarding *public improvements*.

 - 1. The city shall not issue any *building permit* for any *structure* until all applicable *public improvements* have been constructed to the satisfaction of the city staff, inspected, and accepted.
 - 2. If the *owner* fails to timely and properly construct the *public improvements* as set forth in either a *financial assurance* of Construction or a Development Agreement, the city may take any one (1) or more of the following actions, at the *owner's* expense:

 - a. Decline to process or issue *building permits*, occupancy clearances, or other regulatory approvals or inspections;

- b. Complete, remove and/or modify the *public improvements* in whole or in part;
 - c. Restore any disturbed land;
 - d. Bring action to enforce the *owner's* responsibility under the Surprise Municipal Code or under the agreement to construct the *public improvements*;
 - e. Bring action to enforce the *financial assurance* to construct the *public improvements*; and/or
 - f. Otherwise mitigate the effects of the *owner's* failure to construct the *public improvements*, including but not limited to, action to *abandon* the *plat*.
- F. Placement of all boundary monuments for each *lot* and permanent reference monuments in all corners, angle points, points of curve, centerline of all *roadways*, and at all *street* intersections as approved by a registered land surveyor and the city's chief land surveyor shall be installed before *building permits*, such as but not limited to *Model home Complex*.
 - 1. Monuments will be permanently marked with the registration number of the registered land surveyor responsible for their placement.
 - 2. Exterior monuments for the subdivision boundaries are to be set prior to recordation of the *final plat*.
 - 3. The interior monuments are to be set after the *streets* are built and the grading has been completed.

108-3.4 Release or Reduction of Financial Assurance.

- A. Once the *public improvements* have passed the final inspection by the City Engineer, the *applicant's* engineer or surveyor shall submit a certified final *as-built* survey of both the *plat* and the constructed improvements, indicating location, dimensions, materials, and that the layout of the line and *grade* of all required improvements is in accordance with the approved construction plans for the improvements.
- B. The *subdivider/applicant* may submit a request for release of the original *financial assurance* only after they submit to the City Engineer the lien release documents along with the new financial warranty of improvements guarantee documents as outlined below in **section 108-3.5**.

- C. The City Engineer shall make a written recommendation to the City Council to release the original *financial assurance*, accept the *public improvements* for maintenance, and accept the new warranty of improvements *financial assurance*.

108-3.5 Warranty of Improvements Financial Assurance.

- A. The *subdivider/applicant* shall be required to file a Warranty of Improvements *Financial assurance* with the City Engineer prior to City Council action on maintenance responsibilities of the subdivision *public improvements*. The *financial assurance* shall be in a form as outlined in **Sec 108-3.1.A.** in the amount of ten (10%) percent of the actual cost of constructing and installing the improvements. The warranty assurance shall be for a period of two (2) years beginning from the date of “Conditional Acceptance” of maintenance responsibilities for said improvements by the City Council.
- B. The *applicant* shall be required to maintain all improvements for the two (2) year warranty period. If any certificates of occupancy have been issued for *buildings* served by improvements for which the city has not accepted maintenance responsibility, the city may affect emergency repairs and the *applicant* or other *owner* thereof shall pay the cost of such emergency repairs. Prior to effecting such emergency repairs, the city shall give to the person responsible for maintaining the improvements such notice as may be practicable under the circumstances.

108-3.6 Costs, Reimbursements, and City Participation in Public improvements.

- A. All *public improvements* shown on the *final plat* and the improvement plans, and any additional improvements that may be required by the City Council as a condition for approval of the *final plat*, shall be the responsibility of the *developer*; unless otherwise approved by the City Council.
- B. If a *street* within or *adjacent* to the development is improved as an arterial or *parkway street* and dedicated to the public the City, upon completion of the warranty guarantee, will accept maintenance responsibility for *street* lighting, median landscaping, and pavement.
- C. If a *street* within or *adjacent* to the development is improved as a collector or *local street* and dedicated to the public the City upon completion of the warranty guarantee will accept maintenance responsibility for the pavement and curbs. Maintenance responsibilities for landscaping and *street* lighting shall remain with the property *owner* and/or homeowners association.
- D. If a *developer* is required to oversize infrastructure to serve future development in *adjacent* areas that is other than their own property the City may assist the

developer recoup proportionate costs from those *adjacent* properties through a repayment agreement as further described in Chapter 42 of the City Code.

DRAFT



Presentation: Updating the Development Code

City Council Work Session
October 6, 2020

Today's Discussion

- Overview of the update
 - Newest drafts – www.surpriseaz.gov/developnext
- Residential Development-Narrow Lot Subdivisions
 - Different chapters of LDO-excerpts that apply
 - Definitions, Growth Principles, Zoning Standards, Alleys, Platting
 - Large Amenity (intent, thresholds, size, etc.)
- Planned Unit Development (PUD) Overlay
 - Introduce proposed text

Previous Meetings

Stakeholder Meeting - 9/14/2020

- Narrow Lot Subdivisions Development Standards
- PUD Overlay
- Community Pools (Amenities) Discussion

City Council Work Session – 9/15/2020

- Community Pools (Amenities) Discussion

Planning and Zoning Commission, 9/17/2020

- Residential development and Community Amenities Discussion

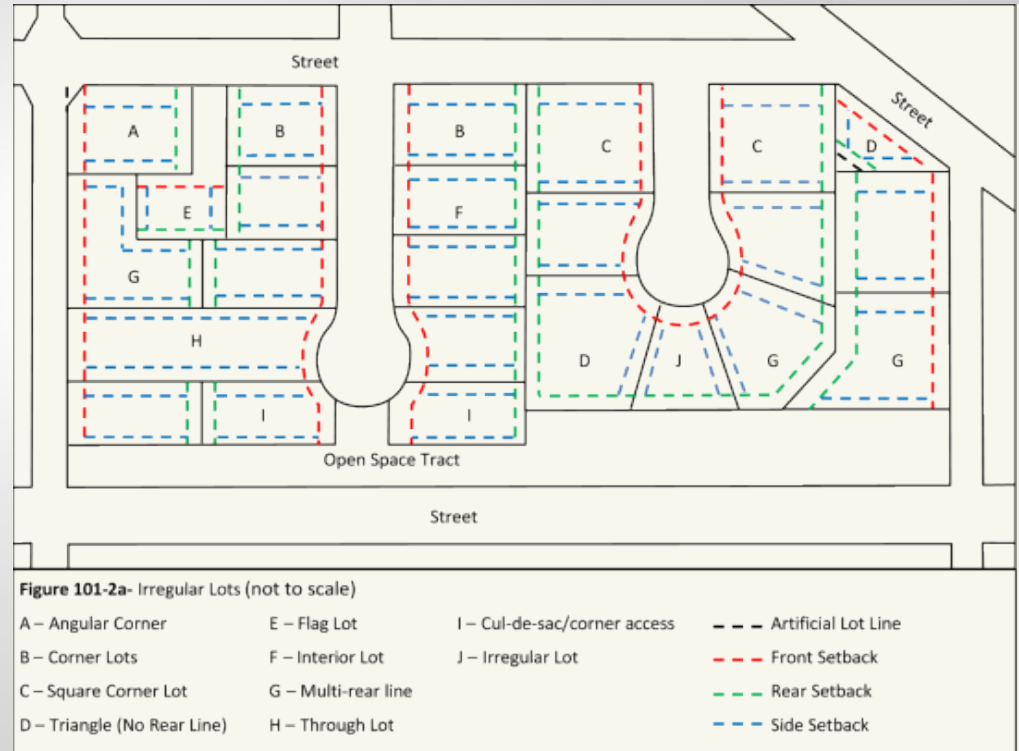
Feedback?

- Should the developments standards be maintained as proposed?
- How should the City manage narrow lot subdivisions to prevent long-term problems?
- Is the proposed PUD Overlay clearly written to meet the needs of applicants?

Residential Development

Residential Terms and Definitions

- Clarify the irregular lots
- How to apply width and depth averages, and
- interpret setbacks.
- Visual sample was added



Typical Residential Proposal

Development Plan

Zoning

Lot Yield

General
Layout &
Platting

Zoning Standards

Lot Sizes

Setbacks

Lot Coverage

Open Space

Washes

Trails

Amenities

Narrow Lots



Buildable widths: 50-foot wide

- Total side setbacks=13 feet (5' & 8')
- Total home width=37 feet
- Typical garage width = 20 feet
- Remaining front = 17 feet
 - Home face=45% vs garage face=55%
- Typical driveway = 16-20 feet wide
- **Measurements are more lopsided, as lots become narrower in a plat,**

Narrow Lots



Home Prices

- Small Homes
- Market Affordability
- Match/below median home value

Block Lengths

- Help fill in for blocks lengths
- Lowers infrastructure cost/linear ft

Narrow Lots



Rear Yards

- Limited personal rec space
- Private pools are improbable
- 750 sf or less (50' x 15')

Amenities

- Subdivisions provide open space
- Amenities within open space
- More home = more amenities
- Community Amenity
Significant number of narrow lots
Project over 160ac & 4du/ac

Resale Buyer Feedback

- Survey of resale market for narrow setbacks
 - Are narrow side yards preferred or a deterrent to buyers?
 - Deterrent – 88%
 - Preferred – 5%
 - Depends – 5%
 - Can prevent or double cost of private pool excavation
 - Are large side yards (at least 1) a desire of buyers?
 - Yes – 100%
 - They received comments that when buyers want larger yards agents take them to Goodyear or Peoria.

Narrow Lots



Side Setbacks Yards

- Usable area (sheds, trailers)
- Private pool construction costs
- Equipment (pool pumps, AC, etc.)
- **Current Proposed 5'&7' and 5'&8'**

Home Builders

- Hinders product width
- Buyer preference
- **Request reduced setbacks 5' & 5'**

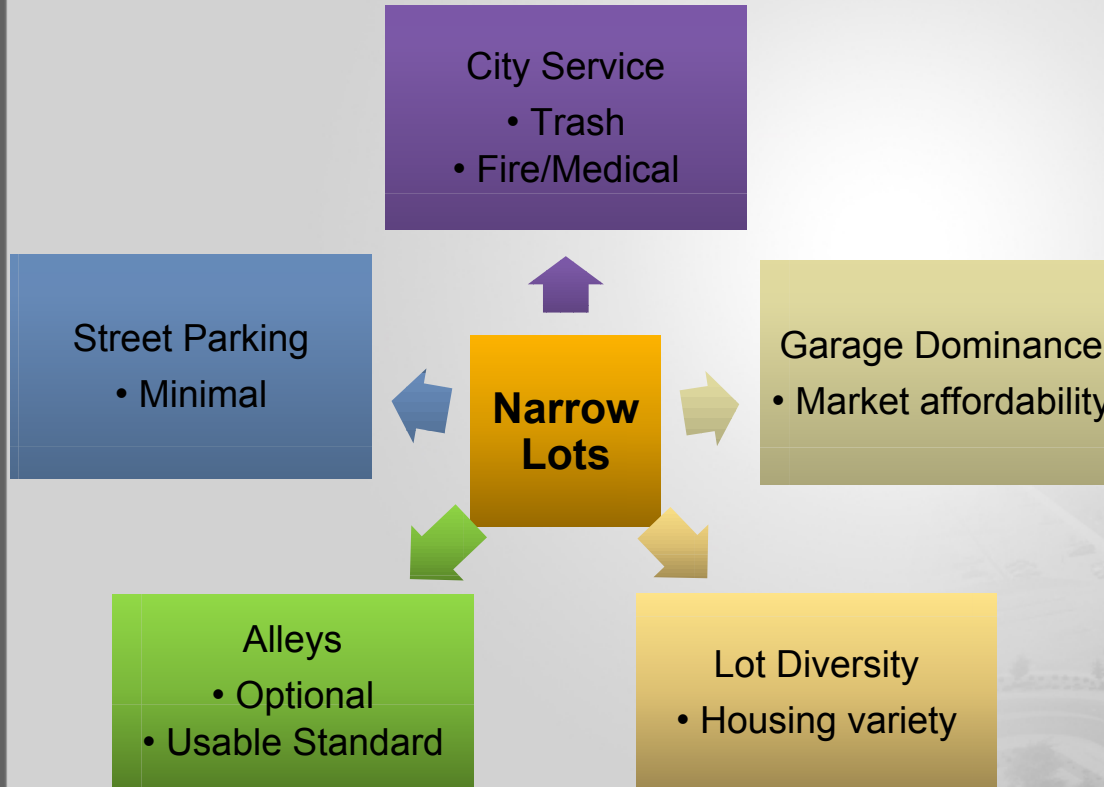
Feedback?

- Should the developments standards be maintained as proposed?
 - Setbacks = **5' & 7'** and **5' & 8'**
 - Max Lot Coverage = 45% for 8,000-12,000sf lots
40% for 12,000-18,000sf lots
 - PUD Overlay: can change setbacks
 - Case-by-case basis, propose reasoning and alternatives
 - P&Z will review future projects

Narrow Lot Subdivisions

- Lot Planning Section (Ch 108), platting process created.
- Early discussions with stakeholders told the City, developers need:
 - Flexibility for subdivisions
 - Compute lot yield and complete certain block lengths
- Direction from Planning and Zoning Commission and City Council
 - Address the negative consequences
 - Subdivisions that offer more lot diversity

Narrow Lots Subdivisions



Long-term conflicts and constraints

- City services
- Garage Dominance
- Street Parking
- Driveway/pedestrian conflicts
- Alleys are no longer required

Narrow Lots & Setbacks

Lot Layout = 40' x 100'

Setbacks

- Side = 5' & 5'
- Front = 10'
- Garage = 20'
- Rear = 10'

Home width = 30'

- Garage 20' (67% of front)
- Livable 10' (33% of front)
- Rear yard (400sf)
- **Two-story still considered garage dominate?**







Narrow Lot Subdivisions

- Limited percentage of narrow lots in a subdivision
- Mitigating factors that can be
 - alleys,
 - single-car driveways and garages,
 - open carports,
 - matching driveways,
 - public off-street parking areas
 - Other designs that meet the intent to manage long-term problems

Allowed lots less than 50' wide per Subdivision Plat	Mitigating designs
Up to 10%	No mitigating designs
Up to 25%	Any 1 design
Up to 50%	Alley for lots less than 50' wide

Feedback?

- How should the City manage narrow lot subdivisions to prevent long-term problems?
 - Require lot diversity (prevent plat with identical, lot size/widths)?
 - Limit the percentage of narrow lots in a plat?
 - Require additional design to mitigate long-term problems?

Planned Unit Development (PUD) Overlay

- Re-established, last draft of LDO removed this tool
 - Tool used to request deviations from the some regulations
 - New proposed language
 - Provide desired flexibility for developers
 - Address unique constraints facing a project
- Permitted in any zoning district except
 - SHD, TND, or individual residential dwellings
- Permitted uses in underlying zoning apply (can't change uses)
- Permits deviations to Ch 106-Zoning and Ch 109-Signs

Feedback?

- Does the proposed PUD Overlay meet the needs of applicants?
 - Discussed with stakeholders
 - Agreeable in general, need more time for review
 - Waiting for more feedback



QUESTIONS OR COMMENTS?

Thank You



CITY OF SURPRISE Regular City Council Work Session

Council Meeting Date: October 6, 2020
Submitting Department: Fire - Medical
Staff Recommendations: None

Contact Person: Keith Tanner
District: Citywide

Consent: No	Regular: No	Public Hearing: No	Report/Discussion: Yes
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Agenda Wording:

Presentation and discussion pertaining to proposed amendments to Surprise Municipal Code Chapter 105, Article II, Division 1, Section 105-19 as it pertains to the 2018 International Fire Code, Chapters 5, 9, and 12.

Motion:

Presentation and discussion only.

Background:

On August 6, 2019, with Ordinance 2019-21, the City adopted an amended version of Chapter 12 of the 2018 International Fire Code (2018 IFC), and on October 15, 2019, with Ordinance 2019-25, the City adopted an amended version of the rest of the 2018 IFC. In the time since both Ordinances were adopted, the City has collaborated with its regional partners to mitigate multiple safety concerns in the current 2018 IFC. The proposed Ordinance addresses these concerns by clarifying specific requirements related to energy storage, fire access, and fire alarm systems.

Objective Analysis:

By adopting this Ordinance, the City will be able to provide improved direction to residents and business owners regarding 2018 IFC requirements and regulations. Adopting this Ordinance will better align the City's enforcement operations with best practices and regional standards.

Policy Compliant:

It has been the policy of the City to provide consistent guidance to all stakeholders related to matters covered by the International Codes. The City, specifically the Fire Prevention Division, often identifies situations where local needs require amendments to the adopted Fire Code. The proposed Ordinance reflects these local needs and is aligned with efforts of neighboring jurisdictions.

Financial Impact:

There is no financial impact.

Budget Impact:

There is no budget impact.

FTE Impact:

There is no FTE impact.

ATTACHMENTS:

1. SFMD IFC Chapters 12 5 and 9 adoption 6Oct20
 2. 20.09.24 Ord 2020-23 2018 International Fire Code Amendments
-



Amendment to the 2018 International Fire Code

October 6, 2020

Background



- August 6, 2019 – Council adopted Chapter 12 of the 2018 IFC – Energy Systems
- October 15, 2019 – Council adopted the remaining portions of the 2018 IFC with local amendments
- This proposed ordinance reflects updates to the regional application of Chapter 12 along with minor revisions to Chapters 5 and 9
- The proposed ordinance is divided into two sections; Section 1 are revisions to Chapter 12 and Section 2 covers revisions to Chapters 5 and 9

Public Input



- Working with Communications
- Establishing a 60 day public input period
- After close of the Public Comment period, comments will be evaluated and incorporated as needed
- Intent to come back to Council early January for adoption

Section 1: Proposed amendment to Chapter 12 of the 2018 International Fire Code (IFC)



- The 2012 IFC did not address Battery Energy Storage Systems (BESS)
- BESS technology is rapidly advancing and evolving
- BESS technology includes:
 - Lead Acid batteries
 - Lithium-ion batteries
 - Sodium Sulfur batteries
 - Flow batteries
 - Nickel-Cadmium



Section 1: Proposed amendment to Chapter 12 of the 2018 International Fire Code (IFC)



- Utility grade BESS are essential for sustaining the electrical grid
- BESS are used to collect electrical power in off-peak times and supplement power demand during on-peak times
- Power is captured from a variety of sources



Section 1: Proposed amendment to Chapter 12 of the 2018 International Fire Code (IFC)



- Each type of battery system has unique hazards
- Hazards of BESS include the potential for the release of toxic, flammable, and explosive gases
- Other hazards include electrical or stranded energy, thermal runaway, fire, contact with electrolyte



Section 1: Proposed amendment to Chapter 12 of the 2018 International Fire Code (IFC)



- The future will require BESS
- A proactive approach to protect public health and safety that supports BESS technology is required
- As a part of a regional effort, the City of Surprise adopted Chapter 12 of the 2018 IFC with the caveat that additional revisions would be needed
- Section 1 of the proposed ordinance reflects those regional changes



Section 2: Proposed amendment to Chapters 5 and 9 of the 2018 International Fire Code (IFC)



- Chapter 5
 - Specifying the 2018 SU-40
 - Exempting emergency vehicles in fire access roadways
- Chapter 9
 - External horn/strobe at Riser Room/FDC
 - Clarification for full area smoke requirements
 - Clarification for fire alarm systems for shell buildings
- Amending the regional 2018 IFC Chapter 12 along with revisions to Chapters 5 and 9 is SFMD's recommendation





Comments & Questions

Thank you!

ORDINANCE # 2020-23

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, AMENDING SURPRISE MUNICIPAL CODE CHAPTER 105, ARTICLE II, DIVISION 1, SECTION 105-19, THE 2018 INTERNATIONAL FIRE CODE, AS PREVIOUSLY AMENDED, BY FURTHER AMENDING CHAPTERS 5, 9 AND 12 ; INCLUDING SEVERABILITY; REPEALING CONFLICTING ORDINANCES AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City adopted an amended version of Chapter 12 of the 2018 International Fire Code (2018 IFC) on August 6, 2019 and an amended version of the rest of the 2018 IFC on October 15, 2019;

WHEREAS, the Staff of the Fire-Medical Department have now had an opportunity to evaluate and apply the provisions of the 2018 IFC here in the City of Surprise; and

WHEREAS, the Staff of the Fire-Medical Department now desire to amend the adopted 2018 IFC with certain amendments based upon that experience, evaluation and application.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Surprise, Arizona, as follows:

Section 1. The 2018 International Fire Code, as adopted and amended by City of Surprise Ordinance 2019-21 (and as set forth in a certain public record entitled "2019 Amendments to the 2018 International Fire Code, Chapter 12 Energy Systems" dated August 6, 2019) is hereby further amended to the extent set forth in Exhibit A attached hereto and incorporated by this reference. All other provisions of Chapter 12 as previously adopted and amended by Ordinance 2019-21 shall remain unchanged and in effect.

Section 2. The 2018 International Fire Code, Chapters 5 and 9, as adopted and amended by City of Surprise Ordinance 2019-25 (as set forth in a certain public record adopted by Resolution 2019-108, and entitled, "Local Amendments to the 2018 International Codes and the 2017 National Electrical Code" dated November 14, 2019) is hereby further amended to the extent set forth in Exhibit B attached hereto and incorporated by this reference. All other provisions of Chapters 5 and 9, as previously adopted and amended by Ordinance 2019-25 shall remain unchanged and in effect.

Section 3. Surprise Municipal Code, Chapter 105, Article II, Division 1, Section 105-19 is amended to read as follows

Sec. 105-19. - Construction codes.

- (a) 2018 International Building Code.
- (b) 2018 International Residential Code.
- (c) 2017 National Electrical Code.
- (d) 2018 International Mechanical Code.
- (e) 2018 International Plumbing Code.
- (f) 2018 International Fuel Gas Code.
- (g) 2018 International Energy Conservation Code.
- (h) 2006 International Property Maintenance Code.
- (i) 2018 International Existing Building Code.
- (j) 2018 International Fire Code.
- (k) 2018 International Green Construction Code.

A certain public record entitled Local Amendments to the 2018 International Codes and the 2017 National Electrical Code dated November 14, 2019, specifically amends the 2018 building code, residential code, electrical code, mechanical code, plumbing code, fuel gas code, energy conservation code, Green Construction Code, existing building code and fire code. The 2018 International Fire Code is further amended by that certain public record entitled 2019 Amendments to the 2018 International Fire Code, Chapter 12 Energy Systems dated August 6, 2019. LASTLY, THE 2018 INTERNATIONAL FIRE CODE, AS AMENDED ABOVE, IS FURTHER AMENDED BY ORDINANCE 2020-23.

Section 4. All ordinances, resolutions or codes in conflict with the provisions of this Ordinance or Code adopted by this Ordinance are repealed.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of these amendments to the municipal code adopted herein is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision will not be read to affect the validity of the remaining portions thereof.

Section 6. This ordinance will become effective at the time and manner prescribed by law.

SIGNATURES TO FOLLOW ON NEXT PAGE

PASSED AND ADOPTED this ____ day of _____, 2020.

Skip Hall, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Robert Wingo, City Attorney

ORDINANCE 2020-23
EXHIBIT A

CHAPTER 12 ENERGY SYSTEMS

SECTION 1201 GENERAL

1201.1 Scope. The provisions of this chapter shall apply to the installation, operation and maintenance of energy systems used for generating or storing energy UTILIZING BATTERIES OF ANY TYPE, CAPACITORS, MAGNETIC OR ANY OTHER EMERGING TECHNOLOGY, REGARDLESS OF OWNERSHIP OR CONTROL OF THE SYSTEMS. It shall not apply to equipment associated with the generation, control, transformation, transmission, or distribution of energy installations that is under the exclusive control of an electric utility or lawfully designated agency.

. . .

1203.1.1 Stationary generators. Stationary emergency and standby power generators required by this code shall be listed in accordance with UL 2200. ASSOCIATED FLAMMABLE OR COMBUSTIBLE LIQUID TANKS SHALL ALSO COMPLY WITH CHAPTERS 50 AND 57.

. . .

1204.1.1 PERMITS. PERMITS SHALL BE OBTAINED FOR SOLAR VOLTAIC SYSTEMS IN ACCORDANCE WITH SECTION 105.7.21

EXCEPTION: SOLAR PHOTOVOLTAIC SYSTEMS WITH LESS THAN 3 KW ALTERNATING CURRENT NAMEPLATE RATING.

1204.1.2 MARKING. MARKING IS REQUIRED ON INTERIOR AND EXTERIOR DIRECT-CURRENT (DC) CONDUIT, ENCLOSURES, RACE- WAYS, CABLE ASSEMBLIES, JUNCTION BOXES, COMBINER BOXES AND DISCONNECTS.

1204.1.2.1 MATERIALS. THE MATERIALS USED FOR MARKING SHALL BE REFLECTIVE, WEATHER RESISTANT AND SUITABLE FOR THE ENVIRONMENT. MARKING AS REQUIRED IN SECTIONS 1204.1.2 THROUGH 1204.1.6 SHALL HAVE ALL LETTERS CAPITALIZED WITH A MINIMUM HEIGHT OF 3/8 INCH (9.5 MM) WHITE ON RED BACKGROUND.

1204.1.2.2 MARKING CONTENT. THE MARKING SHALL CONTAIN THE WORDS "WARNING: PHOTOVOLTAIC POWER SOURCE."

1204.1.2.3 MAIN SERVICE DISCONNECT. THE MARKING SHALL BE PLACED ADJACENT TO THE MAIN SERVICE DISCONNECT IN A LOCATION CLEARLY VISIBLE FROM THE LOCATION WHERE THE DISCONNECT IS OPERATED.

1204.1.3 LOCATION OF MARKING. MARKING SHALL BE PLACED ON INTERIOR AND EXTERIOR DC CONDUIT, RACEWAYS, ENCLOSURES AND CABLE ASSEMBLIES EVERY 10 FEET (3048 MM), WITHIN 1 FOOT (305 MM) OF TURNS OR BENDS AND WITHIN 1 FOOT (305 MM) ABOVE AND BELOW PENETRATIONS OF ROOF/CEILING ASSEMBLIES, WALLS OR BARRIERS.

. . .

1204.2 Access and pathways. Roof access, pathways, and spacing requirements shall be provided in accordance with Sections 1204.2.1 through 1204.3.3. Pathways shall be over areas capable of supporting fire fighters accessing the roof. Pathways shall be located in areas with minimal obstructions, such as vent pipes, conduit or mechanical equipment.

RESIDENTIAL STRUCTURES SHALL BE DESIGNED SO THAT EACH PHOTOVOLTAIC ARRAY IS NOT GREATER THAN 150 FEET (45 720 MM) BY 150 FEET (45 720 MM) IN EITHER AXIS.

...

1204.2.1 Solar photovoltaic systems for Group R-3 buildings. Solar photovoltaic systems for Group R-3 buildings shall comply with Sections 1204.2.1.1 through ~~1204.2.1.3~~ 1204.2.1.5.

EXCEPTIONS:

1. ~~These requirements shall not apply to structures designed and constructed in accordance with the *International Residential Code*.~~

2. ~~These requirements shall not apply to roofs with slopes of 2 units vertical in 12 units horizontal or less.~~

1204.2.1.1 ROOF ACCESS POINTS. ROOF ACCESS POINTS SHALL BE LOCATED IN AREAS THAT DO NOT REQUIRE THE PLACEMENT OF GROUND LADDERS OVER OPENINGS SUCH AS WINDOWS OR DOORS AND LOCATED AT STRONG POINTS OF BUILDING CONSTRUCTION IN LOCATIONS WHERE THE ACCESS POINT DOES NOT CONFLICT WITH OVERHEAD OBSTRUCTIONS SUCH AS TREE LIMBS, WIRES, OR SIGNS.

1204.2.1.2 RESIDENTIAL BUILDINGS WITH HIP ROOF LAYOUTS. PANELS OR MODULES INSTALLED ON RESIDENTIAL BUILDINGS WITH HIP ROOF LAYOUTS SHALL BE LOCATED IN A MANNER THAT PROVIDES TWO 3-FOOT-WIDE (914 MM) CLEAR ACCESS PATHWAY FROM THE EAVE TO THE RIDGE ON EACH ROOF SLOPE WHERE PANELS OR MODULES ARE LOCATED.

1204.2.1.3 RESIDENTIAL BUILDINGS WITH A SINGLE RIDGE.

PANELS/MODULES INSTALLED ON RESIDENTIAL BUILDINGS WITH A SINGLE RIDGE SHALL BE LOCATED IN A MANNER THAT PROVIDES TWO 3-FOOT-WIDE (914 MM) ACCESS PATHWAYS FROM THE EAVE TO THE RIDGE ON EACH ROOF SLOPE WHERE PANELS/MODULES ARE LOCATED.

1204.2.1.4 RESIDENTIAL BUILDINGS WITH ROOF HIPPS AND VALLEYS.

PANELS OR MODULES INSTALLED ON RESIDENTIAL BUILDINGS WITH ROOF HIPPS AND VALLEYS SHALL BE LOCATED NOT CLOSER THAN 18 INCHES (457 MM) TO A HIP OR A VALLEY WHERE PANELS OR MODULES ARE TO BE PLACED ON BOTH SIDES OF A HIP OR VALLEY. WHERE PANELS ARE TO BE LOCATED ON ONLY ONE SIDE OF A HIP OR VALLEY THAT IS OF EQUAL LENGTH, THE PANELS SHALL BE PERMITTED TO BE PLACED DIRECTLY ADJACENT TO THE HIP OR VALLEY.

1204.2.1.5 RESIDENTIAL BUILDING SMOKE VENTILATION. PANELS/MODULES INSTALLED ON RESIDENTIAL BUILDINGS SHALL BE LOCATED NO HIGHER THAN 3 FEET (914 MM) BELOW THE RIDGE IN ORDER TO ALLOW FOR FIRE DEPARTMENT SMOKE VENTILATION OPERATIONS.

. . .
1204.3 Other than Group R-3 buildings. Access to systems for buildings, other than those containing Group R-3 occupancies, shall be provided in accordance with Sections 1204.3.1 through 1204.3.3.

Exception: Where it is determined by the *fire code official* that the roof configuration is similar to that of a Group R-3 occupancy, the residential access and ventilation requirements in Sections 1204.2.1.1 through ~~1204.2.1.3~~ 1204.2.1.5 are a suitable alternative.

. . .
1204.3.2 Interior pathways. Interior pathways shall be provided between array sections to meet the following requirements:

- . . .
4. THE PATHWAY SHALL BE OVER AREAS CAPABLE OF SUPPORTING THE LIVE LOAD OF FIREFIGHTERS ACCESSING THE ROOF.
 5. THE CENTERLINE AXIS PATHWAYS SHALL BE PROVIDED IN BOTH AXES OF THE ROOF. CENTERLINE AXIS PATHWAYS SHALL RUN WHERE THE ROOF STRUCTURE IS CAPABLE OF SUPPORTING THE LIVE LOAD OF FIREFIGHTERS ACCESSING THE ROOF.

1204.3.3 Smoke ventilation. The solar installation shall be designed to meet the following requirements:

- . . .
3. ~~A pathway not less than 4 feet (1219 mm) wide bordering 4 foot by 8 foot (1219 mm by 2438 mm) venting cutouts every 20 feet (6096 mm) on alternating sides of the pathway.~~ ARRAYS SHALL BE NOT GREATER THAN 150 FEET (45 720 MM) BY 150 FEET (45 720 MM) IN DISTANCE IN EITHER AXIS IN ORDER TO CREATE OPPORTUNITIES FOR FIRE DEPARTMENT SMOKE VENTILATION OPERATIONS.

. . .
1206.2 Stationary storage battery systems. Stationary storage battery systems having capacities exceeding the values shown in Table 1206.2 shall comply with Section 1206.2.1 through 1206.2.12.6, as applicable. *APPROVED SIGNAGE IS REQUIRED FOR ALL INSTALLATIONS.

1206.2.1 Permits. Permits shall be obtained for the construction of stationary storage battery systems WITH A CAPACITY OF 3 KWH OR MORE, in accordance with Section 105.7.2.

. . .
1206.2.3 Hazard mitigation analysis. A failure modes and effects analysis (FMEA) or other approved hazard mitigation analysis shall be provided in accordance with Section 104.7.2 under any of the following conditions:

1. Battery technologies not specifically identified in Table 1206.2 are provided.
2. More than one stationary storage battery technology is provided in a room or indoor area where there is a potential for adverse interaction between technologies.
3. Where allowed as a basis for increasing maximum allowable quantities in accordance with Section 1206.2.9.

4. WHERE REQUIRED BY THE *FIRE CODE OFFICIAL*.

1206.2.3.1 Fault condition. The hazard mitigation analysis shall evaluate the consequences of the following failure modes, and others deemed necessary by the *fire code official*. Only single-failure modes shall be considered.

1. Thermal runaway condition in a single-battery storage rack, module or array.
2. Failure of any energy management system.
3. Failure of any required ventilation system.
4. Voltage surges on the primary electric supply.
5. Short circuits on the load side of the stationary battery storage system.
6. Failure of the smoke detection, fire-extinguishing or gas detection system.
7. Spill neutralization not being provided or failure of the secondary containment system.
8. FAILURE OF TEMPERATURE CONTROL.

. . .
1206.2.3.6 FORENSIC ANALYSIS. THE *FIRE CODE OFFICIAL* MAY ALSO REQUIRE A FORENSIC ANALYSIS OF THE CAUSE OF FAILURE BY AN INDEPENDENT LABORATORY APPROVED BY THE *FIRE CODE OFFICIAL* IN ACCORDANCE WITH SECTION 104.10.2.

. . .
1206.2.8.3 Stationary battery arrays. Storage batteries, prepackaged stationary storage battery systems and pre-engineered stationary storage battery systems shall be segregated into stationary battery arrays not exceeding 50 kWh (180 megajoules) each. Each stationary battery array shall be spaced not less than 3 feet (914 mm) from other stationary battery arrays and from walls in the storage room or area. The storage arrangements shall comply with Chapter 10.

Exceptions:

1. Lead acid and nickel cadmium storage battery arrays.
2. Listed pre-engineered stationary storage battery systems and prepackaged stationary storage battery systems shall not exceed 250 kWh (900 megajoules) each, WHERE *APPROVED BY THE FIRE CODE OFFICIAL*.

. . .
1206.2.8.7.1 Separation. Stationary storage battery systems located outdoors shall be separated by a ~~minimum 5 feet (1524 mm)~~ NOT LESS THAN 10 FEET (3048 mm) from the following:

1. Lot lines.
2. Public ways.
3. Buildings.
4. Stored combustible materials.
5. Hazardous materials.
6. High-piled stock.
7. Other exposure hazards.

Exception: The *fire code official* is authorized to approve smaller separation distances if largescale fire and fault condition testing conducted or witnessed and reported by an approved testing laboratory is provided showing that a fire involving the system will not

adversely impact occupant egress from adjacent buildings, or adversely impact adjacent stored materials or structures.

. . .

1206.2.11.3 EXHAUST Ventilation. Where required by ~~Section 1206.2.3 or 1206.2.12~~ TABLE 1206.2.10, ventilation of rooms containing stationary storage battery systems shall be provided in accordance with the *International Mechanical Code* and one of the following:

1. The ventilation system shall be designed to limit the maximum concentration of flammable gas to 10 percent of the lower flammability limit, or for hydrogen, 1.0 percent of the total volume of the room.
2. Continuous ventilation shall be provided at a rate of not less than 1 cubic foot per minute (cfm) per square foot [0.00508 m³/(s • m²)] of floor area, but not less than 150 cfm (4 m³/min). The exhaust system shall be designed to provide air movement across all parts of the floor for gases having a vapor density greater than air and across all parts of the vault ceiling for gases having a vapor density less than air.

. . .

1206.4 Energy storage system in Group R-3 and R-4 occupancies. Energy storage systems in Group R-3 and R-4 occupancies shall be installed and maintained in accordance with this section. The temporary use of an owner or occupant's electric-powered vehicle as an energy storage system shall be in accordance with 1206.4.

EXCEPTION: ENERGY STORAGE SYSTEMS IN GROUP R-3 AND R-4 OCCUPANCIES WITH A CAPACITY OF 3 KWH OR LESS.

. . .

1206.4.3 Location. Energy storage systems shall only be installed in the following locations:

1. Detached garages and detached accessory structures.
2. Attached garages separated from the dwelling unit living space and sleeping units in accordance with Section 406.3.2 of the *International Building Code*.
3. Outdoors on exterior walls in accordance with 1206.4.3.1
4. ~~Utility closets and storage or utility spaces within dwelling units and sleeping units~~
OTHER LOCATIONS WITH FIRE MARSHAL APPROVAL.

1206.4.3.1 Exterior wall AND OUTDOOR installations. Energy storage systems shall be permitted to be installed outdoors on exterior walls of buildings OR ON THE GROUND where all of the following conditions are met:

1. The maximum energy capacity of individual energy storage system units shall not exceed 20 kWh.
2. ~~The energy storage system shall comply with applicable requirements in Sections 1206~~
THE INSTALLATION IS IN ACCORDANCE WITH ZONING SETBACK REQUIREMENTS.
3. The energy storage system shall be installed in accordance with the manufacturer's instructions and their listing.
4. Individual energy storage system units shall be separated from each other by not less than 3 feet (914 mm).

5. The energy storage system shall be separated from doors, windows, operable openings into buildings, or HVAC inlets by at least 5 feet (1524 mm).

Exception: Where approved by the *fire code official*, smaller separation distances in Items 4 and 5 may be permitted based on large scale fire testing

1206.4.4 Energy ratings. Individual energy storage systems units shall have a maximum rating of 20 kwh. The aggregate rating structure shall not exceed:

~~1. 40 KWH within utility closets and storage or utility spaces.~~

1. 2. 80 kWh in attached or detached garages and detached accessory structures.

2. 3. 80 kWh on exterior walls.

3. 4. 80 kWh outdoors on the ground.

ORDINANCE 2020-23
EXHIBIT B

CHAPTER 5 FIRE SERVICE FEATURES

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Section 503

Fire Apparatus Access Roads

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503.2.4 Turning Radius. The required turning radius of a fire apparatus access road shall be as specified by **2018** ASSHTO SU-40.

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503.4 Obstruction of fire apparatus access roads. Fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles. The minimum widths and clearances established in Sections 503.2.1 and 503.2.2 shall be maintained at all times.

EXCEPTION: PUBLIC SAFETY/EMERGENCY RESPONSE VEHICLES PARKED
IN FIRE APPARATUS ACCESS ROADS WHILE ON OFFICIAL BUSINESS.

...

CHAPTER 9 FIRE PROTECTION AND LIFE SAFETY FEATURES

SECTION 901

General

...

901.4.6.2.4 ELECTRIC HORN AND STROBE. A WATER-PROOF ELECTRIC HORN AND STROBE SHALL BE INSTALLED ON THE EXTERIOR WALL ADJACENT TO THE FIRE RISER IN LIEU OF THE ELECTRIC BELL AND/OR WATER GONG AND ABOVE A WALL MOUNT FDC IF THE FDC IS IN A DIFFERENT LOCATION THAN THE RISER ROOM.

...

SECTION 903 AUTOMATIC SPRINKLER SYSTEMS

Section 903

Automatic Sprinkler Systems

...

903.2.7 Group M AND GROUP B. An automatic sprinkler system shall be provided throughout buildings containing a Group M OR GROUP B occupancy. ~~where one of the following conditions exists:~~

- ~~1. A Group M fire area exceeds 12,000 square feet (1115 m²).~~
- ~~2. A Group M fire area is located more than three stories above grade plane.~~
- ~~3. The combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230m²).~~

4. ~~A Group M occupancy used for the display and sale of upholstered furniture or mattresses exceeds 5,000 square feet (464m²).~~

...

Section 907

Fire Alarm and Detection Systems

...

907.2 Where required—new buildings and structures.

An approved fire alarm system installed in accordance with the provisions of this code and NFPA 72 shall be provided in new buildings and structures in accordance with Sections 907.2.1 through 907.2.23 and provide full area smoke detection coverage ~~in accordance with Section 907.2.8.2~~ and occupant notification in accordance with Section 907.5, unless other requirements are provided by another section of this code. Not fewer than one manual fire alarm box shall be provided in an approved location to initiate a fire alarm signal for fire alarm systems employing automatic fire detectors or waterflow detection devices. Where other sections of this code allow elimination of fire alarm boxes due to sprinklers, a single fire alarm box shall be installed.

Exceptions:

1. The manual fire alarm box is not required for fire alarm systems dedicated to elevator recall control and supervisory service.
2. The manual fire alarm box is not required for Group R-2 occupancies unless required by the fire code official to provide a means for fire watch personnel to initiate an alarm during a sprinkler system impairment event. Where provided, the manual fire alarm box shall not be located in an area that is open to the public.
3. NEW SHELL BUILDINGS SHALL MEET THE MINIMUM REQUIREMENTS AS FOLLOWS:
 - A. SPRINKLER SYSTEM MONITORING AND REPORTING
 - B. ONE MANUAL PULL STATION AND ONE DETECTION DEVICE IN THE SAME ROOM AS THE FACP
 - C. ONE NOTIFICATION AND ONE DETECTION DEVICE IN THE INTERIOR PORTION OF THE SHELL BUILDING UNTIL SUCH TIME AS THE LOCATION IS MODIFIED UNDER A TENANT IMPROVEMENT PERMIT
 - D. A WATERPROOF ELECTRIC HORN AND STROBE INSTALLED ON THE EXTERIOR WALL ADJACENT TO THE FIRE RISER AND ABOVE A WALL MOUNT FDC IF THE FDC IS IN A DIFFERENT LOCATION THAN THE RISER ROOM.

...

907.6.1 Wiring. Wiring shall BE CLASS A AND comply with the requirements of NFPA 70 and NFPA 72. Wireless protection systems utilizing radio-frequency transmitting devices shall comply with the special requirements for supervision of low-power wireless systems in NFPA 72.

...

907.6.3 Initiating device identification.

The fire alarm system shall identify the specific initiating device address, location, device type, floor level where applicable and status including indication of normal, alarm, trouble and supervisory status, as appropriate.

Exceptions:

~~1. FIRE ALARM SYSTEMS IN SINGLE STORY BUILDINGS LESS THAN 22,500 SQUARE FEET (2090 M2) IN AREA.~~

~~2. FIRE ALARM SYSTEMS THAT ONLY INCLUDE MANUAL FIRE ALARM BOXES, WATERFLOW INITIATING DEVICES AND NOT MORE THAN 10 ADDITIONAL ALARM INITIATING DEVICES.~~

~~31.~~ Special initiating devices that do not support individual device identification.

~~42.~~ Fire alarm systems or devices that are replacing existing equipment.

...

~~907.6.6.3 Automatic test signal. The generation of an automatic weekly signal shall be required from each subscriber alarm system to the subscriber monitoring station.~~

~~1. The monitoring station shall verify the receipt of the test signal.~~

~~2. The monitoring station shall notify its subscriber if an automatic weekly test signal has not been received.~~