



T o w n o f G i l b e r t

# LAND DEVELOPMENT CODE

**Town of Gilbert  
Planning Department**

Adopted: February 1, 2005  
Effective: March 3, 2005, Ordinance No. 1625  
Latest Revision: May 21, 2020



# Gilbert Land Development Code

## Town of Gilbert, Arizona

### **Town Council**

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Scott Anderson, Vice Mayor  
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### **Planning Manager**

Eva Cutro, AICP

### **Zoning Administrator**

Catherine Lorbeer, AICP

### **Town Attorney**

Nancy Davidson

*As of 5-21-20*



# **Town of Gilbert Land Development Code | Summary of Amendments**

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**Adopted: February 1, 2005**

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**Revised: May 21, 2020**

| <i>Amendments</i>   | <i>Article / Section No. and Title</i>  | <i>Effective Date</i> | <i>Ordinance No.</i> |
|---|---|-----------------------|----------------------|
| Consent Agenda – Addition of Language Concerning Consent Items. (Z05-17)                                      | Section 5.206C: Approval of Items by Consent.   | 12-30-05              | 1693                 |
| Single Family-43 (SF-43)- Addition of New District. (Z05-29)  | Article 1.1: Title and Purpose<br>Article 2.1: Single Family Residential Districts  | 4-28-06               | 1718                 |
| Parking Space Dimensions – Modified Parking Space Dimensions for Parking Structures. (Z06-53)                 | Section 4.206D: Spaces in Parking Structures<br>Section 4.206J: Angle Parking Less Than 90 Degrees in Parking Structures.         | 6-23-06               | 1761                 |
| Wall Mounted Lights – Modified Height Regulations for Nonresidential Districts. (Z06-81)                      | Section 4.103: Lighting Standards<br>Glossary of General Terms  | 9-29-06               | 1816                 |
| Separation Fences – Modified Separation Fence Requirements for Residential and Nonresidential Uses. (Z05-20A) | Section 4.109: Fences<br>Section 5.102: Town Council<br>Section 5.103: Planning Commission<br>Section 5.106: Zoning Administrator | 11-24-06              | 1859                 |

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|--|---|------------------------------|-----------------------------|
| Heritage Village Center – Addition of New Sign Regulations. (Z06-118)  | Article 2.4: Heritage Village Center Zoning District<br>Article 3.1: Planned Area Development Overlay Zoning District<br>Article 4.4: Sign Regulations<br>Article 5.1: Planning Administration<br>Article 5.6: Design Review<br>Article 5.12: Enforcement<br>Glossary of General Terms  | 4-20-07                      | 1922                        |
| Screening Of Mechanical Equipment – Modified Applicability of Measures to Screen and Secure Backflow Prevention Devices and Requirements to Secure These Devices. (Z07-03) | Section 4.105: Screening of Mechanical and Electrical Equipment   | 5-18-07                      | 1928                        |
| Sign Regulations – Modified Sign Regulations for Multi-Story Buildings. (Z06-54)   | Section 4.402: General Sign Regulations, Subsection Q Address Signs<br>Section 4.403: Sign Criteria<br>Section 4.407: Commercial<br>Section 4.409: Office/Employment<br>Section 4.4010: Public Facility/Institutional<br>Glossary of General Terms  | 5-24-2007                    | 1929                        |
| Claim For Diminution In Value – A.R.S. § 12-1134 And § 12-1136 (Proposition 207). (Z07-25)   | Section 5.201: Application Process<br>Article 5.10 – Rename Section Title to: Appeals Of Dedications, Exactions And Zoning Regulations, Reconsideration Of Certain Decisions, And Claims For Diminution In Value<br>Section 5.1004: Procedure for Response To Claim For Diminution In Value Pursuant To A.R.S. § 12-1134<br>Glossary of General Terms | 6-22-07                      | 1950                        |

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|--|---|------------------------------|-----------------------------|
| Gateway Zoning District – Addition of New District and Related Code Provisions. (Z06-112)  | Article 1.1: Title and Purpose<br>Article 2.8: Gateway Zoning Districts<br>Section 4.203I: Off-Street Parking and Loading Regulations<br>Section 4.204: Number of Parking Spaces Required<br>Glossary of General Terms                        | 7-20-07                      | 1980                        |
| Screening Of Mechanical Equipment – Modified Applicability of Measures to Screen and Secure Backflow Prevention Devices and Requirements to Secure These Devices {Clarification of Ordinance No. 1928}. (Z07-03) | Section 4.105: Screening of Mechanical and Electrical Equipment   | 9-21-07                      | 2011                        |
| Office Zoning Districts – Addition of New Uses in Support of Principal Office and Other Permitted Uses. (Z07-67)   | Article 2.5: Office Districts   | 9-21-07                      | 2014                        |
| Heritage Village Center – Permit Existing Single Family Uses in Multi-Family Zoned Areas to Improve and Expand the Existing Use. (Z07-77)  | Article 2.2: Multi-Family Residential Districts<br>Article 4.6: Non-Conforming Uses, Lots, Parcels, Structures and Signs  | 9-21-07                      | 2015                        |
| Wireless Communication Facilities – Clarification of Regulation to Address Miscellaneous Inconsistencies with the WCF Provisions. (Z07-94)   | Article 2.3: Commercial Districts<br>Article 2.5: Office Districts<br>Article 2.6: Employment Districts<br>Article 2.7: Public Facility/Institutional District<br>Article 4.7: Wireless Communication Facilities<br>Glossary of General Terms | 10-26-07                     | 2063                        |
| Business Park Zoning District – Permit Existing Single Family Uses in Business Park Zoned Areas to Improve and Expand the Existing Use. (Z07-88)   | Article 2.6: Employment Districts<br>Article 4.6: Non-Conforming Uses, Lots, Parcels, Structures and Signs  | 11-09-07                     | 2068                        |

| <i>Amendments</i>  | <i>Article / Section No. and Title</i>  | <i>Effective Date</i> | <i>Ordinance No.</i> |
|--|---|-----------------------|----------------------|
| Sign Regulations – Modified Religious Assembly Temporary Directional Sign provisions; Re-titled Section to Temporary Directional Signs Relating to a Qualifying Event. (Z07-110)               | Article 4.4: Sign Regulations<br>Glossary of General Terms  | 2-08-08               | 2112                 |
| Over-The-Air Reception Devices – Included in the Neighborhood Office District as a Permitted Use with Limitations. (Z07-67)  | Article 2.5: Office Districts   | 2-29-08               | 2117                 |
| Public Safety Facilities, Large-Scale – Use Definition Amended to Include Private Ambulance Service Providers as Public Safety Facilities. (Z07-109)   | Article 6.1: Use Definitions  | 2-29-08               | 2118                 |
| Temporary Development Signs – Modified Provisions to Permit Temporary Signs Regarding New Construction, Businesses, Uses or Tenants; Modified Temporary Real Estate Sign Provisions. (Z07-118) | Article 4.4: Sign Regulations<br>Glossary of General Terms  | 3-28-08               | 2122                 |
| Drive-Through and Take-Out Facilities – Modified Number of Stacking Spaces Required for Limited Service Restaurants; and Modified the General Term for Stacking Space. (Z08-03)                | Article 4.2: Off-Street Parking and Loading Regulations<br>Glossary of General Terms  | 6-27-08               | 2158                 |
| Recreational Vehicle – Deleted Provision for On- Street Parking; and Changed the Number of Consecutive Hours Permitted for Temporary Occupancy. (Z08-10)                                       | Article 4.5: Supplemental Use Regulations   | 6-27-08               | 2159                 |
| Changing the official name of Gateway Airport. (Z08-13)  | Article 3.2: Phoenix-Mesa Gateway Airport Overlay District  | 7-25-08               | 2183                 |
| Maximum building height – amending certain existing zoning districts and establishing a new Vertical Development Overlay Zoning District. (Z07-76)   | Article 1.1 Title and Purpose<br>Article 2.8: Gateway Districts<br>Article 3.3: Santan Freeway Corridor Overlay District<br>Article 3.5: Vertical Development Overlay Zoning District<br>Glossary of General Terms. | 10-10-08              | 2197                 |

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|--|--|-----------------------|----------------------|
| Modifying and clarifying the definition of "Lot Coverage". (Z08-27)  | Glossary of General Terms  | 11-28-08              | 2203                 |
| Allowing Sign Walkers. (Z08-31)  | Article 4.4: Sign Regulations<br>Glossary of General Terms.  | 12-12-08              | 2205                 |
| Eliminating Building Height Increase by Use Permit. (Z08-34)   | Article 2.3 Commercial Districts<br>Article 2.5 Office Districts<br>Article 2.6 Employment Districts<br>Article 2.7 Public Facility/Institutional District<br>Article 3.1 Planned Area Development Overlay Zoning District | 2-6-09                | 2213                 |
| Amending Scope of Administrative Design Review for Certain Sign Types. (Z08-35)                              | Article 4.4 Sign Regulations<br>Article 5.6 Design Review  | 2-6-09                | 2214                 |
| Establishing Separation Requirements and Use Permit Requirements for Non-Traditional Business Uses. (Z08-40) | Article 2.3 Commercial Districts<br>Article 2.4 Heritage Village Center District<br>Article 4.5 Supplemental Use Regulations<br>Article 6.1 Use Definitions  | 7-31-09               | 2236                 |
| Modifying the Separation Requirements for Sexually-Oriented Businesses. (Z09-18)                             | Article 4.5 Supplemental Use Regulations   | 11-06-09              | 2255                 |
| Revising the Regulations for Non-Conforming Structures. (Z09-19)   | Article 4.6 Non-Conforming Uses, Lots, Parcels, Structures and Signs   | 11-06-09              | 2256                 |
| Amending Sign Regulations for Administrative Approval. (Z09-15)  | Article 4.4 Sign Regulations<br>Article 5.1 Planning Administration<br>Article 5.6 Design Review   | 12-11-09              | 2260                 |
| Amending SC & CC Districts to Allow Commercial Vehicle Sales/Rental with Use Permit. (Z09-24)                | Article 2.3 Commercial Districts   | 4-23-10               | 2280                 |
| Establishing the Heritage District Design Guidelines & Amending Parking Regulations. (Z08-28)                | Chapter II, Article 1.8 Heritage District Design Guidelines<br>Chapter I Article 4.2 Off-Street Parking and Loading Regulations  | 4-23-10               | 2281                 |

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|--|---|-----------------------|----------------------|
| Establishing a New Definition for Place of Worship. (Z10-05)               | Article 2.1 Single Family Residential Districts<br>Article 2.2 Multi-Family Residential Districts<br>Article 2.3 Commercial Districts<br>Article 2.4 Heritage Village Center Zoning District<br>Article 2.7 Public Facility/Institutional District<br>Article 2.8 Gateway Districts<br>Article 3.2 Phoenix- Mesa Gateway Airport Overlay District<br>Article 4.1 Site Regulations<br>Article 4.2 Off- Street Parking and Loading Regulations<br>Article 4.5 Supplemental Use Regulations<br>Article 4.7 Wireless Communication Facilities<br>Article 5.1 Planning Administration<br>Article 6.1 Use Definitions | 6-04-10               | 2284                 |
| Amending the Subdivision Regulations.                                      | Chapter III Subdivision Regulations<br>Article 1.1 Subdivision Regulations<br>Article 1.2 Minor Land Division<br>Glossary of General Terms  | 12-18-09              | 2263                 |
| Revising the Posting Requirements for Administrative Use Permits. (Z10-02) | Article 5.4 Use Permits   | 7-09-10               | 2286                 |
| Amending the Sign Regulations for Temporary Signs and Logos. (Z10-03)      | Article 4.4 Sign Regulations, Glossary of General Terms   | 7-23-10               | 2290                 |



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|--|--|-----------------------|----------------------|
| Amending the Common Procedures to Increase the # of Public Posting Locations. (Z09-22)                           | Article 5.2 Common Procedures<br>Article 5.4 Use Permits<br>Article 5.7 Amendments to Zoning Code Text<br>Article 5.8 Amendments to General Plan<br>Article 5.9 Protected Development Right Plan   | 3-26-10               | 2277                 |
| Amending the Subdivision Regulations.  | Article 1.1 Subdivision Regulations Glossary of General Terms  | 3-26-10               | 2279                 |
| Amending Single-Family Residential Districts, Site Regulations, Parking Regulations and Use Definitions. (Z09-3) | Article 2.1 Single Family Residential Districts<br>Article 4.1 Site Regulations<br>Article 4.2 Off-Street Parking and Loading Regulations<br>Article 6.1 Use Definitions   | 9-5-10                | 2296                 |
| Amending the definition of General Manufacturing and Assembly. (Z10-10)  | Article 2.6 Employment Districts<br>Article 6.1 Use Definitions  | 10-10-10              | 2301                 |
| Revising Design Review Board Procedures & Responsibilities. (Z10-13)   | Article 5.6 Design Review  | 11-21-10              | 2305                 |
| Amending the Sign Regulations for Temporary Signs. (Z10-14)  | Article 4.4 Sign Regulations   | 11-21-10              | 2307                 |
| Amending Seasonal Sales Use Definition. (Z10-18)   | Article 6.1 Use Definitions  | 1-16-11               | 2317                 |
| Adding Medical Marijuana Regulations. (Z10-19)   | Article 2.6 Employment Districts<br>Article 4.5 Supplemental Use Regulations<br>Article 6.1 Use Definitions  | 2-13-11               | 2318                 |
| Amending Wireless Communication Facilities Regulations. (Z10-17)   | Article 2.1 Single Family Residential Districts<br>Article 2.2 Multi-Family Residential Districts<br>Article 2.3 Commercial Districts<br>Article 2.4 Heritage Village Center Zoning District<br>Article 2.5 Office Districts<br>Article 2.6 Employment Districts | 5-8-11<br>4-27-14     | 2322                 |

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| Amending Wireless Communication Facilities Regulations. (continued)                                  | Article 2.7 Public Facility/<br>Institutional District<br><br>Article 2.8 Gateway Districts<br><br>Article 4.7 Wireless Communication Facilities<br><br>Article 5.2 Common Procedures |                              |                             |
| Adding Medical Marijuana Designated Caregiver Cultivation Location. (Z11-05)                         | Article 2.6 Employment Districts<br><br>Article 4.5 Supplemental Use Regulations<br><br>Article 6.1 Use Definitions   | 9-28-11                      | 2336                        |
| Amending Design Review Procedures and Responsibilities. (Z11-09)                                     | Article 5.6 Design Review   | 9-18-11                      | 2339                        |
| Establishing Zoning Reversion Procedures. (Z11-03)   | Article 5.7 Amendments to Zoning Code Text, A Zoning Ordinance or the Official Zoning Map   | 9-18-11                      | 2340                        |
| Amending the Sign Regulations. (Z11-02)  | Article 4.4 Sign Regulations<br><br>Glossary of General Terms   | 11-6-11                      | 2343                        |
| Amending Article 4.5 Supplemental Use Regulations for Temporary Uses & Special Events. (Z11-12)      | Article 4.5 Supplemental Use Regulations, Section 4.5012<br>Temporary Uses<br><br>Article 6.1 Use Definitions<br><br>Glossary of General Terms  | 12-18-11                     | 2346                        |
| Amending Article 4.5 Supplemental Use Regulations for Temporary Structures. (Z11-16)                 | Article 4.5 Supplemental Use Regulations, Section 4.5013<br>Temporary Structures<br><br>Glossary of General Terms   | 2-26-12                      | 2355                        |
| Amending the Use Definition to include Columbarium as an accessory use to Place of Worship. (Z12-25) | Article 6.1 Use Definitions   | 3-25-12                      | 2358                        |
| Adding “Private and Public Park” terms to the Glossary. (Z11-14)                                     | Glossary of General Terms   | 12-16-12                     | 2400                        |
| Amending Heritage Village Center Drive-Through regulations. (Z12-21)                                 | Article 2.4 Heritage Village Center District<br><br>Glossary of General Terms   | 2-17-13                      | 2414                        |

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| Amending Common Procedures and Enforcement for Appeals and Abatement. (Z12-14)              | Article 5.2 Common Procedures<br>Article 5.12 Enforcement   | 4-07-13                      | 2420                        |
| Amending Schools definition. (Z12-19)   | Article 6.1 Use Definitions   | 4-07-13                      | 2421                        |
| Adding Appendix 1, LDC Graphics and references throughout the Code. (Z12-25)                | Article 2.1 Single Family Districts<br>Article 2.4 Heritage Village Center District<br>Article 4.1 Site Regulations<br>Article 4.2 Off-Street Parking and Loading Regulations<br>Article 4.3 Landscape Regulations<br>Article 4.4 Sign Regulations<br>Glossary of General Terms<br>Appendix 1: Graphics | 5-05-13                      | 2423                        |
| Amending Article 2.1 to allow extra lot coverage for Open Air/Open Roof Structures.(Z12-23) | Article 2.1 Single Family Residential Districts<br>Glossary of General Terms  | 7-07-13                      | 2433                        |
| Amending Temporary Uses and Special Event Signs. (Z13-15)                                   | Article 4.4 Sign Regulations  | 11-03-13                     | 2451                        |
| Amending Chp. III Subdivision Regulations.  | Article 1.4 Penalties and Enforcement   | 10-18-13                     | 2449                        |
| Amending Political Sign definition. (Z12-12)  | Glossary of General Terms   | 11-24-13                     | 2455                        |
| Adding Colleges, Public and Private as a permitted use in HVC, GVC, and GBC. (Z13-31)       | Article 2.4 Heritage Village Center Zoning District<br>Article 2.8 Gateway District   | 2-16-14                      | 2469                        |

| <i>Amendments</i>   | <i>Article / Section No. and Title</i>  | <i>Effective Date</i> | <i>Ordinance No.</i> |
|---|---|-----------------------|----------------------|
| Permitting Recovery Residence Uses in certain Single-Family and Multi-Family Residential Zoning Districts. (Z13-02)   | Article 2.1 Single Family Residential Districts<br>Article 2.2 Multi-Family Residential Districts<br>Article 4.5 Supplemental Use Regulations<br>Article 6.1 Use Definitions<br>Glossary of General Terms   | 4-27-14               | 2479                 |
| Keeping of Fowl in Single Family Residential Zoning Districts. (Z13-30)   | Article 2.1 Single Family Residential Districts   | 4-27-14               | 2480                 |
| Authorizing the Zoning Administrator to approve minor modifications to CUPs for WCFs. (Z13-36)  | Article 5.4 Use Permits   | 5-18-14               | 2484                 |
| Adding Findings for Mixed Use Developments in Regional Commercial. (Z13-04)   | Article 2.3 Commercial Districts<br>Glossary of General Terms   | 6-01-14               | 2487                 |
| Clarifies setbacks required for a drive-through aisle; clarifies when a Minor Land Division or Minor Subdivision approval automatically expires; increases the amount of incidental retail use allowed; reduces the minimum wall height requirement for multi-family private open space; clarifies the definition of a detached building; increases the allowed height for single family guest quarters; increases the allowed area for certain accessory structures; allows for additional parking in the side-yard of a single family residential lot; and allows tower and freeway signs in certain zones. (Z14-15A) | Article 2.1 Single Family Residential Districts<br>Article 2.2 Multi-Family Residential Districts<br>Article 2.3 Commercial Districts<br>Article 2.6 Employment Districts<br>Article 4.2 Off-Street Parking and Loading Regulations<br>Article 4.4 Sign Regulations<br>Article 4.5 Supplemental Use Regulations<br>Chp. III Article 1.2 Minor Land Division and Minor Subdivision | 11-16-14              | 2502                 |
| Provides for the keeping of certain animals in Stables, Residential regardless of animal ownership; increases the setbacks for animal exercise areas; and allows corporate flags in certain zones. (Z14-15B)  | Article 4.4 Sign Regulations<br>Article 4.5 Supplemental Use Regulations<br>Article 6.1 Use Definitions   | 11-30-14              | 2505                 |

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| Increases guest parking requirements and requires Parking Plan review for certain single family development. (Z14-15C)  | Article 4.2 Off-Street Parking and Loading Regulations   | 2/15/2015                    | 2519                        |
| Allows for multiple storage containers in employment and public facility/institutional zones; removes prohibitions on metal buildings in employment zones; defines and regulates facility manager dwelling units and gatehouses; clarifies administrative design review for building expansion. (Z14-15D) | Article 2.6 Employment Districts<br>Article 4.5 Supplemental Use Regulations<br>Article 5.6 Design Review<br>Glossary of Terms | 4/05/2015                    | 2524                        |
| Design Review Board membership requirement and Administrative Design Review for building expansions and subdivision open space plans (Z14-15E)  | Article 5.1 Planning Administration<br>Article 5.6 Design Review   | 6/14/2015                    | 2533                        |
| Provide regulation of certain behavioral health treatment activity and revise definition of hospital (Z13-11)   | Article 4.5 Supplemental Use Regulations<br>Article 6.1 Use Definition   | 7/5/2015                     | 2534                        |
| Amend the General Sign Regulations related to Message Substitution (Z15-05)   | Article 4.4 Sign Regulations   | 3/3/2016                     | 2571                        |
| Limit the number of Medical Marijuana Facilities (Z16-04)   | Article 4.5 Supplemental Use Regulations   | 5/5/2016                     | 2577                        |
| Amend the permitted uses for Facility Manager Dwelling Unit (Z16-06A)   | Article 4.5 Supplemental Use Regulations   | 7/10/2016                    | 2580                        |
| Provide definition to include Teletrak Wagering Establishment and Glossary of Terms related to Teletrak Wagering Establishment (Z16-06A)  | Article 6.1 Use Definition<br>Glossary of Terms  | 9/01/2016                    | 2580                        |

| <b>Amendments</b>   | <b>Article / Section No. and Title</b>   | <b>Effective Date</b> | <b>Ordinance No.</b> |
|---|--|-----------------------|----------------------|
| Amend Secondary Dwelling Units in Single Family Residential, Wireless Communication Facilities and Planning Administrative related to the Planning Commission and Design Review Board Membership (Z16-05)   | Article 2.1 Single Family Residential Districts<br>Article 4.7 Wireless Communication Facilities<br>Article 5.1 Planning Administration<br>Article 5.6 Design Review Board   | 8/28/2016             | 2583                 |
| Addition of Crematorium and Funeral and Undertaking Services as permitted uses (Z16-09)   | Article 2.7 Public Facility/Institutional District   | 08/28/2016            | 2584                 |
| Delete the Land Use Regulations tables within each section and create a comprehensive Land Use Table; Replacement of the term Religious Assembly with Place of Worship; Replacement of the term Clubs and Lodges with Civic Social and Fraternal Organizations and addition of the term University to the Colleges, Public or Private Use; Repair or rebuilding of a damaged structure related to updating the section reference for the Land Use Table; and additions, deletions and updates to Use Definitions and Glossary of Terms (Z16-06-B) | Article 2.1 Single Family Residential Districts<br>Article 2.2 Multi Family Residential Districts<br>Article 2.3 Commercial Districts<br>Article 2.4 Heritage Village Center Zoning District<br>Article 2.5 Office Districts<br>Article 2.6 Employment Districts<br>Article 2.7 Public Facility/Institutional District<br>Article 2.8 Gateway Districts<br>Article 2.9 Use Regulations<br>Article 3.3 Santa Freeway Corridor Overlay District<br>Article 4.2 Off Street Parking and Loading Regulations<br>Article 4.6 Non-Conforming Uses, Lots, Parcels, Structures and Signs<br>Article 4.7 Wireless Communication Facilities<br>Article 6.1 Use Definitions<br>Glossary of General Terms | 11/20/2016            | 2594                 |
| Deletion of Bed and Breakfast Homes and addition Vacation or Short-Term Rentals and additions, deletions and updates to Use Definitions and Glossary of Terms (Z16-12)  | Article 2.9 Use Regulations<br>Article 4.5 Supplemental Use Regulations<br>Article 6.1 Use Definitions<br>Glossary of General Terms  | 12/10/2016            | 2597                 |

| <i>Amendments</i>   | <i>Article / Section No. and Title</i>  | <i>Effective Date</i> | <i>Ordinance No.</i> |
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| Separation Requirements between Medical Marijuana dispensaries (Z16-13)   | Article 4.5 Supplemental Use Regulations  | 12/10/2016            | 2598                 |
| Amend purpose statement, requiring separation of group homes from recovery residences, decreasing the occupancy, requiring copy of state license, addition of new standard for group homes and amend the Use Definitions (Z16-19) | Article 4.5 Supplement Use Regulations<br>Article 6.1 Use Definitions   | 3/19/2017             | 2606                 |
| Amend the Medical Marijuana Dispensaries and Offsite Cultivation sites related to hours of operation, retail sale of merchandise incidental to its medicinal use and permitting an emergency exit (Z17-1000)                      | Article 4.5 Supplement Use Regulations  | 5/21/2017             | 2614                 |
| Repealing and replacing in its entirety Article 4.4 Sign Regulations, including glossary of terms and graphics; and removing outdated public notice requirements (Z16-11)   | Article 4.4 Sign Regulations<br>Article 4.5 Supplement Use Regulations<br>Article 4.6 Non-Conforming Uses, Lots, Parcels, Structures and Signs<br>Article 5.2 Common Procedures<br>Article 5.12 Enforcement<br>Glossary of Terms<br>Appendix 1 – Graphics | 7/29/2017             | 2619                 |
| Amend the legal protest procedure and update the glossary of terms (Z17-1008)   | Article 5.7 Amendments to Zoning Code Text, a Zoning Ordinance or the Official Zoning Map<br>Glossary of Terms  | 10/08/17              | 2625                 |

| <i>Amendments</i>   | <i>Article / Section No. and Title</i>   | <i>Effective Date</i> | <i>Ordinance No.</i> |
|---|--|-----------------------|----------------------|
| Amend Single Family, Multi-Family and Heritage District Overlay Zoning Districts related to land use and site development regulations and amend Off-Street Parking and Loading Regulations (Z16-17)   | Article 2.1 Single Family Residential Districts<br>Article 2.2 Multi Family Residential Districts<br>Article 3.4 Heritage District Overlay Zoning District<br>Article 4.2 Off Street Parking and Loading Regulations   | 11/17/17              | 2632                 |
| Amend Wireless Communications Facilities, Design Review Procedures and Responsibility and adopt new Article for Design Standards Manual for Wireless Communication Facilities and update the Glossary of Terms (Z16-07)   | Article 4.7 Wireless Communication Facilities<br>Article 5.6 Design Review<br>Glossary of Terms<br>Chapter II, Article 1.9 Design Standards Manual for Wireless Communication Facilities   | 3/01/18               | 2643                 |
| Amend Single Family Residential Lot Development Regulations, Commercial Districts and Employment Districts Site Development Regulations, and General Regulations pertaining to Encroachments in Building Setback and Off-Street Parking and Loading Requirements, Administration relating to Use Permits and Chapter III Subdivisions regulations and Update Appendix Graphics (Z17-1007) | Article 2.1 Single Family Residential Districts<br>Article 2.3 Commercial Districts<br>Article 2.6 Employment Districts<br>Article 4.1 Site Regulations<br>Article 4.2 Office Street Parking and Loading Requirements<br>Article 5.4 Use Permits<br>Chapter III, Article 1.1 Subdivisions Regulations<br>Chapter III, Article 1.2 Minor Land Division and Minor Subdivision<br>Appendix 1 Graphics | 3/18/18               | 2647                 |
| Addition of new Article for Chapter II Design Standards and Guidelines for Integrating Multi-Family Uses in Regional Commercial Zoning Districts and update to the Glossary of Terms (Z17-1019)   | Chapter II, Article 1.9 Integrating Multi-Family Uses in Regional Commercial Zoning Districts Design Guidelines<br>Glossary of Terms   | 4/08/18               | 2650                 |



| <b><i>Amendments</i></b>   | <b><i>Article / Section No. and Title</i></b>   | <b><i>Effective Date</i></b> | <b><i>Ordinance No.</i></b> |
|--|---|------------------------------|-----------------------------|
| Amend Single Family Residential relating to accessory structures, covered patios and porches, amend the Use Regulations and Temporary Uses relating to farmers' markets, seasonal sales and special events and update the Use Definitions (Z18-01) | Article 2.1 Single Family Residential Districts<br>Article 2.9 Use Regulations<br>Article 4.5 Supplemental Use Regulations<br>Article 6.1 Use Definitions | 5/05/18                      | 2652                        |
| Amend Sign Regulations regarding electronic changing message displays and marquee signs (Z18-24)   | Article 4.4 Sign Regulations  | 12/01/18                     | 2688                        |
| Amend setback and height regulations for accessory structure (Z18-17)  | Article 2.1 Single Family Residential Districts   | 1/05/19                      | 2695                        |
| Amend entire overlay regarding airport overflight aviation easements (Z17-1007)  | Article 3.2 Phoenix-Mesa Gateway Airport Overlay District   | 4/20/19                      | 2704                        |

| <b><i>Amendments</i></b>   | <b><i>Article / Section No. and Title</i></b>   | <b><i>Effective Date</i></b> | <b><i>Ordinance No.</i></b> |
|--|---|------------------------------|-----------------------------|
| Amend the use regulations for multi-family in regional commercial and delete Design Guidelines Integrating Multi-Family Uses in Regional Commercial (Z18-30) | Article 2.3 Commercial Districts<br>Article 2.9 Use Regulations<br>Chapter II, Article 1.10 Design Guidelines: Integrating Multi-Family Uses in Regional Commercial | 7/20/19                      | 2716                        |
| Amend sign regulations and design review related to signs within the Gateway Village Center and Gateway Business Center zoning districts (Z19-02)            | Article 4.4 Sign Regulations<br>Article 5.6 Design Review   | 9/15/19                      | 2722                        |
| Creation of a new Multi Family-High Density Zoning District (Z19-03)   | Article 2.2 Multi-Family Residential Districts<br>Article 2.9 Use Regulations   | 9/15/19                      | 2723                        |
| Addition of new type of roof sign within the Heritage Village Center (Z19-04)  | Article 4.4 Sign Regulations<br>Glossary of General Terms   | 11/16/19                     | 2736                        |

| <b><i>Amendments</i></b>                                     | <b><i>Article / Section No. and Title</i></b>   | <b><i>Effective Date</i></b> | <b><i>Ordinance No.</i></b> |
|--|---|------------------------------|-----------------------------|
| Establishing regulations related to Industrial Hemp (Z19-11) | Article 2.9 Use Regulations<br>Article 4.5 Supplemental Use Regulations<br>Article 6.1 Use Definitions<br>Glossary of General Terms | 5/21/20                      | 2760                        |

This Summary of Amendments is established as a reference guide to the Gilbert Land Development Code only and is not an integral part thereof.

# Table of Contents

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|                             |      |
|-----------------------------|------|
| Acknowledgment .....        | i    |
| User’s Guide .....          | ii   |
| Summary of Amendments ..... | viii |

## Chapter I: Zoning Regulations

### Division 1 General Provisions

|  |              |
|--|--------------|
| <b>Article 1.1 Title and Purpose.....</b>  | <b>1.1-1</b> |
| 1.101 Title and Authority .....  | 1.1-1        |
| 1.102 Purposes.....  | 1.1-1        |
| 1.103 Organization of Zoning Code .....  | 1.1-2        |
| 1.104 Applicability.....   | 1.1-2        |
| 1.105 General Rules for Applicability of Land Use and Development<br>Regulations ..... | 1.1-4        |
| 1.106 Official Zoning Map.....   | 1.1-5        |
| 1.107 Rules for Construction of Language.....  | 1.1-5        |
| 1.108 Rules of Transition .....  | 1.1-6        |
| 1.109 Rules for Interpretation .....   | 1.1-8        |

### Division 2 Land Use Designations

|   |              |
|---|--------------|
| <b>Article 2.1 Single Family Residential Districts.....</b>                               | <b>2.1-1</b> |
| 2.101 Purposes.....   | 2.1-1        |
| 2.102 Single Family Residential Districts .....   | 2.1-1        |
| 2.103 Land Use Regulations .....  | 2.1-2        |
| 2.104 Lot Development Regulations.....  | 2.1-3        |
| 2.105 Site Development Regulations, Nonresidential Uses in Residential<br>Districts ..... | 2.1-5        |
| 2.106 Additional Development Regulations .....  | 2.1-7        |
| 2.107 Additional Use Regulations.....   | 2.1-10       |
| <b>Article 2.2 Multi-Family Residential Districts.....</b>                                | <b>2.2-1</b> |
| 2.201 Purposes.....   | 2.2-1        |
| 2.202 Multi-Family Residential Districts .....  | 2.2-1        |
| 2.203 Land Use Regulations .....  | 2.2-1        |
| 2.204 Site Development Regulations .....  | 2.2-2        |
| 2.205 Additional Use Regulations.....   | 2.2-5        |

|                    |  |              |
|--------------------|--|--------------|
| <b>Article 2.3</b> | <b>Commercial Districts .....</b>                    | <b>2.3-1</b> |
| 2.301              | Purposes.....  | 2.3-1        |
| 2.302              | Commercial Districts.....                            | 2.3-1        |
| 2.303              | Land Use Regulations .....                           | 2.3-2        |
| 2.304              | Site Development Regulations .....                   | 2.3-2        |
| 2.305              | Additional Development Regulations .....             | 2.3-4        |
| 2.306              | Additional Use Regulations.....                      | 2.3-5        |
| <b>Article 2.4</b> | <b>Heritage Village Center Zoning District .....</b> | <b>2.4-1</b> |
| 2.401              | Purposes.....  | 2.4-1        |
| 2.402              | Land Use Regulations .....                           | 2.4-1        |
| 2.403              | Site Development Regulations .....                   | 2.4-2        |
| 2.404              | Additional Development Regulations .....             | 2.4-4        |
| 2.405              | Additional Use Regulations.....                      | 2.4-4        |
| <b>Article 2.5</b> | <b>Office Districts .....</b>                        | <b>2.5-1</b> |
| 2.501              | Purposes.....  | 2.5-1        |
| 2.502              | Office Districts .....                               | 2.5-1        |
| 2.503              | Land Use Regulations .....                           | 2.5-1        |
| 2.504              | Site Development Regulations .....                   | 2.5-2        |
| 2.505              | Additional Development Regulations .....             | 2.5-3        |
| 2.506              | Additional Use Regulations.....                      | 2.5-4        |
| <b>Article 2.6</b> | <b>Employment Districts.....</b>                     | <b>2.6-1</b> |
| 2.601              | Purposes.....  | 2.6-1        |
| 2.602              | Employment Districts.....                            | 2.6-1        |
| 2.603              | Land Use Regulations .....                           | 2.6-2        |
| 2.604              | Site Development Regulations .....                   | 2.6-2        |
| 2.605              | Additional Development Regulations .....             | 2.6-4        |
| 2.606              | Additional Use Regulations.....                      | 2.6-4        |
| <b>Article 2.7</b> | <b>Public Facility/Institutional District .....</b>  | <b>2.7-1</b> |
| 2.701              | Purpose .....  | 2.7-1        |
| 2.702              | Land Use Regulations .....                           | 2.7-1        |
| 2.703              | Site Development Regulations .....                   | 2.7-2        |
| 2.704              | Additional Development Regulations .....             | 2.7-3        |
| 2.705              | Additional Use Regulations.....                      | 2.7-3        |
| <b>Article 2.8</b> | <b>Gateway Districts .....</b>                       | <b>2.8-1</b> |
| 2.801              | Purposes.....  | 2.8-1        |
| 2.802              | Gateway Districts .....                              | 2.8-1        |
| 2.803              | Land Use Regulations .....                           | 2.8-2        |

|                    |  |              |
|--------------------|--|--------------|
| 2.804              | Site Development Regulations .....   | 2.8-2        |
| 2.805              | Additional Use Regulations.....  | 2.8-5        |
| <b>Article 2.9</b> | <b>Use Regulations .....</b>   | <b>2.9-1</b> |
| 2.901              | Purposes.....  | 2.9-1        |
| 2.902              | Use Regulations.....   | 2.9-1        |
| <b>Division 3</b>  | <b>Overlay Zoning Districts</b>  |              |
| <b>Article 3.1</b> | <b>Planned Area Development Overlay Zoning District.....</b>   | <b>3.1-1</b> |
| 3.101              | Purposes.....  | 3.1-1        |
| 3.102              | Use of a Planned Area Development Overlay Zoning District.....   | 3.1-1        |
| 3.103              | Land Use and Development Regulations.....  | 3.1-2        |
| 3.104              | Approval.....  | 3.1-3        |
| <b>Article 3.2</b> | <b>Phoenix-Mesa Gateway Airport Overlay District.....</b>  | <b>3.2-1</b> |
| 3.201              | Purposes.....  | 3.2-1        |
| 3.202              | Applicability.....   | 3.2-1        |
| 3.203              | Development and Notification Requirements within the Phoenix-Mesa Gateway Airport Overlay District ..... | 3.2-3        |
| <b>Article 3.3</b> | <b>Santan Freeway Corridor Overlay District .....</b>  | <b>3.3-1</b> |
| 3.301              | Purposes.....  | 3.3-1        |
| 3.302              | Applicability.....   | 3.3-1        |
| 3.303              | Development and Notification Requirements within the Santan Freeway Corridor Overlay District .....      | 3.3-2        |
| <b>Article 3.4</b> | <b>Heritage District Overlay Zoning District .....</b>   | <b>3.4-1</b> |
| 3.401              | Purposes.....  | 3.4-1        |
| 3.402              | Applicability.....   | 3.4-1        |
| 3.403              | Development within the Heritage District Overlay District.....   | 3.4-2        |
| 3.404              | Land Use and Development Regulations .....   | 3.4.2        |
| <b>Article 3.5</b> | <b>Vertical Development Overlay Zoning District.....</b>   | <b>3.5-1</b> |
| 3.501              | Purposes.....  | 3.5-1        |
| 3.502              | Applicability.....   | 3.5-1        |
| 3.503              | Land Use and Development Regulations.....  | 3.5-2        |
| <b>Division 4</b>  | <b>General Regulations</b>   |              |
| <b>Article 4.1</b> | <b>Site Regulations .....</b>  | <b>4.1-1</b> |
| 4.101              | Encroachments into Building Setback and Interior Building Separation Areas.....                          | 4.1-1        |
| 4.102              | Projections above Height Limits.....   | 4.1-2        |
| 4.103              | Lighting Standards .....   | 4.1-3        |

|                    |   |              |
|--------------------|---|--------------|
| 4.104              | Outdoor Business Property Storage .....   | 4.1-4        |
| 4.105              | Screening of Mechanical and Electrical Equipment .....                                | 4.1-5        |
| 4.106              | Refuse and Recycling Enclosures .....   | 4.1-7        |
| 4.107              | Swimming Pools .....  | 4.1-8        |
| 4.108              | Underground Utilities .....   | 4.1-9        |
| 4.109              | Fences .....  | 4.1-9        |
| <b>Article 4.2</b> | <b>Off-Street Parking and Loading Regulations.....</b>                                | <b>4.2-1</b> |
| 4.201              | Purposes.....   | 4.2-1        |
| 4.202              | Applicability.....  | 4.2-2        |
| 4.203              | General Provisions .....  | 4.2-2        |
| 4.204              | Number of Parking Spaces Required .....   | 4.2-7        |
| 4.205              | Number of Parking Spaces Required for Shopping Center and<br>Regional Commercial..... | 4.2-11       |
| 4.206              | Dimensions for Parking Spaces and Aisles.....   | 4.2-12       |
| 4.207              | Parking Access .....  | 4.2-13       |
| 4.208              | Driveway Widths.....  | 4.2-14       |
| 4.209              | Surfacing .....   | 4.2-14       |
| 4.2010             | Drive-Through and Take-Out Facilities .....   | 4.2-15       |
| 4.2011             | Passenger Loading Areas .....   | 4.2-16       |
| 4.2012             | Screening, Landscaping and Lighting .....   | 4.2-17       |
| 4.2013             | Parking Space and Aisle Setbacks at Arterial Driveway Entrances.....                  | 4.2-19       |
| 4.2014             | Parking for Persons with Disabilities .....   | 4.2-20       |
| 4.2015             | Off-Street Loading .....  | 4.2-20       |
| 4.2016             | Bicycle Parking .....   | 4.2-22       |
| <b>Article 4.3</b> | <b>Landscape Regulations .....</b>  | <b>4.3-1</b> |
| 4.301              | Purposes.....   | 4.3-1        |
| 4.302              | Applicability.....  | 4.3-1        |
| 4.303              | General Provisions .....  | 4.3-2        |
| 4.304              | Gateway Entries .....   | 4.3-7        |
| 4.305              | Streetscape Theme Trees.....  | 4.3-9        |
| 4.306              | Landscape Maintenance and Enforcement.....  | 4.3-10       |
| <b>Article 4.4</b> | <b>Sign Regulations.....</b>  | <b>4.4-1</b> |
| 4.401              | Purposes and Intent .....   | 4.4-1        |
| 4.402              | Title and Authority .....   | 4.4-3        |
| 4.403              | Exempt Signs .....  | 4.4-3        |
| 4.404              | Prohibited Signs .....  | 4.4-4        |
| 4.405              | Sign Plans and Sign Program.....  | 4.4-5        |

|                    |  |              |
|--------------------|--|--------------|
| 4.406              | Review of Sign Applications for Permanent Signs .....  | 4.4-9        |
| 4.407              | General Provisions for Signs .....   | 4.4-9        |
| 4.408              | Temporary Signs .....  | 4.4-14       |
| 4.409              | Permanent Signs .....  | 4.4-24       |
| 4.4010             | Residential Zoning Districts .....   | 4.4-42       |
| 4.4011             | Nonresidential Uses in Residential Zoning Districts .....  | 4.4-43       |
| 4.4012             | Commercial Zoning Districts .....  | 4.4-44       |
| 4.4013             | Heritage Village Center and Gateway Zoning Districts.....  | 4.4-45       |
| 4.4014             | Office Zoning Districts.....   | 4.4-46       |
| 4.4015             | Employment Zoning Districts .....  | 4.4-47       |
| 4.4016             | Public Facility/Institutional .....  | 4.4-48       |
| 4.4017             | Sign Maintenance .....   | 4.4-49       |
| 4.4018             | Nonconforming Signs.....   | 4.4-49       |
| 4.4019             | Sign Violations .....  | 4.4-50       |
| 4.4020             | State Preemption.....  | 4.4-52       |
| 4.4021             | Severability.....  | 4.4-53       |
| <b>Article 4.5</b> | <b>Supplemental Use Regulations.....</b>   | <b>4.5-1</b> |
| 4.501              | Applicability.....   | 4.5-1        |
| 4.502              | Home Occupations .....   | 4.5-1        |
| 4.503              | Residential Day Care.....  | 4.5-2        |
| 4.504              | Group Homes for the Handicapped.....   | 4.5-3        |
| 4.505              | Place of Worship .....   | 4.5-5        |
| 4.506              | Vacation or Short-Term Rentals.....  | 4.5-6        |
| 4.507              | Farm Stands .....  | 4.5-6        |
| 4.508              | Animal Services .....  | 4.5-7        |
| 4.509              | Cemeteries .....   | 4.5-7        |
| 4.5010             | Non-Traditional Business Uses.....   | 4.5-8        |
| 4.5011             | Sexually-Oriented Businesses .....   | 4.5-8        |
| 4.5012             | Temporary Uses .....   | 4.5-9        |
| 4.5013             | Temporary Structures .....   | 4.5-11       |
| 4.5014             | Medical Marijuana Dispensaries, Offsite Cultivation Sites and<br>Designated Caregiver Cultivation Locations..... | 4.5-14       |
| 4.5015             | Recovery Residence .....   | 4.5-17       |
| 4.5016             | Industrial Hemp.....   | 4.5-19       |
| 4.5017             | Miscellaneous Provisions .....   | 4.5-20       |
| <b>Article 4.6</b> | <b>Non-Conforming Uses, Lots, Parcels, Structures and Signs .....</b>  | <b>4.6-1</b> |
| 4.601              | Purpose .....  | 4.6-1        |
| 4.602              | Definitions .....  | 4.6-1        |



|                    |   |              |
|--------------------|---|--------------|
| 4.603              | General Provisions .....  | 4.6-2        |
| 4.604              | Abandonment of Non-Conforming Uses .....  | 4.6-2        |
| 4.605              | Repair or Rebuilding of a Damaged Structure .....   | 4.6-3        |
| <b>Article 4.7</b> | <b>Wireless Communication Facilities .....</b>  | <b>4.7-1</b> |
| 4.701              | Purpose and Applicability .....   | 4.7-1        |
| 4.702              | Procedures .....  | 4.7-2        |
| 4.703              | Use and Development Regulations .....   | 4.7-3        |
| 4.704              | Additional Development Regulations .....  | 4.7-5        |
| 4.705              | Required Findings .....   | 4.7-9        |
| 4.706              | Miscellaneous Provisions .....  | 4.7-10       |
| <b>Article 4.8</b> | <b>Over-The-Air Reception Devices, Large Satellite Dishes,<br/>Satellite Earth Stations, and Amateur Radio Facilities .....</b> | <b>4.8-1</b> |
| 4.801              | Purpose .....   | 4.8-1        |
| 4.802              | Applicability.....  | 4.8-1        |
| 4.803              | Use and Development Regulations .....   | 4.8-1        |
| <b>Article 4.9</b> | <b>Common Area Ownership and Maintenance .....</b>  | <b>4.9-1</b> |
| 4.901              | Purpose .....   | 4.9-1        |
| 4.902              | Applicability.....  | 4.9-1        |
| 4.903              | Requirement .....   | 4.9-1        |
| <b>Division 5</b>  | <b>Administration</b>   |              |
| <b>Article 5.1</b> | <b>Planning Administration .....</b>  | <b>5.1-1</b> |
| 5.101              | Purpose .....   | 5.1-1        |
| 5.102              | Town Council.....   | 5.1-1        |
| 5.103              | Planning Commission .....   | 5.1-3        |
| 5.104              | Board of Adjustment.....  | 5.1-5        |
| 5.105              | Director of Planning .....  | 5.1-5        |
| 5.106              | Zoning Administrator .....  | 5.1-7        |
| 5.107              | Zoning Hearing Officer .....  | 5.1-8        |
| 5.108              | Design Review Board.....  | 5.1-9        |
| 5.109              | Redevelopment Commission.....   | 5.1-11       |
| 5.1010             | Code Compliance Manager .....   | 5.1-13       |
| 5.1011             | Civil Hearing Officer.....  | 5.1-13       |
| <b>Article 5.2</b> | <b>Common Procedures .....</b>  | <b>5.2-1</b> |
| 5.201              | Application Process .....   | 5.2-1        |
| 5.202              | Fees and Fines .....  | 5.2-2        |
| 5.203              | Pre-Application Review .....  | 5.2-3        |

|                    |   |              |
|--------------------|---|--------------|
| 5.204              | Neighborhood Meeting.....   | 5.2-4        |
| 5.205              | Notice of Public Hearings .....   | 5.2-6        |
| 5.206              | Public Hearing Procedures .....   | 5.2-8        |
| 5.207              | Findings Required .....   | 5.2-10       |
| 5.208              | Administrative Procedures .....   | 5.2-10       |
| 5.209              | Ex Parte Communications .....   | 5.2-10       |
| 5.2010             | Final Decisions .....   | 5.2-11       |
| 5.2011             | Procedures for Appeals .....  | 5.2-11       |
| <b>Article 5.3</b> | <b>Administrative Relief from Development Standards.....</b>  | <b>5.3-1</b> |
| 5.301              | Purposes and Applicability.....   | 5.3-1        |
| 5.302              | Scope of Authority .....  | 5.3-1        |
| 5.303              | Procedures and Standards of Review .....  | 5.3-1        |
| 5.304              | Appeals.....  | 5.3-2        |
| <b>Article 5.4</b> | <b>Use Permits .....</b>  | <b>5.4-1</b> |
| 5.401              | Purpose and Applicability .....   | 5.4-1        |
| 5.402              | Procedures .....  | 5.4-2        |
| 5.403              | Required Findings .....   | 5.4-4        |
| 5.404              | Expiration; Modifications; Revocation .....   | 5.4-5        |
| 5.405              | Appeals.....  | 5.4-7        |
| 5.406              | Effective Date of Permit.....   | 5.4-8        |
| <b>Article 5.5</b> | <b>Variances.....</b>   | <b>5.5-1</b> |
| 5.501              | Purpose and Applicability .....   | 5.5-1        |
| 5.502              | Procedures .....  | 5.5-1        |
| 5.503              | Required Findings .....   | 5.5-2        |
| 5.504              | Use Variances Prohibited.....   | 5.5-3        |
| 5.505              | Conditions of Approval.....   | 5.5-3        |
| 5.506              | Effective Date.....   | 5.5-3        |
| <b>Article 5.6</b> | <b>Design Review.....</b>   | <b>5.6-1</b> |
| 5.601              | Purpose and Applicability .....   | 5.6-1        |
| 5.602              | Procedures and Responsibility .....   | 5.6-2        |
| 5.603              | Design Review Approval .....  | 5.6-7        |
| 5.604              | Appeals of Decisions of the Design Review Board, Redevelopment<br>Commission and Director of Planning ..... | 5.6-8        |
| 5.605              | Effective Date and Expiration Date.....   | 5.6-8        |
| 5.606              | Enforcement .....   | 5.6-8        |
| <b>Article 5.7</b> | <b>Amendments to Zoning Code Text, a Zoning Ordinance or the<br/>Official Zoning Map.....</b>               | <b>5.7-1</b> |

|                     |  |               |
|---------------------|--|---------------|
| 5.701               | Purpose and Applicability .....  | 5.7-1         |
| 5.702               | Initiation of Amendments.....  | 5.7-1         |
| 5.703               | Procedures .....   | 5.7-1         |
| 5.704               | Findings .....   | 5.7-4         |
| <b>Article 5.8</b>  | <b>Amendments to General Plan Text or Map.....</b>   | <b>5.8-1</b>  |
| 5.801               | Purpose .....  | 5.8-1         |
| 5.802               | Initiation of Amendments.....  | 5.8-1         |
| 5.803               | Procedures .....   | 5.8-2         |
| <b>Article 5.9</b>  | <b>Protected Development Right Plan.....</b>   | <b>5.9-1</b>  |
| 5.901               | Purpose and Applicability .....  | 5.9-1         |
| 5.902               | Procedures .....   | 5.9-1         |
| 5.903               | General Provisions .....   | 5.9-3         |
| 5.904               | Expiration Date and Extensions; Revocation.....  | 5.9-5         |
| <b>Article 5.10</b> | <b>Appeals of Dedications, Exactions and Zoning Regulations, Reconsideration of Certain Decisions, and Claims for Diminution in Value.....</b> | <b>5.10-1</b> |
| 5.1001              | Purpose and Applicability .....  | 5.10-1        |
| 5.1002              | Appeals of Required Dedications and Exactions and of Zoning Regulations Pursuant to ARS Sections 9-500.12 and 9-500.13.....                    | 5.10-1        |
| 5.1003              | Reconsideration of Certain Town Council Decisions .....  | 5.10-3        |
| 5.1004              | Claim for Diminution in Value Pursuant to A.R.S. § 12-1134 .....   | 5.10-4        |
| <b>Article 5.11</b> | <b>Annexations.....</b>  | <b>5.11-1</b> |
| 5.1101              | Purpose .....  | 5.11-1        |
| 5.1102              | Initiation of Annexations.....   | 5.11-1        |
| 5.1103              | Procedures .....   | 5.11-1        |
| <b>Article 5.12</b> | <b>Enforcement.....</b>  | <b>5.12-1</b> |
| 5.1201              | Invalid Permits and Approvals.....   | 5.12-1        |
| 5.1202              | Enforcement Responsibilities.....  | 5.12-1        |
| 5.1203              | Violation: Notice and Opportunity to Correct.....  | 5.12-1        |
| 5.1204              | Violations and Citations .....   | 5.12-2        |
| 5.1205              | Penalties.....   | 5.12-3        |
| 5.1206              | Habitual Offenders .....   | 5.12-3        |
| 5.1207              | Abatement .....  | 5.12-4        |
| 5.1208              | Cumulative Procedures and Remedies .....   | 5.12-4        |
| 5.1209              | Failure to Provide Evidence of Identity .....  | 5.12-4        |
| <b>Division 6</b>   | <b>Use Definitions</b>   |               |
| <b>Article 6.1</b>  | <b>Use Definitions.....</b>  | <b>6.1-1</b>  |

## Chapter II: Design Standards and Guidelines

|                     |  |               |
|---------------------|--|---------------|
| <b>Article 1.1</b>  | <b>Residential Design and Development Guidelines for Low and Medium Density Subdivisions.....</b>  | <b>1.1-1</b>  |
| <b>Article 1.2</b>  | <b>Medium High Density Framework Guidelines.....</b>   | <b>1.2-1</b>  |
| <b>Article 1.3</b>  | <b>Single Family Attached and Multi-Family Design Guidelines (reserved).....</b>                   | <b>1.3-1</b>  |
| <b>Article 1.4</b>  | <b>Commercial Design Guidelines.....</b>   | <b>1.4-1</b>  |
| <b>Article 1.5</b>  | <b>Employment Design Guidelines .....</b>  | <b>1.5-1</b>  |
| <b>Article 1.6</b>  | <b>Gateway Area Right-of-Way Improvements Standards and Streetscape Design Guidelines.....</b>     | <b>1.6-1</b>  |
| <b>Article 1.7</b>  | <b>Gateway Area–Traditional Neighborhood Design Guidelines, (General) And (Single-Family).....</b> | <b>1.7-1</b>  |
| <b>Article 1.8</b>  | <b>Heritage District Design Guidelines .....</b>   | <b>1.8-1</b>  |
| <b>Article 1.9</b>  | <b>Design Standards Manual for Wireless Communication Facilities.....</b>                          | <b>1.9-1</b>  |
| <b>Article 1.10</b> | <b>Reserved .....</b>  | <b>1.10-1</b> |

## Chapter III: Subdivision Regulations

|                     |   |              |
|---------------------|---|--------------|
| <b>Article 1.1</b>  | <b>Subdivision Regulations.....</b>                             | <b>1.1-1</b> |
| 1.101               | Purpose and Applicability .....                                 | 1.1-1        |
| 1.102               | Platting Procedures.....  | 1.1-2        |
| 1.103               | Submittal Requirements, Preliminary Plat Application .....      | 1.1-7        |
| 1.104               | Submittal Requirements, Final Plat Application.....             | 1.1-13       |
| 1.105               | Reservation of Land for Public Purpose.....                     | 1.1-15       |
| 1.106               | Dedication of Rights-of-Way and Easements .....                 | 1.1-16       |
| 1.107               | Subdivision Improvements.....                                   | 1.1-16       |
| 1.108               | Gated Facility Entrances .....                                  | 1.1-19       |
| 1.109               | Continuation of Streets.....                                    | 1.1-19       |
| 1.1010              | Effective Date and Expiration Date.....                         | 1.1-20       |
| 1.1011              | Appeals.....  | 1.1-20       |
| 1.1012              | Corrections to Recorded Plats .....                             | 1.1-20       |
| <b>Article 1.2:</b> | <b>Minor Land Division and Minor Subdivision.....</b>           | <b>1.2-1</b> |
| 1.201               | Purpose and Applicability .....                                 | 1.2-1        |
| 1.202               | Procedures .....  | 1.2-2        |
| 1.203               | Submittal Requirements .....                                    | 1.2-3        |
| 1.204               | Reservation of Land for Public Purpose, Minor Subdivision ..... | 1.2-3        |

|                     |   |              |
|---------------------|---|--------------|
| 1.205               | Dedication of Rights-of-Way and Easements .....   | 1.2-4        |
| 1.206               | Standards .....                                   | 1.2-4        |
| 1.207               | Improvements .....                                | 1.2-5        |
| 1.208               | Gated Facility Entrances .....                    | 1.2-5        |
| 1.209               | Effective Date and Expiration Date.....           | 1.2-6        |
| 1.2010              | Appeals.....                                      | 1.2-6        |
| <b>Article 1.3:</b> | <b>Vacation of Streets and Easements .....</b>    | <b>1.3-1</b> |
| 1.301               | Procedures .....                                  | 1.3-1        |
| 1.302               | Submittal Requirements .....                      | 1.3-1        |
| 1.303               | Effective Date.....                               | 1.3-2        |
| 1.304               | Appeals.....                                      | 1.3-2        |
| <b>Article 1.4:</b> | <b>Penalties and Enforcement .....</b>            | <b>1.4.1</b> |
| 1.401               | Invalid Permits and Approvals.....                | 1.4.1        |
| 1.402               | Enforcement Responsibilities.....                 | 1.4.1        |
| 1.403               | Violation; Notice and Opportunity to Correct..... | 1.4.2        |
| 1.404               | Violations and Citations .....                    | 1.4.2        |
| 1.405               | Penalties.....                                    | 1.4.3        |
| 1.406               | Habitual Offenders .....                          | 1.4.3        |
| 1.407               | Abatement .....                                   | 1.4.4        |
| 1.408               | Cumulative Procedures and Remedies .....          | 1.4.4        |
| 1.409               | Failure to Provide Evidence of Identity .....     | 1.4.4        |

**Glossary of General Terms**

**Appendix 1: Graphics**

**Division 1      General Provisions**

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**Article 1.1    Title and Purpose**



## **Article 1.1: Title and Purpose**

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### **Sections:**

- 1.101 Title and Authority
- 1.102 Purposes
- 1.103 Organization of Zoning Code
- 1.104 Applicability
- 1.105 General Rules for Applicability of Land Use and Development Regulations
- 1.106 Official Zoning Map
- 1.107 Rules for Construction of Language
- 1.108 Rules of Transition
- 1.109 Rules for Interpretation

### **1.101 Title and Authority**

Chapter I of the Land Development Code shall be known and cited as the “Gilbert Zoning Code” or “Zoning Code”.

The authority for the Gilbert Zoning Code is Arizona Revised Statutes (ARS) § 9-462 et seq., which provides for the regulation of land and land use by municipalities in Arizona.

### **1.102 Purposes**

The broad purpose of the Zoning Code is to implement the General Plan, to promote and protect the public health, safety, comfort, and general welfare of the residents of the Town of Gilbert. Generally, the Zoning Code is intended to:

- A. Direct growth with priority to those areas where infrastructure and urban services can be economically provided;
- B. Ensure consistency and conformity among the General Plan, zoning districts, and zoning ordinances;
- C. Maintain and enhance the appearance and function of both new and existing development;
- D. Promote an efficient use of land resources;
- E. Ensure compatibility among land uses;
- F. Ensure the provision of adequate open space for light, air, and fire safety;

- G. Ensure that service demands of new development will not exceed the capacities of existing or planned streets, utilities, or public services;
- H. Conserve the natural environment, protect environmentally sensitive areas, and enhance the quality of the built environment;
- I. Promote energy and water conservation through project design;
- J. Establish consistent standards regulating the use and physical development of land; and
- K. Preserve and enhance property values.

### **1.103 Organization of Zoning Code**

- A. ***Structure of Zoning Code.*** The Zoning Code consists of the following six divisions, a glossary of general terms, and the Official Zoning Map:

Division 1: General Provisions

Division 2: Land Use Designations

Division 3: Overlay District Regulations

Division 4: General Regulations

Division 5: Administration

Division 6: Use Definitions

Glossary of General Terms

- B. ***Graphic Illustrations.*** Illustrations are included for the purposes of example, explanation, and clarification. Where a graphic is in conflict with the text of the Zoning Code, the text shall govern.

### **1.104 Applicability**

All uses and development of land shall comply with the zoning regulations of the Zoning Code.

- A. ***Applicability to Property.*** Zoning regulations shall apply to all land within the Town of Gilbert, including land owned by the Town of Gilbert and other local, State, or Federal agencies to the extent allowed by law.



- B. ***Applicability to Streets and Rights-of-Way.*** Streets, easements, and rights-of-way shall be in the same zoning district as contiguous property. Where contiguous properties are in different zoning districts, the centerline of the street shall be the district boundary unless otherwise depicted on the Official Zoning Map.
- C. ***Compliance with Regulations.*** No land shall be used and no structure shall be constructed, occupied, enlarged, or altered in any zoning district except in compliance with the Zoning Code.
- D. ***Substandard Lot.*** As permitted in Section 4.603D: Non-Conforming or Substandard Lot or Parcel, an existing, legally created lot as of the effective date of the Zoning Code having a width or area less than that required for the base district in which it is located may be occupied by a permitted use or use requiring approval of a Use Permit. However, no substandard lot may be further reduced in area or width and no substandard lot will be exempt from the setback requirements of the district. A substandard lot shall be considered a non-conforming lot in accordance with Section 4.602B: Non-Conforming Lot or Parcel.
- E. ***Lots or Parcels Divided by District Boundaries.*** The regulations applicable to each district shall be applied to the entire area within that district, and no use other than parking serving a principal use on the lot or parcel may be located in a district in which it is not a permitted use or use approved by a Use Permit.
- F. ***Public Nuisance.*** Neither the provisions of the Zoning Code nor the approval of any permit authorized by the Zoning Code shall authorize the maintenance of any public nuisance.
- G. ***Conflict with Other Regulations.*** Where there is a conflict between the provisions of the Zoning Code, or between the provisions of the Zoning Code and any other Town code, the more restrictive provision shall control unless otherwise set forth in the Zoning Code. The modifications to base district zoning regulations contained in an approved Planned Area Development Overlay district are not amended by amendments to the Zoning Code.
- H. ***Relation to Prior Zoning Code.*** No provision of the Zoning Code shall validate any use or structure established, constructed, or maintained in violation of any prior zoning code, except as may be specifically authorized by the Zoning Code.
- I. ***Extension of Time for Holidays and Weekends.*** If a deadline for an act required by the Zoning Code falls on a weekend or a Town holiday, the time for performing such an act shall be extended to the next working day.

**1.105 General Rules for Applicability of Land Use and Development Regulations**

A. **Establishment of Base Zoning Districts.** The Town is divided into the following base zoning districts:

**Table 1.105: Establishment of Zoning Districts**

| <i>Base Districts and Article Reference</i>          | <i>District Name</i>   |
|--|--|
| Article 2.1: Single Family Residential Districts     | Single Family-43 (SF-43)<br>Single Family-35 (SF-35)<br>Single Family-15 (SF-15)<br>Single Family-10 (SF-10)<br>Single Family-8 (SF-8)<br>Single Family-7 (SF-7)<br>Single Family-6 (SF-6)<br>Single Family Detached (SF-D)<br>Single Family Attached (SF-A) |
| Article 2.2: Multi-Family Residential Districts      | Multi-Family/Low Density (MF/L)<br>Multi-Family/Medium Density (MF/M)  |
| Article 2.3 - Commercial Districts                   | Neighborhood Commercial (NC)<br>Community Commercial (CC)<br>Shopping Center (SC)<br>General Commercial (GC)<br>Regional Commercial (RC)   |
| Article 2.4: Heritage Village Center Zoning District | Heritage Village Center District (HVC)   |
| Article 2.5: Office Districts                        | Neighborhood Office (NO)<br>General Office (GO)  |
| Article 2.6: Employment Districts                    | Business Park (BP)<br>Light Industrial (LI)<br>General Industrial (GI)   |
| Article 2.7: Public Facility/Institutional District  | Public Facility/Institutional (PF/I)   |
| Article 2.8: Gateway Districts                       | Gateway Village Center (GVC)<br>Gateway Business Center (GBC)  |

B. **Establishment of Overlay Zoning Districts.** Overlay zoning districts, one or more of which shall overlay a base district, are designated as follows:

Planned Area Development Overlay Zoning District (PAD)

Phoenix-Mesa Gateway Airport Overlay Zoning District

Santan Freeway Corridor Overlay Zoning District

Heritage District Overlay Zoning District

Vertical Development Overlay Zoning District

### **1.106 Official Zoning Map**

- A. **Adoption.** The Town is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of the Zoning Code.
- B. **District Boundary or Classification Changes.** If, in accordance with the provisions of the Zoning Code, changes are made in district boundaries, district classifications, or other matter set forth on the Official Zoning Map, such changes shall be entered on the Official Zoning Map within 15 days following the effective date of the Ordinance adopting the change.
- C. **Maintenance of Official Zoning Map.** The Official Zoning Map shall be maintained in electronic format by the Technology Services department, as authorized by the Director of Planning.
- D. **Copies of the Official Zoning Map.** Paper copies of the Official Zoning Map shall be certified as true and correct by the director of the Technology Services department authorized by the Director of Planning. Electronic copies of the Official Zoning Map shall not be certified as true and correct.

### **1.107 Rules for Construction of Language**

In addition to the general provisions of the Zoning Code, the following rules of construction shall apply:

- A. The particular controls the general.
- B. Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:
  - 1. "And" indicates that all connected words or provisions shall apply.
  - 2. "Or" indicates that the connected words or provisions may apply singly or in any combination.

3. "Either . . . or" indicates that the connected words or provisions shall apply singly but not in combination.
- C. References to departments, commissions, boards, or other offices are to those of the Town of Gilbert unless otherwise indicated.
- D. References to a public official in the Town are to that person who performs the function referred to and includes a designee of such official.
- E. All references to days are to calendar days unless otherwise indicated.
- F. All references to measurements are in feet unless otherwise indicated.
- G. The words "activities" and "facilities" include any part thereof.

### **1.108 Rules of Transition**

The following rules shall apply to all properties in the Town on the effective date of the Zoning Code:

- A. ***Violations Continue.*** Any violation of the Zoning Code previously in effect (Unified Land Development Code) will continue to be a violation under the Zoning Code and shall be subject to penalties and enforcement under Article 5.12: Enforcement, unless the use, development, construction or other activity complies with the provisions of the Zoning Code.
- B. ***Projects with Approvals or Permits.***
  1. *Building Permit Issued Prior to Effective Date of the Zoning Code.* Any building, structure, or sign for which a lawful building permit is issued prior to the effective date of the Zoning Code may be completed in conformance with the permit and other applicable permits and conditions, even if such building, structure or sign does not fully comply with the Zoning Code. If construction is not commenced in compliance with the applicable permit terms, the Building Official may grant an extension pursuant to the provisions of the building code. If the building, structure, or sign is not completed in conformance with the building permit and any extension thereof, then the building, structure, or sign shall be constructed, completed or occupied only in compliance with the Zoning Code.
  2. *Building Permit Application Filed Prior to Effective Date of the Zoning Code.* Any building, structure, or sign for which a completed building permit application is filed prior to the effective date of the Zoning Code may be issued a building permit and may be constructed in compliance with the building permit and other applicable approvals, permits and

conditions, even if such building, structure or sign does not fully comply with the Zoning Code. If construction is not commenced in compliance with the applicable permit terms, the Building Official may grant an extension pursuant to the provisions of the building code. If the building, structure, or sign is not completed pursuant to the building permit and any extension thereof, then the building, structure, or sign shall be constructed, completed or occupied only in compliance with the Zoning Code.

3. *Final Design Review Approved Prior to Effective Date of the Zoning Code.* A project which has received Final Design Review approval prior to the effective date of the Zoning Code may file an application for a building permit in compliance with the Final Design Review plan and conditions of approval, even if the project does not comply with the provisions of the Zoning Code. Upon approval of the construction plans, a building permit may be issued. The Final Design Review approval for projects approved prior to the effective date of the Zoning Code shall be valid for 1 year from the date of approval by the Design Review Board. No time extensions shall be permitted.
4. *Preliminary Subdivision Plat Approved Prior to Effective Date of the Zoning Code.* A project which has a preliminary plat approved prior to the effective date of the Zoning Code may file an application for a final subdivision plat and improvement plan approval, even if the subdivision does not fully comply with the provision of the Zoning Code. If a final plat application is not filed within 1 year of the date of preliminary plat approval, the preliminary plat shall expire. No time extensions shall be permitted. Subsequent preliminary plat applications shall comply with the Zoning Code.
5. *Use Permit Approved Prior to Effective Date of the Zoning Code, No Design Review Required.* A project which has received a use permit prior to the effective date of the Zoning Code may file an application for a building permit, even if the project does not fully comply with the provision of the Zoning Code. If a building permit application is not filed within 1 year of the date of use permit approval, the use permit shall expire. No time extensions shall be permitted.
6. *Use Permit Approved Prior to Effective Date of the Zoning Code, Design Review Required.* A project which has an approved use permit may file an application for design review even if the use does not fully comply with the provisions of the Zoning Code. If a design review application is not filed within 1 year of the date of use permit approval, the use permit shall expire. No time extensions shall be permitted. Subsequent applications for design review shall comply with the Zoning Code.

C. ***Planning Applications Filed Prior to the Effective Date of the Zoning Code.***

1. *Applications for Design Review, Use Permits, and Preliminary Plats Submitted Prior to the Effective Date of the Zoning Code.* Complete applications filed prior to the effective date of the Zoning Code may be approved under the provisions of the Unified Land Development Code (ULDC). Applicants may elect to develop under the provisions of the Zoning Code, but in that case shall comply with all provisions of the Zoning Code. If a building permit application is not filed within 1 year of the date of approval of the design review, use permit, or preliminary plat, the approval shall expire. No time extensions shall be permitted.
2. *Applications for Rezoning Filed Prior to the Effective Date of the Zoning Code.* Rezoning applications filed prior to the effective date of the Zoning Code shall be governed by the provisions of the ULDC unless the applicant elects to comply with the Zoning Code.

D. ***Development of Projects with an Existing Planned Area Development Overlay Zoning District.*** A lot or parcel zoned with a Planned Area Development (PAD) overlay zoning district subject to a preliminary development plan, standards, and conditions of approval prior to the effective date of the Zoning Code shall be developed in accordance with the approved preliminary development plan, standards, and conditions of approval. The development standards and requirements of the Zoning Code shall apply if not specifically modified by the PAD ordinance.

E. ***Planning Applications Filed After the Effective Date of the Zoning Code.*** All applications for rezoning, design review, use permits, and preliminary subdivision plats filed after the effective date of the Zoning Code, including modifications and amendments, shall conform to the provisions of the Zoning Code.

## **1.109 Rules for Interpretation**

A. ***Zoning Land Use Regulations.*** Where uncertainty exists regarding the interpretation of any provision of the Zoning Code or its application to a specific site, the Zoning Administrator shall determine the intent of the provision. The determination of the Zoning Administrator may be appealed in accordance with the provisions of Section 5.2011: Procedures for Appeals.

B. ***Official Zoning Map.*** Where uncertainty exists regarding the boundary of a zoning district, the following rules shall apply:

1. District boundaries shown as approximately following the property line of a lot or parcel shall be construed to follow such property line.

2. Where a district boundary divides a lot or parcel, the location of the district boundary shall be determined by the Zoning Administrator using the scale appearing on the Official Zoning Map.
  3. District boundaries shown as approximately following right-of-way lines of freeways, streets, railroads, or other identifiable boundary lines shall be construed to follow such right-of-way or boundary lines.
  4. District boundaries shown as lying within right-of-way lines of freeways, streets, railroads, or other identifiable boundary lines shall be construed to follow the centerline of such right-of-way or boundary lines.
  5. District boundaries shown as lying at the edge of a canal or drainage channel shall be construed to follow the centerline of the canal or drainage channel.
  6. If any uncertainty remains as to the location of a district boundary or other feature shown on the Official Zoning Map, the location shall be determined by the Zoning Administrator.
- C. **Record of Interpretation.** The Zoning Administrator shall keep a record of interpretations made pursuant to this section. The record of interpretations shall be available to the public.

## **Division 2      Land Use Designations**

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**Article 2.1    Single Family Residential Districts**

**Article 2.2    Multi-Family Residential Districts**

**Article 2.3    Commercial Districts**

**Article 2.4    Heritage Village Center Zoning District**

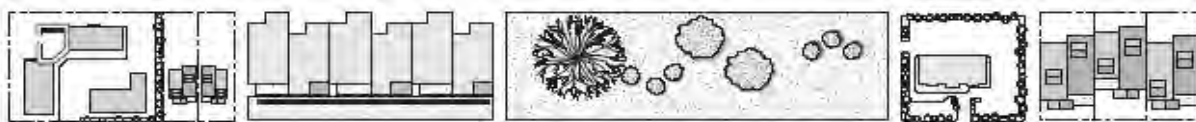
**Article 2.5    Office Districts**

**Article 2.6    Employment Districts**

**Article 2.7    Public Facility/Institutional District**

**Article 2.8    Gateway Districts**

**Article 2.9    Use Regulations**





## Article 2.1      Single Family Residential Districts

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### Sections

- 2.101      Purposes
- 2.102      Single Family Residential Districts
- 2.103      Land Use Regulations
- 2.104      Lot Development Regulations
- 2.105      Site Development Regulations, Nonresidential Uses in Residential Districts
- 2.106      Additional Development Regulations
- 2.107      Additional Use Regulations

### 2.101    Purposes

The purposes of single family residential districts established in this article are to:

- A.      Provide for single family residential uses in appropriate locations;
- B.      Provide for a variety of single family residential densities;
- C.      Establish reasonable regulations to create and preserve livable neighborhood;  
          and
- D.      Provide for appropriate transitions to other residential and nonresidential uses.

### 2.102    Single Family Residential Districts

The single family residential districts are:

***Single Family-43 (SF-43).*** This district permits single family housing on lots of at least 43,000 net square feet.

***Single Family-35 (SF-35).*** This district permits single family housing on lots of at least 35,000 net square feet.

***Single Family-15 (SF-15).*** This district permits single family housing on lots of at least 15,000 net square feet.

***Single Family-10 (SF-10).*** This district permits single family housing on lots of at least 10,000 net square feet.

***Single Family-8 (SF-8).*** This district permits single family housing on lots of at least 8,000 net square feet.

**Single Family-7 (SF-7).** This district permits single family housing on lots of at least 7,000 net square feet.

**Single Family-6 (SF-6).** This district permits single family housing on lots of at least 6,000 net square feet.

**Single Family Detached (SF-D).** This district permits single family, detached housing on lots of at least 3,000 net square feet.

**Single Family Attached (SF-A).** This district permits single family, attached housing where each dwelling unit is on a lot of at least 2,000 net square feet.

## 2.103 Land Use Regulations

- A. **Regulations.** Table 2.902 – Use Regulations sets forth the land use regulations for single family residential districts. The regulations for each district are established by letter designations as follows:

"P" designates permitted uses.

"L" designates uses that are permitted subject to certain limitations. Number designations refer to the limitations listed at the bottom of Table -2.902: Use Regulations.

"T" designates uses that are permitted to be conducted for a temporary period of time. Time limitations are listed in Table 4.5012: Temporary Uses.

"A" designates uses that require an Administrative Use Permit pursuant to Article 5.4: Use Permits.

"U" designates uses that require a Conditional Use Permit pursuant to Article 5.4: Use Permits.

"S" designates uses that require a Special Use Permit pursuant to Article 5.4: Use Permits.

- B. **Unlisted Uses.** Uses are defined in Article 6.1: Use Definitions. If a proposed use is not listed in the Use Definitions, the Zoning Administrator shall determine if the proposed use is substantially similar to a permitted use; in that event, the Zoning Administrator shall assign the proposed use to a permitted use definition.
- C. **Prohibited Uses.** Uses not listed in Table 2.902: Use Regulations or not assigned to a Use Definition pursuant to Section 2.103B: Unlisted Uses are prohibited.
- D. **Additional Use Regulations.** Additional use regulations for single family residential districts are set forth in Section 2.107: Additional Use Regulations.

## 2.104 Lot Development Regulations

(See Table 2.105 for Non-Residential Uses)

Table 2.104: Lot Development Regulations – Single Family Residential Districts sets forth the development regulations for single family uses in single family residential districts, and are in addition to the development regulations set forth in Section 2.106: Additional Development Regulations and Division 4: General Regulations. Within the Heritage District Overlay Zoning District, the Development Regulations may be modified as set forth in Article 3.4. Letter designations in the *Additional Regulations* column refer to regulations that follow Table 2.104: Lot Development Regulations – Single Family Residential Districts.

**Table 2.104: Lot Development Regulations – Single Family Residential Districts  
(See Table 2.105 for Non-Residential Uses)**

| <b>Standards</b>   | <b>SF-43</b>   | <b>SF-35</b> | <b>SF-15</b> | <b>SF-10</b> | <b>SF-8</b> | <b>SF-7</b> | <b>SF-6</b> | <b>SF-D</b> | <b>SF-A</b> | <b>Additional Regulations</b> |
|--|--|--------------|--------------|--------------|-------------|-------------|-------------|-------------|-------------|-------------------------------|
| Minimum Lot Area (sq.ft. per d.u.)   | 43,000   | 35,000       | 15,000       | 10,000       | 8,000       | 7,000       | 6,000       | 3,000       | 2,000       |                               |
| Minimum Lot Dimensions (ft.)   |  |              |              |              |             |             |             |             |             |                               |
| Width  | 145  | 140          | 110          | 85           | 75          | 65          | 55          |             |             |                               |
| Depth  | 150  | 150          | 120          | 110          | 100         | 100         | 100         | N/A         | N/A         | (A)                           |
| Maximum Height (ft.)/Stories   | 35/2   | 35/2         | 30/2         | 30/2         | 30/2        | 30/2        | 30/2        | 36/3        | 36/3        | (B)                           |
| Minimum Building Setbacks (ft.)  |  |              |              |              |             |             |             |             |             |                               |
| Front  | 40   | 40           | 30           | 25           | 20          | 20          | 20          | 10          | 10          | (C)                           |
| Side   | 30   | 20           | 15           | 10           | 10          | 5&10        | 5&10        | 0 or 5      | 0           | (D)                           |
| Rear   | 40   | 40           | 30           | 30           | 25          | 20          | 20          | 10          | 10          | (E)                           |
| Maximum Lot Coverage (%)   |  |              |              |              |             |             |             |             |             |                               |
| One Story  | 30   | 30           | 35           | 45           | 45          | 45          | 45          | 60          | 65          | (F)                           |
| Two/Three Story  | 30   | 30           | 35           | 40           | 40          | 40          | 40          | 50          | 55          | (F)                           |
| Street Frontage Landscaping  | See Article 4.3 Landscape Regulations                      |              |              |              |             |             |             |             |             |                               |
| Off-Street Parking and Loading   | See Article 4.2 Off-Street Parking and Loading Regulations |              |              |              |             |             |             |             |             |                               |
| Exterior Lighting Standards for common open space areas and non-residential uses | See Section 4.103 Lighting Standards                       |              |              |              |             |             |             |             |             |                               |

- A. **Lot Depth for Double Frontage Lots on Arterial Streets.** In the SF-8, SF-7, and SF-6 districts lots backing onto arterial streets with a street landscape area of less than 35 feet in width behind the right-of-way shall have a minimum depth of 110 feet.

B. **Height.** Dwelling units on lots where any portion of the lot backs or sides onto parcels designated on the General Plan land use map as Residential > 14 – 25 DU/Acre, or nonresidential, other than Neighborhood Office, shall be limited in height to one story.

C. **Front Setback.**

1. In the SF-10 district, a minimum front setback of 20 feet is permitted for:
  - a. Side entry garages;
  - b. Livable areas of dwelling units with detached garages; or
  - c. Dwelling units with front-facing garages that are recessed by 20 feet or more from the front plane of the livable area.
2. In the SF-8, SF-7, and SF-6 districts, a minimum front setback of 15 feet is permitted for:
  - a. Side entry garages;
  - b. Livable areas of dwelling units with detached garages; or
  - c. Dwelling units with front-facing garages that are recessed by 20 feet or more from the front plane of the livable area.
3. *Staggering.* In the SF-10, SF-8, SF-7, and SF-6 districts, front setbacks shall be staggered, such that no more than 2 adjacent lots have the same setback. A minimum of a 3 foot variation is required.

D. **Side Setback.**

1. In the SF-10, SF-8, SF-7, and SF-6 districts the minimum side setback shall be 15 feet where the side setback area abuts:
  - a. Parcels designated on the General Plan land use map as Residential > 8 – 14 DU/Acre, Residential > 14 – 25 DU/Acre, or nonresidential;
  - b. An arterial or collector street; or
  - c. An arterial street landscape area of less than 35 feet in width behind the right-of-way.
2. In the SF-D district, a minimum of 10 feet shall be provided between dwelling units, measured from the exterior walls of the units.
3. In the SF-A district, a minimum of 15 feet shall be provided between structures, excluding detached garages.

**E. Rear Setback.**

1. In the SF-10 and SF-8 districts the minimum rear setback shall be 30 feet for single-story and 35 feet for two-story units where the rear setback area abuts:
  - a. A parcel designated on the General Plan land use map as Residential > 8 – 14 DU/Acre, Residential > 14 – 25 DU/Acre, or nonresidential;
  - b. An arterial or collector street; or
  - c. An arterial street landscape area of less than 35 feet in width behind the right-of-way.
  
2. In the SF-7 and SF-6 districts the minimum rear setback shall be 25 feet for single-story units and 30 feet for two-story units where the rear setback area abuts:
  - a. A parcel designated on the General Plan land use map as Residential > 8 – 14 DU/Acre, Residential > 14 – 25 DU/Acre, or nonresidential;
  - b. An arterial or collector street; or
  - c. An arterial street landscape area of less than 35 feet in width behind the right-of-way.

F. **Additional Lot Coverage.** In the SF-6 through SF-43 districts 5% additional lot coverage in excess of the LDC standard for the base zoning district is permitted for open air accessory structures, open air attached patios and open air porches.

**2.105 Site Development Regulations, Nonresidential Uses in Residential Districts**

Table 2.105: Site Development Regulations – Nonresidential Uses in Residential Districts sets forth the development regulations for nonresidential uses in single family residential districts, and are in addition to the development regulations set forth in Section 2.106: Additional Development Regulations and Division 4: General Regulations. Letter designations in the *Additional Regulations* column refer to regulations that follow Table 2.105: Site Development Regulations – Nonresidential Uses in Residential Districts.

**Table 2.105: Site Development Regulations – Nonresidential Uses in Residential Districts**

| <b>Standards</b> | <b>Use under 25,000 sq. ft.</b>   | <b>Use 25,000 to 50,000 sq. ft.</b> | <b>Use 50,000 to 75,000 sq. ft.</b> | <b>Use over 75,000 sq. ft.</b> | <b>Additional Regulations</b> |
|------------------|---|-------------------------------------|-------------------------------------|--------------------------------|-------------------------------|
| Minimum Lot Area | Same as base district regulations set forth in Table 2.104: Lot Development Regulations – Single Family Residential Districts |                                     |                                     |                                |                               |

**Table 2.105: Site Development Regulations – Nonresidential Uses in Residential Districts**

| <b>Standards</b>                                | <b>Use under 25,000 sq. ft.</b>   | <b>Use 25,000 to 50,000 sq. ft.</b> | <b>Use 50,000 to 75,000 sq. ft.</b> | <b>Use over 75,000 sq. ft.</b> | <b>Additional Regulations</b> |
|---|---|-------------------------------------|-------------------------------------|--------------------------------|-------------------------------|
| Minimum Lot Dimensions                          | Same as base district regulations set forth in Table 2.104: Lot Development Regulations – Single Family Residential Districts |                                     |                                     |                                |                               |
| Maximum Building Height (ft.)                   | 30  | 35                                  | 35                                  | 45                             |                               |
| Building Step-back                              | No  | No                                  | No                                  | Yes                            | (A)                           |
| Minimum Building Setbacks (ft.)                 | Same as base district regulations set forth in Table 2.104: Lot Development Regulations – Single Family Residential Districts |                                     |                                     |                                |                               |
| <i>Front</i>                                    |   |                                     |                                     |                                |                               |
| <i>Side (Street)</i>                            | 20  | 20                                  | 25                                  | 30                             |                               |
| <i>Side (Residential)</i>                       | 20  | 25                                  | 35                                  | 50                             |                               |
| <i>Side (Nonresidential)</i>                    | 15  | 15                                  | 15                                  | 20                             |                               |
| <i>Rear (Residential)</i>                       | 40  | 40                                  | 40                                  | 50                             |                               |
| <i>Rear (Nonresidential)</i>                    | 15  | 15                                  | 15                                  | 20                             |                               |
| Separation between Buildings (ft.)              |   |                                     |                                     |                                |                               |
| <i>Single story</i>                             | 10  | 15                                  | 15                                  | 15                             |                               |
| <i>Multiple story</i>                           | 20  | 20                                  | 20                                  | 20                             |                               |
| Maximum Lot Coverage (%)                        | Same as base district regulations set forth in Table 2.104: Lot Development Regulations – Single Family Residential Districts |                                     |                                     |                                |                               |
| Minimum Required Perimeter Landscape Area (ft.) |   |                                     |                                     |                                |                               |
| <i>Front</i>                                    | 20  | 25                                  | 30                                  | 35                             | (B)                           |
| <i>Side (Street)</i>                            | 20  | 20                                  | 25                                  | 30                             |                               |
| <i>Side (Residential)</i>                       | 20  | 25                                  | 35                                  | 35                             |                               |
| <i>Side (Nonresidential)</i>                    | 15  | 15                                  | 15                                  | 20                             |                               |
| <i>Rear (Residential)</i>                       | 20  | 25                                  | 35                                  | 35                             |                               |
| <i>Rear (Nonresidential)</i>                    | 15  | 15                                  | 15                                  | 20                             |                               |
| Landscaping (% of net lot area)                 | 15  | 15                                  | 15                                  | 15                             | See Article 4.3               |
| Building Setback to Parking (ft.)               | See Section 4.203N: Separation from Buildings   |                                     |                                     |                                |                               |
| Off-Street Parking and Loading                  | See Article 4.2: Off-Street Parking and Loading Regulations   |                                     |                                     |                                |                               |
| Exterior Lighting Standards                     | See Section 4.103: Lighting Standards   |                                     |                                     |                                |                               |

- A. **Building Step-back.** A building step-back of 10 feet at the third floor is required for all nonresidential structures in residential districts.
- B. **Street Frontage Landscape.** Unless otherwise permitted by the Zoning Code, street frontage landscape areas shall not contain parking areas, buildings, fences, parking screen walls or other permanent improvements other than sidewalks, permitted signs and lighting.

## 2.106 Additional Development Regulations

In addition to the requirements set forth in Article 4.1: Site Regulations, the following regulations shall apply:

- A. **Residential Design Guidelines.** Design Guidelines for single family residential dwellings are set forth in Chapter II: Design Standards and Guidelines.
- B. **Accessory Structures.** Accessory structures requiring a building permit (larger than 200 square feet) shall comply with the following regulations:
  - 1. **Establishment.** An accessory structure shall not be constructed prior to construction of the principal structure.
  - 2. **Location:**
    - a. An accessory structure may be located within the building envelope of any single family zoning district if said accessory structure meets the setback of the corresponding zoning district as established in Table 2.104.
    - b.,. In the SF-15, SF-10, SF-8, SF-7, SF-6, SF-D and SF-A districts, an accessory structure may be located in the side and rear setback areas if said accessory structure is also within the rear one-half of the lot. In SF-43 and SF-35 districts, an accessory structure may be located in the side and rear setback areas if said accessory structure is also within the rear two thirds of the lot.
      - (1) Except for swimming pools, an accessory structure located in the side and rear setback areas shall comply with the following regulations:
        - i. Accessory structure 10 feet in height or less: the setbacks shall be 5 feet.
        - ii. Accessory structure greater than 10 feet in height: for each foot above 10 feet, one additional foot in setback.
    - c. Tennis or sport courts on individual lots shall be set back a minimum of 10 feet from side and rear property lines.
    - d. Location of swimming pools is regulated under Section 4.107: Swimming Pools.
  - 3. **Maximum Height.** The maximum height shall be 20 feet in all districts except in SF-43 and SF-35. In the SF-43 and SF-35 districts, the maximum height shall be 30 feet.
- C. **Guest Quarters.** Guest Quarters shall comply with the following regulations:
  - 1. **Establishment.** Guest Quarters shall not be constructed prior to construction of the dwelling unit.

2. *Number.* One Guest Quarters is permitted on a lot or parcel.
3. *Location.* Guest Quarters shall be located within the building envelope.
4. *Additional Standards.*
  - a. Guest Quarters may be attached to the principal dwelling;
  - b. Guest Quarters shall use utility service provided to the principal dwelling;
  - c. Ranges, ovens, and built-in cooking facilities are prohibited;
  - d. Separate renting or leasing from the principal dwelling is prohibited;
  - e. Guest Quarters shall be a single floor and not exceed the principal structure maximum height requirement of the base zoning district, and may be located above an attached or detached garage; and
  - f. Design of Guest Quarters shall be compatible with the design of the principal dwelling in materials, colors and architectural style.

D. ***Secondary Dwellings.*** Secondary Dwellings shall comply with the following regulations:

1. *Establishment.* Secondary Dwellings shall not be constructed prior to construction of the dwelling unit.
2. *Number.* Only 1 Secondary Dwelling unit is permitted on a lot or parcel.
3. *Location.*
  - a. Except for Secondary Dwellings constructed over a detached garage, Secondary Dwellings shall be located within the building envelope.
  - b. A Secondary Dwelling constructed over a detached garage shall not exceed the height of the principal dwelling.
4. *Additional Standards.*
  - a. The entrance to the Secondary Dwelling shall not be visible from the public or private street on which the principal dwelling fronts;
  - b. The Secondary Dwelling shall use utility service provided to the principal dwelling;
  - c. The Secondary Dwelling shall provide one additional off-street parking space in conformance with Section 4.203X: Parking on Single Family Residential Lots. The space may be enclosed or unenclosed;



- d. The Secondary Dwelling shall not have internal access to the principal dwelling;
- e. Rentals of Secondary Dwellings are permitted;
- f. A full kitchen is permitted in a Secondary Dwelling; and
- g. The design of the Secondary Dwelling unit shall be compatible with the design of the principal dwelling in materials, colors and architectural style.

E. ***Covered Patios.***

- 1. New single family dwellings in the SF-43, SF-35, SF-15, SF-10, SF-8, SF-7, and SF-6 districts shall have a covered patio of at least 80 square feet. No dimension shall be less than 6 feet as measured from the dwelling façade to the interior edge of the supporting post or wall.
- 2. New single family dwellings within the SF-D and SF-A districts shall have a covered patio of at least 60 square feet. No dimension shall be less than 6 feet as measured from the dwelling façade to the interior edge of the supporting post or wall.

F. ***Porches.*** Where new porches are provided, they shall be at least 6 feet in depth as measured from the dwelling façade to the interior edge of the supporting post or wall.

G. ***Access to Nonresidential Property.*** Use of a property to provide primary vehicular access to a nonresidential use is prohibited.

H. ***Model Home Complexes.*** Model home complexes are permitted for the initial sale of homes within a recorded subdivision or residential condominium development.

- 1. ***Location.*** The model home complex shall be located within a subdivision where the model homes are currently being constructed. The model home complex may be used to market homes for sale within the same Planned Area Development, subject to approval by the Director of Planning.
- 2. ***Design Review Required.*** All model home complexes shall obtain administrative design review approval prior to issuance of a Certificate of Occupancy for any unit within the complex.
- 3. ***Opening.*** An approved model home complex may be open for use when all required improvements have been installed or constructed, inspected, and a Certificate of Occupancy issued.
- 4. ***Termination.*** The sales office use shall be terminated, all model home complex units converted to residential occupancy standards, all exterior improvements unique to the complex removed, all signage removed and a final inspection completed on all model complex units prior to residential occupancy of the sales office unit.

5. *Parking.* The model home complex parking area shall be constructed of concrete, masonry, asphalt, compacted decomposed granite, or other approved dust free surface. Accessible parking shall meet all accessibility requirements, including a paved surface, signage and connection to the model complex by a compliant pathway.
  6. *Signage.* Signage shall comply with the requirements of Article 4.4: Sign Regulations.
  7. *Residential Occupancy Prohibited.* Any unit in a model home complex shall not be occupied as a residential unit until fully converted to residential occupancy standards and a certificate of occupancy has been issued by the Town.
  8. *Improvements Required.* All model home complex sales offices and parking areas shall have access from a paved street. Pedestrian ways shall be paved.
- I. ***Street Frontage Landscape.*** Unless otherwise permitted by the Zoning Code, street frontage landscape areas shall not contain parking areas, buildings, fences, parking screen walls or other permanent improvements other than permitted signs and lighting.
1. *Arterial Streets.* A landscape area adjacent and parallel to the street with a minimum width of 20 feet is required.
  2. *Arterial/Arterial Intersection.* A minimum 50 foot wide landscape area shall be established and maintained along the street frontage within a distance of 250 feet of the arterial intersection as measured from the intersection of street lines. One driveway perpendicular to each street frontage within the 50 foot wide landscaped area established above is permitted if no other access is available.
  3. *Collector Streets.* A landscape area adjacent and parallel to the street with a minimum width of 10 feet is required.

## **2.107 Additional Use Regulations**

- A. ***Animals.*** In addition to the regulations set forth in Chapter 6 of the Municipal Code and Section 2.103: Land Use Regulations, the following regulations shall apply:
1. *Rodents and Fowl.*
    - a. On each lot that is at least 6,000 square feet and less than 8,000 square feet in area, any combination of rodents and fowl not to exceed 5 total animals is permitted.
    - b. On each lot that is at least 8,000 square feet and less than 10,000 square feet in area, any combination of up to 10 rodents and fowl is permitted.

- c. On each lot that is at least 10,000 square feet and less than 20,000 square feet in area, any combination of up to 25 rodents and fowl is permitted. For each additional 10,000 square feet of lot area, an additional 12 rodents or fowl are permitted.
  - d. Aviaries shall be located within the building envelope or the rear one-half of the lot. If located within the rear one-half of the lot, the aviary shall be a minimum of 5 feet from any property line.
  - e. One (1) rooster over four months in age shall be permitted for each 20,000 square feet of lot area with the exception of those kept for “Crop and Animal Raising, Commercial”, provided that the rooster is controlled or contained in such a manner to comply with Municipal Code Chapter 6, Section 6.2 (Noisy Animals).
2. *Livestock*. Large and small livestock animals are permitted on lots of 15,000 net square feet and larger. The number of livestock are determined as follows:
- a. One large livestock animal is permitted for each 10,000 square feet of net lot area.
  - b. One small livestock animal is permitted for each 5,000 square feet of net lot area.
  - c. Where both large and small livestock animals are kept, the minimum required lot area shall be cumulative.
3. *Apiaries (Beehives)*. Apiaries shall be located at least 100 feet from any property line.

**B. *Stables, Commercial.***

- 1. *Minimum Net Lot Area*. 10 acres.
- 2. *Structures*. Any structure housing animals shall be set back at least 100 feet from all property lines.

**C. *Equestrian Arenas.***

- 1. *Minimum Net Lot Area*: 10 acres.
- 2. *Structures*.
  - a. Any structure housing animals overnight shall be set back at least 100 feet from all property lines.
  - b. Any structure housing animals other than overnight shall be set back at least 50 feet from all property lines.
  - c. The location and operation of any arena shall be as set forth in the Use Permit.

Conditions may be imposed to minimize noise, dust, light, odors, and other negative impacts on adjacent uses.

- D. ***Stables, Residential.*** Any structure housing animals is an accessory structure subject to the requirements of Section 2.106B: Accessory Structures, except that such structure shall be set back at least 20 feet from all property lines.
  
- E. ***Recreational Vehicle Storage on Residential Lots.*** The storage of unoccupied personal recreational vehicles owned by the occupant is permitted on a developed residential lot or parcel, outside of the required front or street side setback. Only recreational vehicles parked on a driveway or additional parking space as permitted in Section 4.203X may be stored within the required front or street side setback.

## Article 2.2 Multi-Family Residential Districts

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### Sections

- 2.201 Purposes
- 2.202 Multi-Family Residential Districts
- 2.203 Land Use Regulations
- 2.204 Site Development Regulations
- 2.205 Additional Use Regulations

#### 2.201 Purposes

The purposes of multi-family residential districts established in this article are to:

- A. Provide for multi-family residential uses in appropriate locations;
- B. Provide for a variety of housing opportunities;
- C. Establish reasonable regulations to create and preserve quality higher density living environments; and
- D. Provide for appropriate transitions to other residential and nonresidential uses.

#### 2.202 Multi-Family Residential Districts

The multi-family residential districts are:

***Multi-Family/Low (MF/L).*** This district permits multi-family housing at densities of 8-14 dwelling units per gross acre.

***Multi-Family/Medium (MF/M).*** This district permits multi-family housing at densities of 14-25 dwelling units per gross acre.

***Multi-Family/High (MF/H).*** This district permits multi-family housing at densities of 25-50 dwelling units per gross acre.

#### 2.203 Land Use Regulations

- A. ***Regulations.*** Table 2.902: Use Regulations sets forth the land use regulations for multi-family residential districts. The regulations for each district are established by letter designations as follows:

"P" designates permitted uses.

"L" designates uses that are permitted subject to certain limitations. Number designations refer to the limitations listed at the bottom of Table 2.902: Use Regulations.

"T" designates uses that are permitted to be conducted for a temporary period of time. Time limitations are listed in Table 4.5012: Temporary Uses.

"A" designates uses that require an Administrative Use Permit pursuant to Article 5.4: Use Permits.

"U" designates uses that require a Conditional Use Permit pursuant to Article 5.4: Use Permits.

"S" designates uses that require a Special Use Permit pursuant to Article 5.4: Use Permits.

- B. **Unlisted Uses.** Uses are defined in Article 6.1: Use Definitions. If a proposed use is not listed in the Use Definitions, the Zoning Administrator shall determine if the proposed use is substantially similar to a permitted use; in that event, the Zoning Administrator shall assign the proposed use to a permitted use definition.
- C. **Prohibited Uses.** Uses not listed in Table 2.902: Use Regulations or not assigned to a Use Definition pursuant to Section 2.203B: Unlisted Uses are prohibited.
- D. **Additional Use Regulations.** Additional use regulations for multi-family residential districts are set forth in Section 2.205: Additional Use Regulations.

## 2.204 Site Development Regulations

Table 2.204: Site Development Regulations – Multi-Family Residential Districts sets forth the development regulations for multi-family residential districts, which are in addition to the regulations set forth in Section 2.205: Additional Use Regulations and Division 4: General Regulations. Within the Heritage District Overlay Zoning District, the Development Regulations may be modified as set forth in Article 3.4. Letter designations in the *Additional Regulations* column refer to regulations that follow Table 2.204: Site Development Regulations.

**Table 2.204: Site Development Regulations – Multi-Family Residential Districts**

| <b>Standards</b>  | <b>MF-L</b> | <b>MF-M</b> | <b>MF-H</b> | <b>Additional Regulations</b> |
|---|-------------|-------------|-------------|-------------------------------|
| Minimum Parcel Area (sq. ft.)                           | 20,000      | 20,000      | 35,000      |                               |
| Maximum Height (ft.)                                    | 36          | 40          | 55          |                               |
| Building Step-back                                      | Yes         | Yes         | Yes         | (A)                           |
| Minimum Perimeter Building Setbacks (ft.)               |             |             |             |                               |
| <i>Front</i>  | 25          | 30          | 25          |                               |
| <i>Side (Street)</i>                                    | 25          | 30          | 25          |                               |
| <i>Side (Adjacent to Single Family Zoning District)</i> | 25          | 30          | 75          | (E)                           |

**Table 2.204: Site Development Regulations – Multi-Family Residential Districts**

| <b>Standards</b>  | <b>MF-L</b>   | <b>MF-M</b>   | <b>MF-H</b>   | <b>Additional Regulations</b> |
|---|---|---|---|-------------------------------|
| <i>Side (Adjacent to Multi-Family or Non-Residential Zoning District)</i> | 20  | 20  | 10  |                               |
| <i>Rear (Adjacent to Single Family Residential Zoning District)</i>       | 25  | 30  | 75  | (E)                           |
| <i>Rear (Adjacent to Multi-Family or Non-Residential Zoning District)</i> | 20  | 20  | 10  |                               |
| Minimum Perimeter Landscape Area (depth in ft.)                           |   |   |   |                               |
| <i>Front</i>  | 20  | 20  | 25  |                               |
| <i>Side (Street)</i>  | 20  | 20  | 20  |                               |
| <i>Side (Adjacent to Single Family Residential Zoning District))</i>      | 20  | 20  | 40  | (E)                           |
| <i>Side (Adjacent to Multi-Family or Non-Residential Zoning District)</i> | 15  | 15  | 10  |                               |
| <i>Rear (Adjacent to Single Family Residential Zoning District)</i>       | 20  | 20  | 40  | (E)                           |
| <i>Rear (Adjacent to Multi-Family or Non-Residential Zoning District)</i> | 20  | 20  | 10  |                               |
| Separation between Buildings (ft.)  |   |   |   |                               |
| <i>Single or two story</i>  | 20  | 20  | 20  |                               |
| <i>Three story and above</i>  | 30  | 20  | 20  |                               |
| Building Setback to Parking (ft.)   | See Section 4.203N: Separation from Buildings               |   |   |                               |
| Off-Street Parking and Loading  | See Article 4.2: Off-Street Parking and Loading Regulations |   |   |                               |
| Private Open Space (sq. ft.)  | 60  | 60  | 60  | (B)                           |
| Common Open Space (minimum)   | 45% of net site   | 40% of net site   | 40% of net site   | (C)                           |
| Common Open Space Landscaping   | 1 tree/unit   | 1 tree/unit   | 0.25 tree/unit  | (C)                           |
| Landscaping (Perimeter & Public Street Frontages)                         | Perimeter & Public Street Frontages: 1 tree/20 linear ft.   | Perimeter & Public Street Frontages: 1 tree/20 linear ft. | Perimeter & Public Street Frontages: 1 tree/20 linear ft. | (D)<br>See Section 2.204D     |
| Exterior Lighting Standards   | See Section 4.103: Lighting Standards                       |   |   |                               |

**A. Building Step-back.**

- Where development in MF-L and MF-M Districts is within 100 feet of any property zoned single family residential, a Building Step-back of 10 feet at the third floor is required for habitable space.

2. Where development in the MF-H District is within 100 feet of property zoned single family residential, a Building Step-back of one foot for every foot of building height above 2 stories or 35 feet is required for habitable space.
- B. **Private Open Space.** Each unit shall contain an exterior private open space. No dimension of private open space shall be less than 6 feet as measured from the dwelling façade to the interior edge of the supporting post or wall. Private open space shall be covered and screened by a fence of 4 feet in height. Ground floor private open space may be screened by a fence no less than 3 feet, but no more than 8 feet in height. In the MF-H District, in lieu of providing private open space, an additional 10 percent common open space may be provided.
- C. **Common Open Space Amenities.** Common open space shall contain the following amenities:
1. In MF-L and MF-M Districts, one swimming pool with a minimum 600 square feet surface area for developments of 50 units or more is required. In the MF-H District, one swimming pool with a minimum surface area of 10 square feet per unit for 50 units or more is required and the pool surface area may be divided between two pools. An indoor or rooftop swimming pool may be counted towards the pool amenity requirement;
  2. In MF-L and MF-M Districts, one enclosed community facility of at least 1,000 square feet for developments of 100 units or more is required. In the MF-H District, the required enclosed community facility shall be 10 square feet per unit and may be distributed amongst multiple community facilities;
  3. In MF-L and MF-M Districts, a minimum of 1 tree per dwelling unit, exclusive of trees within the right-of-way is required. In the MF-H District, a minimum of 0.25 tree per dwelling unit, exclusive of trees within the right-of-way is required. A minimum 25 percent of the required trees shall be 24 inch box in size; and
  4. One children's play area of at least 400 square feet with play equipment is required, except for senior housing or in the MF-H District, where an alternative active amenity of 400 square feet may be allowed. The alternative active amenity may be placed indoors, outdoors or on roof tops.
- D. **Street Frontage Landscape.** Unless otherwise permitted by the Zoning Code, street frontage landscape areas shall not contain parking areas, buildings, fences, parking screen walls or other permanent improvements other than sidewalks, permitted signs and lighting.
1. **Arterial Streets.** A landscape area adjacent and parallel to the street with a minimum width of 25 feet is required.



2. *Arterial/Arterial Intersection.* A minimum 50 foot wide landscape area shall be established and maintained along the street frontage within a distance of 250 feet of the arterial intersection as measured from the intersection of street lines. One driveway perpendicular to each street frontage within the 50 foot wide landscaped area established above is permitted if no other access is available.
3. *Other Streets.* Along other streets, a landscape area adjacent and parallel to the street with a minimum width of 20 feet is required.

E. ***Modified Setbacks in MF-H District.***

1. Where development in the MF-H District is adjacent to any property zoned single family residential, and the maximum building height is 40 feet or less, the minimum side and rear perimeter building setback standards may be modified to comply with the MF-M District standards.
2. Where development in the MF-H District is adjacent to any property zoned single family residential and the maximum building height is 40 feet or less, the minimum side and rear perimeter landscape area standards may be modified to comply with the MF-M District standards.

## **2.205 Additional Use Regulations**

A. ***Accessory Structures.*** Accessory structures shall comply with the following regulations:

1. *Location.*
  - a. Accessory structures may be located anywhere within the building envelope.
  - b. Parking canopies and garages shall be set back a minimum of 10 feet from nonresidential and multi-family residential zoning districts or properties designated as nonresidential or multi-family in the General Plan.
  - c. Parking canopies and garages shall be set back a minimum of 20 feet from single family residential zoning districts or properties designated as single family residential in the General Plan.
2. *Maximum Height.* The maximum height shall be 15 feet.

B. ***Multi-Family Design Guidelines.*** Design Guidelines for multi-family residential dwellings are set forth in Chapter II: Design Standards and Guidelines.

- C. ***Gated Facility Entrances.*** A minimum of 40 feet of vehicle queuing area shall be provided behind each security control point. The minimum width of the vehicular entry shall be 20 feet in width. A vehicular turn-around area shall be provided between the control point and the security gate. The vehicular turn-around area shall have a minimum interior turning radius of 35 feet and an exterior turning radius of 55 feet.
- D. ***Recreational Vehicle Storage.*** The storage of unoccupied personal recreational vehicles is permitted on a developed residential lot or parcel, outside of the required front or street side setback.
- E. ***Access to Nonresidential Property.*** Use of multi-family zoned property to provide primary vehicular access to a nonresidential use is prohibited.

## Article 2.3 Commercial Districts

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### Sections

- 2.301 Purposes
- 2.302 Commercial Districts
- 2.303 Land Use Regulations
- 2.304 Site Development Regulations
- 2.305 Additional Development Regulations
- 2.306 Additional Use Regulations

### 2.301 Purposes

The purposes of commercial districts established in this article are to:

- A. Provide for a range of commercial uses at appropriate scales and locations;
- B. Encourage quality and variety in building and landscape design;
- C. Ensure land use compatibility with residential and other adjacent uses; and
- D. Provide for limited mixed commercial and residential uses.

### 2.302 Commercial Districts

The commercial districts are:

***Neighborhood Commercial (NC).*** This district permits small-scale neighborhood retail, office, and service uses under 25,000 square feet per user or stand-alone building.

***Community Commercial (CC).*** This district permits small- to medium-scale retail, office, service and entertainment uses under 50,000 square feet per user or stand-alone building.

***Shopping Center (SC).*** This district permits the unified development of medium- scale retail, office, service and entertainment uses under 75,000 square feet per user or stand-alone building.

***General Commercial (GC).*** This district permits a broad range of small- to large-scale retail, service, office, entertainment, and institutional uses of any size. Uses need not be developed under a unified plan.

***Regional Commercial (RC).*** This district permits large-scale regional retail, commercial, office, recreation and entertainment, and cultural uses, developed under a unified plan.

## 2.303 Land Use Regulations

- A. **Regulations.** Table 2.902: Use Regulations sets forth the land use regulations for commercial districts. The regulations for each district are established by letter designations as follows:

"P" designates permitted uses.

"L" designates uses that are permitted subject to certain limitations. Number designations refer to the limitations listed at the bottom of Table 2.902: Use Regulations.

"T" designates uses that are permitted to be conducted for a temporary period of time. Time limitations are listed in Table 4.5012: Temporary Uses.

"A" designates uses that require an Administrative Use Permit pursuant to Article 5.4: Use Permits.

"U" designates uses that require a Conditional Use Permit pursuant to Article 5.4: Use Permits.

"S" designates uses that require a Special Use Permit pursuant to Article 5.4: Use Permits.

- B. **Unlisted Uses.** Uses are defined in Article 6.1: Use Definitions. If a proposed use is not listed in the Use Definitions, the Zoning Administrator shall determine if the proposed use is substantially similar to a permitted use; in that event, the Zoning Administrator shall assign the proposed use to a permitted use definition.
- C. **Prohibited Uses.** Uses not listed in Table 2.902: Use Regulations or not assigned to a Use Definition pursuant to Section 2.303B: Unlisted Uses are prohibited.
- D. **Additional Use Regulations.** Additional use regulations for commercial districts are set forth in Section 2.306: Additional Use Regulations.

## 2.304 Site Development Regulations

Table 2.304: Site Development Regulations – Commercial Districts sets forth the site development regulations for commercial districts, which are in addition to the development regulations set forth in Section 2.305: Additional Development Regulations and Division 4: General Regulations. Letter designations in the *Additional Regulations* column refer to regulations that follow Table 2.304: Site Development Regulations.

**Table 2.304: Site Development Regulations – Commercial Districts**

| <b>Standards</b>                      | <b>NC</b> | <b>CC</b> | <b>SC</b> | <b>GC</b> | <b>RC</b> | <b>Additional Regulations</b> |
|---------------------------------------|-----------|-----------|-----------|-----------|-----------|-------------------------------|
| Maximum Size of Use or User (sq. ft.) | 25,000    | 50,000    | 75,000    | --        | --        |                               |

**Table 2.304: Site Development Regulations – Commercial Districts**

| <b>Standards</b>                                | <b>NC</b>   | <b>CC</b> | <b>SC</b> | <b>GC</b> | <b>RC</b> | <b>Additional Regulations</b> |
|---|---|-----------|-----------|-----------|-----------|-------------------------------|
| Maximum Building Height (ft.) / (Stories)       | 25/1  | 35/2      | 35/2      | 45        | 55        |                               |
| Building Step-back                              | No  | No        | No        | Yes       | Yes       | (A)                           |
| Minimum Setbacks (ft.)                          |   |           |           |           |           | (B) (E)                       |
| <i>Front</i>                                    | 20  | 20        | 25        | 25        | 25        |                               |
| <i>Side (Street)</i>                            | 15  | 20        | 20        | 20        | 20        |                               |
| <i>Side (Residential)</i>                       | 15  | 30        | 75        | 75        | 75        |                               |
| <i>Side (Nonresidential)</i>                    | 10  | 15        | 15        | 20        | 20        | (E)                           |
| <i>Rear (Residential)</i>                       | 15  | 40        | 75        | 75        | 75        |                               |
| <i>Rear (Nonresidential)</i>                    | 15  | 15        | 15        | 20        | 20        | (E)                           |
| Separation between Buildings (ft.)              |   |           |           |           |           |                               |
| <i>Single story</i>                             | 10  | 15        | 15        | 15        | 15        |                               |
| <i>Multiple story</i>                           | --  | 20        | 20        | 20        | 20        |                               |
| Minimum Required Perimeter Landscape Area (ft.) |   |           |           |           |           |                               |
| <i>Front</i>                                    | 20  | 20        | 25        | 25        | 25        | (C) (D) (E)                   |
| <i>Side (Street)</i>                            | 15  | 20        | 20        | 20        | 20        |                               |
| <i>Side (Residential)</i>                       | 15  | 25        | 30        | 40        | 40        |                               |
| <i>Side (Nonresidential)</i>                    | 10  | 15        | 15        | 20        | 20        | (E)                           |
| <i>Rear (Residential)</i>                       | 15  | 30        | 35        | 40        | 40        |                               |
| <i>Rear (Nonresidential)</i>                    | 15  | 15        | 15        | 20        | 20        | (E)                           |
| Landscaping (% of net lot area)                 | 15  | 15        | 15        | 15        | 15        | See Article 4.3               |
| Building Setback to Parking (ft.)               | See Section 4.203N: Separation from Buildings               |           |           |           |           |                               |
| Off-Street Parking and Loading                  | See Article 4.2: Off-Street Parking and Loading Regulations |           |           |           |           |                               |
| Exterior Lighting Standards                     | See Section 4.103: Lighting Standards                       |           |           |           |           |                               |

- A. **Building Step-back.** Where a building in a GC or RC district is within 100 feet of property designated for residential use in the General Plan, a building step-back of one foot for every one foot of building height above 2 stories or 35 feet is required.
- B. **Commercial Uses Adjacent to Residential Districts.** Commercial activity occurring within 50 feet of property designated for residential use in the General Plan shall be conducted within an enclosed building.
- C. **Street Frontage Landscape.** Unless otherwise permitted by the Zoning Code, street frontage landscape areas shall not contain parking areas, buildings, fences, parking screen walls or other permanent improvements other than sidewalks, permitted signs and lighting.
- D. **Arterial/Arterial Intersection.** A minimum 50 foot wide landscape area shall be established and maintained along arterial street frontages within a distance of 250 feet of an arterial intersection as measured from the intersection of street lines. One driveway perpendicular to each street frontage is permitted within the 50 foot wide landscaped area established above if no other access is available.

- E. Building setbacks and landscape areas (internal to an approved Master Site Plan, commercial subdivision or Development Plan) may be reduced or eliminated, provided the project meets the Town of Gilbert Commercial Design Guidelines and pedestrian paths, vehicular connectivity, and shared parking are clearly depicted and duly recorded.

## 2.305 Additional Development Regulations

- A. **Accessory Structures.** Accessory structures shall be identified on an approved Final Design Review site plan and shall comply with the following regulations:
  - 1. **Establishment.** An accessory structure shall not be constructed prior to construction of a principal structure.
  - 2. **Location.** Accessory structures may be located:
    - a. Within the building envelope.
    - b. Within a required side or rear setback, but not within a required landscape area.
  - 3. **Maximum Height.** The maximum height shall be 15 feet.
  - 4. **Separation.** Accessory structures shall be separated from principal structures and other accessory structures by a minimum of 10 feet, measured from the exterior walls.
- B. **Gated Facility Entrances.** A minimum of 40 feet of vehicle queuing area shall be provided behind each security control point. The minimum width of the vehicular entry shall be 20 feet in width. A vehicular turn-around area shall be provided between the control point and the security gate. The vehicular turn-around area shall have a minimum interior turning radius of 35 feet and an exterior turning radius of 55 feet.
- C. **Drive-Through Facilities.** No portion of a drive-through facility's drive-through aisle shall be within 50 feet of property designated for residential use in the General Plan.
- D. **Vehicle and Equipment Sales, Leasing and Services.**
  - 1. **Fuel Canopy.**
    - a. The clear height of the canopy over fuel pumps shall be a minimum of 13'-6" and shall not exceed 14'-6". Clearance height shall be measured from finished grade to the bottom of the fuel canopy fascia.
    - b. The fuel pump canopy shall be a minimum of 200 feet from property designated for residential use in the General Plan.

2. *Service Bays.*

- a. No part of a building within 50 feet of property designated for residential use in the General Plan shall contain bay or roll-up doors, or similar service openings.
- b. Service bays located within 200 feet of property designated for residential use in the General Plan shall not face the adjacent residential property.
- c. All service activities shall be conducted within the service bays. No used or discarded vehicle parts, equipment, or disabled, junked, or wrecked vehicles may be located outside the service bays.

3. *Commercial Vehicle/Equipment Sales and Rental; New and Used.*

- a. Within the CC and SC Zoning Districts vehicles/equipment shall occupy no more than 2,000 square feet of area on the site.
- b. Within the CC and SC Zoning Districts vehicles/equipment display shall be setback in excess of 50 feet back from the street frontage property line.

## 2.306 Additional Use Regulations

A. ***Hours of Operation.*** In the NC District, the hours that a business may be open to the public are limited to between 6:00 a.m. and 11:00 p.m. Increased hours of operation may be permitted with approval of a Conditional Use Permit to insure that there will be no significant adverse impact on the nearby uses.

B. ***Outdoor Storage.*** In addition to the requirements set forth in Section 4.104: Outdoor Business Property Storage, outdoor storage areas shall comply with the following requirements. This section does not apply to Outdoor Personal Property Storage.

1. *Neighborhood Commercial.* Outdoor storage is prohibited.

2. *Community Commercial.*

- a. **Area.** A maximum of 5 percent of the Gross Floor Area (GFA) of the use.
- b. **Height of Fences.** Fences enclosing outdoor storage areas shall be 6 feet in height.
- c. **Location.** Outdoor storage areas shall not be located between the building and the street.
- d. **Stored Material.** Stored material shall not exceed the height of the fence.

3. *Shopping Center.*

- a. Area. A maximum of 5 percent of the GFA of the use.
- b. Height of Fences. Fences enclosing outdoor storage areas shall be a minimum of 6 feet and a maximum of 8 feet in height.
- c. Location. Outdoor storage areas shall not be located between the building and the street.
- d. Stored Material. Stored material shall not exceed the height of the fence.

4. *General Commercial.*

- a. Area. No maximum percentage.
- b. Height of Fences. Fences enclosing outdoor storage areas shall be a minimum of 6 feet and a maximum of 14 feet in height.

5. *Regional Commercial.*

- a. Area. No maximum percentage.
- b. Height of Fences. Fences enclosing outdoor storage areas shall be a minimum of 6 feet and a maximum of 14 feet in height.

C. ***Outdoor Retail Sales and Merchandise Display.*** Outdoor retail sales and merchandise displays shall be located and conducted in compliance with the following requirements. Garden Supply Stores and Plant Nurseries and uses that are permitted to be conducted for a temporary period of time as listed in Table 2.902: Use Regulations are not outdoor retail sales and merchandise display under this section.

- 1. *Location.* Outdoor retail sales and merchandise displays shall not obstruct ingress and egress to a building, obstruct fire lanes, interfere with vehicular circulation or sight distance, be located in landscaped areas, or extend into the right-of-way. Outdoor retail sales and merchandise display areas shall be adjacent to the structure containing the business selling the merchandise. Final Design Review plans shall designate permitted areas for outdoor retail sales and merchandise display. For Final Design Review plans approved prior to the effective date of the Zoning Code, the location of outdoor retail sales and merchandise display require Administrative Design Review approval.
- 2. *Maximum Area.* Other than New and Used Motor Vehicle Sales and Leasing, the maximum area of outdoor retail sales shall be the lesser of 5 percent of the GFA of the use or:
  - a. Neighborhood Commercial: 250 square feet for each use.



- b. Community Commercial: 500 square feet for each use.
  - c. Shopping Center: 750 square feet for each use.
  - d. General Commercial: 2,500 square feet for each use.
  - e. Regional Commercial: 2,500 square feet for each use.
3. *Height.* Display merchandise shall not exceed a height of 10 feet above finished grade. Construction equipment including fork lifts, boom trucks, cranes, bucket trucks and similar equipment shall be displayed in an un-extended position.
  4. *Temporary Use of Parking Area.* The temporary use of a parking area for sales and display is permitted pursuant to Section 4.203J: Temporary Use of Parking Area.
- D. ***Personal Property Storage.***
1. *Indoor.* Indoor Personal Property Storage units shall be used only for the storage of personal property. No residential or commercial use shall be conducted in a storage unit. No hazardous materials shall be stored in a storage unit.
  2. *Outdoor.* Outdoor Personal Property Storage shall be used only for the storage of personal property. No residential or commercial use shall be conducted in vehicles, trailers or other personal property stored in an outdoor personal property storage facility.
- E. ***Fueling Facility Abandonment.*** All Fueling Facility structures and tanks that are unused and/or vacant for 1 year or more are assumed to be abandoned. Abandoned structures and facilities shall be removed; and the fuel tanks shall be removed within 90 days from the date a notice of abandonment is mailed to the property owner. Underground tanks may be filled with an inert material in lieu of removal.
- F. ***Fueling Facility Reuse.*** Fueling Facility buildings that are occupied with a use that does not involve the dispensing of fuel shall remove all underground fuel tanks or fill them with an inert material prior to occupancy of the building. All pumps, pump islands, fuel dispensing equipment and price signs shall be removed prior to occupancy of the building.
- G. ***Access to Residential Property.*** Use of commercially zoned property to provide primary vehicular access to a residential use is prohibited.

## Article 2.4 Heritage Village Center Zoning District

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### Sections

- 2.401 Purposes
- 2.402 Land Use Regulations
- 2.403 Site Development Regulations
- 2.404 Additional Development Regulations
- 2.405 Additional Use Regulations

### 2.401 Purposes

The Heritage Village Center (HVC) zoning district is intended to foster small-scale, pedestrian-oriented mixed-use development, consistent with the Heritage District Redevelopment Plan and General Plan. The district encourages a mixture of uses, including complementary high-density residential, retail, service, office, lodging, entertainment, public and quasi-public and cultural uses.

The additional purposes of the HVC district established in this article are to:

- A. Encourage quality and variety in building, landscape, and signage design;
- B. Insure historic compatibility in land use and building form;
- C. Support mixed commercial and residential uses;
- D. Reinforce the historic character of the downtown; and
- E. Attract active uses that will enhance the pedestrian ambiance of the downtown.

### 2.402 Land Use Regulations

- A. **Regulations.** Table 2.902: Use Regulations sets forth the land use regulations for the Heritage Village Center zoning district. The regulations are established by letter designations as follows:

"P" designates permitted uses.

"L" designates uses that are permitted subject to certain limitations. Number designations refer to the limitations listed at the bottom of Table 2.902: Use Regulations.

"T" designates uses that are permitted to be conducted for a temporary period of time. Time limitations are listed in Table 4.5012: Temporary Uses.

"A" designates uses that require an Administrative Use Permit pursuant to Article 5.4: Use Permits.

"U" designates uses that require a Conditional Use Permit pursuant to Article 5.4: Use Permits.

"S" designates uses that require a Special Use Permit pursuant to Article 5.4: Use Permits.

- B. **Unlisted Uses.** Uses are defined in Article 6.1: Use Definitions. If a proposed use is not listed in the Use Definitions, the Zoning Administrator shall determine if the proposed use is substantially similar to a permitted use; in that event, the Zoning Administrator shall assign the proposed use to a permitted use definition.
- C. **Prohibited Uses.** Uses not listed in Table 2.902: Use Regulations or not assigned to a Use Definition pursuant to Section 2.402B: Unlisted Uses are prohibited.
- D. **Additional Use Regulations.** Additional use regulations for the Heritage Village Center District are set forth in Section 2.405: Additional Use Regulations.

### 2.403 Site Development Regulations

Table 2.403: Site Development Regulations – Heritage Village Center District sets forth the site development regulations for the Heritage Village Center district, which are in addition to the development regulations set forth in Section 2.404: Additional Development Regulations and Division 4: General Regulations. Letter designations in the *Additional Regulations* column refer to regulations that follow Table 2.403.

**Table 2.403: Site Development Regulations – Heritage Village Center District**

| <b>Standards</b>                          | <b>HVC</b> | <b>Additional Regulations</b> |
|---|------------|-------------------------------|
| Minimum Floor Area Ratio (FAR) (%)        | 25         |                               |
| Minimum Building Height (ft.) / (Stories) | 35/2       | (A)                           |
| Maximum Building Height (ft.) / (Stories) | 55/4       | (B)                           |
| Minimum Building Setback (ft.)            |            |                               |
| <i>Front</i>                              | 0          |                               |
| <i>Side (Street)</i>                      | 0          |                               |
| <i>Side (Residential)</i>                 | 10         |                               |
| <i>Side (Non-residential)</i>             | 0          |                               |
| <i>Rear (Residential)</i>                 | 20         |                               |
| <i>Rear (Non-residential)</i>             | 0          |                               |

**Table 2.403: Site Development Regulations – Heritage Village Center District**

| <b>Standards</b>                    | <b>HVC</b>  | <b>Additional Regulations</b> |
|-------------------------------------|---|-------------------------------|
| Build-to Line (ft.)<br><i>Front</i> | 10  | (C)                           |
| <i>Side (Street)</i>                | 10  |                               |
| Storefronts and Access              | Yes   | (D)                           |
| Building Transparency               | Yes   | (E)                           |
| Driveway Restrictions               | Yes   | (F)                           |
| Parking Setback                     | Yes   | (G)                           |
| Building Setback to Parking (ft.)   | See Section 4.203N: Separation from Buildings               |                               |
| Off-Street Parking and Loading      | See Article 4.2: Off-Street Parking and Loading Regulations |                               |
| Exterior Lighting Standards         | See Section 4.103: Lighting Standards; (H)                  |                               |

- A. **Minimum Building Height.** Single story buildings may be approved by the Redevelopment Commission upon finding that the character of the Heritage Village Center will be maintained.
- B. **Maximum Building Height.** Building height above 2 stories or 35 feet up to a maximum of 4 stories or 55 feet may be approved by the Redevelopment Commission upon a finding of consistency with the Redevelopment Plan, and finding that the character of the Heritage Village Center will be maintained.
- C. **Build-To Lines.**
  - 1. **Ground Floor.** A minimum of 50 percent of the ground floor building facades or defined permanent outdoor dining area shall be within 10 feet of the property line abutting a street.
  - 2. **Second Floor.** All second floor building street facades shall be within 10 feet of the property line abutting a street. Permanent outdoor dining may substitute for a portion of the building facade abutting a street.
- D. **Storefronts and Access.**
  - 1. A minimum 75 percent of ground floor building length or width along the front of the building shall consist of windows, window displays, doors, or a combination thereof.
  - 2. Pedestrian access to ground floor uses shall be provided a minimum of every 50 feet along a principal building frontage. (SEE APPENDIX 1, FIGURE 2).
- E. **Transparency.**
  - 1. **Ground Floor.** View windows, window displays, or doors shall be provided in a zone between 2 and 8 feet above grade adjacent to the principal building frontage.

2. *Upper Floors.* A minimum of 25 percent of a building's upper floor elevations along streets shall have view windows with non-reflective glass. (SEE APPENDIX 1, FIGURE 3)
- F. *Driveway Restrictions.* Vehicular access shall be from a non-arterial street or alley.
- G. *Parking Setback.* Parking areas shall be set back a minimum of 25 feet from an arterial street.
- H. *Lighting.* All lighting fixtures shall conform to standards set forth in the Heritage District Redevelopment Plan.

## 2.404 Additional Development Regulations

- A. *Accessory Structures.* Accessory structures shall be identified on an approved Final Design Review site plan and shall conform to the following regulations:
1. *Establishment.* An accessory structure shall not be constructed prior to construction of a principal structure.
  2. *Location.* Accessory structures shall be located within the building envelope.
  3. *Maximum Height.* The maximum height shall be 15 feet.
  4. *Separation.* Accessory structures shall be separated from principal structures and other accessory structures by a minimum of 10 feet.
- B. *Gated Facility Entrances.* A minimum of 40 feet of vehicle queuing area shall be provided behind each security control point. The minimum width of the vehicular entry shall be 20 feet in width. A vehicular turn-around area shall be provided between the control point and the security gate. The vehicular turn-around area shall have a minimum interior turning radius of 35 feet and an exterior turning radius of 55 feet.

## 2.405 Additional Use Regulations

- A. *Outdoor Storage.* In addition to the requirements set forth in Section 4.104: Outdoor Business Property Storage, outdoor storage areas shall comply with the following requirements. This section does not apply to Outdoor personal property storage.
1. *Area.* 5 percent of the Gross Floor Area (GFA) of the use or 200 square feet, whichever is less.

2. *Height of Fences.* Fences enclosing outdoor storage areas shall be 6 feet in height.
  3. *Location.* Outdoor storage areas shall not be located between the building and the street.
  4. *Stored Material.* Stored material shall not exceed the height of the fence.
- B. ***Outdoor Retail Sales and Merchandise Display.*** Outdoor retail sales and merchandise displays shall be located and conducted in compliance with the following requirements. Uses that are permitted to be conducted for a temporary period of time as listed in Table 2.902: Use Regulations are not outdoor retail sales and merchandise display under this section.
1. *Location.* Outdoor retail sales and merchandise displays shall not obstruct ingress and egress to a building, obstruct fire lanes, interfere with vehicular circulation or sight distance, or be located in landscaped areas. Outdoor retail sales and merchandise display areas shall be adjacent to the structure containing the business selling the merchandise. Final Design Review plans shall designate permitted areas for outdoor retail sales and merchandise display. For Final Design Review plans approved prior to the effective date of the Zoning Code, the location of outdoor retail sales and merchandise display require Administrative Design Review approval.
  2. *Maximum Area.* 5 percent of the GFA of the use or 200 square feet, whichever is less.
  3. *Height.* Display merchandise shall not exceed a height of 6 feet above finished grade. Construction equipment including fork lifts, boom trucks, cranes, bucket trucks and similar equipment shall be displayed in an un-extended position.
  4. *Temporary Use of Parking Area.* The temporary use of a parking area for sales and display is permitted pursuant to Section 4.203J: Temporary Use of Parking Area.
- C. ***Fueling Facility Abandonment.*** All types of Fueling Facility structures and tanks that are unused and/or vacant for at least 1 year are assumed to be abandoned. Abandoned structures and facilities shall be removed; and the fuel tanks shall be removed within 90 days from the date a notice of abandonment is mailed to the property owner. Underground tanks may be filled with an inert material in lieu of removal.
- D. ***Fueling Facility Reuse.*** Fueling Facility buildings that are occupied with a use that does not involve the dispensing of fuel shall remove all underground fuel tanks or fill them with an inert material prior to occupancy of the building. All pumps, pump islands, fuel dispensing equipment and price signs shall be removed prior to occupancy of the building.

## Article 2.5 Office Districts

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### Sections

|       |                                    |
|-------|------------------------------------|
| 2.501 | Purposes                           |
| 2.502 | Office Districts                   |
| 2.503 | Land Use Regulations               |
| 2.504 | Site Development Regulations       |
| 2.505 | Additional Development Regulations |
| 2.506 | Additional Use Regulations         |

### 2.501 Purposes

The purposes of office districts established in this article are to:

- A. Provide for a range of office uses at appropriate scales and locations;
- B. Ensure land use compatibility with residential and other adjacent uses; and
- C. Encourage quality and variety in building and landscape design.

### 2.502 Office Districts

The office districts are:

***Neighborhood Office (NO).*** This district permits small residential scale office and office service uses that serve as a transition between residential neighborhoods and more intense uses.

***General Office (GO).*** This district permits medium to large-scale, single- or multi-story medical, professional, and service-type office uses. Development standards ensure compatibility with adjacent uses.

### 2.503 Land Use Regulations

- A. ***Regulations.*** Table 2.902: Use Regulations sets forth the land use regulations for office districts. The regulations for each district are established by letter designations as follows:

"P" designates permitted uses.

"L" designates uses that are permitted subject to certain limitations. Number designations refer to the limitations listed at the bottom of Table 2.902: Use Regulations.

"T" designates uses that are permitted to be conducted for a temporary period of time. Time limitations are listed in Table 4.5012: Temporary Uses.

"A" designates uses that require an Administrative Use Permit pursuant to Article 5.4: Use Permits.

"U" designates uses that require a Conditional Use Permit pursuant to Article 5.4: Use Permits.

"S" designates uses that require a Special Use Permit pursuant to Article 5.4: Use Permits.

- B. **Unlisted Uses.** Uses are defined in Article 6.1: Use Definitions. If a proposed use is not listed in the Use Definitions, the Zoning Administrator shall determine if the proposed use is substantially similar to a permitted use; in that event, the Zoning Administrator shall assign the proposed use to a permitted use definition.
- C. **Prohibited Uses.** Uses not listed in Table 2.902: Use Regulations or not assigned to a Use Definition pursuant to Section 2.503B: Unlisted Uses are prohibited.
- D. **Additional Use Regulations.** Additional use regulations for office districts are set forth in Section 2.506: Additional Use Regulations.

## 2.504 Site Development Regulations

Table 2.504: Site Development Regulations – Office Districts sets forth the site development regulations for office districts, which are in addition to the development regulations set forth in Section 2.505: Additional Development Regulations and Division 4: General Regulations. Letter designations in the Additional Regulations column refer to regulations that follow Table 2.504: Site Development Regulations.

**Table 2.504: Site Development Regulations – Office Districts**

| <b>Standards</b>                          | <b>NO</b> | <b>GO</b> | <b>Additional Regulations</b> |
|---|-----------|-----------|-------------------------------|
| Maximum Building Height (ft.) / (Stories) | 25/1      | 55/3      |                               |
| Building Step-back                        | No        | Yes       | (A)                           |
| Minimum Building Setback (ft.)            |           |           |                               |
| <i>Front</i>                              | 20        | 25        |                               |
| <i>Side (Arterial)</i>                    | 20        | 20        |                               |



**Table 2.504: Site Development Regulations – Office Districts**

| <b>Standards</b>                                | <b>NO</b>   | <b>GO</b> | <b>Additional Regulations</b>          |
|---|---|-----------|--|
| <i>Side (Collector or local)</i>                | 15  | 20        |  |
| <i>Side (Residential)</i>                       | 15  | 30        |  |
| <i>Side (Nonresidential)</i>                    | 10  | 15        |  |
| <i>Rear (Residential)</i>                       | 15  | 30        |  |
| <i>Rear (Nonresidential)</i>                    | 10  | 20        |  |
| Separation between Buildings (ft.)              |   |           |  |
| <i>Single story</i>                             | 15  | 15        |  |
| <i>Multiple story</i>                           | --  | 20        |  |
| Minimum Required Perimeter Landscape Area (ft.) |   |           |  |
| <i>Front</i>                                    | 20  | 25        | (B C)                                  |
| <i>Side (Arterial)</i>                          | 20  | 20        |  |
| <i>Side (Collector or local)</i>                | 15  | 20        |  |
| <i>Side (Residential)</i>                       | 15  | 30        |  |
| <i>Side (Nonresidential)</i>                    | 10  | 15        |  |
| <i>Rear (Residential)</i>                       | 15  | 30        |  |
| <i>Rear (Nonresidential)</i>                    | 10  | 20        |  |
| Landscaping (% of net lot area)                 | 15  | 15        | See Article 4.3: Landscape Regulations |
| Building Setback to Parking (ft.)               | See Section 4.203N: Separation from Buildings               |           |  |
| Off-Street Parking and Loading                  | See Article 4.2: Off-Street Parking and Loading Regulations |           |  |
| Exterior Lighting Standards                     | See Section 4.103: Lighting Standards                       |           |  |

- A. ***Building Step-back.*** Where a building in the GO district is within 100 feet of property designated for residential use in the General Plan, a building step-back of one foot for every one foot of building height above 2 stories or 35 feet is required.
- B. ***Street Frontage Landscape.*** Unless otherwise permitted by the Zoning Code, street frontage landscape areas shall not contain parking areas, buildings, fences, parking screen walls or other permanent improvements other than sidewalks, permitted signs, and lighting.
- C. ***Arterial/Arterial Intersection.*** A minimum 50 foot wide landscape area shall be established and maintained along the street frontage within a distance of 250 feet of the arterial intersection as measured from the intersection of street lines. One driveway perpendicular to each street frontage within the 50 foot wide landscaped area established above is permitted if no other access is available.

**2.505 Additional Development Regulations**

- A. ***Accessory Structures.*** Accessory structures shall be identified on an approved Final Design Review site plan and shall conform to the following regulations:
  - 1. ***Establishment.*** An accessory structure shall not be constructed prior to construction of a principal structure.

2. *Location.* Accessory structures may be located:
    - a. Within the building envelope.
    - b. Within a required side or rear setback, but not within a required landscape area.
  3. *Maximum Height.* The maximum height shall be 15 feet.
  4. *Separation.* Accessory structures shall be separated from principal structures and other accessory structures by a minimum of 10 feet, measured from the exterior walls.
- B. ***Gated Facility Entrances.*** A minimum of 40 feet of vehicle queuing area shall be provided behind each security control point. The minimum width of the vehicular entry shall be 20 feet in width. A vehicular turn-around area shall be provided between the control point and the security gate. The vehicular turn-around area shall have a minimum interior turning radius of 35 feet and an exterior turning radius of 55 feet.

## 2.506 Additional Use Regulations

- A. ***Hours of Operation.*** In the NO District, the hours that a business may be open to the public are limited to 6:00 a.m. to 11:00 p.m. Increased hours of operation may be permitted with approval of a Conditional Use Permit, provided that the increased hours will not adversely impact the adjacent neighborhood.
- B. ***Outdoor Storage.*** In addition to the requirements set forth in Section 4.104: Outdoor Business Property Storage, outdoor storage areas shall comply with the following requirements. This section does not apply to Outdoor Personal Property Storage.
1. *Neighborhood Office.* Outdoor storage is prohibited.
  2. *General Office.*
    - a. Area. A maximum of 5 percent of the Gross Floor Area (GFA) of the use.
    - b. Height of Fences. Fences enclosing outdoor storage areas shall be 6 feet in height.
    - c. Location. Outdoor storage areas shall not be located between the building and the street.
- C. ***Temporary Use of Parking Areas.*** The temporary use of parking areas for non- parking activities is prohibited.

- D. ***Access to Residential Property.*** Use of property to provide primary vehicular access to a residential use is prohibited.
  
- E. ***Limited Floor Area.*** In the GO district, Day Care Centers, Dry Cleaning and Laundry Outlets, Restaurants, Entertainment and Recreation Uses, Personal Services and Retail Sales uses shall be permitted with a limitation on combined floor area. Any combination of these uses' square footage shall not exceed 15 percent of the building's gross floor area. Dry Cleaning and Laundry Outlets are limited to drop-off and pick-up services only.

## Article 2.6      Employment Districts

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### Sections

|       |                                    |
|-------|------------------------------------|
| 2.601 | Purposes                           |
| 2.602 | Employment Districts               |
| 2.603 | Land Use Regulations               |
| 2.604 | Site Development Regulations       |
| 2.605 | Additional Development Regulations |
| 2.606 | Additional Use Regulations         |

### 2.601 Purposes

The purposes of employment districts established in this article are to:

- A. Provide for a range of employment uses at appropriate intensities and locations;
- B. Identify areas of the Town for the location of employment uses and protect such areas from incompatible uses;
- C. Protect adjacent uses from potential adverse impacts of employment uses by setting forth standards for compatibility; and
- D. Encourage quality and variety in building and landscape design.

### 2.602 Employment Districts

The employment districts are:

***Business Park (BP).*** This district permits integrated campus-style office development serving high technology, research and development, office, service and light industrial uses. Limited business service uses serving the development may be permitted. Development will include buildings of quality design in a landscaped setting.

***Light Industrial (LI).*** This district permits employment uses of moderate intensity such as assembly, light manufacturing, processing, vehicle and equipment service, research and development, general offices, storage and distribution.

***General Industrial (GI).*** This district permits more intense employment uses that may not occur in buildings and that require access for heavy trucks, such as manufacturing, food and materials processing and packaging, warehousing and storage, waste management, motor vehicle and heavy equipment storage and repair, utilities and freight/truck terminals.

## 2.603 Land Use Regulations

- A. **Regulations** Table 2.902: Use Regulations sets forth the land use regulations for employment districts. The regulations for each district are established by letter designations as follows:

"P" designates permitted uses.

"L" designates uses that are permitted subject to certain limitations. Number designations refer to the limitations listed at the bottom of Table 2.902: Use Regulations.

"T" designates uses that are permitted to be conducted for a temporary period of time. Time limitations are listed in Table 4.5012: Temporary Uses.

"A" designates uses that require an Administrative Use Permit pursuant to Article 5.4: Use Permits.

"U" designates uses that require a Conditional Use Permit pursuant to Article 5.4: Use Permits.

"S" designates uses that require a Special Use Permit pursuant to Article 5.4: Use Permits.

- B. **Unlisted Uses.** Uses are defined in Article 6.1: Use Definitions. If a proposed use is not listed in the Use Definitions, the Zoning Administrator shall determine if the proposed use is substantially similar to a permitted use; in that event, the Zoning Administrator shall assign the proposed use to a permitted use definition.
- C. **Prohibited Uses.** Uses not listed in Table 2.902: Use Regulations or not assigned to a Use Definition pursuant to Section 2.603B: Unlisted Uses are prohibited.
- D. **Additional Use Regulations.** Additional use regulations for employment districts are set forth in Section 2.606: Additional Use Regulations.

## 2.604 Site Development Regulations

Table 2.604: Site Development Regulations – Employment Districts sets forth the site development regulations for employment districts, which are in addition to the development regulations set forth in Section 2.605: Additional Development Regulations and Division 4: General Regulations. Letter designations in the Additional Regulations column refer to regulations that follow Table 2.604: Site Development Regulations.

**Table 2.604: Site Development Regulations – Employment District**

| <b>Standards</b>  | <b>BP</b>   | <b>LI</b> | <b>GI</b> | <b>Additional Regulations</b>          |
|---|---|-----------|-----------|--|
| Maximum Building Height (ft.) / (Stories)                       | 35/2  | 55/3      | --        |  |
| Building Step-back  | No  | Yes       | No        | (A)                                    |
| Minimum Building Setback (ft.)                                  |   |           |           | (B)                                    |
| <i>Front (Arterial)</i>   | 25  | 30        | 35        |  |
| <i>Front (Collector or local)</i>                               | 20  | 25        | 30        |  |
| <i>Side (Street)</i>  | 20  | 20        | 25        |  |
| <i>Side (Residential)</i>                                       | 25  | 75        | 100       |  |
| <i>Side (Commercial/Office/ Public Facility/ Institutional)</i> | 15  | 15        | 20        |  |
| <i>Side (Employment)</i>  | 0   | 0         | 0         |  |
| <i>Rear (Residential)</i>                                       | 25  | 75        | 100       |  |
| <i>Rear (Commercial/Office/ Public Facility/Institutional)</i>  | 15  | 15        | 15        |  |
| <i>Rear (Employment)</i>  | 0   | 0         | 0         |  |
| Separation between Buildings (ft.)                              |   |           |           |  |
| <i>Single story</i>   | 15  | 15        | 15        |  |
| <i>Multiple story</i>   | 20  | 20        | 20        |  |
| Minimum Required Perimeter Landscape Area (ft.)                 |   |           |           |  |
| <i>Front (Arterial)</i>   | 25  | 25        | 25        | (C, D)                                 |
| <i>Front (Collector or local)</i>                               | 20  | 20        | 25        | (C)                                    |
| <i>Side (Street)</i>  | 20  | 20        | 25        | (C)                                    |
| <i>Side (Residential)</i>                                       | 20  | 25        | 30        |  |
| <i>Side (Commercial/Office/ Public Facility/Institutional)</i>  | 15  | 15        | 20        | (F)                                    |
| <i>Side (Employment)</i>  | 5   | 5         | 5         | (E) (F)                                |
| <i>Rear (Residential)</i>                                       | 20  | 30        | 35        |  |
| <i>Rear (Commercial/Office/ Public Facility/Institutional)</i>  | 15  | 15        | 15        | (F)                                    |
| <i>Rear (Employment)</i>  | 5   | 5         | 5         | (E) (F)                                |
| Landscaping (% of net lot area)                                 | 15  | --        | --        | See Article 4.3: Landscape Regulations |
| Building Setback to Parking (ft.)                               | See Section 4.203N: Separation from Buildings               |           |           |  |
| Off-Street Parking and Loading                                  | See Article 4.2: Off-Street Parking and Loading Regulations |           |           |  |
| Exterior Lighting Standards                                     | See Section 4.103: Lighting Standards                       |           |           |  |

- A. **Building Step-back.** Where a building in the LI district is within 100 feet of property designated for residential use in the General Plan, a building step-back of one foot for every one foot of building height above 2 stories or 35 feet is required.
- B. **Employment Uses Adjacent to Residential Districts.** Employment activity occurring within 50 feet of property designated for residential use in the General Plan shall be conducted within an enclosed building. No part of the building within 50 feet of the residentially classified property shall contain bay or roll-up doors or similar service openings.

- C. **Street Frontage Landscape.** Unless otherwise permitted by the Zoning Code, street frontage landscape areas shall not contain parking areas, buildings, fences, parking screen walls or other permanent improvements other than sidewalks, permitted signs, and lighting.
- D. **Arterial/Arterial Intersection.** A minimum 50 foot wide landscape area shall be established and maintained along arterial street frontages within a distance of 250 feet of an arterial intersection as measured from the intersection of street lines. One driveway perpendicular to each street frontage is permitted within the 50 foot wide landscaped area established above if no other access is available.
- E. **Zero Lot Line Landscape Requirements.** Where a building is constructed on the property line, landscaping is required adjacent to that portion of the side or rear property line not occupied by the building.
- F. Where a side or rear outdoor service area is gated, fully screened, and fully fenced, a perimeter landscape area is not required unless the outdoor service area is adjacent to a land use designated in the General Plan for a residential use; where a gated, fully screened, and fully fenced outdoor service area is adjacent to a residential use, the perimeter landscape area shall only be required to provide non-deciduous trees.

## 2.605 Additional Development Regulations

- A. **Secure Vehicle Access Points.** Each secure vehicle access point to a parking or storage area shall be set back a minimum of 50 feet from the right-of-way.
- B. **Service Bay Doors.**
  - 1. No part of a building within 50 feet of property designated for residential use in the General Plan shall contain bay or roll-up doors, or similar service openings.
  - 2. Service bays located within 200 feet of property designated for residential use in the General Plan shall not face the adjacent residential property.
  - 3. All service activities shall be conducted within the service bays. No used or discarded vehicle parts, equipment, or disabled, junked, or wrecked vehicles may be located outside the service bays.

## 2.606 Additional Use Regulations

- A. **Outdoor Storage.** In addition to the requirements set forth in Section 4.104: Outdoor Business Property Storage, outdoor storage areas shall comply with the following requirements. This section does not apply to Outdoor Personal Property Storage.

1. *Business Park.* Outdoor storage is prohibited.
2. *Light Industrial.*
  - a. Area. No maximum.
  - b. Height of Fences. Fences enclosing outdoor storage areas shall be a minimum of 8 feet.
  - c. Location. Outdoor storage areas shall not be located between the front of the building and the street.
3. *General Industrial.*
  - a. Area. No maximum.
  - b. Height of Fences. Fences enclosing outdoor storage areas shall be a minimum of 8 feet.
  - c. Location. No limitation.

**B. *Personal Property Storage.***

1. *Indoor.* Indoor Personal Property Storage units shall be used only for the storage of personal property. No residential or commercial use shall be conducted in a storage unit. No hazardous materials shall be stored in a storage unit.
2. *Outdoor.* Outdoor Personal Property Storage shall be used only for the storage of personal property. No residential or commercial use shall be conducted in vehicles, trailers or other personal property stored in an Outdoor Personal Property Storage facility.

**C. *Fueling Facility Abandonment.*** All Fueling Facility structures and tanks that are unused and/or vacant for 1 year or more are assumed to be abandoned. Abandoned structures and facilities shall be removed; and the fuel tanks shall be removed within 90 days from the date a notice of abandonment is mailed to the property owner. Underground tanks may be filled with an inert material in lieu of removal.

**D. *Fueling Facility Reuse.*** Fueling Facility buildings that are occupied with a use that does not involve the dispensing of fuel shall remove all underground fuel tanks or fill them with an inert material prior to occupancy of the building. All pumps, pump islands, fuel dispensing equipment and price signs shall be removed prior to occupancy of the building.

**E. *Access to Residential Property.*** Use of employment zoned property to provide primary vehicular access to a residential use is prohibited.



## Article 2.7 Public Facility/Institutional District

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### Sections

|       |                                    |
|-------|------------------------------------|
| 2.701 | Purpose                            |
| 2.702 | Land Use Regulations               |
| 2.703 | Site Development Regulations       |
| 2.704 | Additional Development Regulations |
| 2.705 | Additional Use Regulations         |

### 2.701 Purpose

The purpose of the Public Facility/Institutional District is to provide for utilities and public and quasi-public uses such as schools, hospitals, libraries, recreation centers, golf courses, and parks.

### 2.702 Land Use Regulations

A. **Regulations.** Table 2.902: Use Regulations sets forth the land use regulations for the Public Facility/Institutional district. The regulations for the district are established by letter designations as follows:

"P" designates permitted uses.

"L" designates uses that are permitted subject to certain limitations. Number designations refer to the limitations listed at the bottom of Table 2.902: Use Regulations.

"T" designates uses that are permitted to be conducted for a temporary period of time. Time limitations are listed in Table 4.5012: Temporary Uses.

"A" designates uses that require an Administrative Use Permit pursuant to Article 5.4: Use Permits.

"U" designates uses that require a Conditional Use Permit pursuant to Article 5.4: Use Permits.

"S" designates uses that require a Special Use Permit pursuant to Article 5.4: Use Permits.

- B. **Unlisted Uses.** Uses are defined in Article 6.1: Use Definitions. If a proposed use is not listed in the Use Definitions, the Zoning Administrator shall determine if the proposed use is substantially similar to a permitted use; in that event, the Zoning Administrator shall assign the proposed use to a permitted use definition.
- C. **Prohibited Uses.** Uses not listed in Table 2.902: Use Regulations or not assigned to a Use Definition pursuant to Section 2.702B: Unlisted Uses are prohibited.
- D. **Additional Use Regulations.** Additional use regulations for the Public Facility/Institutional District are set forth in Section 2.705: Additional Use Regulations.

### 2.703 Site Development Regulations

Table 2.703: Site Development Regulations – Public Facility/Institutional District sets forth the site development regulations for the Public Facility/Institutional District, which are in addition to the development regulations set forth in Section 2.704: Additional Development Regulations and Division 4: General Regulations. Letter designations in the Additional Regulations column refer to regulations that follow Table 2.703: Site Development Regulations.

**Table 2.703: Site Development Regulations – Public Facility/Institutional District**

| <b>Standards</b>                                | <b>PF/I</b>   | <b>Additional Regulations</b>          |
|---|---|--|
| Maximum Building Height (ft.)                   | 55  |  |
| Minimum Building Setback (ft.)                  |   |  |
| <i>Front</i>                                    | 25  | (A)                                    |
| <i>Side (Street)</i>                            | 25  |  |
| <i>Side (Residential)</i>                       | 25  |  |
| <i>Side (Nonresidential)</i>                    | 15  |  |
| <i>Rear (Residential)</i>                       | 20  |  |
| <i>Rear (Nonresidential)</i>                    | 15  |  |
| Separation between Buildings (ft.)              |   |  |
| <i>Single story</i>                             | 15  |  |
| <i>Multiple story</i>                           | 20  |  |
| Minimum Required Perimeter Landscape Area (ft.) |   |  |
| <i>Front</i>                                    | 20  | (B, C)                                 |
| <i>Side (Collector or local street)</i>         | 15  | (B)                                    |
| <i>Side (Residential)</i>                       | 15  |  |
| <i>Side (Nonresidential)</i>                    | 15  |  |
| <i>Rear (Residential)</i>                       | 20  |  |
| <i>Rear (Nonresidential)</i>                    | 15  |  |
| Landscaping (% of net lot area)                 | 15  | See Article 4.3: Landscape Regulations |
| Building Setback to Parking (ft.)               | See Section 4.203N: Separation from Buildings               |  |
| Off-Street Parking and Loading                  | See Article 4.2: Off-Street Parking and Loading Regulations |  |
| Exterior Lighting Standards                     | See Section 4.103: Lighting Standards                       |  |

- A. **Public Facility/Institutional** Uses Adjacent to Residential Districts. Public facility/institutional uses located within 50 feet of an existing residential district designated for residential use in the General Plan shall be conducted within an enclosed building. No part of the building within 50 feet of the residential district shall contain bay or roll-up doors, car wash entry or exit points or similar service openings.
- B. **Street Frontage Landscape.** Unless otherwise permitted by the Zoning Code, street frontage landscape areas shall not contain parking areas, buildings, fences, parking screen walls or other permanent improvements other than sidewalks, permitted signs, and lighting.
- C. **Arterial/Arterial Intersection.** A minimum 50 foot wide landscape area shall be established and maintained along arterial street frontages within a distance of 250 feet of an arterial intersection as measured from the intersection of street lines. One driveway perpendicular to each street frontage may be permitted within the 50 foot wide landscaped area established above if no other access is available.

## 2.704 Additional Development Regulations

- A. **Gated Facility Entrances.** A minimum of 40 feet of vehicle queuing area shall be provided behind each security control point. The minimum width of the vehicular entry shall be 20 feet in width. A vehicular turn-around area shall be provided between the control point and the security gate. The vehicular turn-around area shall have a minimum interior turning radius of 35 feet and an exterior turning radius of 55 feet.

## 2.705 Additional Use Regulations

- A. **Outdoor Storage.** In addition to the requirements set forth in Section 4.104: Outdoor Business Property Storage, outdoor storage areas shall comply with the following requirements. This section does not apply to Outdoor Personal Property Storage.
  - 1. **Area.** No maximum.
  - 2. **Height of Fences.** Fences enclosing outdoor storage areas shall be a minimum of 6 feet and a maximum of 8 feet.
  - 3. **Location.** Outdoor storage areas shall not be located between the front of the building and the street.
- B. **Stables, Commercial.**
  - 1. **Minimum Lot Area.** 10 acres.

2. *Structures.*

- a. Any structure housing animals shall be set back at least 100 feet from all property lines.
- b. The location and operation of any arena shall be as set forth in the Use Permit. Conditions may be imposed to minimize noise, dust, light, odors, and other negative impacts on adjacent uses.

C. ***Equestrian Arenas.***

1. *Minimum Lot Area.* 10 acres.

2. *Structures.*

- a. Any structure housing animals overnight shall be set back at least 100 feet from all property lines.
- b. Any structure housing animals other than overnight shall be set back at least 50 feet from all property lines.
- c. The location and operation of any arena shall be as set forth in the Use Permit. Conditions may be imposed to minimize noise, dust, light, odors, and other negative impacts on adjacent uses.

D. ***Fueling Facility Abandonment.*** All types of Fueling Facility structures and tanks that are unused and/or vacant for at least 1 year are assumed to be abandoned. Abandoned structures and facilities shall be removed; and the fuel tanks shall be removed within 90 days from the date a notice of abandonment is mailed to the property owner. Underground tanks may be filled with an inert material in lieu of removal.

E. ***Access to Residential Property.*** Use of property to provide primary vehicular access to a residential use is prohibited.

## Article 2.8 Gateway Districts

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### Sections

- 2.801 Purposes
- 2.802 Gateway Districts
- 2.803 Land Use Regulations
- 2.804 Site Development Regulations
- 2.805 Additional Use Regulations

### 2.801 Purposes

The purposes of the Gateway Districts are to:

- A. Implement the Gateway Character Area goals and policies of the General Plan, and the Gateway Area Right-Of-Way Improvement Standards and Streetscape Design Guidelines by creating a new urban core serving, commercial retail, employment, high density residential, governmental, institutional, and civic purposes of the community.
- B. Encourage quality and variety in building and landscape design to create a vibrant pedestrian environment.
- C. Provide for the location of employment uses and protect such areas from incompatible uses.
- D. Encourage opportunities for mass transit services.
- E. In the Gateway Village Center zoning district, encourage a mixture of uses, including complementary high density multi-family residential and loft units, retail service, office, lodging, entertainment and cultural uses and create a vibrant pedestrian/transit oriented environment to promote pedestrian activity.
- F. In the Gateway Business Center zoning district, provide for a range of employment uses at appropriate intensities and locations, support the integration of living and working uses, and support commuter rail and other mass transit services.

### 2.802 Gateway Districts

The Gateway Districts are:

***Gateway Village Center (GVC).*** This district permits pedestrian oriented retail service, office, lodging, educational, entertainment and cultural uses, and high density multi-family residential and loft units that are complementary.

**Gateway Business Center (GBC).** This district permits complementary retail service, office, lodging, educational, and entertainment uses, and high density multi-family residential and loft units.

## 2.803 Land Use Regulations

- A. **Regulations.** Table 2.902: Use Regulations sets forth the land use regulations for Gateway Village Center (GVC) and Gateway Business Center (GBC) districts. The regulations for each district are established by letter designations as follows:

"P" designates permitted uses.

"L" designates uses that are permitted subject to certain limitations. Number designations refer to the limitations listed at the bottom of Table 2.902: Use Regulations.

"T" designates uses that are permitted to be conducted for a temporary period of time. Time limitations are listed in Table 4.5012: Temporary Uses.

"A" designates uses that require an Administrative Use Permit pursuant to Article 5.4: Use Permits.

"U" designates uses that require a Conditional Use Permit pursuant to Article 5.4: Use Permits.

"S" designates uses that require a Special Use Permit pursuant to Article 5.4: Use Permits.

- B. **Unlisted Uses.** Uses are defined in Article 6.1: Use Definitions. If a proposed use is not listed in the Use Definitions, the Zoning Administrator shall determine if the proposed use is substantially similar to a permitted use; in that event, the Zoning Administrator shall assign the proposed use to a permitted use definition.
- C. **Prohibited Uses.** Uses not listed in Table 2.902: Use Regulations or not assigned to a Use Definition pursuant to Section 2.803B: Unlisted Uses are prohibited.
- D. **Additional Use Regulations.** Additional use regulations for the Gateway Districts are set forth in Section 2.805: Additional Use Regulations and in the Gateway Character goals and policies of the General Plan, and the Gateway Area Right-Of-Way Improvement Standards and Streetscape Design Guidelines.

## 2.804 Site Development Regulations

Table 2.804: Site Development Regulations – Gateway Districts sets forth the site development regulations for the Gateway Village Center and Gateway Business Center districts, which are in

addition to the development regulations set forth in Section 2.805: Additional Use Regulations and Division 4: General Regulations. Letter designations in the *Additional Regulations* column refer to regulations that follow table 2.804: Site Development Regulations – Gateway Districts. The intent of these regulations is to promote vertical mixed use development in a pedestrian-oriented environment. These regulations are designed to create a street wall retail experience while incorporating height and density to create critical mass in a live, work and play experience.

**Table 2.804: Site Development Regulations – Gateway Districts**

| <b>Standards</b>                          | <b>GVC</b>  | <b>GBC</b> | <b>Additional Regulations</b> |
|---|---|------------|-------------------------------|
| Floor Area Ratio                          | 0.10 – 0.75*  | No         |                               |
| Minimum Building Height (ft.) / (Stories) | 15/1  | 15/1       | (A)                           |
| Maximum Building Height (ft.) / (Stories) | 90/6  | 90/6       | (B)                           |
| Minimum Building Setback (ft.)            |   |            |                               |
| <i>Front</i>                              | 0   | 0          | (C)                           |
| <i>Side (Street)</i>                      | 0   | 0          |                               |
| <i>Side (Residential)</i>                 | 0   | 0          |                               |
| <i>Side (Nonresidential)</i>              | 0   | 0          |                               |
| <i>Rear (Residential)</i>                 | 20  | 20         |                               |
| <i>Rear (Nonresidential)</i>              | 0   | 0          |                               |
| Build-to Line (ft.)                       |   |            |                               |
| <i>Front</i>                              | 0   | 0          | (C)                           |
| <i>Side (Street)</i>                      | 0   | 0          |                               |
| Storefronts and Access                    | Yes   | No         | (D)                           |
| Building Transparency                     | Yes   | No         | (E)                           |
| Driveway Restrictions                     | Yes   | Yes        | (F)                           |
| Parking Setback                           | Yes   | No         | (G)                           |
| Pedestrian, Sidewalk, & Landscape Tract   | Yes   | Yes        | (H)                           |
| Building Setback to Parking (ft.)         | See Section 4.203N: Separation from Buildings   |            |                               |
| Off-Street Parking and Loading            | See Section 4.203I: Off-Site Parking in the Heritage Village Center Zoning District and Gateway Districts, and Section 4.204: Number of Parking Spaces Required |            |                               |
| Exterior Lighting Standards               | See Section 4.103: Lighting Standards   |            | (I)                           |
| Landscape – Right-of-Way                  | See Gateway Area Right-of-Way Improvement Standards and Streetscape Design Guidelines   |            |                               |
| Landscape – On-Site                       | Minimum of 5 percent of net lot area  |            |                               |
| Signage                                   | Sign Program Required   |            |                               |

\* Minimum at build-out

- A. **Minimum Building Height.** Single story buildings permitted up to 30 percent lot coverage.
- B. **Maximum Building Height.**
  - 1. **GVC.** Building heights permitted up to 90 feet/6 stories.

2. *GBC.* Building heights permitted up to 90 feet/6 stories when the first two levels are commercial and/or office use at the street level. Building heights are reduced to 60'/4 stories for any building within 75 feet of a single-family zoning district.

C. ***Set Backs and Build-To Lines.***

1. *Set Backs and Build-To Lines Measurements.* Set backs and build-to lines shall be measured from the property line of the Pedestrian, Sidewalk and Landscape Tract.
2. *Ground Floor.* 75 percent of ground floor building facades shall be located at the build-to line when the building fronts on an arterial or collector street. Permanent shade structures such as canopies and arcades may encroach up to 10 feet within the Pedestrian, Sidewalk and Landscape Tract when abutting an arterial or collector street and shall maintain a vertical clearance of at least 10 feet above finished grade.
3. *Outdoor Dining Area.* When adjacent to a public street, outdoor dining areas shall provide a minimum of 6 feet of unobstructed pedestrian circulation.
4. *Second Floor and Above.* Building street facades may encroach into the Pedestrian, Sidewalk and Landscape Tract no more than 10 feet.

- D. ***Storefronts and Access.*** A minimum 75 percent of ground floor building length or width of the principal building frontage shall consist of windows, window displays, doors, or a combination thereof.

E. ***Transparency.***

1. *Ground Floor.* View windows, window displays, or doors shall be provided between 2 and 8 feet above grade adjacent to the principal building frontage.
2. *Upper Floors.* A minimum of 25 percent of a building's upper floor elevations along streets shall have view windows with non-reflective glass.

- F. ***Driveway Restrictions.*** Vehicular access shall be from a secondary street or alley.

G. ***Parking.***

1. Street level, surface parking shall be located behind or adjacent to buildings. Parking shall not be permitted within the build-to lines.
2. Parking may be shared parking pursuant to Section 4.203G: Shared Parking and in compliance with the requirements set forth therein.



H. ***Pedestrian, Sidewalk and Landscape Tract.***

1. The tract shall be shown on the final plat as designated for use by the public and shall be owned and maintained by the property owner or property owners association.
2. The tract shall conform to standards set forth in the Gateway Area Right-of-Way Improvement Standards and Streetscape Design Guidelines and may consist of a combination of pedestrian-oriented amenities and facilities including, but not limited to, the following: sidewalks and hardscape areas with decorative patterns, pedestrian scale lighting, benches, outdoor seating areas, sidewalk cafes, planter pots or hanging baskets, planter walls, fountains, tree grates, water features, sculptures, arcades, awnings, low walls or open fencing to create semi-enclosed spaces to buffer and separate the tract from adjoining parking areas.

I. ***Lighting.*** All lighting fixtures within the public right-of-way shall conform to standards set forth in the Gateway Area Right-of-Way Improvement Standards and Streetscape Design Guidelines.

**2.805 Additional Use Regulations**

A. ***Outdoor Storage.*** Outdoor storage is prohibited.

B. ***Outdoor Retail Sales and Merchandise Display.*** GVC only - Outdoor retail sales and merchandise displays shall be located and conducted in compliance with the following requirements: uses that are permitted to be conducted for a temporary period of time as listed in Table 2.902: Use Regulations, are not considered outdoor retail sales and merchandise display under this section.

1. ***Location.*** Outdoor retail sales and merchandise displays shall not obstruct ingress and egress to a building, obstruct fire lanes, interfere with vehicular circulation or sight distance, or be located in landscaped areas. Outdoor retail sales and merchandise display areas shall be adjacent to the structure containing the business selling the merchandise. In the GVC district, outdoor retail sales and merchandise displays shall be limited to the first 5 feet adjacent to the building, unless otherwise restricted. Final Design Review plans shall designate permitted areas for outdoor retail sales and merchandise display.
2. ***Maximum Area.*** 5 percent of the GFA of the use or 200 square feet, whichever is less.
3. ***Height.*** Display merchandise shall not exceed a height of 6 feet above finished grade.
4. ***Temporary Use of Parking Area.*** The temporary use of a parking area for sales and display is permitted pursuant to Section 4.203J: Temporary Use of Parking Area.

## Article 2.9 Use Regulations

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### Sections

- 2.901 Purpose
- 2.902 Use Regulations

### 2.901 Purposes

The purposes of the Land Use Regulations Table established in this article is to

- A. Provide for single family residential, multi-family residential, commercial, office, employment, and public facility/institutional uses in appropriate locations.
- B. Ensure compatibility among land uses

### 2.902 Use Regulations

- A. *Regulations.* Table 2.902: Use Regulations sets forth the land use regulations for all zoning districts. The regulations for each district are established by letter designations as follows:

"P" designates permitted uses.

"L" designates uses that are permitted subject to certain limitations. Number designations refer to the limitations listed at the bottom of Table 2.902: Use Regulations.

"T" designates uses that are permitted only as incidental to the principal use of the property.

"T" designates uses that are permitted to be conducted for a temporary period of time. Time limitations are listed in Table 4.5012: Temporary Uses.

"A" designates uses that require an Administrative Use Permit pursuant to Article 5.4: Use Permits.

"U" designates uses that require a Conditional Use Permit pursuant to Article 5.4: Use Permits.

"S" designates uses that require a Special Use Permit pursuant to Article 5.4: Use Permits.

- B. *Unlisted Uses.* Uses are defined in Article 6.1: Use Definitions. If a proposed use is not listed in the Use Definitions, the Zoning Administrator shall determine if the proposed use is substantially similar to a permitted use; in that event, the Zoning Administrator shall assign the proposed use to a permitted use definition.

- C. *Prohibited Uses.* Uses not listed in Table 2.902: Use Regulations below or not assigned to a Use Definition pursuant to Section 2.902B: Unlisted Uses are prohibited.
- D. *Additional Use Regulations.* Additional use regulations are set forth in Sections 2.107, 2.205, 2.306, 2.405, 2.506, 2.606, 2.705, and 2.805: Additional Use Regulations.

**Table 2.902 Use Regulations**

| <i>Use Category</i>                      | Residential      |                  |                  |                  |                  |                  |                  |      |      |      |                  |                  | Mixed Use and Non-Residential |           |           |           |           |     |    |    |                  |          |          | Additional Standards |           |                   |                             |                   |
|--|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------|------|------|------------------|------------------|-------------------------------|-----------|-----------|-----------|-----------|-----|----|----|------------------|----------|----------|----------------------|-----------|-------------------|-----------------------------|-------------------|
| <i>Subcategory</i>                       | SF-43            | SF-35            | SF-15            | SF-10            | SF-8             | SF-7             | SF-6             | SF-D | SF-A | MF-L | MF-M             | MF-H             | NC                            | CC        | SC        | GC        | RC        | HVC | NO | GO | BP               | LI       | GI       | PF/I                 | GVC       | GBC               |                             |                   |
| Specific Use Type                        |                  |                  |                  |                  |                  |                  |                  |      |      |      |                  |                  |                               |           |           |           |           |     |    |    |                  |          |          |                      |           |                   |                             |                   |
| <b>Residential</b>                       |                  |                  |                  |                  |                  |                  |                  |      |      |      |                  |                  |                               |           |           |           |           |     |    |    |                  |          |          |                      |           |                   |                             |                   |
| <b>Household Living</b>                  |                  |                  |                  |                  |                  |                  |                  |      |      |      |                  |                  |                               |           |           |           |           |     |    |    |                  |          |          |                      |           |                   |                             |                   |
| Guest Quarters                           | I                | I                | I                | I                | I                | I                | I                |      |      |      |                  |                  |                               |           |           |           |           |     |    |    |                  |          |          |                      |           |                   |                             | See Section 2.106 |
| Residential, permanent                   |                  |                  |                  |                  |                  |                  |                  |      |      |      |                  |                  |                               |           |           |           |           |     |    |    |                  |          |          |                      |           |                   |                             |                   |
| <i>Loft Unit</i>                         |                  |                  |                  |                  |                  |                  |                  |      |      |      |                  |                  |                               | P         | P         | P         | P         | L1  |    | P  | P                |          |          |                      | L1        | L1<br>L2          |                             |                   |
| <i>Single Family</i>                     | P                | P                | P                | P                | P                | P                | P                | P    | P    | L3   |                  |                  |                               |           |           |           |           |     |    |    | L4               |          |          |                      |           |                   | See Section 4.603C & 4.605B |                   |
| <i>Multi-Family</i>                      |                  |                  |                  |                  |                  |                  |                  |      |      |      | P                | P                | P                             |           |           |           |           |     | L6 |    |                  |          |          |                      | L6        | L6<br>L2          | See Section 2.306           |                   |
| <i>Secondary Dwelling</i>                | A                | A                | A                | A                | A                | A                | A                |      |      |      |                  |                  |                               |           |           |           |           |     |    |    |                  |          |          |                      |           |                   | See Section 2.106           |                   |
| Model Home Complex                       | P                | P                | P                | P                | P                | P                | P                | P    | P    |      |                  |                  |                               |           |           |           |           |     |    |    |                  |          |          |                      |           |                   | See Section 2.106           |                   |
| <b>Group Living</b>                      |                  |                  |                  |                  |                  |                  |                  |      |      |      |                  |                  |                               |           |           |           |           |     |    |    |                  |          |          |                      |           |                   |                             |                   |
| Congregate Living Facility               | U                | U                |                  |                  |                  |                  |                  |      |      | U    | U                | U                |                               | U         | U         | P         | P         | U   |    | U  |                  |          |          |                      |           |                   |                             |                   |
| Group Homes for the Handicapped          | P                | P                | P                | P                | P                | P                | P                | P    | P    | P    | P                | P                |                               |           |           |           |           |     |    |    |                  |          |          |                      | L1<br>L2  |                   | See Section 4.504           |                   |
| Shelter Care Facility                    |                  |                  |                  |                  |                  |                  |                  |      |      |      |                  |                  |                               |           |           |           |           |     |    |    |                  |          |          |                      |           |                   |                             |                   |
| <i>Small-Scale</i>                       | P                | P                | P                | P                | P                | P                | P                |      |      |      |                  |                  |                               |           |           |           |           |     |    |    |                  |          |          |                      |           |                   |                             |                   |
| <i>Large-Scale</i>                       |                  |                  |                  |                  |                  |                  |                  |      |      | U    | U                | U                | U                             | U         | U         | P         | P         |     |    |    |                  |          |          | P                    |           |                   |                             |                   |
| <i>Homeless</i>                          |                  |                  |                  |                  |                  |                  |                  |      |      |      |                  |                  |                               |           |           | U         |           |     |    |    |                  |          |          | U                    |           |                   |                             |                   |
| Recovery Residence                       | P                | P                | P                | P                | P                | P                | P                | P    | P    | P    | P                | P                |                               |           |           |           |           |     |    |    |                  |          |          |                      |           |                   | See Section 4.5015          |                   |
| Senior Housing                           |                  |                  |                  |                  |                  |                  |                  |      |      | P    | P                | P                |                               |           |           |           |           |     |    |    |                  |          |          |                      |           |                   |                             |                   |
| <b>Civic and Institutional</b>           |                  |                  |                  |                  |                  |                  |                  |      |      |      |                  |                  |                               |           |           |           |           |     |    |    |                  |          |          |                      |           |                   |                             |                   |
| <b>Community Services</b>                |                  |                  |                  |                  |                  |                  |                  |      |      |      |                  |                  |                               |           |           |           |           |     |    |    |                  |          |          |                      |           |                   |                             |                   |
| Arboretum Or Botanical Garden            | P                | P                |                  |                  |                  |                  |                  |      |      |      |                  |                  | P                             | P         | P         | P         | P         | P   |    |    |                  |          |          | P                    | P         |                   |                             |                   |
| Cemetery                                 | U                | U                | U                | U                | U                | U                | U                |      |      |      |                  |                  |                               |           |           |           |           |     |    |    |                  |          |          | P                    |           |                   | See Section 4.509           |                   |
| Cemetery, Pet                            | U                | U                |                  |                  |                  |                  |                  |      |      |      |                  |                  |                               |           |           |           |           |     |    |    |                  |          |          | P                    |           |                   |                             |                   |
| Civic Social And Fraternal Organizations |                  |                  |                  |                  |                  |                  |                  |      |      |      |                  |                  |                               | L7        | L7        | L7        |           | P   |    | L7 |                  |          |          | L7                   |           |                   |                             |                   |
| Cultural Institutions                    |                  |                  |                  |                  |                  |                  |                  |      |      |      |                  |                  | P                             | P         | P         | P         | P         | P   |    |    |                  |          |          | P                    |           |                   |                             |                   |
| Daycare Center                           |                  |                  |                  |                  |                  |                  |                  |      |      | L8   |                  |                  | P                             | P         | P         | P         | P         |     |    | L9 | I<br>L10         | I<br>L10 | I<br>L10 | I<br>L10             | P         | P                 | See section 2.506           |                   |
| Daycare, Home Occupation                 | I                | I                | I                | I                | I                | I                | I                | I    | I    | I    | I                | I                |                               |           |           |           |           | I   |    |    |                  |          |          |                      |           |                   | See Section 4.502           |                   |
| Daycare, Residential                     | I                | I                | I                | I                | I                | I                | I                | I    | I    | I    | I                | I                |                               |           |           |           |           | I   |    |    |                  |          |          |                      |           |                   | See Section 4.503           |                   |
| Homeowners Association Facilities        | P                | P                | P                | P                | P                | P                | P                | P    | P    | P    | P                | P                | P                             | P         | P         | P         | P         |     |    |    |                  |          |          |                      |           |                   |                             |                   |
| Place of Worship                         |                  |                  |                  |                  |                  |                  |                  |      |      |      |                  |                  |                               |           |           |           |           |     |    |    |                  |          |          |                      |           |                   |                             |                   |
| <i>Large-Scale</i>                       | U                | U                | U                | U                | U                | U                | U                |      |      |      |                  |                  |                               |           |           | U         |           |     |    |    |                  |          |          |                      | L7<br>L11 |                   | See Section 4.505           |                   |
| <i>Small-Scale</i>                       | L7<br>L11<br>L13 | L7<br>L11<br>L13 | L7<br>L11<br>L13 | L7<br>L11<br>L13 | L7<br>L11<br>L13 | L7<br>L11<br>L13 | L7<br>L11<br>L13 |      |      |      | L7<br>L11<br>L14 | L7<br>L11<br>L14 | L7<br>L11<br>L14              | L7<br>L13 | L7<br>L13 | L7<br>L13 | L7<br>L13 |     | P  |    | L7<br>L11<br>L12 |          |          | L7<br>L11            | U, I      | See Section 4.505 |                             |                   |

**Table 2.902 Use Regulations**

| Use Category  | Residential      |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 | Mixed Use and Non-Residential |           |           |           |    |     |           |           |    |    |    | Additional Standards |      |     |                 |
|---|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------|-----------------|-----------------|-----------------|-------------------------------|-----------|-----------|-----------|----|-----|-----------|-----------|----|----|----|----------------------|------|-----|-----------------|
|   | SF-43            | SF-35            | SF-15            | SF-10            | SF-8             | SF-7             | SF-6             | SF-D             | SF-A | MF-L            | MF-M            | MF-H            | NC                            | CC        | SC        | GC        | RC | HVC | NO        | GO        | BP | LI | GI |                      | PF/I | GVC | GBC             |
| Public Safety Facility                                |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               |           |           |           |    |     |           |           |    |    |    |                      |      |     |                 |
| Large Scale   | P                | P                | P                | P                | P                | P                | P                | P                | P    | P               | P               | P               |                               | P         | P         | P         | P  |     |           | P         | P  | P  |    | P                    |      |     |                 |
| Small Scale   |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 | P                             | P         | P         | P         | P  | P   | P         | P         | P  | P  |    | P                    | P    | P   |                 |
| Recreational Vehicle Storage, Residential Association | P                | P                | P                | P                | P                | P                | P                | P                | P    |                 |                 |                 |                               |           |           |           |    |     |           |           |    |    |    |                      |      |     |                 |
| <b>Educational Facility</b>                           |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               |           |           |           |    |     |           |           |    |    |    |                      |      |     |                 |
| Colleges, or Universities, Public or Private          |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               | P         | P         | P         | P  | P   | U         | P         | P  | P  |    | P                    | P    | P   |                 |
| Instructional Services, Specialized                   |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 | P                             | P         | P         | P         | P  | P   | P         | P         |    |    |    |                      | U    | P   |                 |
| Schools, Public Or Private                            |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               |           |           |           |    |     |           |           |    |    |    |                      |      |     |                 |
| Large-Scale   | L7<br>L11<br>L13 | L7<br>L11<br>L13 | L7<br>L11<br>L13 | L7<br>L11<br>L13 | L7<br>L11<br>L13 | L7<br>L11<br>L13 | L7<br>L11<br>L13 | L7<br>L11<br>L13 |      |                 |                 |                 | U                             | U         | U         | U         |    |     |           |           |    |    |    | L7 L11               |      |     |                 |
| Small-Scale   | L7<br>L11<br>L13 | L7<br>L11<br>L13 | L7<br>L11<br>L13 | L7<br>L11<br>L13 | L7<br>L11<br>L13 | L7<br>L11<br>L13 | L7<br>L11<br>L13 |                  |      | L7<br>L8<br>L14 | L7<br>L8<br>L14 | L7<br>L8<br>L14 | L7<br>L11                     | L7<br>L11 | L7<br>L11 | L7<br>L11 |    | L15 | L7<br>L11 | L7<br>L11 |    |    |    | L7<br>L11            | L2   | L6  |                 |
| School, Vocational – Technical and Trade              |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               | P         | P         | P         | P  | P   | U         | P         | P  | P  |    | P                    | P    | P   |                 |
| <b>Health Care Facilities</b>                         |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               |           |           |           |    |     |           |           |    |    |    |                      |      |     |                 |
| Health Care Facilities                                |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               |           |           |           |    |     |           |           |    |    |    |                      |      |     |                 |
| Hospital  |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               |           |           | P         | P  |     |           | U         | U  |    |    | P                    |      |     |                 |
| Urgent Care Facility                                  |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 | P                             | P         | P         | P         | P  | P   | U         | P         |    |    |    | P                    |      | P   |                 |
| Medical Offices and Clinics                           |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 | P                             | P         | P         | P         | P  | L6  | P         | P         | P  |    |    | P                    | L1   | p   |                 |
| Nursing Home  |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               |           |           | U         | P  | P   |           | U         | P  |    |    |                      |      |     |                 |
| <b>Transportation</b>                                 |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               |           |           |           |    |     |           |           |    |    |    |                      |      |     |                 |
| Airfield, Private                                     | U                | U                |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               |           |           |           |    |     |           |           |    |    |    |                      |      |     |                 |
| Ambulance Services                                    |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               |           | P         | P         | P  |     |           | P         | P  | P  |    |                      |      |     | P               |
| Helicopter/Helipad                                    | U                | U                |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               |           |           | U         | U  |     |           | U         | U  | U  | U  | U                    |      |     |                 |
| Park and Ride Lot                                     |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               | P         | P         | P         | P  | U   |           | U         | U  | U  | U  | U                    |      |     | P               |
| Parking Facilities                                    |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               |           |           | U         | U  | U   |           |           |    |    |    |                      | U    | U   |                 |
| Transportation Passenger Terminals                    |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               |           |           | P         | P  | U   |           |           | U  | P  |    | U                    | U    | U   |                 |
| <b>Utility</b>  |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               |           |           |           |    |     |           |           |    |    |    |                      |      |     |                 |
| Amateur Radio Facility                                | I                | I                | I                | I                | I                | I                | I                | I                | I    | I               | I               | I               | I                             | I         | I         | I         | I  | I   | I         | I         | I  | I  | I  | I                    | I    | I   | See Article 4.8 |
| Over-The-Air Reception Device                         | P                | P                | P                | P                | P                | P                | P                | P                | P    | P               | P               | P               | P                             | P         | P         | P         | P  |     | I         | P         | I  | I  | I  | I                    | I    | I   | See Article 4.8 |
| Satellite Dish Antenna                                |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               |           |           |           |    |     |           |           |    |    |    |                      |      |     |                 |
| Large   | I                | I                | I                | I                | I                | I                | I                | I                | I    | I               | I               | I               | I                             | I         | I         | I         | I  |     | I         | I         | I  | I  | I  | I                    | I    | I   | See Article 4.8 |
| Satellite Earth Station                               |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               |           |           |           |    |     |           |           |    |    |    |                      |      |     |                 |
| Large-Scale   |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               |           |           |           |    |     |           |           | U  | P  | P  |                      |      |     | See Article 4.8 |
| Small-Scale   |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               | P         | P         | P         | P  | P   |           |           | P  | P  | P  |                      |      |     | See Article 4.8 |
| Utilities   |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               |           |           |           |    |     |           |           |    |    |    |                      |      |     |                 |
| Facilities, Large Scale                               | S                | S                | S                | S                | S                | S                | S                | S                | S    | S               | S               | S               | S                             | S         | S         | S         | S  | S   | S         | S         | S  | S  | S  | S                    | S    | S   | S               |
| Facilities, Small Scale                               | P                | P                | P                | P                | P                | P                | P                | P                | P    | P               | P               | P               | P                             | P         | P         | P         | P  | P   | P         | P         | P  | P  | P  | P                    | P    | P   | P               |
| Service Yard  |                  |                  |                  |                  |                  |                  |                  |                  |      |                 |                 |                 |                               |           |           |           |    |     |           |           |    |    | P  | P                    | U    |     |                 |

Table 2.902 Use Regulations

| Use Category                                     | Residential |       |       |       |      |      |      |      |      |      |      |      | Mixed Use and Non-Residential |    |    |    |    |          |     |           |            |            |    | Additional Standards |          |          |                    |                 |
|--|-------------|-------|-------|-------|------|------|------|------|------|------|------|------|-------------------------------|----|----|----|----|----------|-----|-----------|------------|------------|----|----------------------|----------|----------|--------------------|-----------------|
|  | SF-43       | SF-35 | SF-15 | SF-10 | SF-8 | SF-7 | SF-6 | SF-D | SF-A | MF-L | MF-M | MF-H | NC                            | CC | SC | GC | RC | HVC      | NO  | GO        | BP         | LI         | GI |                      | PF/I     | GVC      | GBC                |                 |
| Specific Use Type                                |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |          |     |           |            |            |    |                      |          |          |                    |                 |
| Well Site  | P           | P     | P     | P     | P    | P    | P    | P    |      | P    | P    | P    | P                             | P  | P  | P  | P  | P        | P   | P         | P          | P          | P  | P                    |          |          |                    |                 |
| Wireless Communication Facilities                |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |          |     |           |            |            |    |                      |          |          |                    |                 |
| Alternative Light Poles                          | L16         | L16   | L16   | L16   | L16  | L16  | L16  | L16  | L16  | L16  | L16  | L16  |                               | U  | U  | U  | U  | U        |     | U         | U          | U          | U  |                      | U        | U        | See Article 4.7    |                 |
| Monopoles  |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |          |     |           | U          | U          | U  | U                    |          |          | See Article 4.7    |                 |
| Public Safety Communication Facility             |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |          |     |           |            |            |    | A,U                  |          |          | See Article 4.7    |                 |
| Support Structures Other Than Those Listed Above | A           | A     | A     | A     | A    | A    | A    | A    | A    | A    | A    | A    | A<br>L17                      | A  | A  | A  | A  | A        |     | A         | A          | A          | A  | A                    | A        | U        | U                  | See Article 4.7 |
| Alternative WCF Light Poles:                     |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |          |     |           |            |            |    |                      |          |          | See Article 4.7    |                 |
| Place of Worship                                 |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |          |     |           |            |            |    |                      | U        |          | See Article 4.7    |                 |
| Schools-Elementary, Middle School                |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |          |     |           |            |            |    |                      | U        |          | See Article 4.7    |                 |
| Public Park                                      |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |          |     |           |            |            |    |                      | U        |          | See Article 4.7    |                 |
| <b>Commercial</b>                                |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |          |     |           |            |            |    |                      |          |          |                    |                 |
| <b>Commercial Services</b>                       |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |          |     |           |            |            |    |                      |          |          |                    |                 |
| Automated Teller Machine                         |             |       |       |       |      |      |      |      |      |      |      |      | I                             | I  | I  | I  | I  | I<br>L18 | I   | P         |            |            |    | I                    | I<br>L18 | I<br>L18 |                    |                 |
| Automated Teller Machine, Remote                 |             |       |       |       |      |      |      |      |      |      |      |      | U                             | A  | A  | A  | A  | A<br>L18 |     | P         |            |            |    |                      | A<br>L18 | A<br>L18 |                    |                 |
| Banks and Other Financial Institutions           |             |       |       |       |      |      |      |      |      |      |      |      | U                             | P  | P  | P  | P  | L18      | L18 | P         |            |            |    |                      | L18      | L18      |                    |                 |
| Banquet Facility                                 | U           | U     |       |       |      |      |      |      |      |      |      |      | U                             | P  | P  | P  | P  |          |     |           |            |            |    |                      |          |          |                    |                 |
| Building Maintenance Services                    |             |       |       |       |      |      |      |      |      |      |      |      |                               | P  | P  | P  | P  |          |     |           | P          | P          | p  |                      |          |          |                    |                 |
| Business Services                                |             |       |       |       |      |      |      |      |      |      |      |      | P                             | P  | P  | P  | P  | P        | P   | P         | I          |            |    | I                    | P        | P        |                    |                 |
| Eating and Drinking Establishments               |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |          |     |           |            |            |    |                      |          |          |                    |                 |
| Bars/Nightclub/<br>Lounges/Dance Halls           |             |       |       |       |      |      |      |      |      |      |      |      | U                             | P  | P  | P  | P  | P        |     |           |            |            |    |                      |          | U        |                    |                 |
| Brewery, Distillery or Winery                    |             |       |       |       |      |      |      |      |      |      |      |      | U                             | P  | P  | P  | P  | P        |     |           | U          | P          | P  |                      | P        | P        |                    |                 |
| Restaurants, Beverage Service                    |             |       |       |       |      |      |      |      |      |      |      |      | P                             | P  | P  | P  | P  | L19      |     |           | L18<br>L10 | L18<br>L10 |    | L18<br>L10           | L18      | L18      |                    |                 |
| Restaurants, Full Service                        |             |       |       |       |      |      |      |      |      |      |      |      | P                             | P  | P  | P  | P  | P        |     | L18<br>L9 | L18<br>L10 | L18<br>L10 |    |                      | L18      | L18      | See Section 2.506  |                 |
| Restaurants, Limited Service                     |             |       |       |       |      |      |      |      |      |      |      |      | U                             | P  | P  | P  | P  | L19      |     | L18<br>L9 | L18<br>L10 | L18<br>L10 |    |                      | L18      | L18      |                    |                 |
| Food Preparation                                 |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |          |     |           |            |            |    |                      |          |          |                    |                 |
| Large-scale                                      |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |          |     |           | U          | P          | P  |                      |          |          |                    |                 |
| Small-Scale                                      |             |       |       |       |      |      |      |      |      |      |      |      | P                             | P  | P  | P  | P  |          |     |           | P          | P          |    |                      | I        | P        |                    |                 |
| Funeral and Undertaking Services                 |             |       |       |       |      |      |      |      |      |      |      |      | P                             | P  | P  | P  | P  | U        | P   | P         |            |            |    | P                    |          |          |                    |                 |
| Home Occupation                                  | I           | I     | I     | I     | I    | I    | I    | I    | I    | I    | I    | I    |                               | P  | P  | P  | P  | I        |     |           |            |            |    |                      | P        | P        | See Section 4.502  |                 |
| Maintenance and Repair Services                  |             |       |       |       |      |      |      |      |      |      |      |      | L20                           | P  | P  | P  | P  | P        |     |           | P          | P          |    |                      |          | P        |                    |                 |
| Non-Chartered Financial Institution              |             |       |       |       |      |      |      |      |      |      |      |      |                               | U  | U  | U  | U  | U        |     |           |            |            |    |                      |          |          | See Section 4.5010 |                 |
| Sexually Oriented Business                       |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    | U  |    |          |     |           |            |            | U  | U                    |          |          | See Section 4.5011 |                 |

**Table 2.902 Use Regulations**

| Use Category  | Residential |       |       |       |      |      |      |      |      |      |      |      | Mixed Use and Non-Residential |    |    |    |    |     |    |    |    |     |    | Additional Standards |      |         |                      |
|---|-------------|-------|-------|-------|------|------|------|------|------|------|------|------|-------------------------------|----|----|----|----|-----|----|----|----|-----|----|----------------------|------|---------|----------------------|
|   | SF-43       | SF-35 | SF-15 | SF-10 | SF-8 | SF-7 | SF-6 | SF-D | SF-A | MF-L | MF-M | MF-H | NC                            | CC | SC | GC | RC | HVC | NO | GO | BP | LI  | GI |                      | PF/I | GVC     | GBC                  |
| Specific Use Type   |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |     |    |    |    |     |    |                      |      |         |                      |
| Stand-alone Smoking Lounge                                  |             |       |       |       |      |      |      |      |      |      |      |      |                               | U  | U  | U  | U  | U   |    |    |    |     |    |                      |      |         | See Section 4.5010   |
| Storage, Personal Property                                  |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |     |    |    |    |     |    |                      |      |         |                      |
| Indoor  |             |       |       |       |      |      |      |      |      |      |      |      |                               | P  | P  | P  | P  |     |    |    | U  | U   |    |                      |      |         |                      |
| Outdoor   |             |       |       |       |      |      |      |      |      |      |      |      |                               | U  | U  | P  | P  |     |    |    |    | U   | P  |                      |      |         |                      |
| Tattoo / Piercing Studio                                    |             |       |       |       |      |      |      |      |      |      |      |      |                               | U  | U  | U  | U  | U   |    |    |    |     |    |                      |      |         | See Section 4.5010   |
| Vehicle and Equipment Sales, Leasing and Services           |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |     |    |    |    |     |    |                      |      |         |                      |
| Car Wash, Automated or Self-Service                         |             |       |       |       |      |      |      |      |      |      |      |      | U                             | P  | P  | P  | P  |     |    |    |    |     |    |                      |      |         | See Section: 2.305   |
| Car Wash, Full Service                                      |             |       |       |       |      |      |      |      |      |      |      |      |                               | U  | P  | P  | P  |     |    |    |    |     |    |                      |      |         |                      |
| Commercial Vehicle/Equipment Sales and Rental; New and Used |             |       |       |       |      |      |      |      |      |      |      |      |                               | I  | I  | U  | U  |     |    |    |    | P   | P  |                      |      |         | See Section 2.305D.3 |
| Fueling Facility  |             |       |       |       |      |      |      |      |      |      |      |      | U                             | P  | P  | P  | P  |     |    |    |    |     |    |                      |      |         |                      |
| Fueling Facility, Alternative                               |             |       |       |       |      |      |      |      |      |      |      |      | A                             | P  | P  | P  | P  |     |    |    | A  | P   | P  | P                    |      |         |                      |
| Fueling Facility, Fleet                                     |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    | A  | A  |     |    | A  | A  | A   | A  | P                    |      |         |                      |
| Motor Vehicle Sales and Leasing, New and Used               |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    | P  | P  |     |    |    |    | L21 |    |                      |      |         |                      |
| Non-Commercial Vehicle Rental                               |             |       |       |       |      |      |      |      |      |      |      |      |                               | A  | A  | P  | P  |     |    | P  | P  | P   |    |                      |      |         |                      |
| Tent Sale   |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    | T  | T  |     |    |    |    |     |    |                      |      |         | See Section: 4.5012  |
| Vehicle Services, Heavy                                     |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    | U  | U  |     |    |    |    | P   | P  | P                    |      |         |                      |
| Vehicle Services, Light                                     |             |       |       |       |      |      |      |      |      |      |      |      | U                             | P  | P  | P  | P  |     |    |    |    | U   | P  |                      | P    |         |                      |
| <b>Entertainment</b>  |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |     |    |    |    |     |    |                      |      |         |                      |
| Carnival,   |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |     |    |    |    |     |    |                      |      |         |                      |
| Large-Scale   |             |       |       |       |      |      |      |      |      |      |      |      |                               | T  | T  | T  | T  |     |    |    |    |     |    |                      |      |         | See Section 4.5012   |
| Non-commercial  |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    | T   |    |    |    |     |    |                      |      |         | See Section 4.5012   |
| Small-Scale   | T           | T     | T     | T     | T    | T    | T    |      |      |      | T    | T    | T                             | T  | T  | T  |    |     | T  | T  |    |     |    | T                    |      |         | See Section 4.5012   |
| Entertainment & Recreation, Indoor                          |             |       |       |       |      |      |      |      |      |      |      | I    |                               |    |    |    |    |     |    |    |    |     |    |                      |      |         |                      |
| Large-Scale   |             |       |       |       |      |      |      |      |      |      |      |      |                               | P  | P  | P  | P  | U   |    |    |    |     |    | U                    | U    | U       |                      |
| Small-Scale   |             |       |       |       |      |      |      |      |      |      |      |      | P                             | P  | P  | P  | P  | U   |    | L9 | p  |     |    | P                    | U    | U       |                      |
| Entertainment and Recreation, Outdoor                       | I           | I     | I     | I     | I    | I    | I    | I    | I    | I    | I    | I    |                               | U  | U  | P  | P  | U   |    |    |    | U   |    | P                    |      |         |                      |
| Equestrian Arena  | U           | U     |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |     |    |    |    |     |    | U                    |      |         | See Section 2.705    |
| Golf Course   | U           | U     | U     | U     | U    | U    | U    | U    | U    | U    | U    | U    |                               |    |    |    |    |     |    |    |    | U   |    | U                    |      |         |                      |
| Haunted House   | T           | T     | T     | T     | T    | T    | T    |      |      |      |      |      | T                             | T  | T  | T  | T  | T   |    |    |    |     |    |                      |      |         | See Section 4.5012   |
| Teen Nightclub  |             |       |       |       |      |      |      |      |      |      |      |      | U                             | P  | P  | P  | P  | P   |    |    |    |     |    |                      |      |         |                      |
| <b>Office</b>   |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |     |    |    |    |     |    |                      |      |         |                      |
| Call Center   |             |       |       |       |      |      |      |      |      |      |      |      |                               |    | U  | U  | U  |     |    |    | P  | P   | P  |                      |      |         | P                    |
| Government Offices and Facilities                           |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |     |    |    |    |     |    |                      |      |         |                      |
| Large-Scale   |             |       |       |       |      |      |      |      |      |      |      |      |                               | P  | P  | P  | P  |     |    |    | P  | P   | P  |                      | P    | U<br>L1 | P                    |
| Small-Scale   | P           | P     | P     | P     | P    | P    | P    | P    | P    | P    | P    | P    | P                             | P  | P  | P  | P  | P   | P  | P  | P  | P   |    | P                    | L1   | P       |                      |
| Offices, General  |             |       |       |       |      |      |      |      |      |      |      |      | P                             | P  | P  | P  | P  | L6  | P  | P  | P  | P   |    |                      | L6   | P       |                      |
| <b>Retail Sales and Services</b>                            |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |     |    |    |    |     |    |                      |      |         |                      |
| Animal Services   |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |     |    |    |    |     |    |                      |      |         |                      |

**Table 2.902 Use Regulations**

| Use Category  | Residential |       |       |       |      |      |      |      |      |      |      |      | Mixed Use and Non-Residential |          |          |          |          |     |          |           |            |            |            | Additional Standards |      |     |                    |                    |
|---|-------------|-------|-------|-------|------|------|------|------|------|------|------|------|-------------------------------|----------|----------|----------|----------|-----|----------|-----------|------------|------------|------------|----------------------|------|-----|--------------------|--------------------|
|   | SF-43       | SF-35 | SF-15 | SF-10 | SF-8 | SF-7 | SF-6 | SF-D | SF-A | MF-L | MF-M | MF-H | NC                            | CC       | SC       | GC       | RC       | HVC | NO       | GO        | BP         | LI         | GI         |                      | PF/I | GVC | GBC                |                    |
| Specific Use Type   |             |       |       |       |      |      |      |      |      |      |      |      |                               |          |          |          |          |     |          |           |            |            |            |                      |      |     |                    |                    |
| Animal Grooming   |             |       |       |       |      |      |      |      |      |      |      |      | P                             | P        | P        | P        | P        | P   |          |           |            |            |            |                      |      |     | See Section 4.508  |                    |
| Animal Shelter  |             |       |       |       |      |      |      |      |      |      |      |      |                               |          |          | U        |          |     |          |           |            | P          |            | U                    |      |     |                    |                    |
| Kennel  |             |       |       |       |      |      |      |      |      |      |      |      |                               | U        | U        | P        | P        |     |          |           |            | P          |            |                      |      |     | See Section 4.508  |                    |
| Large Animal Hospitals  |             |       |       |       |      |      |      |      |      |      |      |      |                               |          |          | P        | U        |     |          |           |            |            |            |                      |      |     |                    |                    |
| Small Animal Clinics  |             |       |       |       |      |      |      |      |      |      |      |      | P                             | P        | P        | P        | P        | P   |          |           |            |            |            |                      |      |     |                    |                    |
| Building Material and Home Improvement Sales and Service, Retail    |             |       |       |       |      |      |      |      |      |      |      |      |                               |          |          |          |          |     |          |           |            |            |            |                      |      |     |                    |                    |
| Large-Scale   |             |       |       |       |      |      |      |      |      |      |      |      |                               | U        | U        | P        | P        |     |          |           |            |            |            |                      |      |     |                    |                    |
| Small-Scale   |             |       |       |       |      |      |      |      |      |      |      |      | P                             | P        | P        | P        | P        | U   |          |           |            |            |            |                      |      |     |                    |                    |
| Building Material and Home Improvement Sales and Service, Wholesale |             |       |       |       |      |      |      |      |      |      |      |      |                               |          |          |          |          |     |          |           |            | P          | P          |                      |      |     |                    |                    |
| Dry Cleaning and Laundry Central Plant                              |             |       |       |       |      |      |      |      |      |      |      |      |                               |          |          |          |          |     |          |           |            | P          | P          |                      |      |     |                    |                    |
| Dry Cleaning and Laundry Outlet                                     |             |       |       |       |      |      |      |      |      |      |      |      | P                             | P        | P        | P        | P        | L18 | L1       | L9<br>L18 |            |            |            |                      |      | L18 | P                  | See Section 2.506  |
| Garden Supply Stores and Plant Nurseries                            |             |       |       |       |      |      |      |      |      |      |      |      |                               |          | P        | P        | P        |     |          |           |            |            |            |                      |      |     |                    |                    |
| Health Resort/Spa   |             |       |       |       |      |      |      |      |      |      |      |      |                               |          | P        | P        | P        | U   |          |           | P          |            |            |                      |      | P   | P                  |                    |
| Laundry Services  |             |       |       |       |      |      |      |      |      | I    | I    | I    | P                             | P        | P        | P        | P        | P   |          |           |            |            |            |                      | U    | P   |                    |                    |
| Medical Marijuana Dispensary  |             |       |       |       |      |      |      |      |      |      |      |      |                               |          |          |          |          |     |          |           |            | U          | U          |                      |      |     | See Section 4.5014 |                    |
| Pawn Shop   |             |       |       |       |      |      |      |      |      |      |      |      |                               | U<br>L22 | U<br>L22 | U<br>L22 | U<br>L22 | U   |          |           |            |            |            |                      |      |     |                    | See Section 4.5010 |
| Personal Services   |             |       |       |       |      |      |      |      |      |      |      |      | L23                           | L23      | L23      | L23      | L23      | P   | I<br>L23 | L9<br>L23 |            |            |            |                      |      | P   | P                  | See Section 2.506  |
| Retail Sales, Convenience   |             |       |       |       |      |      |      |      |      |      |      |      | U                             | P        | P        | P        | P        |     |          |           |            |            |            |                      |      |     |                    |                    |
| Retail Sales, Furniture   |             |       |       |       |      |      |      |      |      |      |      |      |                               |          |          |          |          |     |          |           |            |            |            |                      |      |     |                    |                    |
| Large-Scale   |             |       |       |       |      |      |      |      |      |      |      |      | U                             | P        | P        | P        | P        | U   |          |           |            |            |            |                      |      |     |                    |                    |
| Small-Scale   |             |       |       |       |      |      |      |      |      |      |      |      | P                             | P        | P        | P        | P        | P   |          |           |            |            |            |                      |      |     |                    |                    |
| Retail Sales, General   |             |       |       |       |      |      |      |      |      |      |      |      | P                             | P        | P        | P        | P        | L18 |          | L9<br>L18 | L18<br>L24 | L18<br>L24 | L18<br>L25 |                      |      | L18 | I<br>L26           |                    |
| Seasonal Sales  |             |       |       |       |      |      |      |      |      |      |      |      | T                             | T        | T        | T        | T        | T   | T        | T         |            |            |            |                      |      | T   | T                  | See Section 4.5012 |
| Swap Meet and Auction, Single Event                                 |             |       |       |       |      |      |      |      |      |      |      |      |                               |          |          |          |          |     |          |           |            |            |            |                      |      |     |                    |                    |
| Indoor  |             |       |       |       |      |      |      |      |      |      |      |      |                               | T        | T        | T        | T        |     |          |           |            |            |            |                      |      |     |                    | See Section 4.5012 |
| Outdoor   |             |       |       |       |      |      |      |      |      |      |      |      |                               |          |          | T        | T        |     |          |           |            |            |            |                      |      |     |                    | See Section 4.5012 |
| Swap Meet and Auction, Recurring                                    |             |       |       |       |      |      |      |      |      |      |      |      |                               |          |          |          |          |     |          |           |            |            |            |                      |      |     |                    |                    |
| Indoor  |             |       |       |       |      |      |      |      |      |      |      |      |                               | U        | U        | P        | U        |     |          |           |            |            |            |                      |      |     |                    |                    |
| Outdoor   |             |       |       |       |      |      |      |      |      |      |      |      |                               |          |          | U        |          |     |          |           |            |            |            |                      |      |     |                    |                    |
| Visitor Accommodations  |             |       |       |       |      |      |      |      |      |      |      |      |                               |          |          |          |          |     |          |           |            |            |            |                      |      |     |                    |                    |
| Convention Center   |             |       |       |       |      |      |      |      |      |      |      |      |                               |          | U        | U        | U        |     |          |           |            |            |            |                      | U    |     |                    |                    |
| Hotels and Commercial Lodging                                       |             |       |       |       |      |      |      |      |      |      |      |      |                               |          |          | P        | P        | U   |          |           | P          |            |            |                      |      | P   | P                  |                    |
| Recreational Vehicle Park   |             |       |       |       |      |      |      |      |      |      |      |      |                               |          |          | P        | P        |     |          |           |            |            |            |                      |      |     |                    |                    |



**Table 2.902 Use Regulations**

| <i>Use Category</i>                                  | Residential |       |       |       |      |            |            |            |      |      |      |      | Mixed Use and Non-Residential |     |     |     |     |     |    |    |     |     |           | Additional Standards |     |     |                   |                   |
|--|-------------|-------|-------|-------|------|------------|------------|------------|------|------|------|------|-------------------------------|-----|-----|-----|-----|-----|----|----|-----|-----|-----------|----------------------|-----|-----|-------------------|-------------------|
| <b>Subcategory</b>                                   | SF-43       | SF-35 | SF-15 | SF-10 | SF-8 | SF-7       | SF-6       | SF-D       | SF-A | MF-L | MF-M | MF-H | NC                            | CC  | SC  | GC  | RC  | HVC | NO | GO | BP  | LI  | GI        | PF/I                 | GVC | GBC |                   |                   |
| Specific Use Type                                    |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     |     |           |                      |     |     |                   |                   |
| Vacation or Short-Term Rentals                       | P           | P     | P     | P     | P    | P          | P          | P          | P    | P    | P    | P    |                               | L31 | L31 | L31 | L31 | L31 |    |    | L31 | L31 |           |                      |     | L31 | L31               | See Section 4.506 |
| <b>Industrial</b>                                    |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     |     |           |                      |     |     |                   |                   |
| <b>Industrial Services</b>                           |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     |     |           |                      |     |     |                   |                   |
| Crematorium  |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     | P   | P         | P                    |     |     |                   |                   |
| Data Center  |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    | U   | U   |           |                      |     |     |                   |                   |
| Digital Production                                   |             |       |       |       |      |            |            |            |      |      |      |      | P                             | P   | P   | P   | P   | L6  | P  | P  | P   | P   |           |                      | L6  | P   |                   |                   |
| Laboratories, Commercial                             |             |       |       |       |      |            |            |            |      |      |      |      | P                             | P   | P   | P   | P   |     | P  | P  |     |     |           |                      |     |     |                   |                   |
| Laboratories, Industrial                             |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    | P   | P   | P         |                      |     |     |                   |                   |
| Mining and Quarrying                                 |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     |     | U         |                      |     |     |                   |                   |
| Research and Development                             |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    | P  | P   | P   | P         |                      |     | P   |                   |                   |
| <b>Manufacturing and Assembly</b>                    |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     |     |           |                      |     |     |                   |                   |
| Manufacturing and Assembly                           |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     |     |           |                      |     |     |                   |                   |
| <i>Artisan</i>                                       |             |       |       |       |      |            |            |            |      |      |      |      | P                             | P   | P   | P   | P   | P   |    |    | P   | P   | P         |                      |     |     | U                 |                   |
| <i>Light</i>   |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    | P   | P   | P         |                      |     |     |                   |                   |
| <i>General</i>                                       |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     | L27 | P         |                      |     |     |                   |                   |
| <i>Heavy</i>   |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     |     | P         |                      |     |     |                   |                   |
| <b>Warehousing, Storage, &amp; Distribution</b>      |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     |     |           |                      |     |     |                   |                   |
| Contractor's Yard                                    |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     | P   | P         |                      |     |     |                   |                   |
| Warehousing:   |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     |     |           |                      |     |     |                   |                   |
| <i>Freight/Truck Terminal and Warehouse</i>          |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     | P   | P         |                      |     |     |                   |                   |
| <i>Petroleum and Gas Storage</i>                     |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     |     | U         |                      |     |     |                   |                   |
| Vehicle Towing Service Storage Yard; Impound Lot     |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     | P   | P         | P                    |     |     |                   |                   |
| Wholesale Sales and Distribution                     |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     | P   | P         |                      |     |     |                   |                   |
| <b>Waste and Salvage</b>                             |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     |     |           |                      |     |     |                   |                   |
| Waste Management                                     |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     |     |           |                      |     |     |                   |                   |
| Hazardous Waste Collection and Transfer Facility     |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     |     | U         |                      |     |     |                   |                   |
| Hazardous Waste Disposal Facility                    |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     |     | U         |                      |     |     |                   |                   |
| Non-Hazardous Waste Collection and Transfer Facility |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     |     | U         | U                    |     |     |                   |                   |
| Non-Hazardous Waste Disposal Facility                |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     |     | U         |                      |     |     |                   |                   |
| Non-Hazardous Material Recycling Collection Facility |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     |     |           |                      |     |     |                   |                   |
| <i>Large-Scale</i>                                   |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     |     | U         | U                    |     |     |                   |                   |
| <i>Small-Scale</i>                                   | L28         | L28   | L28   | L28   | L28  | L28        | L28        |            |      |      | L28  | L28  | L28                           | A   | A   | A   | A   | A   | A  | A  | A   |     |           |                      | P   |     |                   |                   |
| Salvage Yards or Junkyards                           |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     |     | U,<br>L22 |                      |     |     |                   |                   |
| <b>Agricultural</b>                                  |             |       |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     |     |           |                      |     |     |                   |                   |
| Agritainment   | S           | S     | S     | S     | S    | S          | S          |            |      | S    | S    | S    | S                             | S   | S   | S   | S   |     | S  | S  | S   | S   | S         | S                    |     |     |                   |                   |
| Animal Raising, Non-Commercial                       | P           | P     | P     | P     | P    | L29<br>L30 | L29<br>L30 | L29<br>L30 |      |      |      |      |                               |     |     |     |     |     |    |    |     |     |           |                      |     |     |                   |                   |
| <i>Crop and Animal Raising, Commercial</i>           | P           | P     |       |       |      |            |            |            |      |      |      |      |                               |     |     |     |     |     |    |    |     |     |           |                      |     |     | See Section 2.107 |                   |
| <i>Crop Raising, Non-Commercial</i>                  | P           | P     | P     | P     | P    | P          | P          | P          | P    | P    | P    | P    |                               |     |     |     |     |     |    |    |     |     |           | P                    |     |     |                   |                   |

**Table 2.902 Use Regulations**

| <i>Use Category</i>  | Residential |       |       |       |      |      |      |      |      |      |      |      | Mixed Use and Non-Residential |    |    |    |    |     |    |    |    |    |    | Additional Standards |     |     |  |  |
|--|-------------|-------|-------|-------|------|------|------|------|------|------|------|------|-------------------------------|----|----|----|----|-----|----|----|----|----|----|----------------------|-----|-----|--|--|
| <b>Subcategory</b>   | SF-43       | SF-35 | SF-15 | SF-10 | SF-8 | SF-7 | SF-6 | SF-D | SF-A | MF-L | MF-M | MF-H | NC                            | CC | SC | GC | RC | HVC | NO | GO | BP | LI | GI | PF/I                 | GVC | GBC |  |  |
| Specific Use Type  |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |     |    |    |    |    |    |                      |     |     |  |  |
| Farm Stand   | P           | P     |       |       |      |      |      |      |      |      |      |      |                               | A  | A  | A  | A  |     |    |    |    |    |    |                      |     |     |  | See Section 4.507  |
| Farmers' Market  |             |       |       |       |      |      |      |      |      |      |      |      |                               | T  | T  | T  | T  | T   |    | T  |    |    |    | T                    | T   | T   |  | See Section 4.5012<br>See Municipal Code Chapter 15,<br>Special Events |
| Feed and Tack Sales  |             |       |       |       |      |      |      |      |      |      |      |      |                               | U  | U  | U  | U  |     |    |    |    |    |    |                      |     |     |  |  |
| Feed Lot   | U           | U     |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |     |    |    |    |    |    |                      |     |     |  |  |
| Industrial Hemp  |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |     |    |    |    |    | P  | P                    |     |     |  |  |
| Medical Marijuana Facilities:                                      |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |     |    |    |    |    |    |                      |     |     |  |  |
| <i>Medical Marijuana Designated Caregiver Cultivation Location</i> |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |     |    |    |    |    | P  |                      |     |     |  | See Section 4.5014   |
| <i>Medical Marijuana Offsite Cultivation Site</i>                  |             |       |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |     |    |    |    |    | U  | U                    |     |     |  | See Section 4.5014   |
| Stables, Commercial  | U           | U     |       |       |      |      |      |      |      |      |      |      |                               |    |    |    |    |     |    |    |    |    |    |                      | I   |     |  | See Section 2.107  |
| Stables, Non-Commercial  | I           | I     | I     | I     | I    |      |      |      |      |      |      |      |                               |    |    |    |    |     |    |    |    |    |    |                      |     |     |  | See Section 2.107  |

|     |   |
|-----|---|
| L1  | Permitted only above the ground floor of a mixed-use building   |
| L2  | Permitted only above the ground floor of a mixed-use building within 300' of Recker Road or Williams Field Road; permitted use in other locations   |
| L3  | Legal non-conforming single family uses existing prior to March 3, 2005 may be expanded and/or repaired without limitation on valuation in conformance with site development regulations applicable to the Single Family Detached (SF-D) zoning district as set forth in Table 2.104: Lot Development Regulations – Single Family Residential Districts   |
| L4  | Existing single family uses may be continued, expanded, and repaired without limitation on valuation. Site development regulations and accessory uses of the Single Family-43 (SF-43) zoning district apply and are shown in Table 2.104: Lot Development Regulations – Single Family Residential Districts.  |
| L5  | Reserved  |
| L6  | Use permit required for ground floor location   |
| L7  | Civic Social and Fraternal Organizations, Public and Private Schools, and Place of Worship uses shall be located on collector or arterial streets. Conditional Use Permit approval is required for any other location.  |
| L8  | Day Care Centers, Public and Private Schools, and Place of Worship uses shall be located on collector or arterial streets. Conditional Use Permit approval is required for any other location.  |
| L9  | Uses shall not be permitted as stand-alone businesses; limitation on square footage of combined uses. See Section 2.506E: Limited Floor Area  |
| L10 | Shall not front onto arterial street.   |
| L11 | Unlighted Outdoor Entertainment and Recreation uses are permitted in conjunction with Public and Private Schools and Place of Worship uses; lighted Outdoor Entertainment and Recreation uses in conjunction with Public and Private Schools and Place of Worship uses require a Conditional Use Permit.  |
| L12 | 20,000 s.f. or greater requires a Conditional Use Permit.   |
| L13 | Public and Private Schools and Place of Worship uses are not permitted in single family residential structures.   |
| L14 | Civic Social and Fraternal Organizations, Community Service Facilities, Public and Private Schools, and Place of Worship uses are not permitted in multi-family residential structures.   |
| L15 | Permitted only above the ground floor of a mixed-use building within 300' of Gilbert Road; permitted use in other locations.  |
| L16 | Alternative Light Poles may be located on property zoned residential and operated as an electric substation, Public and Private School, public park, or Place of Worship. Conditional Use Permit is required.   |
| L17 | Maximum height of alternative WCF structures is 40'.  |
| L18 | Drive-through facilities prohibited   |
| L19 | Existing drive-through facilities located north of the Western Canal may continue to operate as drive-through facilities until the drive-through facility is removed or converted to be part of the structure. Existing Service Bay facilities located north of the Western Canal may convert to a drive-through facility only for the Restaurants, Beverage Service or Restaurants, Limited Service uses and only until the drive-through facility is removed or converted to be part of the structure. A Use Permit is required |
| L20 | Maximum gross floor area permitted: 2,000 sq. ft  |
| L21 | Only as an incidental use to Vehicle Services Light and Vehicle Services Heavy. Motor Vehicle Sales and Leasing shall be conducted indoors and limited to 10 percent of the GFA of the principal use.   |
| L22 | See Gilbert Municipal Code Chapter 14, Article VII for additional regulations.  |
| L23 | Permitted use. See Gilbert Municipal Code Chapter 14, Article XI for additional regulations regarding massage establishments and therapists.  |
| L24 | Only as a use incidental to the principal use of the property. Retail uses shall not exceed 20 percent of the principal use Gross Floor Area (GFA).   |
| L25 | Only as a use incidental to the principal use of the property. Retail uses shall not exceed 10 percent of the principal use Gross Floor Area (GFA).   |
| L26 | Outdoor merchandizing or display prohibited.  |
| L27 | For General Manufacturing and Assembly Uses involving highly toxic materials or chemicals, highly combustible or explosive materials, or other materials and substances of a noxious nature in the manufacturing process, the Zoning Administrator may require a conditional use permit to ensure compatibility with adjacent uses.   |
| L28 | Limited to parcels containing Schools and Place of Worship uses. Administrative Use Permit is required.   |
| L29 | Only permitted in this zoning district where the lot size is at least 6,000 square feet.  |

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|-----|---|
| L30 | Peacock not permitted in this zoning district.  |
| L31 | Must meet all required limitations of the zoning district under the "Residential, Permanent" Use Category |

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## **Division 3      Overlay District Regulations**

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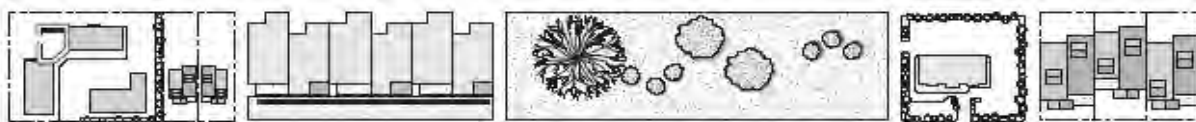
**Article 3.1    Planned Area Development Overlay Zoning District**

**Article 3.2    Phoenix-Mesa Gateway Airport Overlay District**

**Article 3.3    Santan Freeway Corridor Overlay District**

**Article 3.4    Heritage District Overlay Zoning District**

**Article 3.5    Vertical Development Overlay Zoning District**



## **Article 3.1: Planned Area Development Overlay Zoning District**

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### **Sections:**

- 3.101 Purposes
- 3.102 Use of a Planned Area Development Overlay Zoning District
- 3.103 Land Use and Development Regulations
- 3.104 Approval

### **3.101 Purposes**

The purposes of the Planned Area Development Overlay Zoning District (PAD) are to:

- A. Modify base district regulations.
- B. Provide opportunities for unique or mixed-use development.
- C. Provide opportunities for development intensity greater than permitted by base district regulations for affordable housing, senior housing, and congregate living facilities.
- D. Provide opportunities for increased building height in the General Commercial, Regional Commercial, General Office, Business Park, Light Industrial and Public Facility/Institutional base zoning districts outside the boundaries of the Vertical Development Overlay zoning district set forth in the Official Zoning Map.
- E. Provide a mechanism for establishment of a Protected Development Right Plan as required by state law.
- F. Implement design and planning policies for development in the Gateway Character Area.
- G. Allow for modification of the zoning regulations for signs in the Gateway Character Area.

### **3.102 Use of a Planned Area Development Overlay Zoning District**

- A. Planned Area Development Overlay Zoning District (PAD) may overlay any base district or contiguous districts. Base district regulations shall apply except to the extent modified by an overlay district. The Official Zoning Map shall identify the area covered by each PAD.
- B. A PAD may only be adopted for the following:

1. To modify base district regulations to implement policies in the General Plan.
  2. To permit unique or mixed-use development.
  3. To permit development intensity greater than permitted by base district regulations for affordable housing, senior housing, and congregate living facilities.
  4. To increase building height in the General Commercial, Regional Commercial, General Office, Business Park, Light Industrial and Public Facility/Institutional base zoning districts outside the Vertical Development Overlay zoning district.
  5. To create a Protected Development Right Plan pursuant to Article 5.9: Protected Development Right Plan.
  6. To modify the zoning regulations for signs in the Gateway Character Area.
  7. To permit a concurrent review of housing product and neighborhood design, including lotting pattern, for development in the Gateway Character Area.
  8. To modify the building height regulations for non-residential noise sensitive uses pursuant to Section 3.303B.1: Building Height.
- C. Use of the PAD.
1. A PAD shall not be used to modify sign regulations other than as permitted in Paragraph 3.102B.5 above.
  2. A PAD shall not be used to add, eliminate, or restrict uses permitted in the base district regulations.
  3. A PAD shall be applied only to contiguous property so as to create a unified and cohesive development.

### **3.103 Land Use and Development Regulations**

Use and development of land within a PAD shall conform to the base zoning district regulations and other requirements of the Zoning Code, except as modified by the PAD zoning ordinance.

### 3.104 Approval

- A. **Development Plan.** A PAD shall include a development plan consisting of a site plan, preliminary landscape plan, building elevations, building height, design guidelines, residential lot layout, open space plan, or other plan applicable to the project. The use and development of the property in a PAD shall substantially conform to the development plan approved by the Town Council as an exhibit to the PAD zoning ordinance.
- B. **Conditions.** The Planning Commission may recommend, and the Town Council may impose, conditions of approval including, but not limited to, the following:
1. Timing or phasing of development;
  2. Off-site and on-site improvements;
  3. Development standards;
  4. Design guidelines;
  5. Conditions of use;
  6. Dedication of land for public purposes;
  7. Granting of utility easements;
  8. Granting of easements for public use of trails and open space areas;
  9. Requirements for establishment of a homeowners or property owners associations or other mechanism to assure continued maintenance of commonly owned land and facilities; and
  10. Reservation of land for future public acquisition.



## **Article 3.2 Phoenix-Mesa Gateway Airport Overlay District**

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### **Sections**

- 3.201 Purposes
- 3.202 Applicability
- 3.203 Development and Notification Requirements within the Phoenix-Mesa Gateway Airport Overlay District

### **3.201 Purposes**

The purposes of the Phoenix-Mesa Gateway Airport Overlay District are to:

- A. Designate an area in the Town that is or may be impacted by noise generated by aircrafts using the Phoenix-Mesa Gateway Airport as depicted on the Town of Gilbert Zoning Map;
- B. Mitigate the effects of aircraft noise on the public health, welfare, and safety by prohibiting noise sensitive uses in new projects within Overflight Area 1, by establishing noise attenuation requirements applicable to noise sensitive uses in new projects within Overflight Area 2, and by requiring notification to future owners and occupants of possible noise impacts on noise sensitive uses in new projects within Overflight Areas 2 and 3 of the Phoenix-Mesa Gateway Airport Overlay District; and
- C. To identify and mitigate flight hazards.

### **3.202 Applicability**

Base zoning district regulations and other requirements of the Zoning Code shall apply except as specifically modified by an overlay district and/or by Table 3.203. The Official Zoning Map shall identify each Overflight Area within the Phoenix- Mesa Gateway Airport Overlay District.

- A. The provisions of this Article shall apply to noise sensitive uses and/or hazards in new or altered projects located wholly or partially within the Phoenix-Mesa Gateway Airport Overlay District.
- B. If a project is located partially within Overflight Areas 2 and 3, then the development and notification requirements for Overflight Area 2 shall apply to noise sensitive uses in the entire new project.
- C. If a project is located partially within Overflight Area 3 and partially outside of any overflight area, then the development and notification requirements for Overflight Area 3 shall apply to noise sensitive uses in the entire project.
- D. For the purposes of this Article, the following meanings shall apply:

1. “Airport” means the Phoenix-Mesa Gateway Airport owned and operated by the Phoenix-Mesa Gateway Airport Authority.
2. “Airport Overflight Area” or “AOA” means an area designated on the Official Zoning Map as Airport Overflight Area (AOA) 1, 2 OR 3.
  - AOA 1 Corresponding to the area exposed to long-term future noise of DNL 65 and higher.
  - AOA 2 Corresponding to the area exposed to long-term future noise of DNL 60 to DNL 65.
  - AOA 3 Generally corresponding to the area covered by dense, low-altitude flight tracks, the outer edges of the traffic pattern area, a majority of noise complaint locations, and the FAA-defined wildlife attractant separation area. Noise of 60 DNL or less.
3. “Day-Night Level” or “DNL” refers to the Federal Aviation Administration (FAA) standard metric for determining the cumulative exposure of individuals to noise.
4. “Hazards” means those items identified in Section 3.203 and Table 3.203.
5. “New Project” means a project with the following status of development as of April 21, 2019:
  - a. No preliminary plat has been approved; or
  - b. A preliminary plat has expired; or
  - c. No preliminary design review site plan has been approved; or
  - d. A preliminary design review site plan has expired; or
  - e. A permit has not be granted for construction on an alteration.
6. “Noise Sensitive Uses” means those uses as identified in Section 3.203 and Table 3.203.
7. “Phoenix Mesa Gateway Airport Overlay District” means that area so designated on the Official Zoning Map.
8. “Project” means, as of April 21, 2019, a subdivision with boundaries established by a recorded plat or a site with boundaries depicted on a construction permit document.

### 3.203 Development and Notification Requirements within the Phoenix Mesa Gateway Airport Overlay District

Uses and development within the each AOA shall meet the following compatibility requirements depending on the land use and zone, as depicted in Table 3.203:

- Compatible (C): Use may be allowed.
- Conditionally Compatible (CC): Use may be allowed subject to stated conditions.
- Marginally Compatible (MC): Use may be allowed subject to an outdoor-to-indoor noise level reduction of 25 decibels in buildings where people reside, sleep or gather.
- Incompatible (I): Use shall be avoided.
- 25 Decibels (25): An outdoor to indoor noise reduction of 25 decibels shall be required.

**Table 3.203 - Compatibility Matrix**

| <i>Land Use</i>  | <i>AOA 1</i>   | <i>AOA 2</i>   | <i>AOA 3</i>      |
|--|----------------|----------------|-------------------|
| <b>Residential / Group Living (Household and Group Living)</b> | I              | I              | CC<br>(1/2/3/5/7) |
| <b>Civic and Institutional - Community Services</b>            |                |                |                   |
| <i>Arboretum or Botanical Garden</i>                           | CC (5/6)       | C              | C                 |
| <i>Cemetery</i>  | CC (5)         | C              | C                 |
| <i>Day Care Centers</i>  | I              | I              | CC (1)            |
| <i>Public Facilities</i>                                       | CC (6/7)       | CC (7)         | CC (7)            |
| <b>Health Care Facilities</b>                                  |                |                |                   |
| <i>Hospitals</i>   | I              | I              | CC (1/5)          |
| <i>Surgery Center</i>  | I              | I              | CC (1)            |
| <i>Medical Offices and Clinics</i>                             | I              | I              | CC (1)            |
| <i>Nursing Homes/Congregate Living</i>                         | I              | I              | CC (1/4/5)        |
| <b>Transportation</b>  |                |                |                   |
| <i>Airfield/Heliport/Helipad</i>                               | I              | I              | CC (6)            |
| <i>Ambulance Service</i>                                       | I              | MC 25<br>(1/4) | C                 |
| <i>Park and Ride/Parking Facility</i>                          | C              | C              | C                 |
| <i>Transportation Passenger Terminals</i>                      | CC (5)         | C              | C                 |
| <b>Utility (all)</b>   | CC/MC<br>(5/6) | C              | C                 |
| <b>Commercial</b>  |                |                |                   |
| <i>Banks and Other Financial Institutions</i>                  | CC (5)         | C              | C                 |
| <i>Banquet Facilities</i>                                      | I              | MC 25<br>(1/4) | CC (1)            |
| <i>Building Maintenance Services</i>                           | CC (5)         | C              | C                 |
| <i>Business Services</i>                                       | CC (5)         | C              | C                 |
| <i>Eating and Drinking Establishments</i>                      | CC (5)         | C              | C                 |
| <i>Sexually Oriented Businesses</i>                            | CC (5)         | C              | C                 |
| <i>Stand-alone Smoking Lounges</i>                             | CC (5)         | C              | C                 |

| <b>Land Use</b>   | <b>AOA 1</b> | <b>AOA 2</b> | <b>AOA 3</b> |
|---|--------------|--------------|--------------|
| <i>Vehicle and Equipment Sales, Leasing, Services and Fueling</i> | CC (5/6)     | C            | C            |
| <b>Entertainment and Recreation, Indoor</b>                       |              |              |              |
| <i>Amusement Centers, Athletic Clubs, Gyms</i>                    | CC (5)       | C            | C            |
| <i>Theaters, Playhouses, Concert Halls, Performing Arts</i>       | I            | MC 25 (1/4)  | CC (1/5)     |
| <i>Haunted Houses, Teen Nightclub</i>                             | CC (5)       | C            | C            |
| <b>Entertainment and Recreation, Outdoor</b>                      |              |              |              |
| <i>Equestrian Arena</i>   | I            | CC (1/4)     | CC (1)       |
| <i>Golf Course</i>  | CC (6/7)     | C (7)        | C (7)        |
| <i>Parks</i>  | CC (6/7)     | C (7)        | C (7)        |
| <i>Special Events, Carnival</i>                                   | CC (6)       | C            | C            |
| <b>Office</b>   | CC (5)       | C            | C            |
| <b>Call Center</b>  | CC (5)       | C            | C            |
| <b>Government Offices</b>   | CC (5)       | C            | C            |
| <b>Retail Sales and Services</b>                                  |              |              |              |
| <i>Animal Services &amp; Clinics</i>                              | CC (5)       | C            | C            |
| <i>Dry Cleaning and Laundry</i>                                   | CC (5/6)     | C            | C            |
| <i>Health Resort/Spa</i>  | CC (5)       | C            | C            |
| <i>Personal Services</i>  | CC(5)        | C            | C            |
| <i>Retail Sales (all)</i>   | CC (5)       | C            | C            |
| <b>Visitor Accommodation</b>                                      |              |              |              |
| <i>Hotels and Commercial Lodging</i>                              | MC 25 (1/4)  | MC 25 (1/4)  | CC (1)       |
| <i>Recreational Vehicle Park</i>                                  | I            | I            | CC (1/2/3)   |
| <b>Industrial Services</b>  |              |              |              |
| <i>Crematorium</i>  | CC (6)       | C            | C            |
| <i>Data Center</i>  | CC (6)       | C            | C            |
| <i>Digital Production</i>   | CC (6)       | C            | C            |
| <i>Laboratories Commercial and Industrial</i>                     | MC (6)       | CC (6)       | C            |
| <i>Mining and Quarrying</i>                                       | CC (5/6)     | CC (6)       | C            |
| <i>Research and Development</i>                                   | CC (5/6)     | CC (5/6)     | C            |
| <b>Manufacturing and Assembly</b>                                 | CC (5/6)     | CC (6)       | C            |
| <b>Warehousing, Storage, &amp; Distribution</b>                   | I            | CC (6)       | C            |
| <b>Waste and Salvage</b>  | CC (5/6/7)   | C (7)        | C (7)        |

Note (1) The following fair disclosure agreement and covenant, which would include the following disclosure, shall be recorded as a condition of development approval: “This property, due to its proximity to Phoenix-Mesa Gateway Airport, will experience aircraft overflights, which are expected to generate noise levels that may be of concern to some individuals. The mix of aviation activities and types of aircraft expected to be located and operate at the Airport now and in the future include: scheduled and unscheduled commercial charters, commercial air carriers and commercial air cargo operations, all of which are expected to use large commercial aircraft; general aviation activity using corporate and executive jets, helicopters, and propeller aircraft; aviation flight training schools using training aircraft; and military activity using high performance military jets. The size of aircraft and frequency of use of such aircraft may

change over time depending on market and technology changes.”

- Note (2) All final subdivision plats and public reports filed with the Arizona Department of Real Estate shall include the notice described in Note 1.
- Note (3) Sales and leasing offices established for new subdivisions and residential development projects shall provide notice to all prospective buyers and lessees stating that the project is located within an Aircraft Overflight Area. Such notice shall consist of a sign at least 4-foot by 4-foot installed at the entrance to the sales or leasing office at each project. The sign shall be installed prior to commencement of sales or leases and shall not be removed until the sales office is permanently closed or leasing office no longer leases units in the project. The sign should state the disclosure in Note 1 with letters of at least one (1) inch in height.
- Note (4) An aviation easement shall be recorded concurrently with or prior to the recordation of a subdivision plat or issuance of a building permit holding the Town, the public, and the Phoenix-Mesa Gateway Airport Authority harmless from any damages caused by noise, vibration, fumes, dust, fuel, fuel particles, or any other effects that may be caused by aircraft landing, departing or operating at or near a designated Airport, not including the physical impact of aircraft or parts thereof.
- Note (5) The developer should incorporate features into the design and construction of buildings where people live, work, or are otherwise received to achieve an outdoor-to indoor noise level reduction of 25 decibels.
- Note (6) Hazardous Materials and Airspace Protection Policies (Reference Section 3.203A):
- a. Facilities with aboveground storage tanks containing any of the following materials:
    - (1) Flammable or combustible liquids, including fuels or other substances containing at least 5 percent petroleum, with individual tanks having a capacity greater than 6,000 gallons or total tank capacities greater than 12,000 gallons.
    - (2) Liquefied petroleum, hydrogen and natural gases and cryogenic liquids with an individual tank capacity equivalent to 2,000 gallons of water or total tank capacities greater than the equivalent of 30,000 gallons of water.
    - (3) Compressed gases in excess of 50,000 cubic feet on the premises.
  - b. Facilities involving the manufacturing, processing, warehousing, or storage of toxic substances exceeding the threshold planning quantities for hazardous and extremely hazardous substances specified by the EPA.
  - c. Facilities involving the manufacturing, processing, warehousing, or storage of explosive materials, including fireworks, in quantities exceeding 50 pounds of

net explosive weight

- d. Medical and biological research facilities manufacturing, processing, warehousing, or storing toxic or infectious agents that are classified as Biosafety Level 2, 3, and 4 facilities by the US Department of Environmental Protection (EPA).

Note (7) Bird Attractants

- a. Coordination should be taken to address and mitigate as needed the potential for bird attractants as described in Section 3.203A.
- A. ***Airspace Protection Policies.*** The airspace protection policies are intended to ensure compliance with federal law, as described in Title 14, Code of Federal Regulations 14 CFR Part 77, Safe, Efficient Use, and Preservation of the Navigable Airspace. Any of these hazards within the 14 CFR Part 77 require FAA review. Potential Hazards outside of the 14 CFR Part 77 should be coordinated with the FAA to ensure safety.
1. ***Height.*** The erection of objects determined by the FAA to be a hazard to air navigation (i.e. proposed construction or alteration, for which the FAA has issued a Determination of Hazard (DOH)), should not be permitted, regardless of whether they penetrate a critical airspace surface depicted. The erection of such an object would necessitate modifications in airspace design or flight procedures by increasing visibility minimums or otherwise compromising the use of the Airport and the surrounding airspace. In addition to the physical hazards to flight posed by tall objects, other land use characteristics can interfere with the safety of flight.
  2. ***Glint and Glare.*** Highly reflective materials may produce glint and glare causing visual after-images or flash blindness in pilots and air traffic controllers, thus compromising flight safety. Materials creating the potential for persistent afterimage or flash blindness in pilots should be considered incompatible in AOA 1, AOA 2, and the portion of the AOA 3 within the boundaries of the 14 CFR Part 77 horizontal and outer approach surfaces. In the portion of AOA 3 outside the boundaries of the Part 77 horizontal and outer approach surfaces, reflective materials are acceptable unless the FAA has issued a Determination of Hazard (DOH) related to the use of the proposed reflective materials. If the airport staff and the permitting agency determine that the potential for persistent after-image or flash blindness exists, the burden of proof shall be on the applicant to demonstrate that the proposed project would not create glint or glare problems. Adequate proof can be provided in either of two ways:

- a. A technical study demonstrating that the proposed building materials would not create reflections severe enough to cause after-images or flash blindness in pilots on approach to any runway at any time of day during any time of the year.
  - b. If the FAA has reviewed the proposed project through the 14 CFR Part 77 OE/AAA process, the FAA's final Notice of Determination indicates no objections to the potential glint and glare effects of the proposed project.
3. *Lighting Systems.* Some lighting systems may contain features that pilots may confuse with airport identification and navigational lighting or that may compromise the vision of pilots on approach to a runway. The following lighting systems shall be considered incompatible in AOA 1, AOA 2, and the portion of the AOA 3 within the boundaries of the Part 77 horizontal and outer approach surfaces if they are directed toward the final approach paths of aircraft:
- a. Search lights (including temporary searchlights for special events, etc.)
  - b. Stroboscopic lights
  - c. Laser lights
  - d. A linear array of sequenced flashing lights
  - e. Any lighting systems that produce effects mimicking airport identification lighting, runway end identification lighting, or runway approach lighting.

In the portion of AOA 3 outside the boundaries of the Part 77 horizontal and outer approach surfaces, these potentially problematic lighting systems are acceptable unless the FAA has issued a Determination of Hazard (DOH) related to the proposed lighting.

4. *Dust, Smoke and Water Vapor.* Land uses that would create columns of dust, steam, water vapor, or smoke dense enough to impair pilot or air traffic controller vision and compromise flight safety shall be considered incompatible in AOA 1, AOA 2, and in the portion of AOA 3 within the boundaries of the Part 77 horizontal and outer approach surfaces. If the airport staff and the permitting agency determine that a proposed project has the potential to create a hazard the burden of proof should be on the applicant to demonstrate that the proposed project would not create problems severe enough to impair pilot vision or air traffic controller vision.

The FAA has reviewed the proposed project through the 14 CFR Part 77 OE/AAA process and issued a determination indicating no objections to the proposed project on account of dust, steam, water vapor, or smoke, that determination should be considered adequate evidence that the project can proceed without creating this

hazard. In the portion of AOA 3 outside the boundaries of the Part 77 horizontal and outer approach surfaces, these potentially problematic sources of dust, smoke, and water vapor are acceptable unless the FAA has issued a Determination of Hazard (DOH) related to the proposed sources.

5. *Thermal Hazards.* Land uses that produce thermal plumes (such as power plants or other land uses that employ smoke stacks, cooling towers, or that create thermal exhaust), even when not a visual hazard, may interfere with aircraft control by causing air turbulence. Land uses that produce thermal plumes with the potential to interfere with the safe control of aircraft should be considered incompatible in AOA 1, AOA 2 and the portion of AOA 3 within the boundaries of the Part 77 horizontal and outer approach areas. If the airport staff and the permitting agency determine that a proposed project has the potential to cause a hazard, the burden of proof shall be on the applicant to demonstrate that the proposed project would not create hazardous thermal plumes. Adequate proof could be provided in either of two ways:
  - a. A technical study demonstrating that the proposed project would not create thermal plumes severe enough to compromise the safe control of the smallest aircraft expected to fly over the proposed facility.
  - b. If the FAA has reviewed the proposed project through the 14 CFR Part 77 OE/AAA process, the FAA's final Notice of Determination indicates no objections to the potential thermal plume effects of the proposed project.
6. *Electromagnetic Interference.* Sources of electromagnetic interference with aircraft instrumentation and ground-based radar and navigational aids shall be considered incompatible within the Airport Planning Area (AOA-1, AOA-2, and AOA-3). Examples or potentially problematic sources may include radio transmission facilities, microwave transmission towers, and wind turbines. If the permitting agency suspects that a proposed project may create the potential for electromagnetic interference with aviation navigational or communication equipment, it should consult with the airport staff and bring the matter to the attention of the FAA for study. Typically, the potential for electromagnetic interference would be considered by the FAA through the 14 CFR Part 77 OE/AAA process. If the FAA has reviewed the proposed project, the project sponsor shall be required to comply with any conditions or recommendations relating to the mitigation of electromagnetic interference.
7. *Bird Attractants.* The following land uses, which have the potential to attract birds, should be considered marginally within 10,000 feet of the Airport's Air Operations Area and conditionally compatible between 10,000 feet and 5 statute miles of the Air Operations Area. Where these uses are considered to be conditionally compatible. For both the 10,000 foot and 5 statute mile areas measures should be taken to reduce the risk of attracting birds. For guidance, refer to Federal Aviation Administration, Advisory Circular AC 150/5200-33B, Hazardous Wildlife Attractants on or Near



Airports.

- a. Waste Disposal Operations
- b. Transfer Stations (open or partially open air) that handle waste that are not fully enclosed or lack ventilation and air filtration systems adequate to control odors escaping to the outdoors)
- c. Composting Operations that accept food waste
- d. Water Management Facilities
- e. Stormwater Management Facilities (artificial ponds, including water detention, retention, or recharge ponds, that create above-ground standing water should be considered incompatible within 10,000 feet of the Air Operations Area unless required by other provisions of municipal, county, or state law. Where these facilities are necessary and must be allowed, measures should be taken to minimize the risks of attracting birds.)

In the portion of AOA-3 within the boundaries of the CFR 14 Part 77 horizontal and outer approach surfaces, these uses should be considered compatible only if coordination measures are taken to minimize the risk of attracting birds. In the portion of AOA 3 outside the boundaries of the Part 77 horizontal and outer approach surfaces, waterscapes, including those intended to support aquatic vegetation and animal life, are acceptable; projects within either the 10,000 feet or 5 statute miles of the Air Operations Area are subject to FAA review in accordance with AC 150/5200-33B, Hazardous Wildlife Attractants on or Near Airports. Plans for such proposed developments such as wastewater treatment facilities and associated settling ponds, including any devices or systems used to store, treat, recycle, or reclaim municipal sewage or liquid industrial wastes and artificial marshes designed for wastewater treatment and wetlands mitigation projects shall be circulated to the Phoenix-Mesa Gateway Airport Authority for coordination with the FAA, and for review and comment prior to development.

## **Article 3.3      Santan Freeway Corridor Overlay District**

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### **Sections**

- 3.301      Purposes
- 3.302      Applicability
- 3.303      Development and Notification Requirements within the Santan Freeway Corridor Overlay District

#### **3.301    Purposes**

The purposes of the Santan Freeway Corridor Overlay District are to:

- A.      Designate an area in the Town that is or may be impacted by freeway noise impacts.
- B.      Mitigate the effects of freeway noise impacts on noise sensitive uses, and protect the public health, welfare, and safety by establishing noise reduction requirements applicable to development of noise sensitive uses within the Santan Freeway Corridor Overlay District.
- C.      Ensure compatibility of noise sensitive uses proposed in the Santan Freeway Corridor Overlay District.

#### **3.302    Applicability**

Base zoning district regulations shall apply except to the extent modified by an overlay district. The Official Zoning Map shall identify the Santan Freeway Corridor Overlay District boundaries.

- A.      The provisions of this article shall apply to development of noise sensitive uses located on all property and lots completely or partially located within 300 feet of the exterior edge of the right-of-way boundary on each side of the Santan Freeway alignment.
- B.      Properties that have received zoning approval prior to the effective date of the Santan Freeway Corridor Overlay District on March 30, 2000, shall be required to comply with the provisions of this article and meet the sound attenuation standards set forth in Section 3.303: Development and Notification Requirements within the Santan Freeway Corridor Overlay District.

- C. For the purposes of this article, the following words and terms shall have the following meanings:
1. “Freeway” shall mean a controlled access, divided, grade-separated highway, and all associated rights-of-way, exclusive of retention basins in excess of 1 acre.
  2. “Noise Barrier” shall mean a noise mitigation wall, an earth berm, or a noise mitigation wall in combination with an earth berm that interrupts the path of sound from the sound source to the sound receiver.
  3. “Noise Sensitive Uses” shall mean Single Family and Multi-Family residential uses, Hospitals, Nursing Homes, Place of Worship, libraries, Schools, and Day Care Centers.

### **3.303 Development and Notification Requirements within the Santan Freeway Corridor Overlay District**

A. *Neighborhood Environmental Design Analysis.*

1. *Contact with ADOT.* Prior to submittal of an application for a Rezoning, Use Permit, Preliminary Plat, Final Plat, or Design Review for a noise sensitive use in the Santan Freeway Corridor Overlay District, the applicant shall contact the Arizona Department of Transportation Environmental Planning Group to discuss the scope of the proposed project and receive input.
2. *Application Requirement.* A Neighborhood Environmental Design Analysis shall be submitted with applications for Rezoning, Use Permit, Preliminary Plat, Final Plat, or Design Review for development of noise sensitive uses within the Santan Freeway Corridor Overlay District. 6 copies of the report shall be submitted with the application. The Director of Planning may waive this requirement where he determines that the application is not relevant to the purposes of this Article.
3. *Report Certification.* The Neighborhood Environmental Noise Analysis shall be sealed by a registered engineer or other qualified professional transportation noise analyst. The certifying professional shall certify that the design of the proposed development complies with the requirements set forth in Section 3.303B: Development Standards. The Town shall forward a copy of the Neighborhood Environmental Design Analysis to the Arizona Department of Transportation.
4. *Content.* The Neighborhood Environmental Design Analysis shall include the following:

- a. Site and building design strategies to be employed in the project to minimize the effects of freeway noise. Strategies shall include elements targeted at reducing both interior and exterior noise levels.
  - b. A description of the construction techniques and materials to be employed to reduce interior noise levels to comply with Section 3.303B.8: Interior Noise Level.
  - c. A technical noise report prepared using the federal Traffic Noise Model (TNM), or approved standard federal transportation methodology, supporting the noise mitigation measures outlined in Sections 3.303A.4a and 3.303A.4b. The technical noise report shall establish the height of noise barriers required to meet the standards prescribed by Section 3.303B: Development Standards. The technical noise report shall separately evaluate and discuss exterior and interior noise, and shall be based upon a level of service (LOS) “C” at 70 miles per hour for the adjacent segment of the freeway.
  - d. Any preliminary comments received from the Arizona Department of Transportation Environmental Planning Group on the project.
5. *Updating.* The Neighborhood Environmental Design Analysis shall be updated if construction of the development has not occurred within 5 years from the date the final Neighborhood Environmental Design Analysis is submitted to the Town.

B. ***Development Standards.*** Development of noise sensitive uses within the Santan Freeway Corridor Overlay District shall comply with the following development standards:

1. *Building Height.*
  - a. The height of buildings on lots completely or partially located within 150 feet adjacent to the exterior edge of the right-of-way boundary on each side of the Santan Freeway alignment shall be limited to a single story.
  - b. The Town Council may approve a greater number of stories for non-residential noise sensitive uses if the Neighborhood Environmental Design Analysis demonstrates that the site design of the project will achieve the same or greater reduction of interior noise levels as the height restriction. Modification of the building height regulations of this Section shall be through a Planned Area Development Overlay District pursuant to Article 5.7: Amendments to the Zoning Code Text or Map.
2. *Noise Barriers.* Developers of all noise sensitive uses in the Santan Freeway Corridor Overlay District shall provide noise barriers. In no event shall a noise barrier be less than 8 feet in height. The noise barriers shall:

- a. Achieve an exterior noise level reduction of at least 5 dBA Leq(h) from the levels predicted in the Neighborhood Environmental Design Analysis; and
- b. Meet the noise mitigation levels prescribed by Arizona Department of Transportation noise policy.

The height and design of noise barriers shall be set forth in the Neighborhood Environmental Design Analysis and shall comply with structural standards of the Arizona Department of Transportation.

3. *Deposit of Funds with the Town.* Prior to recordation of a final plat or issuance of a building permit for any portion of a development, the developer shall enter into an agreement with the Town for deposit with the Town of an amount equal to the estimated cost for construction of the noise barrier by the Arizona Department of Transportation.
4. *Developer Construction of Noise Barrier.* The Town may, at its discretion, enter into an agreement with a Developer to permit construction by the Developer of the noise barrier meeting the above requirements on the developer's property. Any such agreement shall provide that:
  - a. Prior to recordation of a final plat or issuance of a building permit for any portion of the development, the developer deposit with the Town a bond in an amount equal to the estimated cost of the noise barrier specified by the Neighborhood Environmental Design Analysis. The cost of the barrier shall be determined by the Town.
  - b. Construction of the noise barrier for the entire project shall be complete prior to issuance of a Certificate of Occupancy for any noise sensitive use, including a model home complex, in the development.
  - c. The agreement binds the property owner, homeowners, or property owners association, to maintain the noise barrier in perpetuity. The estimated costs for 10 years of maintenance expense, as determined by the Town, shall be deposited in a dedicated maintenance reserve account.
5. *Noise Barrier Design.* The noise barrier is subject to Design Review Board approval. The noise barrier shall be designed in accordance with ADOT freeway noise wall standards on the freeway side, and shall be compatible with project design elements on the exterior side.
6. *Noise Barrier Height.* Barriers required pursuant to this section are exempt from the height limitations prescribed by Section 4.109: Fences.

7. *Landscaping.* A developer may contract for additional landscaping to be provided at the developer's expense within or adjacent to the freeway right-of-way.
  8. *Interior Noise Level.* All building construction for noise sensitive uses shall achieve a maximum interior noise level of 43 dBA Ldn. In addition, residential uses shall adhere to the minimum standards for interior noise levels prescribed by the U.S. Department of Housing and Urban Development (HUD). As part of an application for Design Review, the developer shall submit a sealed letter from a registered architect, engineer, or qualified transportation noise analyst certifying that the construction materials, methods, and design employed will achieve the required noise reduction. A copy of the certification shall also be submitted with each application for a building permit and shall be noted on the construction plans.
  9. *Site Design.* Final Design Review plans and preliminary plats shall employ design strategies to minimize the impact of freeway noise. Strategies shall include building orientation and location, the placement of open space, and trails. Site features that are not noise sensitive, such as parking lots and storm water retention areas, should be placed between the freeway and buildings.
- C. ***Public Notification.*** For all residential developments completely or partially located within 1,000 feet of the exterior edge of the right-of-way boundary of the Santan Freeway alignment, developers shall provide the following notice to buyers and tenants:
1. *Final Plats.* Final Plats shall note the following language: "This property, due to its proximity to the Santan Freeway, is likely to experience noise from the freeway, which could be of concern to some individuals."
  2. *Subdivision Public Report.* The subdivision public report filed with the Arizona Department of Real Estate shall include a statement disclosing the property's location relative to the freeway, and further include the following language: "Due to this property's proximity to the Santan Freeway, it is likely to experience noise from the freeway, which could be of concern to some individuals." Prior to the commencement of sales the developer shall provide an affidavit to the Town evidencing compliance with this paragraph.
  3. *Sales and Leasing Office Signs.* Sales and leasing offices for residential developments shall provide notice to prospective buyers or tenants that the development is located within the Santan Freeway Corridor Notification Area. Such notice shall consist of a freestanding sign:
    - a. Measuring at least 4 feet by 4 feet;
    - b. Installed at the entrance to each sales or leasing office;
    - c. Installed prior to commencement of sales, including pre-sales, or leasing and shall remain in place until the sales or leasing office is permanently closed;

- d. Including the following language in letters of at least 1 inch in height: “This development is located within the Santan Freeway Corridor Notification Area. For additional information contact the Arizona Department of Transportation at: “(*Arizona Department of Transportation Community Relations Office telephone number*)”; and
- e. With lettering a minimum of 30 inches above grade.

## **Article 3.4 Heritage District Overlay Zoning District**

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### **Sections**

- 3.401 Purposes
- 3.402 Applicability
- 3.403 Development within the Heritage District Overlay District
- 3.404 Land Use and Development Regulations

### **3.401 Purposes**

The purposes of the Heritage District Overlay Zoning District are to:

- A. Provide for the adoption of Heritage District Design Guidelines for residential and nonresidential development in the Heritage District Overlay Zoning District.
- B. Protect the historic character of the downtown area and promote continuity of that character in new development.
- C. Strengthen pedestrian environment of the downtown area.
- D. Create a compact and diverse downtown.
- E. Establish high quality architecture in new development and redevelopment.
- F. Create a distinct downtown landscape character.
- G. Create coherent and consistent street spaces.
- H. Insure that downtown off-street parking enhances the historic character of the area.
- I. Provide unique development standards and requirements for development in a village, urban, work/live lifestyle.
- J. Encourage redevelopment and reinvestment.

### **3.402 Applicability**

Base zoning district regulations shall apply except to the extent modified by an overlay district. The Official Zoning Map shall identify the boundaries of the Heritage District Overlay Zoning District. The Heritage District Overlay Zoning District boundary is the entire Heritage District area.



The provisions of this Article shall apply to new projects located wholly or partially within the Heritage District Overlay Zoning District.

### 3.403 Development within the Heritage District Overlay District

- A. The Redevelopment Commission, Planning Commission and Design Review Board shall recommend adoption of Heritage District Design Guidelines to the Town Council. The Town Council may adopt Heritage District Design Guidelines.
- B. All development within the Heritage District Overlay Zoning District shall be consistent with the Heritage District Design Guidelines.
- C. Uses and development of land within the Heritage District Overlay District shall conform to the base zoning district regulations and other requirements of the Land Development Code, except as modified by the provision set forth in this Article or by another applicable overlay district.

### 3.404 Land Use and Development Regulations

Table 3.404A: Lot Development Regulations – Single Family Residential Districts sets forth the Development Regulations for Single Family Residential Districts within the Heritage District Overlay Zoning District, which are in addition to the regulations set forth in Article 2.1: Single Family Residential Districts and Division 4: General Regulations.

| <b>Table 3.404A: Lot Development Regulations – Single Family Residential Districts (See Table 2.105 for Non-Residential Uses)</b> |  |             |             |             |
|---|--|-------------|-------------|-------------|
| <b>Standards</b>  | <b>SF-7</b>  | <b>SF-6</b> | <b>SF-D</b> | <b>SF-A</b> |
| Minimum Lot Area (sq.ft. per d.u.)  | 6,000  | 3,000       | 3,000       | 2,000       |
| Maximum Height (ft.)/Stories  | 36   | 36          | 36          | 36          |
| Minimum Building Setbacks (ft.)   |  |             |             |             |
| Front   | 10   | 10          | 10          | 10          |
| Side  | 5 and 5  | 3 and 5     | 0 or 5      | 0           |
| Rear  | 10   | 10          | 10          | 10          |
| Rear (Alley)  | 3  | 3           | 3           | 3           |
| Maximum Lot Coverage (%)  |  |             |             |             |
| One Story   | 65   | 65          | 65          | 65          |
| Two/Three Story   | 55   | 55          | 55          | 55          |
| Street Frontage Landscaping   | See Article 4.3 Landscape Regulations                      |             |             |             |
| Off-Street Parking and Loading  | See Article 4.2 Off-Street Parking and Loading Regulations |             |             |             |
| Exterior Lighting Standards for common open space areas and non-residential uses  | See Section 4.103 Lighting Standards                       |             |             |             |

Table 3.404B: Site Development Regulations – Multi-Family Residential Districts sets forth the Development Regulations for Multi-Family Residential Districts within the Heritage District Overlay Zoning District, which are in addition to the regulations set forth in Section 2.205: Additional Use Regulations and Division 4: General Regulations. Letter designations in the Additional Regulations column refer to regulations that follow Table 3.404B: Site Development Regulations.

**Table 3.404B: Site Development Regulations – Multi-Family Residential Districts**

| <b>Standards</b>   | <b>MF-L</b>  | <b>MF-M</b>   | <b>Additional Regulations</b> |
|--|--|---|-------------------------------|
| Minimum Parcel Area (sq. ft.)                                      | Comply with density per the General Plan Residential >8-14 DU/Acre | Comply with density per the General Plan Residential >14-25 DU/Acre |                               |
| Maximum Height (ft.)   | 36   | 40  |                               |
| Building Step-back   | 10' at 3 <sup>rd</sup> floor                                       | 10' at 3 <sup>rd</sup> floor  | (A)                           |
| Minimum Perimeter Building Setbacks for All Setbacks (ft.)         |  |   |                               |
| <i>Adjacent to Single Family Zoning District</i>                   | 15   | 15  |                               |
| <i>Adjacent to Multi-Family or Non-Residential Zoning District</i> | 10   | 10  |                               |
| Minimum Perimeter Landscape Area for all Setbacks (Depth in ft.)   |  |   |                               |
| <i>Adjacent to Single Family Zoning District</i>                   | 15   | 15  |                               |
| <i>Adjacent to Multi-Family or Non-Residential</i>                 | 10   | 10  |                               |
| Separation between Buildings (ft.)                                 | Default to Building Code   | Default to Building Code  |                               |
| Building Setback to Parking  | See Section 4.203N: Separation from Buildings                      |   |                               |
| Off-Street Parking and Loading                                     | See Article 4.2: Off-Street Parking and Loading Regulations        |   |                               |
| Private Open Space (sq. ft.)                                       | 60   | 60  | (B)                           |
| Common Open Space (minimum)  | 40% of net site  | 40% of net site   | (C)                           |
| Common Open Space  | 1 tree/unit  | 1 tree/unit   | (C)                           |
| Landscaping (Perimeter & Public Street Frontages)                  | 1 tree/20 linear ft.   | 1 tree/20 linear ft.  | (D)                           |
| Exterior Lighting Standards  | See Section 4.103: Lighting Standards                              |   |                               |

**A. Building Step-back.**

1. A building step-back of 10 feet at the third floor for 50% of the linear façade is required whenever development contains a side or rear yard that abuts property designated as Single Family Residential Zoning District. The 10' step back may be reduced to 6' only when a minimum of a 4' projection from the building façade is

used in combination to provide architectural interest and a change in building massing.

2. Architectural Features such as roof overhangs, balconies, canopies or shade structures may encroach into the building step-back at the third floor.
- B. ***Private Open Space.*** Each unit shall contain an exterior private open space. No dimension of private open space shall be less than 6 feet. Private open space shall be covered and screened by a wall of 4 feet in height. Ground floor private open space may be screened by a wall no less than 3 feet, but no more than 8 feet in height. Private open space may be counted towards the common open space requirement.
- C. ***Common Open Space Amenities.*** Common open space shall contain a range of active and passive amenities appropriate to the size of the development.
- D. ***Street Frontage Landscape.*** Unless otherwise permitted by the Zoning Code, street frontage landscape areas shall not contain parking areas, buildings, fences, parking screen walls or other permanent improvements other than sidewalks, permitted signs and lighting.
1. ***Arterial Streets.*** A landscape area adjacent and parallel to the street with a minimum width of 25 feet is required.
  2. ***Arterial/Arterial Intersection.*** A minimum 50 foot wide landscape area shall be established and maintained along the street frontage within a distance of 250 feet of the arterial intersection as measured from the intersection of street lines. One driveway perpendicular to each street frontage within the 50 foot wide landscaped area established above is permitted if no other access is available.

## **Article 3.5: Vertical Development Overlay Zoning District**

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### **Sections:**

- 3.501 Purposes
- 3.502 Applicability
- 3.503 Land Use and Development Regulations

### **3.501 Purposes**

- A. The purposes of the Vertical Development Overlay Zoning District are to:
- B. Permit mid-rise buildings in the Town within a Vertical Development Overlay Zoning District.
- C. Provide development standards and requirements for mid-rise buildings up to 90' and/or 6 stories by right in Vertical Development Overlay Zoning Districts.
- C. Provide development standards and requirements for applications for mid-rise buildings up to 11 stories if approved by the Council.
- D. Support the vision, goals and policies of the Gilbert General Plan by directing development into identified growth areas and promoting compact development for more efficient use of land.
- E. Encourage a vertical mixture of uses, including complimentary retail, office, employment and residential loft units to create a vibrant urban and sustainable environment.
- F. Mitigate potential neighborhood safety, traffic, parking and resource impacts of taller buildings.

### **3.502 Applicability**

- A. Use and development of land within the Vertical Development Overlay Zoning Districts shall conform to the Base Zoning District regulations and other requirements of the Zoning Code, except as modified by the provisions set forth in this article 3.5 or by another applicable Overlay District.
  - 1. If the development standards of this article conflict with the provisions of a Planned Area Development Overlay District adopted by ordinance prior to September 2, 2008, the provisions of the Planned Area Development shall control.

2. Noise sensitive uses in the Santan Freeway Corridor Overlay District shall comply with Section 3.303 of this Code.
  - B. The boundaries of the Vertical Development Overlay Zoning Districts are set forth on the Official Zoning Map.
  - C. The provisions of this Article shall apply to projects on property located wholly or partially within a Vertical Development Overlay Zoning District. Only that portion of a project located within the Overlay District shall be subject to these standards.

### 3.503 Land Use and Development Regulations

**TABLE 3.503A. BUILDING HEIGHTS & SETBACKS – AREAS 1 & 5**

| ZONING DISTRICT | BASE MAXIMUM BUILDING HEIGHT/ STORIES | BONUS* MAXIMUM BUILDING HEIGHT/ STORIES | BONUS* MAXIMUM BUILDING & LANDSCAPE SETBACK REDUCTIONS | ADDITIONAL REGULATIONS |
|-----------------|---------------------------------------|---|--|------------------------|
| RC              | 90’/6                                 | 150’/11                                 | 50% Of Req’d. In RC District                           | (A), (B), (C)          |
| GO              | 90’/6                                 | 150’/11                                 | 50% Of Req’d. In GO District                           | (A), (B), (C)          |
| BP              | 90’/6                                 | 150’/11                                 | 50% Of Req’d. In BP District                           | (A), (B), (C)          |
| PF/I            | 90’/6                                 | 150’/11                                 | 50% Of Req’d. In PF/I District                         | (A), (B)               |

\* Bonus building heights and reduced setbacks may be approved by adoption of a PAD rezoning ordinance setting forth the bonus maximum heights and/or stories or setbacks. See Development/Bonus Matrix in Table 3.503D.

- (A) Base and bonus building heights and reduced setbacks only allowed 200’ or more from property designated for residential uses at less than 14 DU/Acre in the general plan.

- (B) Applications for building permits within Areas 1 and 5 shall include building coordinates and a Federal Aviation Administration determination letter if required per Federal Aviation Regulations Part 77.13 or its successor, if any.
- (C) Base and bonus building heights and reduced setbacks shall not apply to any residential uses within these zoning districts.

**TABLE 3.503B. BUILDING HEIGHTS & SETBACKS – AREA 3**

| ZONING DISTRICT | BASE MAXIMUM BUILDING HEIGHT/ STORIES | BONUS* MAXIMUM BUILDING HEIGHT/ STORIES | BONUS* MAXIMUM BUILDING & LANDSCAPE SETBACK REDUCTIONS | ADDITIONAL REGULATIONS |
|-----------------|---------------------------------------|---|--|------------------------|
| MF/M            | 56’/4                                 | 84’/6                                   | N/A  | (A), (B), (D)          |
| GO              | 90’/6                                 | 150’/11                                 | 50% OF Reqd. In Go District                            | (A), (D)               |
| BP              | 60’/4                                 | 75’/5                                   | 50% Of Reqd. In BP District                            | (A), (D)               |
| GVC             | 90’/6                                 | 150’/11                                 |  | (D)                    |
| GBC             | 90’/6                                 | 150’/11                                 |  | (C), (D)               |

\* Bonus building heights and reduced setbacks may be approved by adoption of a PAD rezoning ordinance setting forth the bonus maximum heights and/or stories or setbacks. See Development/Bonus Matrix In Table 3.503d. In no case shall any building be constructed such that its height is within 25 feet of or penetrate any airport protected surfaces as defined by Federal Aviation Regulation Part 77 or Aviation Industry Standard One Engine Inoperative (OEI) procedures.

- (A) Base and bonus building heights and reduced setbacks only allowed 200’ or more from property designated for residential uses at less than 14 DU/Acre in the General Plan.
- (B) Bonus building height does not require private or common open space set forth in Section 2.204.
- (C) Refer to Section 2.804B. for additional regulations.

- (D) Applications for building permits within Area 3 shall include building coordinates and a Federal Aviation Administration determination letter if required per Federal Aviation Regulations Part 77.13 or its successor, if any.

**TABLE 3.503C. BUILDING HEIGHTS & SETBACKS – AREAS 2 & 4**

| ZONING DISTRICT | BASE MAXIMUM BUILDING HEIGHT/ STORIES | BONUS* MAXIMUM BUILDING HEIGHT/ STORIES | BONUS* MAXIMUM BUILDING & LANDSCAPE SETBACK REDUCTIONS | ADDITIONAL REGULATIONS |
|-----------------|---------------------------------------|---|--|------------------------|
| RC              | 75’/5                                 | 105’/7                                  | 50% Of Req’d. In RC District                           | (A), (B), (C)          |
| GC              | 60/4                                  | N/A                                     |  | (A), (B), (C)          |
| GO              | 75’/5                                 | 105’/7                                  | 50% Of Req’d. In GO District                           | (A), (B), (C)          |
| BP              | 60’/4                                 | N/A                                     |  | (A), (B), (C)          |

\* Bonus building heights and reduced setbacks may be approved by adoption of a PAD rezoning ordinance setting forth the bonus maximum heights and/ or stories or setbacks. See Development/Bonus Matrix in Table 3.503D. In no case shall any building be constructed such that its height is within 25 feet of or penetrate any airport protected surfaces as defined by Federal Aviation Regulation Part 77 or Aviation Industry Standard One Engine Inoperative (OEI) procedures.

- (A) Base and bonus building heights and reduced setbacks only allowed 200’ or more from property designated for residential uses at less than 14 DU/Acre in the general plan.
- (B) Applications for building permits within Areas 2 and 4 shall include building coordinates and a Federal Aviation Administration determination letter if required per Federal Aviation Regulations Part 77.13 or its successor, if any
- (C) Base and bonus building heights and reduced setbacks shall not apply to any residential uses within these zoning districts.

**TABLE 3.503D. DEVELOPMENT/BONUS MATRIX**

Table 3.503D sets forth guidelines for evaluating applications for bonus height and reduced setbacks. The amenities described in the table below are not all-inclusive and are

not intended to permit uses not allowed in the base zoning district. Applicants should consider them as examples of the Town’s expectations. Bonus height and reduced setbacks may be approved when the project demonstrates in the opinion of the Town Council the best mix of uses, the most amenities and desired infrastructure improvements, for the Town.

| DESIRED AMENITY                   | EXPLANATION/NOTES   |
|-----------------------------------|---|
| <u>MIXTURE OF LAND USES</u>       |   |
| EATING & DRINKING ESTABLISHMENTS  | Eating & drinking establishments are especially desirable when they will extend the hours of evening activities.  |
| HOTELS AND COMMERCIAL LODGING     | Hotels provide activity. Hotels with full service restaurants & conference and/or meeting rooms are especially desirable.   |
| OFFICES, GENERAL                  | Offices shall be located above ground floor level.  |
| RESIDENTIAL, PERMANENT LOFT UNITS | Residential lofts at densities greater than 25 DU/Acre are an especially desirable primary use. Density is calculated only on the residential portion of a mixed use project. |
| RETAIL SALES, GENERAL             | Community-based retail, which serves the needs of the immediate community is a substantial asset and should constitute more than 50 percent of the ground floor level.        |
| <u>URBAN FORM</u>                 |   |
| SMALL PARCEL SIZE                 | 5 acre maximum parcel size (Net) creates short blocks & greater lot coverage. Assists in integrating the street, lot, and building.   |
| NEW PUBLIC OR PRIVATE STREET(S)   | Multiple local streets create an intense & fine-grained network to mitigate traffic and integrate the street, lot, and building.  |
| BELOW-GRADE PARKING STRUCTURE     | Below-grade parking is especially desirable for intense employment uses.  |
| <u>DESIGN FEATURES</u>            |   |



|   |  |
|---|--|
| GROUND LEVEL PUBLIC PEDESTRIAN PLAZA(S)                       | Significant, shaded public plazas with the ability to accommodate active uses are desirable. Shading should consist of permanent or solid structures, as well as landscape.                                    |
| PEDESTRIAN-ORIENTED AMENITIES                                 | Sidewalks and hardscape areas with decorative patterns; pedestrian scale lighting, outdoor seating, sidewalk cafes, planter pots or walls, fountains, tree grates, sculptures, arcades, artwork &/ or awnings. |
| “GREEN” BUILDING & SUSTAINABLE DESIGN FEATURES                | Green buildings, LEED certified, including active and passive solar design, passive cooling, cool pavement and cool roofing are environmentally sound methods to achieve sustainable development.              |
| BUILDINGS ARE ARTICULATED & DETAILED, WITH CHANGES IN MASSING | Design quality is highly desirable. Buildings must display vertical and/ or horizontal articulation and break down mass into human scale.  |
| MINIMAL REFLECTIVITY & GLARE                                  | Windows and other reflective elements on taller buildings should minimize the visual impact on nearby uses.  |
| SOLAR SHADING   | Staff may require submittal of a solar study showing that a building will not significantly increase solar shading of adjacent land.   |

## **Division 4          General Regulations**

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**Article 4.1    Site Regulations**

**Article 4.2    Off-Street Parking and Loading Regulations**

**Article 4.3    Landscape Regulations**

**Article 4.4    Sign Regulations**

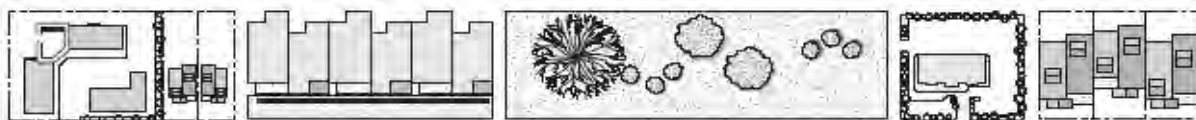
**Article 4.5    Supplemental Use Regulations**

**Article 4.6    Non-Conforming Uses, Lots, Parcels, Structures and Signs**

**Article 4.7    Wireless Communication Facilities**

**Article 4.8    Over-The-Air Reception Devices, Large Satellite Dishes, Satellite Earth Stations, and Amateur Radio Facilities**

**Article 4.9    Common Area Ownership and Maintenance**



## **Article 4.1            Site Regulations**

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### **Sections**

- 4.101        Encroachments into Building Setback and Interior Building Separation Areas
- 4.102        Projections above Height Limits
- 4.103        Lighting Standards
- 4.104        Outdoor Business Property Storage
- 4.105        Screening of Mechanical and Electrical Equipment
- 4.106        Refuse and Recycling Enclosures
- 4.107        Swimming Pools
- 4.108        Underground Utilities
- 4.109        Fences

### **4.101    Encroachments into Building Setback and Interior Building Separation Areas**

- A.        The building setback areas in all districts shall remain unobstructed except where permitted by this Section.
- B.        For single family uses in single family residential districts, these regulations are in addition to those set forth in Article 2.1: Single Family Residential Districts.
- C.        For all uses in single family residential districts, balconies, stairs, chimneys, canopies, decks, covered patios, and awnings may encroach no more than 3 feet into any required building setback area.
- D.        In multi-family and nonresidential districts, canopies and awnings may encroach no more than 3 feet into any required building setback or interior building separation area.
- E.        For single family uses in single family residential districts, bay windows may encroach no more than 3 feet into any required building setback area. A bay window encroachment shall not exceed 1/3 the length of the wall plane upon which it is located.
- F.        Belt courses, cornices, window sills, pop-outs, quoins, and similar decorative architectural features may encroach no more than 18 inches into any required building setback or interior building separation area.
- G.        Roof overhangs may encroach no more than 5 feet into a required side building setback or interior building separation area, but shall not be closer than 3 feet from a side property line.
- H.        In single family residential districts except SF-D and SF-A districts, roof overhangs may encroach no more than 18 inches into a required rear building setback area.

- I. For single family uses in single family residential districts, covered porches may project up to 6 feet into the required front building setback area. In no case shall the front building setback be less than 10 feet.
- J. Separation fences, located on a side or rear property line, may encroach into any required side and rear building setback area.
- K. Freestanding signs may encroach into required building setback areas, pursuant to Article 4.4: Sign Regulations.
- L. Accessory structures may encroach into required side and rear building setback areas, pursuant to Section 2.106B: Accessory Structures; Section 2.205A: Accessory Structures; Section 2.305A: Accessory Structures; and Section 2.505A: Accessory Structures.
- M. Outdoor lighting fixtures may encroach into required building setback areas, pursuant to Section 4.103: Lighting Standards.

#### **4.102 Projections above Height Limits**

The following projections above base district height limits are permitted:

- A. Belfries, domes, chimneys, cupolas, skylights, clock towers and other similar structural elements not used for human occupancy, may project above the base district height limit, provided that they do not cover more than 20 percent of the roof area.
- B. Mechanical equipment and enclosures, elevator penthouses, ventilators, and other similar equipment, may project up to 5 feet above the base district height limit, but may not exceed the height of parapet walls.
- C. Parapet walls or cornices may project up to 5 feet above the base district height limit.
- D. Theater scenery lofts only to the height necessary to accomplish their purpose.
- E. Church steeples, religious symbols, or similar elements on Places of Worship.
- F. Signs, pursuant to Article 4.4: Sign Regulations.
- G. Flagpoles, pursuant to Section 4.402G: Flagpoles.
- H. Wireless communications facilities, pursuant to Article 4.7: Wireless Communication Facilities.

- I. Over-the-Air Reception Devices, Large Satellite Dish Antennas, Satellite Earth Stations, and Amateur Radio Facilities pursuant to Article 4.8: Over-The-Air Reception Devices, Large Satellite Dishes, Satellite Earth Stations, and Amateur Radio Facilities.

#### 4.103 Lighting Standards

- A. **Applicability.** Parking lot, security, common open space, and wall mounted lighting, other than on single family residences, shall be located, developed, and operated in compliance with the following regulations:
  - 1. All outdoor fixtures, other than bollard lighting, not shielded as set forth in the Gilbert Municipal Code, Chapter 42, Article II, Section 42-34 shall be set back from all property lines by a minimum of:
    - a. 10 feet; or
    - b. A distance equal to the height of the fixture.
  - 2. As set forth in Section 4.303P.4, the only permitted outdoor light fixtures within required perimeter landscape areas separating nonresidential uses from residential uses and separating multi-family residential uses from single family residential uses shall be bollard lighting.
  - 3. Parking lot and pole mounted security lighting shall not exceed a maximum mounting height of 14 feet within:
    - a. 100 feet of a residential district boundary; or
    - b. 100 feet of land designated for residential use in the General Plan. In all other areas, parking lot and security lighting shall not exceed a maximum mounting height of 25 feet.
  - 4. Wall-mounted fixtures shall be a maximum height of 14 feet above grade, measured to the bottom of the light source. Wall-mounted fixtures shall be full cutoff type.
  - 5. Wall-, soffit- mount, and similar exterior building light fixtures in excess of 14 feet above grade may be approved by the Design Review Board. In addition to the findings required for approval of a project in Section 5.603B: Findings for Approval, the design review board shall establish the following findings:
    - a. The fixtures are used for the purpose of: accentuating architectural features of the building, accentuating signage, accentuating landscape or hardscape features, security, or for service areas; and

- b. The fixtures are located on building elevations that do not side onto property designated for residential use in the General Plan.
  - 6. Pole-mounted fixtures shall be full- or semi-cutoff type only. Semi-cutoff pole-mounted fixtures are limited to a maximum height of 14 feet above grade, measured to the bottom of the light source.
  - 7. All lighting under fueling facility canopies, drive-through canopies, customer loading canopies, and similar structures shall be fully recessed. No portion of the fixture shall project below the ceiling of the canopy structure.
- B. ***Municipal Code Compliance.*** Additional light and glare regulations are set forth in Gilbert Municipal Code Chapter 42, Article II, Section 42-34.

#### **4.104 Outdoor Business Property Storage**

The purpose of this section is to regulate outdoor storage of business property. This section does not apply to Outdoor Personal Property Storage. Unless otherwise provided for in a specific base zoning district, outdoor storage shall comply with the following requirements:

- A. Business property storage shall be limited to inventory, stock, supplies, equipment, and similar material not displayed for sale, rental, or lease;
- B. The maximum percentage of a lot that may be used for outdoor storage is set forth in each base zoning district;
- C. Outdoor storage areas shall be enclosed by a solid fence;
- D. The height of the fence is set forth in each base zoning district;
- E. Stored materials shall not exceed the height of the fence, except in the General Industrial and Public Facilities/Institutional zoning districts;
- F. Outdoor storage areas in all districts shall not be located in a required landscape area;
- G. Outdoor storage areas are prohibited in building setback areas in all zoning districts, except in the Light Industrial and General Industrial districts;
- H. Outdoor storage areas shall be surfaced with concrete, asphalt, decomposed granite, or other approved dust free surface;
- I. Unless otherwise required by the Fire Marshal, access aisles to outdoor storage areas shall be surfaced with a minimum of a 4-inch-thick road base on compacted soil with dust palliative to support emergency apparatus and to reduce particulate matter; and

- J. All driveways accessing outdoor storage areas shall be paved with asphalt or concrete within 50 feet of a street or alley.

#### **4.105 Screening of Mechanical and Electrical Equipment**

- A. ***Applicability.*** This section applies to:

1. All nonresidential uses.
2. Residential uses in single family districts.
3. Multi-family residential uses.
4. Subdivision common area facilities.
5. Public facility and institutional uses.

- B. ***Equipment Subject to Screening Requirements.***

1. *Nonresidential Uses.*
  - a. The following equipment shall be fully screened in accordance with this section: Ground-, building- and roof-mounted mechanical and utility equipment. Such equipment includes, but is not limited to, heating and air conditioning equipment, refrigeration equipment, electrical equipment and meters, storage tanks, transformers, backflow prevention devices, exhaust fans, and vents. Over-The-Air Reception Devices, Large Satellite Dishes, Satellite Earth Stations, and Amateur Radio Facilities are regulated by Article 4.8: Over-The-Air Reception Devices, Large Satellite Dishes, Satellite Earth Stations, and Amateur Radio Facilities.
  - b. Mechanical and electrical equipment listed in Section 4.105B.1a. shall be fully screened from view from public and private streets, areas accessible to the general public, and from areas shown for residential use in the General Plan. If the Design Review Board, or for Administrative Design Review, the Director of Planning, determines that the equipment will only be visible from permanently unoccupied areas, the screening requirement may be waived or modified. The screening method shall be depicted on plans submitted with applications for design review and building permits. (SEE APPENDIX 1, FIGURE 4)
  - c. Roof-mounted mechanical equipment shall be fully screened by a parapet wall or other building elements equal to or exceeding the height of the mechanical units. These building elements shall be an integral part of the building design. Separate mechanical equipment screen enclosures or fences are prohibited.

- d. Utility equipment such as electric and gas meters, junction boxes, and similar equipment shall be screened using architecturally compatible fences or landscaping. Service entrance section (SES) panels shall be fully recessed into the building elevation and enclosed by lockable exterior doors, or shall be screened by a decorative fence equal to or exceeding the height of the SES panel.
- e. Utility transformers, backflow prevention devices over 2 inches in diameter, and similar equipment shall be located to minimize their view from public streets, walkways, public and private parks, plazas, etc. These devices shall be located in areas that are not immediately adjacent to streets, driveways, parking lots, or public gathering areas. Where visible from these areas, the equipment shall be oriented so that it can be screened with berms, fences, landscaping, or a combination thereof, while maintaining required access to the equipment.
- f. All backflow prevention devices larger than 2 inches shall be screened with landscaping located within a six 6 foot radius of the device. All devices 2 inches or smaller shall be placed in a locked wire mesh cage painted to match the color of the primary building or adjacent fence.

2. *Residential Uses in Single Family Districts.*

- a. Roof-mounted mechanical equipment is prohibited. Ground mounted mechanical equipment shall be screened from public view by a minimum of a 4 foot high fence.
- b. All backflow prevention devices larger than 2 inches shall be screened with landscaping located within a 6 foot radius of the device. All devices 2 inches or smaller shall be placed in a locked wire mesh cage painted to match the color of the primary building or adjacent fence.

3. *Multi-Family Residential Uses.*

- a. Roof-mounted mechanical equipment shall be fully screened by a parapet wall or other building elements equal to or exceeding the height of the mechanical units. These building elements shall be an integral part of the building design. Separate mechanical equipment screen enclosures or fences are prohibited.
- b. Ground mounted mechanical equipment shall be screened from public and common area view by a decorative screen fence. The fence shall exceed the height of the equipment by at least 1 foot.



- c. All backflow prevention devices larger than 2 inches shall be screened with landscaping located within a 6 foot radius of the backflow device. All devices 2 inches or smaller shall be placed in a locked wire mesh cage painted to match color of the primary building or adjacent fence.

#### **4.106 Refuse and Recycling Enclosures**

- A. **Applicability.** Enclosures for refuse and recycling container storage are required for all multi-family residential and all nonresidential developments, except as otherwise provided in the Gilbert Municipal Code. The Public Works Director may authorize the use of refuse and recycling container enclosures in high density single family residential developments.
- B. **Standards.** Refuse and recycling enclosures shall comply with the following requirements:
  - 1. Refuse and recycling enclosures shall not be located in any required perimeter landscape area.
  - 2. Refuse and recycling enclosures shall be set back a minimum of 3 feet from any access aisles, driveways, and travel ways.
  - 3. Enclosure gates shall not open into any access aisles, driveways, travel ways, parking space, or landscape area.
  - 4. Refuse and recycling enclosures shall be a minimum height of 6 feet and shall fully screen containers, compactors, and similar equipment from view.
  - 5. The Design Review Board may waive enclosures for refuse and recycling containers within the Light Industrial and General Industrial districts when located within a gated, fenced area and screened from view.
- C. **Materials and Design.** Refuse and recycling storage areas shall be constructed and maintained as follows:
  - 1. Enclosures shall be constructed of solid masonry or concrete with a decorative exterior.
  - 2. Gates shall be constructed of solid heavy gauge metal or a heavy gauge metal frame with an opaque covering. Chain link gates are prohibited.

3. Enclosures shall be protected from adjacent vehicle parking and driveways by a 6-inch, poured-in-place concrete curb or other approved material. The curbing design shall meet the minimum requirements set forth in Maricopa Association of Governments Standard Detail No. 222 for single curbs.

#### **4.107 Swimming Pools**

##### **A. *Location.***

1. *Residential Districts.* In any residential district, private swimming pools shall be located in the side or rear yards and shall not be any closer than 3 feet from any property line and may not be located within any recorded easement except with a written approval of the easement holder. In case of a corner lot, a pool may not be located closer than 5 feet to the street side property line. Minimum width of yards for pools adjacent to an alley, an alley easement, a street, or an existing building shall not be less than the depth of the pool adjacent thereto unless approved in writing by the Building Inspections Department and in no case shall the yards be reduced to less than 3 feet in the side or rear yard, or 3 feet in the street side yard.
2. *Nonresidential Districts.* In any district other than those above, a private swimming pool or a semi-public swimming pool shall not be closer than 7 feet to any property line, except that in the case of a corner lot, a swimming pool shall not be closer than 10 feet to the side property line on the street side; and if located in other than the side yard, rear yard, or in a court or other open space which is more than 50 percent surrounded by a building, the same shall be subject to the grant of a use permit as hereinafter provided.
3. *Public Swimming Pools.* No public swimming pool shall be located closer than 25 feet to any lot line on the lot on which it is situated.

##### **B. *Enclosures and Gates.***

1. *Enclosures.* All swimming pools shall be enclosed by walls of a single family residential building or by a solid wall or a chain link or wrought iron fence not less than 5 feet nor more than 6 feet in height. If the design or the material of the fence or gate is such that there are openings, such openings shall be of a size to prohibit a spherical object 4 inches in diameter from passing through or under the fence or gate.
2. *Gates.* All gates shall be substantially the same height as the wall or the fence and shall be self-closing and self-latching and be constructed in such a manner as to prevent uninvited access.

C. ***Exceptions.***

1. The above regulations shall not apply to non-permanent wading pools made of rubber, plastic or similar materials and containing water up to a maximum depth of not more than 18 inches.
2. Where the premises upon which the pool is located abuts a body of water in an approved Planned Area Development, the fence enclosure parallel to the water shall not be required provided that the abutting enclosure extends horizontally 18 inches beyond the lake bank. For purposes of this exception, the word "abutting" shall mean terminating at the point of contact with the lakeside edge of the bank.
3. Double width gates which are not the sole means of ingress and egress shall not be required to be self-closing and self-latching but must be padlocked at all times when not being used.

**4.108 Underground Utilities**

On-site electric utility, cable television, and all other communication and utility distribution lines providing direct service to a development shall be placed underground. Overhead wires are prohibited.

**4.109 Fences**

These fence regulations are in addition to the requirements of Section 4.104: Outdoor Business Property Storage and Article 4.2: Off-Street Parking and Loading Regulations.

A. ***Residential Districts.***

1. *Single Family Residential Districts.*
  - a. In all single family residential districts, except SF-43 and SF-35, fences within the required front setback area shall not exceed a height of 3 feet. Any fence located in the side or rear setback area shall not exceed a height of 8 feet. A fence constructed on a side or rear property line shall not exceed a height of 8 feet from finished grade on either side of the fence.

- b. In SF-43 and SF-35 residential districts, other than open fencing, fences within the required front setback shall not exceed a height of 3 feet. Open fencing within the required front setback area shall not exceed a height of 6 feet. Any fence located in the side or rear setback area shall not exceed a height of 8 feet. A fence constructed on a side or rear property line shall not exceed a height of 8 feet from finished grade on either side of the fence. (SEE APPENDIX 1, FIGURE 5)
  - c. A separation fence is required when a single family residential use is adjacent to an arterial street, a multi-family district or use, or a nonresidential district or use. The fence shall be 8 feet in height and located on a property line and outside of any required landscape area. The Planning Commission may modify these requirements pursuant to Section 4.109G: Modification of Separation Fence Requirements.
  - d. Golf ball safety nets and associated poles are permitted in the side and rear setback area of lots adjacent to a golf course or driving range.
  - e. Chain link or woven wire tennis and sport court fencing is permitted within the building envelope.
2. *Multi-Family Residential Districts.*
- a. In multi-family residential districts no fence is permitted in the required front setback area. No fence shall exceed a height of 8 feet. A fence constructed on a side or rear property line shall not exceed a height of 8 feet from finished grade on either side of the fence.
  - b. A separation fence is required when a multi-family residential use is adjacent to a single family residential district or use or a nonresidential district or use. The fence shall be 8 feet in height and located on a property line and outside of any required landscape area. The Planning Commission may modify these requirements pursuant to Section 4.109G: Modification of Separation Fence Requirements.
  - c. Golf ball safety nets and associated poles are permitted in the side and rear setback area of lots adjacent to a golf course or driving range.
  - d. Chain link or woven wire tennis and sport court fencing is permitted in the building envelope.
3. *Temporary Fencing.* Temporary fencing is permitted in conjunction with:
- a. Construction sites.

- b. Temporary uses pursuant to Section 4.5012: Temporary Uses.
- c. Special events, pursuant to a Special Event permit.

4. *Prohibitions.*

- a. Barbed wire, razor wire, and electric fences are prohibited except as permitted in Gilbert Municipal Code Sec. 42-110: Fences, barbed wire and electric.
- b. Except at recreation facilities, the use of permanent chain link, woven wire, and similar fence material is prohibited.
- c. Except as permitted in Sections 4.107B: Enclosures and Gates, 4.109A.1e, 4.109A2.d, the use of permanent chain link fence material is prohibited.

**B. Commercial and Office Districts and Uses.**

1. *Requirement.* A solid separation fence is required when a commercial or office district or use is adjacent to a single family residential or multi-family residential district or use or adjacent to a Light Industrial or General Industrial district. The fence shall be 8 feet in height and located on a property line and outside of any required landscape area. A fence constructed on a side or rear property line shall not exceed a height of 8 feet from finished grade on either side of the fence. The Planning Commission may modify these requirements pursuant to Section 4.109G: Modification of Separation Fence Requirements.
2. *Temporary Fencing.* Temporary fencing is permitted in conjunction with:
  - a. Construction sites.
  - b. Temporary uses pursuant to Section 4.5012: Temporary Uses.
  - c. Special events, pursuant to a Special Event permit.
3. *Prohibitions.*
  - a. Barbed wire, razor wire, and electric fences are prohibited except as permitted in Gilbert Municipal Code Sec. 42-110: Fences, barbed wire and electric.
  - b. Except at recreation facilities, the use of chain link, woven wire, and similar fence material is prohibited.
  - c. Except as permitted in Section 4.107B: Enclosures and Gates, the use of permanent chain link is prohibited.

**C. *Employment Districts.***

1. *Business Park.* A solid separation fence is required when a Business Park district is adjacent to a single family residential or multi-family residential district or use or adjacent to a General Industrial district. The fence shall be 8 feet in height and located on a property line and outside of any required landscape area. A fence constructed on a side or rear property line shall not exceed a height of 8 feet from finished grade on either side of the fence.
2. *Light Industrial.* A solid separation fence is required when a Light Industrial district is adjacent to a single family residential or multi-family residential district or use or adjacent to a General Industrial district. The fence shall be 8 feet in height and located on a property line and outside of any required landscape area. A fence constructed on a side or rear property line shall not exceed a height of 8 feet from finished grade on either side of the fence. Permanent chain link, woven wire, and similar fence material is permitted in areas not visible from streets. Such fences shall not exceed the height of the separation fence.
3. *General Industrial.* A solid separation fence is required when a General Industrial district is adjacent to a single family residential or multi-family residential district, commercial or office district or use, or adjacent to a Business Park or Light Industrial district. The fence shall be 8 feet in height and located on a property line and outside of any required landscape area. A fence constructed on a side or rear property line shall not exceed a height of 8 feet from finished grade on either side of the fence. Permanent chain link, woven wire, and similar fence material is permitted in areas not visible from streets. Such fences shall not exceed the height of the separation fence.
4. *Temporary Fencing.* Temporary fencing is permitted in conjunction with:
  - a. Construction sites.
  - b. Temporary uses pursuant to Section 4.5012: Temporary Uses.
  - c. Special events, pursuant to a Special Event permit.
5. *Prohibitions.*
  - a. Barbed wire, razor wire, and electric fences are prohibited except as permitted in Gilbert Municipal Code Sec. 42-110: Fences, barbed wire and electric.
  - b. Except as permitted in Section 4.107B: Enclosures and Gates, permanent chain link, woven wire, and similar fence material is prohibited in Light and General Industrial districts in locations visible from streets.

D. **Public Facility/Institutional District.**

1. *Requirement.*

- a. A solid separation fence is required when a Public Facility/Institutional district is adjacent to a single family residential or multi-family residential district or use or as otherwise required by the Planning Commission or Zoning Administrator as a condition of a use permit approval.
- b. The fence shall be 8 feet in height and located on a property line or outside of any required landscape area. A fence constructed on a side or rear property line shall not exceed a height of 8 feet from finished grade on either side of the fence. Except as required by the Planning Commission or Zoning Administrator as a condition of use permit approval, the Planning Commission may modify these requirements pursuant to Section 4.109G: Modification of Separation Fence Requirements.

2. *Temporary Fencing.* Temporary fencing is permitted in conjunction with:

- a. Construction sites.
- b. Temporary uses pursuant to Section 4.5012: Temporary Uses.
- c. Special events, pursuant to a Special Event permit

3. *Prohibitions.*

- a. The use of barbed wire, razor wire, and electric fences are prohibited except as permitted in Gilbert Municipal Code Sec. 42-110: Fences, barbed wire and electric.
- b. Except at recreation facilities, the use of chain link, woven wire, and similar fence material is prohibited in locations visible from streets.
- c. Except as permitted in Section 4.107B: Enclosures and Gates, the use of permanent chain link is prohibited.

E. **Construction Standards.** All fences, except those on single family residential lots, shall be constructed of a minimum of 8 inch wide concrete block, exclusive of decorative elements.

F. **Maintenance.** All fences shall be permanently maintained in good condition and repaired or replaced when necessary to ensure continued compliance with the requirements of this section.

- G. ***Modification of Separation Fence Requirements.*** The Planning Commission may approve modifications to the requirement for separation fences between single family and multi-family residential districts or uses; single family residential uses adjacent to an arterial street; residential and nonresidential districts or uses; commercial and office districts or uses adjacent to a Light Industrial or General Industrial district; and Public Facility/Institutional district adjacent to a single family residential or multi-family residential district or use.
1. ***Application.*** An application for Modification of Separation Fence Requirements shall be filed with the Development Services division in accordance with the procedure and provisions for application, public notice, staff report, and public hearing set forth in Section 5.402B: Conditional and Special Use Permits.
  2. ***Action.*** The Planning Commission shall approve, approve with modifications and/or conditions, or deny the proposed modification to the separation fence requirements. If the Planning Commission fails to take action within 90 days after closing the public hearing, the Planning Commission shall be deemed to have denied the application.
  3. ***Findings.*** The Planning Commission may approve the proposed modification of separation fence requirements or may approve the proposal with modifications and/or conditions only after making the following findings of fact:
    - a. The proposed modification will not be detrimental to health, safety, or general welfare of persons living or working in the surrounding area, to adjacent property, to the neighborhood, or to the general welfare of the town as a whole;
    - b. The proposed modification conforms with the purposes, intent, and policies of the General Plan and any applicable area, neighborhood, or other plan adopted by the Town Council;
    - c. The proposed modification conforms with all other conditions, requirements, or standards required by the Zoning Code and any other applicable local, state, or federal requirements;
    - d. The project is compatible with adjacent and nearby development;
    - e. The owners of a majority of all real, contiguous property that are subject to the separation fence requirements have approved modification of the separation fence requirements by submitting a notarized letter of approval, along with a site plan depicting the location of the separation fence to be modified, to the Director of Planning; and
    - f. The separation fence is not a condition of a Final Design Review or a use permit approval as set forth in Section 4.109D.1: Requirement.



4. *Revocation.* Modification to separation fence requirements may be revoked by the Planning Commission following a public hearing if the uses or districts change, should the uses become incompatible, or because of failure to comply with the conditions of the approval.
  - a. *Initiation of Revocation.* Proceedings for the revocation may be initiated by the Zoning Administrator. The Zoning Administrator shall prepare a written report to the Planning Commission that contains the following information:
    - (1) The separation fence modification to be revoked;
    - (2) The property to which the modification applies; and
    - (3) The reason or reasons for the proposed revocation.
  - b. *Notice of Revocation Hearing.* Notice of a revocation hearing shall be given by first class mail at least 15 days prior to the hearing as follows:
    - (1) To the property owner(s) of record;
    - (2) To the property address; and
    - (3) To the business address.

Notice of the public hearing shall be published at least 15 days prior to the date of the hearing at least once in a newspaper of general circulation published or circulated within the Town of Gilbert.

Notice shall be posted at least 15 days prior to the date of the hearing at 3 public places within the town designated by Town Council resolution for posting of public notices.
  - c. *Hearing.* The revocation hearing shall be held in accordance with the procedures for public hearing set forth in section 5.206: Public Hearing Procedures.
  - d. *Required Findings.* In order to revoke the modification to separation fence requirements, the Planning Commission shall make one or more of the following findings:
    - (1) One or more of the terms of conditions of the modification have been violated or there has been a violation of other applicable laws or regulations;

- (2) The neighboring uses or zoning districts have changed, or
  - (3) The neighboring uses have become incompatible.
- c. Action. Upon revocation, the Zoning Administrator shall set forth the decision in a Notice of Decision describing the Planning Commission's action, with its findings. The Notice of Decision shall be sent via first class mail to:
- (1) To the property owner of record;
  - (2) To the property address; and
  - (3) To the business address.
5. *Appeals.* Any decision to modify the separation fence requirements may be appealed to the Town Council pursuant to Section 5.2011: Procedures for Appeals.

## **Article 4.2      Off-Street Parking and Loading Regulations**

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### **Sections**

|        |   |
|--------|---|
| 4.201  | Purposes  |
| 4.202  | Applicability   |
| 4.203  | General Provisions  |
| 4.204  | Number of Parking Spaces Required   |
| 4.205  | Number of Parking Spaces Required for Shopping Center and Regional Commercial |
| 4.206  | Dimensions for Parking Spaces and Aisles                                      |
| 4.207  | Parking Access  |
| 4.208  | Driveway Widths   |
| 4.209  | Surfacing   |
| 4.2010 | Drive-Through and Take-Out Facilities   |
| 4.2011 | Passenger Loading Areas   |
| 4.2012 | Screening, Landscaping and Lighting   |
| 4.2013 | Parking Space and Aisle Setbacks at Arterial Driveway Entrances               |
| 4.2014 | Parking for Persons with Disabilities   |
| 4.2015 | Off-Street Loading  |
| 4.2016 | Bicycle Parking   |

### **4.201 Purposes**

The purposes of the off-street parking and loading regulations are to:

- A. Ensure that adequate but not excessive parking is provided for new land uses and major alterations to existing uses to meet the parking needs created by such uses.
- B. Establish regulations for new uses, new or relocated buildings and buildings that have been altered or expanded.
- C. Ensure that off-street parking and loading areas are designed and located to protect the public safety, minimize congestion, reduce solar heat gain for unshaded parking areas, minimize traffic conflicts and congestion on parking aisles and public streets, and buffer surrounding land uses and public areas from visual and noise impacts.
- D. Ensure pedestrian-friendly parking areas by providing for safe pedestrian routes, parking lot lighting, parking spaces sized for contemporary vehicles, and trees for shade.
- E. Provide for the accessibility needs and requirements of disabled and elderly persons.

## 4.202 Applicability

These regulations apply to new uses and expansion of existing uses.

## 4.203 General Provisions

- A. **Required Parking.** All required parking shall be provided on site, except as provided in Section 4.203G: Shared Parking and Section 4.203I: Off-Site Parking in the Heritage Village Center Zoning District. The number of parking spaces required for individual uses in the Zoning Code is set forth in Section 4.204: Number of Parking Spaces Required. The number of parking spaces required for uses in Shopping Center and Regional Commercial districts is set forth in Section 4.205: Number of Parking Spaces Required for Shopping Center and Regional Commercial.
- B. **Required Parking and Parking Lot Landscaping for Structures that are Altered.** The parking and parking lot landscaping requirements of this article shall apply when an existing structure is altered. When a nonconforming structure is altered, the non-conforming parking and landscaping shall be modified to reduce or eliminate the non-conformity. The percentage of the parking and landscaping that is permitted to remain non-conforming shall be determined by the Director of Planning for Administrative Design Review and the Design Review Board for Design Review applications.
- C. **Uses Not Mentioned.** Parking requirements for a use not identified in this article shall be determined by the Zoning Administrator based on parking requirements for the most similar use listed in Article 6.1: Use Definitions. The Zoning Administrator may require submission of a parking study prepared by a person licensed to prepare such study.
- D. **Fractional Spaces.** If the number of parking spaces required in this article results in a fraction, the required number shall be rounded to the nearest whole number. For example, if the computed requirement equals 9.5 spaces, 10 spaces are required. If the computed requirement equals 9.4 spaces, 9 spaces are required.
- E. **Computation of Required Parking for Residential Use.** Residential parking for multi-family uses shall be based on the number of bedrooms. Any rooms defined as bedrooms by the Town of Gilbert building code shall be counted as a bedroom for the purpose of determining off-street parking requirements.
- F. **Visitor Parking.** On-street parking may be counted toward the visitor parking requirement for developments in the Single Family Detached (SF-D), Single Family Attached (SF-A), Multi-Family/Low (MF/L), and Multi-Family/Medium (MF/M) zoning districts provided that the street has a minimum 8.5 foot wide legal parking area exclusive of travel lanes. To qualify as one visitor parking space, there shall be an uninterrupted 22 foot long space and a sidewalk adjacent to the parking side of the street. The Town may require on-street visitor parking spaces to be striped.

G. **Shared Parking.** Where a use generates parking demand primarily during hours when an adjacent use or uses are not in operation or generate shared trips, a reduction of up to 50 percent of the required parking may be approved by an Administrative Use Permit. The Administrative Use Permit shall terminate if the use changes. The application shall include:

1. Submission of a parking study prepared by a person licensed to prepare such study;
2. Proposed documents for recordation of cross-easements for parking purposes satisfactory to the Town Attorney; and
3. Proposed documents satisfactory to the Town Attorney to ensure maintenance of the shared parking spaces.

H. **Deferred Parking for Unique Uses.** Where a business has or will have a unique parking demand, a deferral of up to 50 percent of the required parking may be approved by an Administrative Use Permit. The Administrative Use Permit shall terminate if the use changes. The application shall include:

1. A parking study prepared by a person licensed to prepare such study; and
2. A site plan showing all required parking areas and parking areas proposed to be deferred.

I. **Off-Site Parking in the Heritage Village Center Zoning District and Gateway Districts.** Where a nonresidential use in the Heritage Village Center or Gateway zoning districts cannot provide all the required parking spaces on site, off-site parking may be approved by an Administrative Use Permit. The Administrative Use Permit shall terminate if the use changes. The application shall demonstrate that:

1. The off-site parking spaces shall be located within 1,000 feet of the use;
2. The off-site parking spaces shall be improved to the standards set forth in this article;
3. Cross-easements for parking shall be recorded in a form satisfactory to the Town Attorney, or evidence provided of adequate public parking; and
4. All state and federal accessibility requirements shall be met.

The Administrative Use Permit may require the provision of a minimum number of on-site parking and loading spaces.

- J. ***Temporary Use of Parking Area.*** Unless otherwise prohibited by the Zoning Code, the temporary use of parking areas for uses other than parking is permitted provided that:
1. The non-parking use complies with all license requirements;
  2. The use does not occupy any parking spaces required by Tables 4.204: Off-Street Parking Requirements or 4.205: Off-Street Parking Requirements for Shopping Center and Regional Commercial districts of this Article;
  3. The use does not interfere with fire or emergency vehicle access;
  4. The use does not create a traffic hazard or interfere with vehicular or pedestrian circulation on the site;
  5. The use provides accessible parking in accordance with applicable laws; and
  6. The non-parking use is conducted with written property owner authorization.
- K. ***Parking for Age Restricted Uses or to Comply with the Americans with Disabilities Act.*** A reduction in parking requirements for a multi-family age restricted use may be approved by an Administrative Use Permit where the project is restricted by covenant or deed restriction to an age restricted use. Any such approval shall be based on a parking study or other acceptable evidence that supports the requested parking reduction. In no event shall required parking be reduced below 0.5 parking spaces per dwelling unit. Parking requirements for the multi-family use shall revert to those specified in this article if age restrictions are no longer in effect.
- L. ***Restrictions on Parking in Commercial and Office Districts.***
1. Recreational vehicles, trailers, commercial vehicles or combinations of vehicles exceeding 21 feet in length, not owned or operated by a business on the property, shall not be parked within any commercial zoned property, except for the purpose of loading, unloading, service, or patronizing a commercial use on the site; and
  2. In commercial districts, no vehicle shall be parked overnight and used for permanent or temporary habitation.
- M. ***Prohibited Parking.*** Parking shall be prohibited in the following locations:
1. Fire lanes;
  2. Required landscape areas;
  3. Unimproved properties or portions of properties in nonresidential and multi-family districts; and

4. Outside areas not designated for parking on an approved Final Design Review plan.
- N. ***Separation from Buildings.*** Parking spaces shall be separated from a nonresidential or multi-family building by:
1. A raised walkway of at least 4 feet in width exclusive of any overhang permitted in Section 4.203O: Parking Overhang, or;
  2. A raised landscape planter of at least 5 feet in width exclusive of any overhang permitted in Section 4.203O: Parking Overhang. (SEE APPENDIX 1, FIGURE 6).
- O. ***Parking Overhang.*** Vehicles may overhang landscape areas or sidewalks by 30 inches provided that:
1. The overhang does not interfere with the base of any structure, raised planter, seating bench, fence, utility equipment, light pole or base, or trunk of any tree;
  2. The unobstructed width of the sidewalk, exclusive of the 30 inch over overhang, is not less than 4 feet (SEE APPENDIX 1, FIGURE 7);
  3. The allowable overhang does not reduce any landscape planter width below 5 feet; and
  4. No part of any parked vehicle extends into any required landscape area or beyond any property line.
- P. ***Opposing Overhangs.*** Where parking spaces are on opposite sides of a landscape area or sidewalk or combination thereof, the landscape area or sidewalk shall be at least 9 feet in width. This provision does not apply to landscape diamond planter areas.
- Q. ***Parking Wheel Stops.*** Concrete or metal parking wheel stops held in place by steel posts or placed directly on the parking surface are prohibited.
- R. ***Side Clearance.*** Each parking space located at the end of a row of spaces shall provide a 3 foot wide area clear of vertical obstructions more than 6 inches in height, exclusive of landscaping, next to the side of the space.
- S. ***Tandem Parking, Nonresidential.*** Tandem parking spaces shall only be approved for full-time valet or attended parking. Tandem parking spaces may be used to satisfy a portion of the parking requirement for nonresidential uses, subject to the approval of an Administrative Use Permit. The Administrative Use Permit shall terminate if the use changes.
- T. ***Pull-Through Parking Spaces.*** Single car pull-through spaces are prohibited.

- U. **Striping.** One or more 4-inch wide lines of white or other contrasting color paint shall delineate all nonresidential and multi-family parking spaces. Such lines shall be maintained to clearly identify each space.
  
- V. **Pavement Edge Protection.** All permanent uses other than individual single family residential lots shall provide a 6-inch, poured-in-place concrete curb or other approved material for all parking areas and drive aisles abutting landscaped areas. The curbing design shall meet the minimum requirements set forth in Maricopa Association of Governments Standard Detail No. 222 for single curbs.
  
- W. **Commercial Vehicle Parking in Residential Districts.**
  - 1. One commercial vehicle with a manufacturer's gross vehicle weight rating of more than 5 tons may be parked on residential lots or parcels 1 acre or larger, subject to the following conditions:
    - a. The vehicle shall be parked behind the rear wall plane of the main building on the lot or parcel;
    - b. The vehicle shall be parked no closer than 10 feet from any property line; and
    - c. The vehicle shall be screened from view from streets and abutting property by a solid fence or landscaping.
  - 2. One commercial vehicle with a manufacturer's gross vehicle weight rating of 5 tons or less may be parked on residential lots or parcels less than 1 acre, subject to the following conditions:
    - a. The vehicle shall not be parked in the required front or street side setback area; and
    - b. The vehicle shall be screened from view from streets and abutting property by a solid fence or landscaping.
  
- X. **Additional Parking on Single Family Residential Lots.**
  - 1. One additional uncovered parking space may be constructed next to the driveway or adjacent to a garage or carport. On corner lots, the parking space shall not be constructed in the street side setback area. On interior and flag lots, the parking space may be constructed in the required side yard building setback.



2. The additional parking space permitted by this section shall comply with the following standards:
  - a. The parking space shall have a surface of asphalt, concrete, decomposed granite or gravel.
  - b. The surface may consist of 2 parallel concrete or cement strips. The area between such parallel strips shall be landscaped with vegetative or non-vegetative ground cover.
  - c. No parked vehicle may obstruct or encroach on a sidewalk.
  - d. Access to the parking space shall be via a curb cut, rolled curb, or driveway.
3. No motor vehicle, recreational vehicle or trailer shall be parked in the front or side setback visible from the street, except on a driveway or additional parking space permitted in this section.

#### 4.204 Number of Parking Spaces Required

This Section sets forth parking space requirements for all uses except uses in Shopping Center and Regional Commercial districts. Unless otherwise approved pursuant to Subsections 4.203H: Deferred Parking for Unique Uses or 4.203I: Off-Site Parking in the Heritage Village Center Zoning District and Gateway Districts, required parking spaces shall be located on the same building site as the use or building they serve, unless cross-access and cross-parking agreements are in effect. Parking on public or private streets shall not be used to satisfy the off-street parking requirement.

**Table 4.204: Off-Street Parking Requirements**

| <i>Use Classification</i>              | <i>Requirement (Gross Floor Area)</i>          |
|--|--|
| Agritainment                           | Determined by Zoning Administrator             |
| Ambulance Services                     | 1 space per 250 sq. ft.                        |
| Animal Services                        |  |
| <i>Animal Grooming</i>                 | 1 space per 250 sq. ft.                        |
| <i>Animal Shelter</i>                  | 1 space per 250 sq. ft.                        |
| <i>Feed and Tack Sales</i>             | 1 space per 350 sq. ft.                        |
| <i>Kennel</i>                          | 1 space per 250 sq. ft.                        |
| <i>Large Animal Hospitals</i>          | 1 space per 300 sq. ft.                        |
| <i>Small Animal Clinics</i>            | 1 space per 250 sq. ft.                        |
| Automated Teller Machine               | None required                                  |
| Automated Teller Machine, Remote       | 2 spaces per machine                           |
| Banks and Other Financial Institutions | 1 space per 200 sq. ft.                        |
| Banquet Facility                       | Determined by Zoning Administrator             |
| Bed and Breakfast Homes                | 2 enclosed spaces; plus 1 space per guest room |
| Building Maintenance Services          | 1 space per 300 sq. ft.                        |

**Table 4.204: Off-Street Parking Requirements**

| <b>Use Classification</b>   | <b>Requirement (Gross Floor Area)</b>  |
|---|--|
| Building Material and Home Improvement Sales and Service, Retail                  | 1 space per 250 sq. ft.  |
| Building Material and Home Improvement Sales and Service, Wholesale               | 1 space per 800 sq. ft.  |
| Business Services   | 1 space per 250 sq. ft.  |
| Call Center   | 1 space per 150 sq. ft.  |
| Cemetery  | None required  |
| Cemetery, Pet   | None required  |
| Civic, Social and Fraternal Organizations   | 1 space per 200 sq. ft. or 1 space per 4 fixed seats, whichever is greater   |
| Colleges or Universities, Public Or Private                                       | 1 space per 200 sq. ft. of classroom and office area   |
| Congregate Living Facility  | 0.5 spaces per unit  |
| Contractor's yard   | 1 space per 250 sq. ft. of office area   |
| Convention Center   | 1 space per 200 sq. ft. or 1 space per 4 fixed seats, whichever is greater   |
| Crematorium   | 1 space per 300 sq. ft.  |
| Crop and Animal Raising, Commercial   | None required  |
| Crop Raising, Non-Commercial  | None required  |
| Cultural Institutions   | 1 space per 200 sq. ft. or 1 space per 4 fixed seats, whichever is greater   |
| Day Care Centers  | 1 space per 300 sq. ft.  |
| Day Care Homes  | No additional spaces required  |
| Day Care , Residential  | No additional spaces required  |
| Dry Cleaning and Laundry Outlet   | 1 space per 250 sq. ft.  |
| Dry Cleaning and Laundry Central Plant  | 1 space per 300 sq. ft.  |
| Eating and Drinking Establishments<br><i>Bars/Night Clubs/Lounges/Dance Halls</i> | 1 space per 100 sq. ft.; plus 1 space per 400 sq. ft. of outdoor dining area   |
| <i>Restaurants, Beverage Service</i>  | 1 space per 75 sq. ft.; plus 1 space per 400 sq. ft. of outdoor dining area  |
| <i>Restaurants, Full Service</i>  | 1 space per 100 sq. ft.; plus 1 space per 400 sq. ft. of outdoor dining area   |
| <i>Restaurants, Limited Service</i>   | 1 space per 100 sq. ft.; plus 1 space per 400 sq. ft. of outdoor dining area   |
| Entertainment and Recreation, Indoor  | 1 space per 150 sq. ft. of indoor area   |
| Entertainment and Recreation, Outdoor   | 2 spaces per court;<br>45 spaces per soccer field;<br>35 spaces per baseball or softball field;<br>1 space per batting cage;<br>2 spaces per miniature golf hole |
| Farm Stand  | 1 space per 50 sq. ft. of sales area   |
| Farmers' Market   | 1 space per 50 sq. ft. of sales area   |
| Food Preparation<br><i>Large-Scale</i>  | 1 space per 300 sq. ft.  |
| <i>Small Scale</i>  | 1 space per 250 sq. ft.  |
| Funeral and Undertaking Services  | 1 space per 100 sq. ft. of assembly area; plus 1 space per 200 sq. ft. of office area  |
| Garden Supply Store and Plant Nurseries   | 1 space per 400 sq. ft. of sales and display area  |
| Golf Course   | 5 spaces per hole  |

**Table 4.204: Off-Street Parking Requirements**

| <b>Use Classification</b>                          | <b>Requirement (Gross Floor Area)</b>   |
|--|---|
| Government Offices and Facilities                  | 1 space per 200 sq. ft.   |
| Group Homes For The Handicapped                    | No additional spaces required   |
| Haunted House                                      | 1 space per 100 sq. ft.   |
| Health Care Facilities                             |   |
| <i>Hospital</i>                                    | 1.5 spaces per bed  |
| <i>Urgent Care Facility</i>                        | 1 space per 100 sq. ft.   |
| <i>Medical Offices and Clinics</i>                 | 1 space per 150 sq. ft.   |
| Home Occupation                                    | No additional parking required  |
| Homeowners Association Facilities                  | 1 space per 250 sq. ft. building area   |
| Hotels and Commercial Lodging                      | 1.1 spaces per guest room, suite or unit; public eating and drinking establishments calculated separately   |
| Instruction Services, Specialized                  | 1 space per 200 sq. ft. of instructional area   |
| Laboratories, Commercial                           | 1 space per 150 sq. ft.   |
| Laundry Services                                   | 1 space per 250 sq. ft.   |
| Loft Unit  | 1.5 spaces per unit   |
| Maintenance and Repair Services                    | 1 space per 300 sq. ft.   |
| Manufacturing and Assembly                         |   |
| <i>Artisan</i>                                     | 1 space per 500 sq. ft.   |
| <i>Light</i>                                       | 1 space per 500 sq. ft.   |
| <i>General</i>                                     | 1 space per 500 sq. ft.   |
| <i>Heavy</i>                                       | 1 space per 1,000 sq. ft.   |
| Mining and Quarrying                               | 1 space per 250 sq. ft. of office area  |
| Nursing Home                                       | 0.5 spaces per bed  |
| Offices, General                                   | 1 space per 250 sq. ft.   |
| Pawn Shop  | 1 space per 250 sq. ft.   |
| Personal Services                                  | 1 space per 200 sq. ft.   |
| Public Safety Facilities                           | 1 space per 250 sq. ft.   |
| Recreational Vehicle Park                          | 1 space per 100 sq. ft. of office area, plus 2 spaces per permanent residential unit  |
| Place of Worship                                   | 1 space per 100 sq. ft. of assembly area, plus 1 space per 200 sq. ft. of other indoor area   |
| Research and Development                           | 1 space per 200 sq. ft.   |
| Residential, Permanent                             | 2 enclosed spaces per unit.   |
| <i>Single Family (on-street parking permitted)</i> | Residential uses in the Heritage District Overlay Zoning District may provide 2 unenclosed spaces on site   |
| <i>Single Family (no on-street parking)</i>        | 2 enclosed spaces per unit; plus .25 guest spaces per unit; plus 6 guest spaces at the primary active open space and 3 guest spaces at each secondary active open space. Residential uses in the Heritage District Overlay Zoning District may provide 2 unenclosed spaces on site. |

**Table 4.204: Off-Street Parking Requirements**

| <b>Use Classification</b>  | <b>Requirement (Gross Floor Area)</b>  |
|--|--|
| Single Family, Lot Width is less than 55'<br>or<br>Single Family, Apron Access       | 2 enclosed spaces per unit; plus 0.5 guest parking spaces per unit; plus 0.5 guest parking spaces per unit that does not provide a minimum of 80 square feet of additional enclosed parking area; plus 6 guest spaces at the primary active open space and 3 guest spaces at each secondary active open space. All required guest parking spaces must be striped and equally distributed throughout the development, as approved on the parking plan; required dwelling unit guest parking spaces shall be located within 250' of the dwelling unit's front lot line, as measured by the pedestrian route. Parking plan design review approval required.<br>These standards do not apply to residential uses in the Heritage District Overlay Zoning District (see above). |
| Multi-Family   | 1 space per 1-bedroom/studio unit.<br>2 spaces per 2 or more bedroom units; all plus .25 guest spaces per unit.<br>1 space per unit shall be covered, of which 25% shall be enclosed<br>Residential uses in the Heritage District Overlay Zoning District may provide uncovered and unenclosed spaces on site.   |
| Secondary Dwelling   | 1 additional space   |
| Retail Sales, Convenience  | 1 space per 100 sq. ft.  |
| Retail Sales, Furniture  | 1 space per 500 sq. ft.  |
| Retail Sales, General  | 1 space per 250 sq. ft.  |
| Sexually-Oriented Business   | 1 space per 250 sq. ft.  |
| Schools, Public or Private   | Elementary: 2 spaces per classroom<br>Junior High: 2 spaces per classroom<br>High: 7 spaces per classroom  |
| Special Assistance Shelters  | 1 space per 500 sq. ft.  |
| Stables, Commercial  | 1 space per 2 horse stalls   |
| Storage, Personal Property<br>Indoor   | 8 spaces plus 2 covered spaces per dwelling unit   |
| Outdoor  | 2 covered spaces per dwelling unit   |
| Swap Meet and Auction, Indoor  | 1 space per 200 sq. ft.  |
| Swap Meet and Auction, Outdoor   | 1 space per 200 sq. ft. of sales area  |
| Teen Nightclub   | 1 space per 200 sq. ft.  |
| Transportation Passenger Terminals   | Determined by Zoning Administrator   |
| Utilities  |  |
| Facilities   | 1 space per 250 sq. ft. of office area   |
| Service Yards  | 1 space per 250 sq. ft. of office area   |
| Well Site  | No additional spaces required  |
| Vehicle Equipment Sales, Leasing and Services<br>Car Wash, Automated or Self-Service | 2 spaces minimum   |
| Car Wash, Full Service   | 10 spaces minimum  |

**Table 4.204: Off-Street Parking Requirements**

| <b>Use Classification</b>   | <b>Requirement (Gross Floor Area)</b>   |
|---|---|
| <i>Commercial Vehicle/Equipment Sales and Rental;<br/>New and Used</i>                      | 1 space per 250 sq. ft. of indoor area  |
| <i>Fueling Facility</i>   | 1 space per 100 sq. ft. of convenience retail sales, plus 2 spaces per service bay  |
| <i>Fueling Facility, Alternative</i>  | 1 space per fueling station   |
| <i>Vehicle Equipment Sales, Leasing and Services(continued)<br/>Fueling Facility, Fleet</i> | None required   |
| <i>Motor Vehicle Sales and Leasing, New and Used</i>  | 1 space per 250 sq. ft. of interior display space; plus 1 space per 3 service bays; plus 1 space per 25 vehicles displayed outdoors |
| <i>Non-Commercial Vehicle Rental</i>  | 1 space per 100 sq. ft.   |
| <i>Vehicle Services, Light and Heavy</i>  | 3 spaces per service bay plus 1 space per 100 sq. ft. of office and sales area  |
| <i>Warehousing<br/>Freight/Truck Terminal and Warehouse</i>                                 | 1 space per 1000 sq. ft. plus 1 space per 250 sq. ft. office area   |
| <i>Petroleum and Gas Storage</i>  | 1 space per 250 sq. ft. of office area  |
| <i>Salvage or Junkyards</i>   | 1 space per 200 sq. ft. of office area  |
| <i>Waste Management<br/>Hazardous Waste Collection and Transfer Facility</i>                | 1 space per 250 sq. ft. of office area  |
| <i>Hazardous Waste Disposal Facility</i>  | 1 space per 250 sq. ft. of office area  |
| <i>Non-Hazardous Waste Collection Transfer Facility</i>                                     | 1 space per 250 sq. ft. of office area  |
| <i>Non-Hazardous Waste Disposal Facility</i>  | 1 space per 250 sq. ft. of office area  |
| <i>Non-Hazardous Material Recycling Collection Facility</i>                                 |   |
| <i>Large Scale</i>  | 1 space per 250 sq. ft. of office area  |
| <i>Small Scale</i>  | None required   |
| <i>Wireless Communication Facilities</i>  | None required   |

**4.205 Number of Parking Spaces Required for Shopping Center and Regional Commercial**

This section sets forth parking space requirements for uses in the Shopping Center and Regional Commercial districts. Required parking spaces shall be located on the same building site as the use or building they are intended to serve, unless cross-access and cross-parking agreements are in effect. Parking on public or private streets shall not be used to satisfy the off-street parking requirement.

**Table 4.205: Off-Street Parking Requirements for Shopping Center and Regional Commercial Districts**

| <b>Use Classification</b> | <b>Requirement (Gross Floor Area)</b> |
|---------------------------|---------------------------------------|
| Shopping Center           | 1 space per 250 sq. ft.               |
| Regional Commercial       | 1 space per 200 sq. ft.               |

## 4.206 Dimensions for Parking Spaces and Aisles

- A. **General.** This section sets forth dimensional requirements for open parking spaces, covered parking spaces, and spaces in parking structures.
- B. **Open Parking Spaces.** The minimum dimensions of open parking spaces and parking aisles are set forth in Tables 4.206A: Parking Space and Aisle Dimensions for Parking Angles Less Than 90 Degrees and 4.206B: Parking Space and Aisle Dimensions for Perpendicular Parking Angles. For high turnover uses and uses utilizing shopping carts, space width shall be increased by 6 inches for 50 percent of the required parking spaces closest to the building entrances.
- C. **Unenclosed Covered Parking Spaces.** Each unenclosed covered parking space shall measure at least 9 feet in width and 19 feet in depth of unobstructed area. These measurements shall not include the exterior walls or supports of the structure. An unenclosed covered parking space shall have an unobstructed back- up area of not less than 25 feet.
- D. **Spaces in Parking Structures.** Each parking space in a parking structure shall measure at least 9 feet in width and 18 feet in depth, and have an unobstructed back-up area of not less than 24 feet.
- E. **Vertical Clearance for Unenclosed Covered Spaces and Parking Structures.** Covered parking and parking structures shall have a minimum vertical clearance of 8 feet.
- F. **Compact Parking Spaces.** Parking spaces that front on a landscape planter that is a minimum size of 6 feet wide and 6 feet long may be restricted to parking for compact cars by clearly marking the pavement surface. Such compact spaces shall be at least 9 feet in width and 16 feet in length. No more than 4 compact parking spaces shall be located in one grouping.
- G. **Residential Garages.** No minimum dimensional requirements.
- H. **Angle Parking Less Than 90 Degrees.** The following dimensions shall apply to all uses other than high turnover uses and those uses utilizing shopping carts. (SEE APPENDIX 1, FIGURES 8A & 8B)

**Table 4.206A: Parking Space and Aisle Dimensions for Parking Angles Less Than 90 Degrees (feet)**

| Space Angle | Aisle Width | Space Width | Space Length |
|-------------|-------------|-------------|--------------|
| One-way     |             |             |              |
| 0 degrees   | 14.0        | 10.0        | 22.0         |
| 30 degrees  | 15.0        | 9.0         | 19.0         |
| 45 degrees  | 16.0        | 9.0         | 19.0         |
| 60 degrees  | 17.0        | 9.0         | 19.0         |

**Table 4.206A: Parking Space and Aisle Dimensions for Parking Angles Less Than 90 Degrees (feet)**

| Space Angle | Aisle Width | Space Width | Space Length |
|-------------|-------------|-------------|--------------|
| Two Way     |             |             |              |
| 0 degrees   | 20.0        | 10.0        | 22.0         |
| 30 degrees  | 20.0        | 9.0         | 19.0         |
| 45 degrees  | 22.0        | 9.0         | 19.0         |
| 60 degrees  | 24.0        | 9.0         | 19.0         |

- I. **Perpendicular Parking.** The following dimensions shall apply to all uses other than high turnover uses and those uses utilizing shopping carts.

**Table 4.206B: Parking Space and Aisle Dimensions for Perpendicular Parking Angles (feet)**

| Space Angle | Aisle Width | Space Width | Space Length |
|-------------|-------------|-------------|--------------|
| 90 degrees  | 25.0        | 9.0         | 19.0         |
| 90 degrees  | 24.0        | 9.5         | 19.0         |

- J. **Angle Parking Less Than 90 Degrees in Parking Structures.** The following dimensions shall apply to all uses other than high turnover uses and those uses utilizing shopping carts.

**Table 4.206C: Parking Space and One-way Aisle Dimensions for Parking Angles Less Than 90 Degrees within Parking Structures (feet)**

| Space Angle | Aisle Width         | Space Width | Space Length        |
|-------------|---------------------|-------------|---------------------|
| 45 degrees  | 12.67<br>(12' – 8") | 9.0         | 17.67<br>(17' – 8") |
| 60 degrees  | 14.5                | 9.0         | 19.0                |

## 4.207 Parking Access

### A. *Nonresidential and Multi-Family Uses.*

1. **Ingress and Egress.** Each parking area shall have a driveway or driveways providing ingress to and egress from a public street. Parking in Heritage Village Center district may be directly accessed from an alley.
2. **Parking Area Egress Aisles.** Parking area egress aisles shall be perpendicular to the public street and level for a distance of at least 20 feet behind the sidewalk or pedestrian crossing.

**B. Residential Uses.**

1. On public or private streets where a residential garage or carport is directly accessible from the street, it shall have a paved driveway not less than 20 feet in length, measured from the back of sidewalk. If no sidewalk exists, the driveway length shall be measured from the back of curb.
2. Where a residential garage or carport is directly accessible from an alley, easement or tract it shall have a paved apron of 3 feet in length or a driveway of 20 feet in length as measured from the edge of the alley, tract or easement. If a sidewalk exists in the alley, easement or tract, the apron or driveway shall be measured from the back of sidewalk.

**4.208 Driveway Widths**

- A. **Single Family Residential.** No minimum driveway width is required.
- B. **Other than Single Family Residential.** Driveways shall have a minimum width of 14 feet for one-way traffic and 20 feet for 2-way traffic. One-way driveways shall be clearly identified.

**4.209 Surfacing**

Except as otherwise provided in this section, parking areas and spaces, access points, aisles, driveways, and travel ways shall be paved with masonry, asphalt, or concrete. All paved areas shall be maintained to provide a surface free from cracks, holes, and pavement deterioration. All required pavement marking shall remain visible.

- A. **Single Family Residential Driveways - 50 feet or less.** That portion of a driveway within 50 feet of a right-of-way shall be improved with a concrete or masonry surface.
- B. **Single Family Residential Driveways - Greater than 50 feet.** That portion of a driveway within 50 feet of the right-of-way shall be improved with a concrete or masonry surface. The remainder of the driveway may be constructed of concrete, masonry, asphalt, compacted decomposed granite, or other approved dust free surface.
- C. **Alternative Paving Surface.** The Director may approve an alternative surface material for facilities that have limited or infrequent use.



## 4.2010 Drive-Through and Take-Out Facilities

### A. *Drive-Through Facilities.*

1. *General.* Drive-through facilities shall provide safe, unimpeded movement of vehicles at street access points, in travel aisles and parking areas. Drive-through aisles shall be a minimum of 12 feet in width and 20 feet in length. Drive-through aisle shall have a minimum interior turning radius of 15 feet and an exterior turning radius of 30 feet (SEE APPENDIX 1, FIGURE 9).
2. *Screening.* Drive-through aisles shall be screened from view from public and private streets, areas accessible to the general public, and from areas shown for residential use in the General Plan by:
  - a. A decorative masonry fence a minimum of 36 inches in height measured from the grade of the aisle; or
  - b. A continuous evergreen landscape planter a minimum of 6 feet in width; or
  - c. A combination of a masonry fence and landscape planter.
3. *Stacking.* Vehicular stacking areas shall be provided in accordance with Table 4.2010: Drive-Through Facility Stacking Space Requirements.

**Table 4.2010: Drive-Through Facility Stacking Space Requirements**

| <b><i>Use Classification</i></b>  | <b><i>Stacking Space Requirement</i></b>  |
|---|---|
| Banks and Other Financial Institutions  | 5 spaces per teller or ATM drive-through  |
| Eating and Drinking Establishments<br><i>Restaurants, Beverage Service</i>                  | 3 spaces per window   |
| <i>Restaurants, Limited Service</i>   | 4 spaces  |
| Retail Sales, General<br><i>Dry Cleaning</i>  | 2 spaces per window   |
| <i>Pharmacy</i>   | 2 spaces per aisle  |
| <i>Photo drop</i>   | 1 space per window  |
| Vehicle Equipment Sales, Leasing and Services<br><i>Car Wash, Automated or Self-service</i> | 2 space per bay   |
| <i>Car Wash, Full Service</i>   | 8 spaces minimum  |
| <i>Fueling Facility</i>   | 1 space on each end of each side of each fuel pump island (one-way facilities require 2 spaces on approach end of each island.) |
| <i>Fueling Facility, Alternative</i>  | 1 space on each end of each side of each fuel pump island (one-way facilities require 2 spaces on approach end of each island.) |
| <i>Vehicle Services, Heavy</i>  | 1 space per service bay   |
| <i>Vehicle Services, Light</i>  | 1 space per service bay   |

- B. **Take-Out Facilities.** Eating and Drinking Establishments providing a designated take-out counter or window shall identify one or more parking spaces adjacent to the take-out entrance for exclusive use by take-out customers.

**4.2011 Passenger Loading Areas**

- A. **General.** Passenger loading areas shall be provided adjacent to the principal facility entrance or entrances and shall consist of vehicle turnout lanes located outside access aisles. Passenger loading areas shall be identified exclusively for this use.
- B. **Loading Area Requirements.** Passenger loading shall be provided in accordance with Table 4.2011: Passenger Loading Area Requirements.

**Table 4.2011: Passenger Loading Area Requirements<sup>1</sup>**

| <i>Use Classification</i>                                       | <i>Requirement</i>   |
|---|--|
| Civic, Social and Fraternal Organizations                       | 1 space  |
| Congregate Living Facility                                      | 1 space  |
| Convention Center   | 5 spaces   |
| Cultural Institutions   | 1 space  |
| Day Care Centers  | 3 spaces   |
| Entertainment and Recreation, Indoor                            | 3 spaces per skating rink<br>2 spaces per swimming pool<br>1 space per performing arts facility<br>1 space per 3 theatre screens |
| Entertainment and Recreation, Outdoor                           | 2 spaces per swimming pool<br>1 space per sports field or court<br>3 spaces per amphitheatre                                     |
| Government Office and Facilities<br><i>Large Scale</i>          | 2 spaces   |
| Health Care Facilities<br><i>Hospitals</i>                      | 2 spaces   |
| <i>Urgent Care Facility</i>                                     | 1 space  |
| <i>Medical Offices and Clinics (greater than 5,000 sq. ft.)</i> | 1 space per 5,000 sq. ft.  |
| Hotels and Commercial Lodging                                   | 3 spaces   |
| Nursing Home  | 1 space  |
| Place of Worship<br><i>Large Scale</i>                          | 4 spaces   |
| <i>Small Scale</i>  | 1 space  |
| Schools, Public or Private                                      | 3 spaces   |
| Transportation, Passenger Terminals                             | 5 spaces   |

<sup>1</sup> A passenger loading space is the area a vehicle occupies while loading or unloading passengers. A passenger loading space shall be a minimum of 12 feet in width and 20 feet in length.

## 4.2012 Screening, Landscaping and Lighting

A. **Screening.** Parking areas, automotive fuel pump islands, and parking access aisles parallel to and within 75 feet of rights-of-way shall be screened from view from those rights-of-way, public parks and public buildings by fences. Landscaping or berming may substitute for fences up to a maximum of 25 percent of the length of the fence.

### 1. *Parking Screen Walls.*

- a. **Height.** Walls shall be not less than 3 feet nor more than 4 feet, measured from finish grade of the parking lot.
- b. **Location.** Parking screen walls shall not be located in public rights-of-way, street frontage landscape areas, or on top of any retaining walls.
- c. **Alignment.** Walls shall be horizontally staggered a minimum of 1 foot for every 100 linear feet.
- d. **Clearance.** Walls shall be set back a minimum of 3 feet and a maximum of 6 feet from the perimeter of any parking space, driveway, or any access aisle, as measured from the back of curb.
- e. **Materials and Finish.** Walls shall be constructed of decorative block, brick, stone, or similar materials and finished on both the interior and the exterior elevations.

### 2. *Landscape Screening.*

- a. **Height.** Where landscaping is used as a substitute screening method, it shall be planted and maintained as a continuous landscape hedge not less than 3 feet or more than 4 feet in height, measured from finish grade of the parking lot.
- b. **Location.** The landscape hedge shall not be located in public rights-of-way.
- c. **Clearance.** The landscape hedge shall be set back a minimum of 3 feet and a maximum of 6 feet from the perimeter of any parking space, driveway, or any access aisle.
- d. **Plant Materials.** Plant materials shall be an evergreen species.
- e. **Sight Distance Triangle.** Ground covers and shrubs planted within sight distance triangles shall not exceed a height of 24 inches at maturity.

3. *Berms.*

- a. Height. Where a berm is used as a substitute screening method, it shall measure not less than 3 feet nor more than 4 feet in height from finish grade of the parking lot.
- b. Location. The berm shall not be located in public rights-of-way.
- c. Clearance. The toe of the berm shall be set back a minimum of 3 feet and a maximum of 6 feet from the perimeter of any parking space, driveway, or any access aisle.
- d. Slope. The maximum slope of the berm shall not exceed 4:1.

4. *Exceptions.*

- a. A new wall shall not be required where an existing wall complies with the requirements of this section. The existing wall may be located either on the common property line or within 10 feet of the common property line. However, if the existing wall is removed, a replacement wall will be required to be constructed by the owner of the parking facility. Nothing herein shall affect any legal non-conforming rights.
- b. A new wall shall not be required to screen outdoor display of new or used motor vehicles for sale or lease when such display area is identified on an approved Final Design Review site plan. Required parking for these uses shall comply with the screening requirements of this section.

**B. *Parking Lot Landscaping and Lighting.***

1. *Shade Trees.*

- a. Shade trees shall be planted in the parking lot at a ratio of 1 tree for every 8 spaces. Trees shall be located throughout the parking lot to maximize the shading effect on parking spaces and to reduce solar heat gain. These trees are exclusive of trees planted around the perimeter of the parking lot (SEE APPENDIX 1, FIGURE 10).
- b. The landscape planter, other than a landscape diamond planter, for any parking lot tree shall have a minimum area of 54 square feet and a minimum interior width of 5 feet.
- c. Landscape diamond planters shall have a minimum area of 36 square feet.

- d. The minimum trunk size of parking lot trees shall have a minimum trunk height of 6 feet and a minimum of a 2 inch single trunk caliper measurement or a 1.5 inch average trunk caliper measurement for multiple trunk trees when planted, measured 4 feet above grade. This size of tree is generally referred to as 24 inch box.
  - e. The minimum trunk height of parking lot trees shall be 6 feet.
2. *Interior Landscaping.*
- a. A minimum of 10 percent of the interior of all parking lots shall be landscaped, which percentage may include shade tree planters.
  - b. Required interior landscape areas shall be evenly distributed throughout the parking lot. No more than 8 consecutive parking spaces shall be constructed without a landscape planter.
  - c. The end spaces in a row of parking spaces shall be separated from drive aisles by landscape islands or peninsulas that are a minimum width of 6 feet.
3. *Light Poles.* Parking lot light poles shall be located in a landscape planter or incorporated into a walkway or other pedestrian area. Concrete bases for light poles shall not exceed a height of 30 inches from finished grade.

#### **4.2013 Parking Space and Aisle Setbacks at Arterial Driveway Entrances**

- A. ***Parking Setbacks, Inbound Left Turns Permitted.*** Parking spaces directly served by a driveway accessed from an arterial street where inbound left turns are permitted shall be set back:
- 1. *NO (Neighborhood Office), GC (General Commercial), HVC (Heritage Village Center), PF/I (Public Facility/Institutional) and all Employment Districts.* A minimum of 60 feet from the arterial right-of-way.
  - 2. *All Other Nonresidential and Multi-Family Districts.* A minimum of 80 feet from the arterial right-of-way. (SEE APPENDIX 1, FIGURE 11)
- B. ***Parking Setbacks, Inbound Left Turns Not Permitted.*** Parking spaces directly served by a driveway accessed from an arterial street where inbound left turns are not permitted shall be set back:
- 1. *NO (Neighborhood Office), GC (General Commercial), and HVC (Heritage Village Center) Districts.* A minimum of 40 feet from the arterial right-of-way.

2. *NC (Neighborhood Commercial), GO (General Office), PF/I (Public Facility/Institutional), and all Employment Districts.* A minimum of 60 feet from the arterial right-of-way.
  3. *CC (Community Commercial), SC (Shopping Center), RC (Regional Commercial), and Multi-Family Residential Districts.* A minimum of 80 feet from the arterial right-of-way.
- C. ***Drive Aisle Setbacks.*** Parking drive aisles intersecting and crossing a major driveway accessed from an arterial street shall be set back (SEE APPENDIX 1, FIGURE 12):
1. *NO (Neighborhood Office).* A minimum of 20 feet from the arterial right- of-way.
  2. *NC (Neighborhood Commercial), GC (General Commercial), and all Employment Districts.* A minimum of 40 feet from the arterial right-of- way.
  3. *CC (Community Commercial), SC (Shopping Center), GO (General Office), PF/I (Public Facility/Institutional), and Multi-Family Residential Districts.* A minimum of 60 feet from the arterial right-of-way.
  4. *RC (Regional Commercial) District.* A minimum of 80 feet from the arterial right-of-way.
  5. *Convenience Retail, Fueling Facility, and Limited Service Restaurant Uses in any District.* A minimum of 60 feet from the arterial right-of-way.

Minimum drive aisle setback requirements in the NO, NC, GC, BP, LI, and GI districts may be modified by the Town Traffic Engineer. A Traffic Study is required to be submitted and approved by the Town Traffic Engineer to establish findings that more or less vehicle storage length is required to serve the development.

The Director shall determine which driveways are major driveways.

#### **4.2014 Parking for Persons with Disabilities**

Parking for persons with disabilities shall comply with the Town building code.

#### **4.2015 Off-Street Loading**

A. ***Commercial and Employment Districts.***

1. *Applicability.* This Section applies to any use having a gross floor area of 10,000

square feet or more requiring the delivery or distribution of material or merchandise by trucks measuring 36 feet or more, including cab and trailer.

2. *Requirement.* At least 1 off-street loading space shall be provided. One additional loading space shall be provided for each additional 40,000 square feet of gross floor area over 10,000 square feet. Required loading spaces shall be maintained during the existence of the use.
3. *Standards.*
  - a. *Location.* Loading spaces shall not be closer than 100 feet to any land designated for residential use on the General Plan, or within 100 feet of land zoned for residential use, unless such loading spaces are within an enclosed building.
  - b. *Dimensions.* Each required off-street loading space shall be not less than 12 feet wide and 45 feet long.
  - c. *Clear Height.* Each required off-street loading space shall have a minimum clear height of 14 feet.
  - d. *Screening.* Each off-street loading space visible from a public street, within 200 feet of land designated for residential use on the General Plan, or within 200 feet of land zoned for residential use shall be enclosed on three sides by a solid fence not less than 14 feet in height.
  - e. *Maneuvering.* Truck-maneuvering areas shall not encroach into required parking spaces or rights-of-way.

**B. *Customer Loading Zones.***

1. *Applicability.* This Section applies to retail uses where customers take delivery of goods in non-commercial vehicles other than in designated parking spaces. Such uses are characterized by the sale of large or bulky items. Uses include home improvement, appliance, furniture, grocery, retail warehouse, and electronics stores.
2. *Requirement.* A customer loading zone shall be provided for any use listed in Section 4.2015B.1: Applicability and having a gross floor area of 25,000 square feet.
3. *Standards.*
  - a. *Location.* The loading zone shall be located within 50 feet of the primary exit or merchandise pick-up location. Customer loading is prohibited in designated fire lanes.

- b. Dimensions. A loading zone shall be a minimum width of 10 feet and a minimum length of 30 feet.
- c. Clear Height. The loading zone shall have a minimum clear height of 14 feet.

## 4.2016 Bicycle Parking

### A. *Requirement.*

- 1. *Minimum Requirement, All Uses.* Uses of land which are required to provide at least 40 vehicle parking spaces shall be required to provide bicycle parking spaces and facilities at a rate of 1 for every 10 required vehicle parking spaces.
- 2. *Minimum Requirement, Uses with less than 40 Vehicle Parking Spaces.* A minimum of 4 spaces shall be provided for all uses, with the following exceptions:
  - a. Single family residential uses.
  - b. Personal Property Storage, Indoor and Outdoor
  - c. Other uses as determined by the Director of Planning.
- 3. *Minimum Requirement, Uses in SC and RC Districts.* Bicycle parking for uses in the SC and RC zoning districts shall be distributed throughout a project. Common or shared bicycle parking facilities may be provided for attached or in-line uses. Individual uses on separate pads shall provide bicycle parking facilities in accordance with Section 4.2016A.1: Minimum Requirement, All Uses and Section 4.2016A.2: Minimum Requirement, Uses with less than 40 Vehicle Parking Spaces.
- 4. *Maximum Requirement.* In no event shall any use be required to provide more than 100 bicycle parking spaces.

### B. *Standards.*

- 1. *Location.* Bicycle parking spaces shall be located on a paved surface within 50 feet of the primary building entrance. Bicycle parking spaces shall not encroach into any required landscaping or pedestrian access areas.
- 2. *Dimensions.* Bicycle parking spaces shall measure 2 feet by 6 feet per space. A pre-manufactured bicycle rack or locker which differs from these dimensions may be approved by the Director of Planning.



3. *Parking Facilities.* The bicycle parking facility shall be a stationary object permanently affixed to the ground or a structure to which the operator can lock the bicycle frame and wheels to the object. Bicycle lockers may be used.

## **Article 4.3: Landscape Regulations**

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### **Sections:**

- 4.301 Purposes
- 4.302 Applicability
- 4.303 General Provisions
- 4.304 Gateway Entries
- 4.305 Streetscape Theme Trees
- 4.306 Landscape Maintenance and Enforcement

### **4.301 Purposes**

The purposes of these regulations are to:

- A. Promote attractive development;
- B. Improve the appearance and character of areas surrounding new development;
- C. Minimize heat gain created by unshaded areas;
- D. Conserve energy by shading buildings from exposure to the sun;
- E. Minimize conflicts between potentially incompatible permitted land uses on adjoining lots or parcels;
- F. Provide consistent landscape requirements for similarly situated properties; and
- G. Promote the conservation of water through the design of landscape areas and the selection of plant materials.

### **4.302 Applicability**

These regulations apply to:

- A. All new residential and nonresidential subdivisions;
- B. All new construction other than individual single family residences;
- C. Additions of 25 percent or more to existing buildings and uses in all nonresidential and multi-family residential districts; and
- D. New construction and expansion by 25 percent or more of all existing permanent nonresidential uses in residential districts.

#### 4.303 General Provisions

- A. **Landscaping Components.** Landscaping may include trees, shrubs, ground cover, vines, walkways, ponds, fountains, benches, sculpture, shade structures, and other materials used for enhancing the exterior appearance of a development or parking area.
- B. **Installation per Approved Plans.** All required landscaping shall be installed in accordance with the approved final landscape plan prior to issuance of a final Certificate of Occupancy. Plant materials shall be of the type and size specified on the approved final landscape plan.
- C. **Minimum Area Requirements.** The minimum landscaping area requirements for any nonresidential or multi-family lot or parcel, nonresidential subdivision, or nonresidential use in a residential district, exclusive of streets, are set forth in the development regulations for each base zoning district. Minimum landscaping area requirements for single family residential subdivisions are set forth in Chapter III: Subdivision Regulations.
- D. **Street Frontage and Perimeter Landscape Requirements.** The minimum street frontage and perimeter landscaping area requirements for any nonresidential or multi-family lot or parcel, residential or nonresidential subdivision, or nonresidential use in a residential district, exclusive of streets, are set forth in the development regulations for each base zoning district.
- E. **Parking Overhang.** Any landscaped area used for parking overhang as set forth in Section 4.203: General Provisions shall not be calculated towards the required landscaping area.
- F. **Undeveloped Areas in Approved Design Review Plans.** Any portion of a lot or parcel not shown on an approved Final Design Review site plan for buildings, parking, driveways or sidewalks shall be landscaped. Areas shown on an approved preliminary Design Review Plan for future development shall be protected from unauthorized vehicular access.
- G. **Irrigation.** A programmable automatic irrigation system shall be provided to all landscaped areas requiring water. Water conservation fixtures shall be used in accordance with applicable Town requirements.
- H. **Pavement Edge and Planter Protection.** All permanent uses other than individual single family residential lots shall provide a 6-inch, poured-in-place concrete curb or other approved material for all parking areas and drive aisles adjacent to landscaped areas. The curbing design shall meet the minimum requirements set forth in Maricopa Association of Governments Standard Detail No. 222 for single curbs.

- I. **Turf Area Border.** Turf areas shall be separated from other landscape areas by a 6-inch wide concrete curb or other approved material. Curbing manufactured from metal or similar materials are prohibited.
- J. **Minimum Tree Size.** All trees planted pursuant to these regulations shall have a minimum size as follows:
  - 1. Tree height: 6 feet.
  - 2. Trunk height, palm tree species: 5 feet.
  - 3. Trunk caliper, single trunk: .75 inches, measured 4 inches above the soil line.
  - 4. Trunk caliper, multiple trunks: .75 inches (average of the 2 largest trunks), measured 4 inches above the soil line.
  - 5. All trees planted within the sight distances for controlled and uncontrolled intersections shall adhere to the trunk height requirements set forth in the Town of Gilbert Standard Details.
- K. **Tree Planting.** All trees shall be planted and staked in accordance with the Arizona Nursery Association standards.
- L. **Inorganic Ground Cover.** All landscape areas not covered by turf, sidewalks, play equipment, lakes, or ponds, or hardscape features shall be covered by an approved inorganic ground cover such as decomposed granite, crushed rock, gravel, river rock, and/or boulders. The depth of coverage shall be specified on the approved final landscape plan.
- M. **Arterial and Collector Street Right-of-Way and Landscape Area Planting Standards.** The following landscaping is required between the curb and the property line and behind the right-of-way along all arterial and collector streets, other than those within the Heritage District Redevelopment Area and the General Plan Gateway Character Area:
  - 1. Trees with a minimum size specified in Section 4.303J: Minimum Tree Size shall be planted in the quantity of 1 tree per 25 feet of lineal street frontage, exclusive of driveways. Trees shall be located as shown on an approved final landscape plan. At least 50 percent of the required trees shall be 24 inch box size or larger.
  - 2. A minimum of 50 percent of the arterial street trees in the landscape area shall be the designated theme tree as set forth in Section 4.305: Streetscape Theme Trees. Where 2 different tree species are designated as

the theme tree, a minimum of 25 percent of each designated theme tree shall be used.

3. Shrubs with a minimum size of 5 gallons shall be planted to complement the placement of trees. Shrubs shall be planted at a minimum rate of 3 shrubs per tree.
4. Shrubs and vegetative groundcovers shall be planted to cover a minimum of 25 percent of the landscape area.
5. All shrubs and ground covers planted within the sight distances for controlled and uncontrolled intersections shall adhere to the height requirements set forth in the Town of Gilbert Standard Details.
6. Street trees, shrubs, accent plants, and ground covers planted in the right-of-way shall be selected from the Arizona Department of Water Resources Low Water Use / Drought Tolerant Plant List for the Phoenix Active Management Area.
7. Streetscape areas shall be naturally contoured.
8. Stormwater retention areas shall not exceed 50 percent of the right-of-way landscape area behind the curb line and street side landscape area, exclusive of driveways.
9. Trees planted within utility easements shall comply with requirements established by that utility company. Where utility easements prevent the planting of trees required by this section, the landscape area shall be increased in width by the amount affected by the easement.

N. ***Raised Median Planting Standards.*** The following landscaping is required in raised street medians, other than those within the Heritage District Redevelopment Area and the General Plan Gateway Character Area:

1. Landscaping shall be installed at the time of raised median construction. Landscaping installation shall be the responsibility of the entity constructing the raised median.
2. All trees shall be 24 inch box size or larger.
3. All trees planted within the raised median shall be the designated theme tree as set forth in Section 4.305: Streetscape Theme Trees. Where 2 different tree species are designated as the theme tree, a minimum of 25 percent of each designated theme tree shall be used.

4. Accent plants a minimum size of 5 gallons shall be planted to complement the placement of trees at a minimum rate of 3 per tree. Shrubs are not permitted in street medians.
  5. Vegetative groundcovers shall be planted to cover a minimum of 25 percent of the median landscape area.
  6. All landscaping within the sight distances established for raised medians shall adhere to the height requirements set forth in the Town of Gilbert Standard Details.
  7. Street trees, shrubs, accent plants, and ground covers planted in the right-of-way shall be selected from the Arizona Department of Water Resources Low Water Use / Drought Tolerant Plant List for the Phoenix Active Management Area.
- O. **Traffic Circles, Roundabouts, and Cul-de-Sac Islands.** Landscaping shall be installed at the time of street construction in accordance with an approved landscape plan.
- P. **Side and Rear Perimeter Landscape Areas.**
1. Required side and rear perimeter landscape areas extend inward from the property line of the development site by a distance specified in the development regulations of each base zoning district.
  2. Table 4.303: Side and Rear Perimeter Area Landscaping Requirements sets forth the standards for planting in side and rear perimeter landscape areas. These standards are illustrated in APPENDIX 1, Figure 13.

**Table 4.303: Side and Rear Perimeter Landscape Area Requirements**

| <b>Landscape Material</b> | <b>Density</b>     | <b>Minimum Size at Planting</b> |
|---------------------------|--------------------|---------------------------------|
| Evergreen Trees           | 3 per 1000 sq. ft. | 24 inch box                     |
| Shrubs                    | 5 per 1000 sq. ft. | 5 gallon                        |
| Vegetative Groundcover    | 20% of area        | 1 gallon                        |
| Inorganic Groundcover     | 100% of area       | N/A                             |

3. All trees planted in a required side and rear perimeter landscape area shall be evergreen or semi-evergreen, located and maintained to provide an effective visual screen from adjacent uses.
4. Required perimeter landscape areas separating nonresidential uses from residential uses and multi-family residential uses from single family residential uses shall only be used as open space or for the following

passive uses that do not interfere with their effectiveness as a visual screen and separation between uses:

- a. Electrical equipment, including transformers, cable television and telephone equipment, but excluding generators.
- b. Trails.
- c. Bollard lighting.
- d. Stormwater retention.

Q. ***Parking Area Landscaping.*** Landscaping requirements for parking areas are set forth in Section 4.2012B: Parking Lot Landscaping and Lighting.

R. ***Retention Basins.*** Retention basins shall be completely landscaped.

1. Retention basins located along street frontages shall be designed as an integral part of any frontage landscape area.
2. Retention basins shall be contoured to create a natural appearance. Slopes shall not exceed a 4:1 ratio.
3. Retaining walls shall not be located within right-of-way or required street landscape areas.
4. Retention basins shall not exceed a maximum depth of 2½ feet, measured from the adjacent street grade. If there is no street in proximity to the basin, the depth shall not exceed 2½ feet below the finished grade of any adjacent sidewalk, drive aisle, parking area, landscape area, or structure.
5. Retention basins shall be constructed in accordance with plans approved by the Town Engineer and shall conform to final grading and landscape plans approved by the Design Review Board.

S. ***Heritage District Redevelopment Area Landscape Standards.*** Landscaping requirements for parcels in the Heritage District Redevelopment Area shall comply with the design guidelines of the Heritage District Redevelopment Plan and design guidelines adopted pursuant to Article 3.4: Heritage District Overlay District.

T. ***General Plan Gateway Character Area Landscape Standards.*** Landscaping requirements for parcels in the General Plan Gateway Character Area are set forth in Chapter II: Design Standards and Guidelines.

#### 4.304 Gateway Entries

A. ***Purpose and Applicability.***

1. Arterial street intersections designated as Gateway Entries in APPENDIX 1, Figure 13 shall be designed and constructed in accordance with the following requirements.
2. Gateway Entry Landscaping and Entry Signs shall be used at all Gateway Entrances to create a strong sense of arrival and to promote community identity.

B. ***Gateway Entry Landscaping.***

1. A formal pattern of Phoenix Date Palms (*Phoenix dactylifera*) shall be installed on both Gilbert corners of the Gateway Entry.
  - a. A minimum of 7 Phoenix Date Palms shall be planted within a 100 foot radius of the point of the intersection of right-of-way lines.
  - b. The palms shall have a uniform trunk height of not less than 15 feet. If existing date palms in the same intersection are taller, the height of new trees shall match the height of the existing trees.
2. Accent trees, flowering shrubs, and vegetative ground covers shall be used to provide seasonal color.
3. Shrubs, trees, and ground covers used on both corners of the Gateway Entry shall be the same varieties.
4. Stormwater retention basins within a 100 foot radius of Gateway Entry intersections, measured from the point of intersection of right-of-way lines, shall not exceed a depth of 1 foot below top of the adjacent curb.
5. Water features, sculpture, or outdoor art may be incorporated in Gateway Entry Landscaping.
6. Gateway Entry Landscaping shall be installed by the developer along with or prior to the project landscaping.
  - a. Plans for Gateway Entry Landscaping shall be submitted to the Design Review Board for approval along with final landscape plans.
  - b. Gateway Entry Landscaping shall be maintained by the property owner of the adjacent site or subdivision. Maintenance shall include provision of power and water, replacement of dead or



damaged plant material, repair of vandalism or accident damage, replacement of seasonal vegetation, and general upkeep.

7. The Design Review Board shall have the authority to approve an alternative Gateway Entry Landscape design where it finds that the proposed design is superior to the required design, and that it is necessary to complement the adjacent development.

**C. *Entry Signs.***

1. An Entry Sign shall be installed at the inbound corner of all Gateway Entries.
2. The Entry Sign shall be either a freestanding monument sign, lettering on the wall of a landscape planter, or other design approved by the Design Review Board.
3. The text of the Entry Sign shall read "Welcome to Gilbert."
4. Entry Signs shall incorporate design elements from the adjacent development.
5. Entry Signs shall consist of the official Town of Gilbert logo, lettering, and colors. Specifications for the logo, lettering style and colors are outlined in the Town of Gilbert Graphic Standards Manual.
6. The Entry Sign lettering shall be internally, indirectly illuminated.
7. Lettering on Entry Signs shall be a minimum of 30 inches above the highest point of the finished grade between the adjacent arterial streets and the sign.
8. Lettering on Entry Signs shall be a minimum of 24 inches in height.
9. Entry signs shall be installed by the developer along with or prior to the project landscaping.
  - a. Plans for entry signs shall be submitted to the Design Review Board for approval along with final landscape plans.
  - b. The Entry Sign shall be maintained by the property owner of the adjacent site or subdivision. Maintenance shall include provision of power and water, replacement of dead or damaged plant material, repair of vandalism or accident damage, replacement of seasonal vegetation, and general upkeep.

10. Entry signs shall be located no more than 200 feet from the arterial intersection, and shall be set back a minimum of 25 feet from the arterial street curb.
11. Other signage and landscaping shall be placed in a manner that does not obstruct visibility of the Entry Sign from inbound traffic.

#### **4.305 Streetscape Theme Trees**

**A. Purpose and Applicability.**

1. Create a distinct image for various districts within the Town by use of a uniform streetscape theme tree in each district.
2. Streetscape Theme Tree Districts are identified in APPENDIX 1, Figure 15.

**B. Streetscape Theme Trees.**

- District 1: Mondel Pine (*Pinus eldarica*)
- District 2: Evergreen Elm (*Ulmus parvifolia*)
- District 3: Mexican Fan Palm (*Washingtonia robusta*)
- District 4: Bottle Tree (*Brachychiton populneus*)  
Brazilian Pepper Tree (*Schinus terebinthifolius*)
- District 5: Chinese Pistache (*Pistacia chinensis*)
- District 6: Fruitless Olive (*Olea europaea* 'Swan Hill')
- District 7: Mondel Pine (*Pinus eldarica*)  
Coolibah Tree (*Eucalyptus microtheca*)
- District 8: Blue Palo Verde (*Cercidium floridum*)
- District 9: Chilean Mesquite (*Prosopis chilensis*)  
Palo Brea (*Cercidium praecox*)
- District 10: Pecan (*Carya illinoensis*)  
Chinese Pistache (*Pistacia chinensis*)

- District 11: Native Mesquite (*Prosopis velutina*)  
Sissoo Tree (*Dalbergia sissoo*)
- District 12: Chinese Pistache (*Pistacia chinensis*)  
Evergreen Elm (*Ulmus parvifolia*)
- District 13: Blue Palo Verde (*Cercidium floridum*)  
Evergreen Elm (*Ulmus parvifolia*)
- District 14: Sissoo Tree (*Dalbergia sissoo*)  
Sweet Acacia (*Acacia farnesiana*)
- District 15: Mesquite (*Prosopis* species)
- District 16: Sonoran Emerald Palo Verde (*Cercidium* hybrid ‘Sonoran Emerald’)  
Palo Brea (*Cercidium praecox*)

- C. ***Alternative Theme Trees.*** The Design Review Board shall have the authority to approve an alternative streetscape theme tree where it finds that the proposed tree species is superior to the required theme tree, and that it is necessary to complement the landscape design of the adjacent development.

#### **4.306 Landscape Maintenance and Enforcement**

- A. ***Landscape Maintenance during Construction.*** Existing plant material damaged during construction shall be replaced with comparable species and size prior to the final inspection or issuance of a Certificate of Occupancy. Existing plant material may only be removed pursuant to Sections 4.306C.3a, 4.306D.3a, or unless identified for removal on the approved final design review landscape plan.
- B. ***Right-of-Way Landscape Maintenance.*** Maintenance of landscaping in the right-of-way shall be the responsibility of the adjacent property owner, whether an individual, corporation, property owners association or homeowners association. Landscape maintenance for properties developed under a unified landscape plan shall be conducted in a uniform manner.
- C. ***Maintenance and Enforcement of Landscaping for Multi-Family Residential and Nonresidential Developments.***

1. *Maintenance.* The following standards shall be maintained for landscaping in multi-family residential and nonresidential developments:
  - a. Landscaped areas shall be maintained by the owner or lessor of the property. Maintenance shall include pruning, trimming, watering, removal and replacement of dead plant material, or other required improvements;
  - b. The landscaping shall be maintained in a weed-free manner;
  - c. The irrigation system shall be in good working condition, and shall be programmed in accordance with seasonal irrigation requirements. Broken, leaking, or damaged irrigation systems shall be repaired within 24 hours;
  - d. The landscaped area shall be maintained free of debris;
  - e. Landscaping shall be maintained at the level shown on the original approved landscape plan;
  - f. Amenities shown on the approved landscape plan shall be maintained in good repair; and
  - g. Common area fences and the exterior face of property line fences shall be maintained by the owner or lessor of the property or common area.
  
2. *Determination of Violation.* A multi-family residential or nonresidential development shall be in violation of the requirements of this section if there are:
  - a. Un-maintained areas containing weeds, debris, sinkholes, lack of inorganic ground cover, or similar conditions; or
  - b. Missing, dead or un-maintained trees, shrubs or other required landscaping; or
  - c. Amenities, including but not limited to, barbeques, tot lots, ramadas, picnic tables, ball fields, courts, pools, lakes, lighting, sidewalks, trails, fences, gates, refuse enclosures, and other common area amenities or homeowners association facilities which are missing, in disrepair or in need of paint or maintenance.
  
3. *Determination of No Violation.* A multi-family residential or nonresidential development shall not be in violation of the requirements of this section if:

- a. Trees or shrubs have been removed for safety reasons, such as maintaining traffic visibility or preventing interference with utility poles and/or lines, and if such removal has been authorized by the Town or serving utility.
  - b. The existing landscaping meets the intent of the original approved plans.
  - c. If there is no approved landscape plan or other relevant document on file with the Town, a violation of this section shall only be found to exist for dead plant material, parking lot planter islands where trees have been removed or are missing, damaged irrigation systems, debris, erosion, failure to control dust and where existing amenities are in disrepair. Amenities in disrepair shall be repaired or removed.
  - d. Other than for streetscape theme trees, where trees or other plant material have been replaced with alternative plants similar in size and appearance.
4. *Enforcement Procedures.* The procedures for enforcement of landscaping maintenance standards in multi-family residential and nonresidential developments are in addition to those regulations and procedures set forth in Article 5.12: Enforcement.
- a. Upon notification of a complaint of a violation of the landscaping maintenance standards by the Code Compliance Manager, the Director of Planning shall review the approved landscape plans for the development, inspect the area, and provide a written report to the Code Compliance Manager regarding the original plan requirements and acceptable alternatives, if any.
  - b. Upon a determination that a violation exists, a notice shall be sent to the multi-family residential or nonresidential property owner, outlining the violation and requiring that the property owner bring the landscaping into compliance within 45 days from the date of the notice.
  - c. Notice will be deemed given when done so in writing and mailed to the property owner address on file with the Maricopa County Assessor's office.
  - d. Within the above 45 day period the property owner may file an amendment to the approved landscape plans reflecting existing conditions. The amendment shall be reviewed and approved, approved with modifications and/or conditions, or denied by the

Design Review Board, or the Director of Planning as appropriate. The time for compliance is stayed from the time the proposed amendment is filed until action is taken by the Design Review Board or the Director of Planning as appropriate.

- e. The Code Compliance Manager may extend this 45 day time period one time for an additional 45 days if the property owner is making reasonable efforts to bring the area into compliance.
- f. If the property owner fails to comply, a citation shall be issued to the property owner in accordance with Section 5.1203: Violation; Notice and Opportunity to Correct, outlining the violation and summoning that person to appear in court and respond to the charges.

**D. *Maintenance and Enforcement of Landscaping for Single Family Residential Subdivisions.***

- 1. *Maintenance.* The following standards shall be maintained for landscaping in single family residential subdivisions:
  - a. Landscaped areas shall be maintained by the owner of the property, unless the common area is maintained by a parkway maintenance improvement district (PKID). Maintenance shall include pruning, trimming, watering, removal and replacement of dead plant material, or other required improvements;
  - b. The landscaping shall be maintained in a weed-free manner;
  - c. The irrigation system shall be in good working condition, and shall be programmed in accordance with seasonal irrigation requirements. Broken, leaking, or damaged irrigation systems shall be repaired within 24 hours;
  - d. The landscaped area shall be maintained free of debris;
  - e. The landscaping shall be maintained at the level shown on the original approved landscape plan;
  - f. Amenities, including but not limited to, barbeques, tot lots, ramadas, picnic tables, ball fields, courts, pools, lakes, lighting, sidewalks, trails, and other common area amenities shall be maintained in good repair; and



- a. Upon notification of a complaint of a violation of the landscaping maintenance standards by the Code Compliance Manager, the Director of Planning shall review the approved landscape plans for the subdivision, inspect the area, and provide a written report to the Code Compliance Manager regarding the original plan requirements and acceptable alternatives, if any.
  - b. Upon a determination that a violation exists, a notice shall be sent to the homeowners association (HOA) president and board, with a copy to the HOA management company, if one is known to the Town, outlining the violation and providing the HOA with 45 days to bring the landscaping into compliance.
  - c. Notice will be deemed given when done so in writing and mailed to the HOA address on file with the Arizona Corporation Commission.
  - d. Within the above 45 day period the HOA may file an amendment to the approved landscape plans reflecting existing conditions. The amendment shall be reviewed and approved, approved with modifications and/or conditions, or denied by the Design Review Board, or the Director of Planning as appropriate. The time for compliance is stayed from the time the proposed amendment is filed until action is taken by the Design Review Board, or the Director of Planning as appropriate.
  - e. The Code Compliance Manager may extend the 45 day compliance period for an additional 45 days if he finds that the HOA is making reasonable efforts to bring the area into compliance.
  - f. If the HOA fails to remedy the violation within the time period outlined above, the Code Compliance Manager shall send a final notice giving the HOA 20 additional days to comply.
  - g. If the HOA has failed to comply, a citation shall be issued to the HOA president, with a copy to the HOA board and management company, if one is known to the Town, in accordance with Section 5.1203: Violation; Notice and Opportunity to Correct, outlining the violation and summoning that person to appear in court and respond to the charges.
- E. **Appeals.** Appeals may be filed in accordance with the procedures set forth in Section 5.604: Appeals of Decisions of the Design Review Board, Redevelopment Commission, and Director of Planning.



# Article 4.4 Sign Regulations

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## Sections

- 4.401 Purposes and Intent
- 4.402 Title and Authority
- 4.403 Exempt Signs
- 4.404 Prohibited Signs
- 4.405 Sign Plans and Sign Program
- 4.406 Review of Sign Applications for Permanent Signs
- 4.407 General Provisions for Signs
- 4.408 Temporary Signs
- 4.409 Permanent Signs
- 4.4010 Residential Zoning Districts
- 4.4011 Nonresidential Uses in Residential Zoning Districts
- 4.4012 Commercial Zoning Districts
- 4.4013 Heritage Village Center and Gateway Zoning Districts
- 4.4014 Office Zoning Districts
- 4.4015 Employment Zoning Districts
- 4.4016 Public Facility/Institutional
- 4.4017 Sign Maintenance
- 4.4018 Nonconforming Signs
- 4.4019 Sign Violations
- 4.4020 State Preemption
- 4.4021 Severability

### 4.401 Purposes and Intent

It is the purpose of this Article 4.4 to promote the public health, safety and general welfare through reasonable, consistent and non-discriminatory sign standards. The sign regulations in this Article are not intended to censor speech or to regulate viewpoints, but instead are intended to regulate the adverse secondary effects of signs. The sign regulations are especially intended to address the secondary effects that may adversely impact aesthetics and traffic and pedestrian safety. The sign regulations are designed to serve substantial governmental interests and, in some cases, compelling governmental interests such as traffic safety and warning signs of threats to bodily injury or death. This Article is not intended to extend its regulatory regime to objects that are not traditionally considered signs for purpose of government regulation.

In order to preserve and promote the Town of Gilbert as a desirable community in which to live, visit, work, play and do business, a pleasing, visually attractive and safe environment is of foremost importance. The regulation of signs within the Town is a highly contributive means by which to achieve this desired end. Further it continues to be the purpose of this Article 4.4 to promote optimum conditions for serving sign owners' needs and respecting their rights to identification while balancing

the aesthetic and safety interests of the community. The regulation of signs within the Town of Gilbert is necessary and in the public interest, and these regulations have been prepared with the intent of enhancing the visual environment of the Town and promoting its continued well-being, and are intended more specifically to:

- A. ***Aesthetics.*** To maintain and enhance the beauty, unique character, aesthetic environment, and quality of the Town of Gilbert, that will attract commerce, businesses, economic development, residents and visitors; to preserve, conserve, protect, and enhance the aesthetic quality and scenic beauty of all zoning districts of the Town; to regulate the appearance and design of signs in a manner that promotes and enhances the beautification of the Town and that complements the natural surroundings in recognition of the Town's reliance on its natural surroundings and beautification efforts in retaining economic advantage for its community; and to assure that the benefits derived from the expenditure of public funds for the improvement and beautification of streets, sidewalks, public parks, public rights-of-way, and other public places and spaces, are protected by exercising reasonable controls over the physical characteristics and structural design of signs.
- B. ***Traffic and Pedestrian Safety.*** To maintain and improve traffic and pedestrian safety through properly located signs; to regulate signs in a manner so as to not interfere with, obstruct the vision of, or distract motorists, bicyclists or pedestrians; to allow for traffic control devices consistent with national standards and whose purpose is to promote roadway safety and efficiency by providing for the orderly movement of road users on streets and roadways, and that notify users of regulations and provide warning and guidance necessary for the safe, uniform and efficient operation of all elements of the traffic stream;
- C. ***Economic Development.*** To promote economic development and the value of non-residential properties, through sensitivity to surrounding land uses and maintaining an attractive community appearance.
- D. ***Effective Communication.*** To encourage signs which are clear and legible; to encourage the effective use of signs as a means of communication;
- E. ***Historical Character.*** To emphasize small town historical character by promoting pedestrian oriented and appropriately scaled signage in the Heritage Village Center Zoning District;
- F. ***Identification of Goods and Services.*** To aid the public and private sectors in identifying the location of goods and services.
- G. ***Compatibility with Surroundings.*** To allow signs that are compatible with their surroundings and aid orientation, while precluding the placement of signs that contribute to sign clutter or that conceal or obstruct adjacent land uses or signs; to preclude signs from conflicting with the principal permitted use of the site and adjoining sites; and to minimize the possible adverse effect of signs on nearby public and private property;

- H. ***Reduction of Visual Clutter.*** To reduce visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive size (area) of signs which compete for the attention of pedestrian and vehicular traffic;
- I. ***Zoning District Considerations.*** To encourage and allow signs that are appropriate to the zoning district in which they are located;
- J. ***Scale, Integration and Design.*** To establish sign size in relationship to the scale of the lot and building on which the sign is to be placed or to which it pertains; to foster the integration of signage with architectural and landscape designs; to provide flexibility and encourage variety in signage, and to relate signage to the basic principles of good design; and to promote the use of signs that positively contribute to the aesthetics of the community, are appropriate in scale to the surrounding buildings and landscape, and advance the Town's goals of quality development;
- K. ***Maintenance and Safety.*** Except to the extent expressly preempted by state or federal law, to ensure that signs are constructed, installed and maintained in a safe and satisfactory manner, and to protect the public from unsafe signs;
- L. ***Property Values.*** To protect property values by precluding, to the maximum extent possible, sign types that create a nuisance to the occupancy or use of other properties as a result of their physical characteristics such as their size (area), height, number, illumination and movement; and to protect property values by ensuring that the number of signs are in harmony with buildings, neighborhoods, and conforming signs in the area;
- M. ***Enforcement.*** To enable the fair and consistent enforcement of these sign regulations; and to provide standards regarding the non-communicative aspects of signs, which are consistent with local, county, state and federal law.

#### **4.402 Title and Authority**

- A. This Article may be known as the Sign Code of the Town of Gilbert, Arizona.
- B. This Article is adopted pursuant to the police power of the Town and State law (A.R.S. § 9-462.01), and the Development Services Director, or his designee is authorized and directed to administer and enforce this chapter.

#### **4.403 Exempt Signs**

The following signs are exempt from regulation under this Article 4.4:

- A. Government Signs, including signs erected by the Town for government purposes.

- B. Signs located entirely inside the premises of a building or enclosed space, other than Window Signs.
- C. Signs on a vehicle, other than an Unlawful Vehicle Sign.
- D. Signs protected by state statute.
- E. Traffic Control Device Signs.

#### **4.404 Prohibited Signs**

The following signs are prohibited in the Town of Gilbert unless protected by state statute, or otherwise allowed in this Article 4.4 Sign Regulations or Article 4.5012 Temporary Uses.

- A. Abandoned Signs.
- B. Animated Signs.
- C. Balloon Signs.
- D. Billboards.
- E. Blinking Signs.
- F. Flashing Signs.
- G. Inflatable Signs.
- H. Intermittent Signs.
- I. Moving Signs.
- J. Offsite Commercial Signs.
- K. Pole Signs.
- L. Reflective Signs.
- M. Rotating Signs.
- N. Signs emitting any sound which is intended to attract attention.
- O. Signs attached or painted on trees, rocks or natural features.
- P. Signs in the right-of-way.

- Q. Signs installed, attached or painted on fences.
- R. Signs or sign support structures that obstruct means of egress, including any fire escape, any window, any door opening, any stairway, any opening, any exit, any walkway, any utility access or Fire Department connection.
- S. Signs that interfere with any opening required for ventilation.
- T. Signs resembling Traffic Control Device Signs.
- U. Signs with exposed raceways.
- V. Snipe or Bandit Signs.
- W. Unlawful Vehicle Signs.

#### **4.405 Sign Plans and Sign Program**

- A. ***Heritage Sign Plans.*** A Heritage Sign Plan shall be required for a sign proposed within the Heritage Village Center Zoning District for single or multiple-tenant commercial or office uses, or for a multiple-building complex for a single commercial use. The Redevelopment Commission may approve a Heritage Sign Plan as an alternative to the requirements set forth Section 4.409.B for the Heritage Village Center Zoning District. If requested by an applicant, a Heritage Sign Plan may be administratively approved when the proposed plan complies with all of the requirements set forth in Article 4.4 Sign Regulations. In no event shall consideration for approval be based upon the message content of a sign.
  - 1. ***Conditions.*** The Planning Manager may attach conditions, requirements, or standards necessary to assure that the sign structure covered by the Heritage Sign Plan will not be materially detrimental to persons or property.
  - 2. ***Evaluation Criteria.*** Heritage Sign Plans shall be evaluated based on the following criteria:
    - a. **Placement.** All sign structures shall be placed where they are visible and legible. Factors to be considered include the location relative to pedestrian movement, traffic movement and access points, site features, other structures, and orientation relative to viewing distances and viewing angles.
    - b. **Size.** All signs shall be no larger than necessary for visibility and legibility. Factors to be considered in determining appropriate size include topography, volume and speed of traffic, viewing distances and angles, proximity to adjacent uses, and placement of display. In the event that the total business Sign Area otherwise allowed in this Article 4.4 does not provide sufficient area for visibility

and legibility for a sign, then the maximum size of sign area may be increased but only as necessary to allow for visibility and legibility; however in no event shall the foregoing allow a total business Sign Area to exceed by more than twenty-five (25) percent any maximum area standard otherwise allowed in this Article 4.4.

- c. Design Features and Materials. Design features and materials shall be compatible with the architecture, colors, and materials of the structures.
- d. Amendments. The Planning Manager may administratively approve minor amendments to a Heritage Sign Plan, where such changes are determined to have little or no visual impact and are consistent with the intent of the original approval. In approving a minor amendment, the Planning Manager shall not base any determination on the message content of a sign.

- B. **Comprehensive Sign Programs.** A Comprehensive Sign Program shall be required for all projects not located within the Heritage Village Center Zoning District and consisting of multi-tenant buildings, nonresidential complexes with multiple buildings, or large-scale mixed-use developments.

A Comprehensive Sign Program provides design compatibility for all signs and integrates sign design with the architecture of the buildings.

The Comprehensive Sign Program shall set forth design standards including, but not limited to sign types, placement, size, design, colors, materials, textures, and method of illumination, as well as provides for vehicle and pedestrian safety through directions and way finding orientation.

If a sign subject to the Comprehensive Sign Program complies with all of the requirements of this Article 4.4, it may be approved administratively by the Planning Manager, as set forth in Section 5.602B.1 Administrative Design Review. In determining approval, the Planning Manager shall not base any approval on the message content of a sign.

- C. **Master Sign Plans.** A Master Sign Plan may be approved as an alternative to the requirements set forth in Section 4.409.B for the uses and developments listed below:

- 1. **Applicability.** The Design Review Board may approve a Master Sign Plan for properties not located within the Heritage Village Center Zoning District for the following uses and developments:
  - a. Multiple-tenant commercial, office, or employment uses.
  - b. A multiple-building complex for a single commercial or employment use in a project exceeding 40 net acres.
  - c. Stand-alone office/employment buildings exceeding 100,000 square feet.

- d. Indoor or Outdoor Entertainment and Recreation uses.
  - e. Auto malls.
  - f. Hospitals.
  - g. Hotels and Commercial Lodging having at least 150 guest rooms and a Full Service Restaurant or conference and meeting rooms.
  - h. Regional retail shopping malls.
2. *Conditions.* The Design Review Board may attach conditions, requirements, or standards necessary to assure that the signs covered by the Master Sign Plan will not be materially detrimental to persons or property in the vicinity. In making its determination, the Design Review Board shall not base any condition on the message content of a sign.
3. *Evaluation Criteria.* Master Sign Plans shall be evaluated based on the following criteria:
- a. *Placement.* All signs shall be placed where they are visible and legible. Factors to be considered include its location relative to traffic movement and access points, site features, other structures, and orientation relative to viewing distances and viewing angles. Wall Signs may be approved on building walls other than the wall of the space occupied by the tenant in commercial centers in which some tenants have little or no visibility from the street.
  - b. *Quantity.* The number of signs that may be approved within any development shall be sufficient to provide necessary facilitation of internal circulation of vehicular and pedestrian traffic and way finding for safety of the occupants of vehicles and pedestrians. Factors to be considered shall be those that impact safety considerations such as the size of the development and the number of development sub-areas
  - c. *Size.* All signs shall be no larger than necessary for visibility and legibility. Factors to be considered in determining appropriate size include topography, volume and speed of traffic, viewing distances and angles, proximity to adjacent uses, and placement of display. In no event shall a Master Sign Plan contain a freestanding sign that exceeds by more than fifty (50) percent any maximum height standard permitted by this Article. Consistent with the exemptions set forth in this Article, there shall be no limit on the amount by which a Master Sign Plan may allow a freestanding sign to exceed the height restrictions permitted on the site when the freestanding sign is placed or oriented so as to be visible only internally to the development. In no event shall a Master Sign Plan contain a wall sign that exceeds by more than twenty-five (25) percent any maximum size (area) standard permitted by this Article. Consistent with the exemptions set forth in this

Article, there shall be no limit on the amount by which a Master Sign Plan may allow a wall sign to exceed the size (area) restrictions permitted on the site when the wall sign is placed or oriented so as to be visible only internally to the development itself.

- d. Design Features and Materials. Sign design themes and materials shall be compatible with the architecture, colors, and materials of the project.
- e. Development Standards. The Design Review Board may not reduce any sign development standard to less than 50 percent of any minimum standard, nor increase any sign development standard by more than one hundred (100) percent of the maximum standard. Notwithstanding the foregoing, the Design Review Board shall not base any decision on the message content of a sign.
- f. Amendments. The Planning Manager may administratively approve minor amendments to a Master Sign Plan involving non-communicative activity, where such changes are determined to have little or no visual impact and are consistent with the intent of the original approval.

D. **Gateway Sign Plans.** A Gateway Sign Plan shall be required for a sign proposed within the Gateway Village Center or Gateway Business Center Zoning District for single or multiple-tenant commercial or office uses, residential, or for a multiple-building complex for a single commercial use. The Design Review Board may approve a Gateway Sign Plan as an alternative to the requirements set forth Section 4.409.B for the Gateway Village Center and Gateway Business Center Zoning Districts. If requested by an applicant, a Gateway Sign Plan may be administratively approved when the proposed plan complies with all of the requirements set forth in Article 4.4 Sign Regulations. In no event shall consideration for approval be based upon the message content of a sign.

- 1. *Conditions.* The Planning Manager may attach conditions, requirements, or standards necessary to assure that the sign structure covered by the Gateway Sign Plan will not be materially detrimental to persons or property.
- 2. *Evaluation Criteria.* Gateway Sign Plans shall be evaluated based on the following criteria:
  - a. Placement. All sign structures shall be placed where they are visible and legible. Factors to be considered include the location relative to pedestrian movement, traffic movement and access points, site features, other structures, and orientation relative to viewing distances and viewing angles.
  - b. Size. All signs shall be no larger than necessary for visibility and legibility. Factors to be considered in determining appropriate size include topography, volume and speed of traffic, viewing distances and angles, proximity to adjacent uses, and placement of display. In the event that the total business Sign Area



otherwise allowed in this Article 4.4 does not provide sufficient area for visibility and legibility for a sign, then the maximum size of Sign Area may be increased but only as necessary to allow for visibility and legibility; however in no event shall the foregoing allow a total business Sign Area to exceed by more than twenty-five (25) percent any maximum area standard otherwise allowed in this Article 4.4.

- c. Design Features and Materials. Design features and materials shall be compatible with the architecture, colors, and materials of the structures.
- d. Amendments. The Planning Manager may administratively approve minor amendments to a Gateway Sign Plan, where such changes are determined to have little or no visual impact and are consistent with the intent of the original approval. In approving a minor amendment, the Planning Manager shall not base any determination on the message content of a sign.

#### **4.406 Review of Sign Applications for Permanent Signs**

All applications for Permanent Signs, except for those applications subject to administrative approval by the Planning Manager as set forth in Section 5.602B.1, Administrative Design Review, shall be considered by the Design Review Board or, in the Heritage District Overlay Zoning District, by the Redevelopment Commission. Approval for a Permanent Sign may be by:

- A. A Comprehensive Sign Program; or
- B. A Master Sign Plan; or
- C. A Heritage Sign Plan; or
- D. A Gateway Sign Plan; or
- E. A separate Administrative Design Review application approved by the Planning Manager.

#### **4.407 General Provisions for Signs**

The following general provisions for signs shall apply to this Article and to all lawful conforming and nonconforming signs, unless otherwise indicated in this article.

- A. ***Viewpoint Neutrality.***
  - 1. Notwithstanding anything in this Article to the contrary, no sign or sign structure shall be subject to any limitation based upon the viewpoint of the message contained on such sign or displayed on such sign structure.

2. Notwithstanding anything in this Article to the contrary, it is the policy of the Town to regulate signs in a manner that does not favor commercial speech over noncommercial speech and does not regulate protected noncommercial speech by message content.
  3. Within this Article, any distinction between onsite signs and offsite signs applies only to commercial messages. It does not apply to noncommercial messages.
- B. ***Substitution of Noncommercial Speech for Commercial Speech.*** Notwithstanding anything contained in this Article to the contrary, any sign erected pursuant to the provisions of this Article may, at the option of the owner, contain a noncommercial message in lieu of a commercial message and the noncommercial copy may be substituted in whole or in part at any time in place of the commercial copy. The noncommercial message (copy) may occupy the entire Sign Face or any portion thereof. The Sign Face may be changed from a commercial message to a noncommercial message or from one noncommercial message to another non-commercial message; provided, however, that there is no change in the size, height, setback or spacing criteria contained in this Article.
- C. ***Administrative Interpretation and Discretionary Approval.***
1. Interpretations of this Article may be made by the zoning administrator pursuant to Section 1.109. All interpretations of this Article are to be exercised in light of the policies, purposes and intent set forth herein.
  2. Whenever a sign permit or other approval is subject to discretion, such discretion shall not be exercised as to message content, but instead shall be directed to structural and location factors, including, as applicable:
    - a. Whether the location and placement of the sign will endanger motorists;
    - b. Whether the sign will cover, blanket or interfere with any prominent view of a structure or façade of historical or architectural significance;
    - c. Whether the sign will obstruct views of users or adjacent buildings to side yards, front yards or open space;
    - d. Whether the sign will negatively impact the visual quality of a public open space, such as a public recreation facility, square, plaza, park, courtyard and the like.
    - e. Whether the sign is compatible with building heights of the existing neighborhood;
    - f. Whether the sign's lighting or illumination system will cause hazardous or unsafe driving conditions for motorists;

- D. **Consent of Legal Owner of Property.** Except as required by state law, no sign may be displayed without the consent of the legal owner of the property on which the sign is mounted or displayed. For purposes of this policy, "owner" means the holder of the legal title to the property and any party and person holding a present legal right to possession, control, or use of the property.
- E. **Signs on Public Property.** Except as required by state law or otherwise permitted by this Article, any sign installed or placed on public property shall be deemed illegal and shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the Town shall have the right to recover from the owner or person placing such sign the cost of removal and disposal of such sign.
- F. **Placement of Signs.**
1. Permanent Signs shall not project into or over the public right-of-way without first obtaining a license or encroachment permit from the Town.
  2. The lowest portion of any sign which extends over an area intended for pedestrian use shall not be less than eight (8) feet above finished grade.
  3. The lowest portion of any sign which extends over an area intended for vehicular use shall not be less than fourteen (14) feet above the finished grade.
  4. Any sign placed on a sidewalk or other public right of way must comply with this Article and applicable provisions of the Americans with Disability Act.
  5. Except for appropriately-placed Traffic Control Device Signs, no sign shall be placed in the sight visibility triangle.
- G. **Flagpoles.** Unless otherwise required by state law, for each parcel and development site in residential use with at least one principal structure, one flagpole may be installed and there shall be no limit to the number of flags that may be displayed per flagpole. For each parcel and development site that is over one-half (1/2) acre in size and is in nonresidential use, up to three Flagpoles may be installed. For each additional acre, up to two (2) additional flagpoles may be installed. Up to two (2) flags may be displayed per flagpole. Flagpoles shall be depicted on Final Design Review plans or approved administratively as part of a sign plan. Flagpoles shall not exceed one and one-half (1.5) times the allowed building height for the district in which it is located, but in no event shall a flagpole exceed a height of fifty (50) feet. A building permit shall be required for Flagpoles on nonresidential properties, and for Flagpoles exceeding a height of thirty (30) feet on residential properties.
- H. **Flag Brackets and Stanchions.** For each principal structure on a parcel, up to two flag brackets or stanchions may be attached or placed for the display of flags.

I. ***Measurement of Sign Size and Height.***

1. *Sign Size (Sign Area).* The area of a sign (“Sign Area”) is measured or calculated as follows (See Appendix 1, Figures 28, for graphic illustrations):
  - a. Background panel signs. Sign copy that is mounted, affixed, or painted on a background panel or area distinctively painted, textured or constructed as a background for the sign copy, is measured as that area contained within the sum of the smallest rectangles, squares, triangles, parallelograms, circles or ellipses that will enclose both the sign copy and the background.
  - b. Background surface signs. The area of a sign consisting of copy mounted as individual letters or graphics against a wall, fascia, or parapet of a building surface or another surface, that has not been painted, textured, or otherwise altered to provide a distinctive background for the sign copy, is measured as the sum of the smallest rectangles, squares, triangles, parallelograms, circles or ellipses that will enclose each word, graphic or discrete visual element in the total sign.
  - c. Illuminated background signs. The area of a sign with copy mounted, affixed, or painted on an illuminated surface or illuminated element or a building or structure, is measured as the entire illuminated surface or illuminated element which contains sign copy.
  - d. Double-faced signs. If a sign has two (2) display faces, and the interior angle between the two (2) faces is thirty (30) degrees or less, then the Sign Area is one (1) Sign Face only; however, if the two (2) faces are of different sizes or shapes, then the larger is used. If the sign has two (2) display faces, and the interior angle between the two faces is greater than thirty (30) degrees, then the Sign Area is the sum of the areas of the two (2) faces.
  - e. Multi-faced signs. If a sign has three (3) or more faces, then the Sign Area is equal to fifty (50) percent of the aggregate area of all Sign Faces. The area of each face shall be determined according to subsection (a) or (b) of this section, as applicable.
  - f. Sculptural and nonplanar signs. The area of a spherical, free form, sculptural or other nonplanar sign is fifty (50) percent of the sum of the areas, using only the four (4) vertical sides of the smallest four-sided polyhedron which will completely enclose the entire sign structure.

2. ***Measurement of Sign Height.*** The height of a freestanding sign shall be measured as the vertical distance from the average finished grade of the ground below the sign excluding any filling, berming, mounding or excavating solely for the purposes of increasing the height of the sign, to the top edge of the highest portion of the sign. See Appendix 1, Figures 29, for graphic illustrations. The maximum height allowed for a freestanding sign, however, shall not include any architectural embellishment provided the embellishment does not exceed thirty-six (36) inches at the base of the sign and eighteen (18) inches at the top of the sign. For the purposes of this section, average finished grade shall be considered the lower of (a) the lowest elevation where the base of the sign meets ground level; or (b) the top of the curb of the nearest public street adjoining the property upon which the sign is erected; or (c) the grade of the land at the principal entrance to the lot on which the sign is located.
- J. ***Signs Must Maintain Clearance from Utilities and Shall Not Interfere with Surface and Underground Water or with Drainage.*** Signs shall maintain a minimum distance of six (6) feet horizontal clearance and twelve (12) feet overhead clearance from electrical conductors and from all communications equipment or lines. Signs and their supporting structures shall maintain clearance from and noninterference with all surface and underground facilities and conduits for water, sewage, electricity, or communications equipment or lines. Sign placement shall not interfere with surface or underground water or with natural or artificial drainage.
- K. ***Signs Declared a Nuisance and Repair; Signs Presenting Immediate Peril to Public Health or Safety.*** The building official may order the repair of signs declared a nuisance, and with or without notice may cause any structurally unsafe or structurally insecure sign to be immediately removed if the sign presents an immediate peril to the public health or safety.
- L. ***Tenant Sign Panel and Wall Sign Band Replacement.*** Replacement of a tenant sign panel containing the same color, size, design, and style as the original on an approved sign structure with removable panels shall not require a permit. Any tenant panel that is vacant or missing shall be replaced within thirty (30) days.
- M. ***Wall Sign Fascia Repair.*** Where a tenant has vacated a tenant or user suite, the fascia of the accessory wall sign band shall be repaired to its surrounding texture and color within forty-five (45) days of the panel or sign being removed.
- N. ***Signs Shall Not Be Attached to Certain Property and Shall Not Impair Roof Access.*** Signs shall not be attached to standpipes, gutters, drains or fire escapes. Signs shall not be installed so as to impair access to a roof.
- O. ***Bus Shelter Signage.*** Notwithstanding the provisions of Section 4.404, signs in conjunction with bus shelter facilities approved by the Town or other governmental agencies shall be permitted. Development standards, including but not limited to Sign Face area, height, location, etc., shall be determined in accordance with bus shelter design requirements established by the Town Engineer.

## 4.408 Temporary Signs

Other than as provided below and in subsections 4.408.B through 4.408.H, Temporary Signs shall meet the criteria set forth in Section 4.408.A Temporary Signs: General Criteria and Limitations by Zoning District. A Temporary Sign may be displayed as a ground sign or a wall sign, inclusive of a Window Sign.

- A. **General Criteria for Temporary Signs.** A Temporary Sign is unlawful if it does not meet the criteria established for the zoning district in which the Temporary Sign is located, as set forth and described below in Table 4.408.A, Temporary Signs: General Criteria and Limitations by Zoning District. However, except as otherwise provided below, the general criteria and limitations in this Section 4.408.A do not apply to A-Frame and T-Frame Signs, Banner Signs, Flying Banner Signs, Flags and Umbrella Signs.

| <b>TABLE 4.408.A Temporary Signs: General Criteria and Limitations by Zoning District</b> |                                     |  |   |
|---|-------------------------------------|--|---|
| <b>ZONING DISTRICTS</b>   | <b>Residential Zoning Districts</b> | <b>Non-Residential (Other than Heritage Village Center) Zoning Districts</b> | <b>Heritage Village Center and Gateway Zoning Districts</b> |
| Maximum Number of Signs Per Parcel  | 4 <sup>1</sup>                      | 4  | 4   |
| Maximum Sign Area <sup>2</sup>  | 6 sq. ft.                           | 32 sq. ft.   | 32 sq. ft.  |
| Sign Height Maximum for a Freestanding Sign <sup>3</sup>                                  | 4 ft.                               | 6 ft.  | 6 ft.   |
| Sign Height Maximum for a Wall Sign (inclusive of a Window Sign <sup>4</sup> )            | 6 ft.                               | 15 ft.   | 15 ft.  |
| Minimum Setback/ Distance from Right of Way <sup>5</sup>                                  | 10 ft.                              | 10 ft.   | 10 ft.  |

<sup>1</sup> In single-family residential zoning districts, each single family residential use with at least one principal structure may place up to 6 offsite Temporary Signs on private property for the purpose of directing the public to a residential activity (e.g. real estate open house, garage/yard sale, estate sale). Said signs shall be displayed only during the hours that the single family residence is open for public inspection and shall not exceed 6 sq. ft. in area per sign.

<sup>2</sup> The aggregate maximum sign area was deleted from this table for clarity but there was no effect on how the total square footage is calculated. Multiply the maximum sign area by the maximum number of signs to calculate the aggregate maximum sign area. There is no limit to the number of separate messages that may appear on the allowable surface(s) of any Temporary Sign.

<sup>3</sup> Not applicable to signs displayed on Flagpoles.

<sup>4</sup> Window Signs shall not cover more than 25% of the first floor window area. See Appendix 1, Figures 18, for graphic illustrations.

<sup>5</sup> Minimum Sign Setbacks are measured from the edge of the property line. Setbacks do not apply to wall signs or signs affixed to a temporary construction fence.

| <b>TABLE 4.408.A Temporary Signs: General Criteria and Limitations by Zoning District</b> |                                     |  |   |
|---|-------------------------------------|--|---|
| <b>ZONING DISTRICTS</b>   | <b>Residential Zoning Districts</b> | <b>Non-Residential (Other than Heritage Village Center) Zoning Districts</b> | <b>Heritage Village Center and Gateway Zoning Districts</b> |
| Minimum Spacing from any Other Sign (Temporary Sign or a Permanent Sign) <sup>2</sup>     | 15 ft.                              | 15 ft.   | 15 ft.  |
| Permit Required   | No                                  | No   | No  |
| Incorporation of Florescent Color or Exhibition of Florescence Allowed                    | No                                  | No   | No  |
| Permission of Owner Required  | Yes                                 | Yes  | Yes   |
| Allowed within a Sight Visibility Triangle  | No                                  | No   | No  |
| Allowed on Public Sidewalk / Right of Way <sup>6</sup>                                    | No                                  | No   | No  |
| Duration Allowed After Conclusion of an Event if Sign Pertained to an Event               | 3 days                              | 3 days   | 3 days  |
| Lighting or Illumination Allowed  | No                                  | No   | No  |
| Movement Allowed  | No                                  | No   | No  |

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<sup>6</sup> Government Signs displaying government speech are exempt from regulation under this Article 4.4.

B. ***A-Frame Signs and T-Frame Signs.***<sup>7</sup> A-Frame Signs and T-Frame Signs are unlawful if they do not meet the criteria and limitations set forth in the following Table 4.408.B A-Frame and T-Frame Signs: Criteria and Limitations.

1. A-Frame Signs and T-Frame Signs are permitted in all zoning districts but may be placed in single-family residential zoning districts only in conjunction with non-residential uses.
2. A-Frame Signs and T-Frame Signs must be located adjacent to the parcel or business advertised thereon, supported by a base of sufficient weight and durability to withstand wind gusts, and maintained in a professional manner free from fading, tearing, and tattering.
3. A-Frame Signs and T-Frame Signs shall not be placed in raised or painted medians, with stakes fastened to or driven into concrete, across the street from the business being advertised, on equestrian or multi-use trails, and must be placed at grade level. See Appendix 1, Figures 16, for graphic illustrations.

| <b>TABLE 4.408.B. A-Frame and T-Frame Signs: Criteria and Limitations</b> |  |
|---|--|
| Maximum Number of Signs   | Four (4 ) per business <sup>8</sup>  |
| Maximum Width   | Thirty-one (31) inches   |
| Maximum Height  | Forty-five (45) inches   |
| Minimum Setback/Distance from Roadway                                     | Five (5) feet (Except in Heritage Village Center and Gateway Zoning Districts, where minimum shall be one (1) foot)          |
| Maximum Width of Public Sidewalk that the Sign May Obstruct               | No more than one third (1/3) of the width of a public sidewalk and must provide at least four (4) feet of sidewalk clearance |
| Maximum Distance of Sign from Premises <sup>9</sup>                       | Ten (10) feet with signs spaced at least twenty (20) feet apart  |
| Duration  | Only during hours when business is open  |
| Allowed on Public Sidewalk / Right-of-Way                                 | Yes  |
| Allowed within a Sight Visibility Triangle                                | No   |
| Lighting or Illumination Allowed  | No   |
| Permit Required   | No   |
| Movement Allowed  | No   |

<sup>7</sup> The provisions of 4.408.B allowing for A-Frame Signs and T-Frame Signs shall be reviewed by the Town Council as soon as reasonably practicable after June 1, 2020, for the purpose of evaluating the effectiveness of A-Frame Signs and T-Frame Signs and to determine whether changes to 4.408.B should be made.

<sup>8</sup> The combined total number of A-Frame, T-Frame, and Flying Banner Signs shall not exceed four (4) per business.

<sup>9</sup> Signs may be allowed at the perimeter of a multiple-tenant commercial/office complex or employment park, but only pursuant to an approved sign plan.



**TABLE 4.408.B. A-Frame and  
T-Frame Signs: Criteria and Limitations**

|   |    |
|---|----|
| Incorporation of Florescent Color or<br>Exhibition of Florescence Allowed | No |
|---|----|

The purchase and placement of A-Frame Signs and T-Frame Signs is not a substantial capital investment in the business being advertised. Upon repeal or modification of the regulations pertaining to these types of Temporary Signs that results in further restricting or prohibiting the same, then such signs shall not be legal non-conforming signs and such signs shall comply with all new regulations.

- C. **Banner Signs.** Banner Signs are permitted in all zoning districts, but may be placed in single-family residential zoning districts only in conjunction with non-residential uses. Banner Signs are unlawful if they do not meet the criteria and limitations set forth below in Table 4.408.C, Banner Signs: Criteria and Limitations.

| <b>TABLE 4.408.C Banner Signs:<br/>Criteria and Limitations</b>                         |   |
|---|---|
| Maximum Number of Banner Signs Per Parcel/Business                                      | 1   |
| Maximum Sign Area <sup>10</sup>   | 40 sq. ft. for occupancies up to 5,000 sq. ft.<br>80 sq. ft. for occupancies greater than 5,000 sq. ft. up to 15,000 sq. ft.<br>120 sq. ft. for occupancies greater than 15,000 sq. ft. up to 50,000 sq. ft.; or<br>180 sq. ft. for occupancies greater than 50,000 sq. ft. |
| Sign Height Maximum if displayed as a Freestanding Sign                                 | 8 ft.   |
| Minimum Sign Setback if displayed as a Ground Signs <sup>11</sup>                       | 3 ft.   |
| Minimum Spacing from any Other Sign (Temporary Sign or a Permanent Sign <sup>12</sup> ) | 15 ft.  |
| Permit Required   | Yes   |
| Incorporation of Florescent Color or Exhibition of Florescence Allowed                  | No  |
| Allowed on Public Sidewalk / Right of Way <sup>13</sup>                                 | No  |
| Allowed within a Sight Visibility Triangle  | No  |
| Duration  | No more than 120 days per year in the aggregate   |
| Duration Allowed After Conclusion of an Event if the Sign Pertains to an Event          | 1 day   |
| Lighting or Illumination Allowed  | No  |
| Movement Allowed <sup>14</sup>  | Yes   |

<sup>10</sup> The square footage limitation is per side for a double-sided Banner Sign or Flying Banner Sign. For example, a 40 square foot limitation means there is a limit of 40 square feet of surface area per side of the double-sided Banner Sign or Flying Banner.

<sup>11</sup> Minimum Sign Setbacks are measured from the edge of the property line. Setbacks do not apply to a Banner Sign displayed on walls.

<sup>12</sup> Not applicable to signs displayed on Flagpoles.

<sup>13</sup> Government Signs displaying government speech are exempt from regulation under this Article 4.4.

<sup>14</sup> Movement is allowed for a Flying Banner Sign, but is not allowed for a Banner Sign.

D. **Flying Banner Signs.**<sup>15</sup> Flying Banner Signs are unlawful if they do not meet the criteria and limitations set forth below in Table 4.408.D, Flying Banner Signs: Criteria and Limitations.

1. Flying Banner Signs are permitted in all zoning districts, but may be placed in single-family residential zoning districts only in conjunction with non-residential uses.
2. Flying Banner Signs must be located adjacent to the parcel or business advertised thereon, supported by a base of sufficient weight and durability to withstand wind gusts, and maintained in a professional manner free from fading, tearing, and tattering.
3. Flying Banner Signs shall not be placed in raised or painted medians, with stakes fastened to or driven into concrete, across the street from the business being advertised, on equestrian or multi-use trails, and must be placed at grade level.

| <b>TABLE 4.408.D Flying Banner Signs:<br/>Criteria and Limitations</b>    |   |
|---|---|
| Maximum Number of Flying Banner Signs                                     | Four (4) per parcel or business <sup>16</sup>   |
| Maximum Sign Area   | 12 sq. ft.  |
| Sign Height   | 15 ft.  |
| Minimum Setback   | 4 feet from edge of curb, or a distance equal to the height of the Flying Banner Sign, whichever is greater.                              |
| Minimum Distance From an Access Drive or Street Intersection              | 30 ft.  |
| Minimum Distance from another Flying Banner Sign, A-Frame or T-Frame Sign | 20 ft.  |
| Permit Required   | No  |
| Allowed on Public Sidewalk / Right of Way <sup>17</sup>                   | Yes on a public sidewalk, subject to the criteria and limitations herein  |
| Allowed within a Sight Visibility Triangle                                | No  |
| Duration  | Only during hours when business is open   |
| Maximum Width of Public Sidewalk that the Sign May Obstruct               | No more than one third (1/3) of width of public sidewalk, and in all instances there must be at least four (4) feet of sidewalk clearance |

<sup>15</sup> The provisions of 4.408.D allowing for Flying Banner Signs shall be reviewed by the Town Council as soon as reasonably practicable after June 1, 2020, for the purpose of evaluating the effectiveness of Flying Banner Signs and to determine whether changes to 4.408.D should be made.

<sup>16</sup> The combined total number of Flying Banner Signs, A-Frame Signs, and T-Frame Signs shall not exceed four (4) per business.

<sup>17</sup> Government Signs displaying government speech are not subject to Article 4.4.

| <b>TABLE 4.408.D Flying Banner Signs:<br/>Criteria and Limitations</b> |     |
|--|-----|
| Lighting or Illumination Allowed                                       | No  |
| Movement Allowed   | Yes |

E. **Sign Walkers.** Sign Walkers are permitted in all zoning districts. Sign Walkers must comply with State law (A.R.S. § 9-499.13) and meet the following criteria and limitations:

1. *Location.* Sign Walkers shall be only located:

- a. 30 feet from a street or driveway intersection measured from the back of the curb or edge of pavement if no curb exists.
- b. 5 feet from the street measured from the back of curb or edge of pavement if no curb exists.
- c. Sign walkers shall yield right-of-way to pedestrians, bicycles and all others traveling or located on the sidewalks.
- d. At grade level.

2. *Prohibited locations.* Sign walkers shall not be located:

- a. In raised or painted medians.
- b. In parking aisles or stalls.
- c. In driving lanes or driveways.
- d. On equestrian or multi-use trails.
- e. So that less than a minimum of 4 feet is clear for pedestrian passage on all sidewalks and walkways, or so as to cause a hazard to pedestrian traffic.
- f. On fences, boulders, planters, other signs, vehicles, utility facilities, or any structure.
- g. Within a minimum distance of 20 feet from any other sign walker.
- h. In a manner that results in sign walkers physically interacting with motorists, pedestrians, or bicyclists.

3. *Display.* Sign shall be:
  - a. Displayed only when the business is open to conduct business.
  - b. Held, worn or balanced at all times.
4. *Elements prohibited.* The following shall be prohibited:
  - a. Any form of illumination, including flashing, blinking, or rotating;
  - b. Animation on the sign itself;
  - c. Mirrors or other reflective materials;
  - d. Attachments, including, but not limited to, balloons, ribbons, speakers.
- F. **Flags.** Unless otherwise required by state law or specified in this Article, no more than two (2) flags may be displayed on a flagpole, from a flag bracket or on a flag stanchion. The Sign Area of a flag displaying a commercial message shall not exceed twenty-four (24) square feet. For the purpose of determining the Sign Area of a flag, only one side of the flag shall be counted. Flags on residential or nonresidential parcels may be externally illuminated. A sign permit is not required for a flag.
- G. **Umbrella Signs.** For each table in an outside seating area for a licensed business establishment, one (1) Umbrella Sign per umbrella is allowed. An Umbrella Sign shall not exceed eight (8) feet in height. An umbrella having an Umbrella Sign shall be mounted on or in the table or secured within an umbrella holder adjacent to the table. A sign permit is not required for an Umbrella Sign. Umbrella Signs shall not be counted as part of a Maximum Sign Area for any use.

H. **Temporary Residential Subdivision Signs.** Temporary Residential Subdivision Signs are permitted in single-family residential zoning districts for each builder in a recorded subdivision plat only in conjunction with a valid building permit for a model home complex. Temporary Residential Subdivision Signs are unlawful if they do not meet the criteria and limitations set forth below in Table 4.408.H, Temporary Residential Subdivision Signs: Criteria and Limitations.

| <b>TABLE 4.408.H. Temporary Residential Subdivision Signs: Criteria and Limitations</b> |  |   |   |
|---|--|---|---|
|   | Principal Entry(ies)   | Model Home Complex                        | Perimeter Subdivision Open Space          |
| Maximum Number of Signs   | 1 per entry  | 1 or more                                 | 1 per street frontage                     |
| Maximum Sign Area   | 32 sq. ft.   | 96 sq. ft.                                | 32 sq. ft.                                |
| Maximum Height  | 8 ft.  | 12 ft.                                    | 8 ft.                                     |
| Minimum Setback/ Distance from Right of Way <sup>18</sup>                               | 10 ft.<br>(5 ft. if less than 32 sq. ft.)  | 10 ft.<br>(5 ft. if less than 32 sq. ft.) | 10 ft.<br>(5 ft. if less than 32 sq. ft.) |
| Aggregate Maximum Sign Area   | 256 sq. ft.  |   |   |
| Duration  | 3 years or until the model home complex is permanently closed, whichever occurs first. |   |   |
| Allowed on Public Sidewalk / Right-of-Way   | No   |   |   |
| Allowed within a Sight Visibility Triangle  | No   |   |   |
| Lighting or Illumination Allowed  | No   |   |   |
| Permission of Owner Required  | Yes  |   |   |
| Permit Required   | Yes  |   |   |
| Movement Allowed  | No   |   |   |
| Incorporation of Florescent Color or Exhibition of Florescence Allowed                  | No   |   |   |

<sup>18</sup> Minimum Sign Setbacks are measured from the edge of the property line. Setbacks do not apply to Wall Signs or signs affixed to a temporary construction fence.

- I. **Offsite Temporary Signs on Private Property.** Offsite Temporary Signs are permitted in all zoning districts on unimproved lots or parcels of 10 acres or more subject to criteria and limitations set forth below in Table 4.408.I, Offsite Temporary Signs on Private Property: Criteria and Limitations.

| <b>TABLE 4.408.I. Offsite Temporary Signs on Private Property:<br/>Criteria and Limitations</b> |            |
|---|------------|
| Maximum Number of Signs Per Parcel  | 1          |
| Minimum Size of Unimproved Parcel Required  | 10 acres   |
| Maximum Sign Area   | 32 sq. ft. |
| Maximum Sign Height   | 8 ft.      |
| Minimum Setback/ Distance from any Right of Way <sup>19</sup>                                   | 10 ft.     |
| Minimum Spacing from any Other Sign (including any Temporary Sign or Permanent Sign)            | 100 ft.    |
| Duration  | 1 year     |
| Allowed on Public Sidewalk / Public Right-of-Way  | No         |
| Allowed within a Sight Visibility Triangle  | No         |
| Lighting or Illumination Allowed  | No         |
| Permission of Owner Required  | Yes        |
| Permit Required   | Yes        |
| Movement Allowed  | No         |
| Incorporation of Florescent Color or Exhibition of Florescence Allowed                          | No         |

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<sup>19</sup> Minimum Sign Setbacks are measured from the edge of the property line.

## 4.409 Permanent Signs

A. ***General Criteria for Lighting and Changing Message Displays Utilized with Permanent Signs.*** The following general criteria and limitations for lighting and changing message displays shall apply to Permanent Signs, where indicated.

1. *Lighting.* The illumination of signs shall meet all regulations as set forth in the Gilbert Municipal Code, Chapter 42, Article II, Section 42-34 and A.R.S. § 49-1101 through 49-1106.
  - a. Except for Changing Message Displays and Marquee Signs, any flashing, blinking, reflective, animated, or rotating lights, or signs with an intermittent or varying intensity of artificial illumination, whether deliberate or as a consequence of a defect in the sign or the illumination source, shall be prohibited for any and all signs.
  - b. Exposed light sources such as neon, tube, incandescent, light-emitting diode (LED), fluorescent, metal halide, high- or low- sodium bulbs, or mercury vapor light sources may be used as a source of illumination for commercial uses in Commercial, Heritage Village Center, and Gateway Village Center Zoning Districts only. Exposed light tubes and bulbs must be a decorative feature that is consistent with the sign design and compatible with the architectural character of the building. Exposed light tubes and bulbs shall be proportionally sized. Exposed light tubes and bulbs may require administrative approval of a Comprehensive Sign Program, Master Sign Plan, Heritage Sign Plan, or Gateway Sign Plan according to the procedures set forth in Section 5.602B.1 Administrative Design Review, which shall be based upon content neutral and objective criteria. All light sources shall be shielded to prevent illumination trespass onto properties other than where the light source is located. Exposed neon, tube or bulb-type illumination is prohibited in all other zoning districts.
  - c. Sign Illumination.
    - (1) Permanent Sign on a parcel in residential use: With the exception of an identification sign at the entrance of a residential subdivision, a Permanent Sign located on a parcel in a residential district may not be separately or specially illuminated, unless otherwise specified in this Article.
    - (2) Permanent Sign on a parcel in nonresidential use: A Permanent Sign on a parcel in a nonresidential use may be illuminated by internal illumination, internal indirect (halo) illumination, or lit by external indirect illumination, unless otherwise specified in this Article; however, a Permanent Sign may not be illuminated in a manner that leaves the illumination device and/or components exposed to public view except with the use of neon, decorative bulbs or tubing as provided in this Article.



- (3) Internal illumination: Any outdoor internally illuminated sign permitted under Article 4.4 shall be constructed with an opaque background and translucent letters or other graphical elements, or with a solid colored background and contrasting letters or graphics.
  - (4) External indirect illumination: Externally lit signs are permitted to be illuminated only with steady, stationary, directed, and shielded light sources directed solely onto the sign. Light bulbs or tubes (excluding neon, decorative bulbs or tubing) used for illuminating a sign shall not be visible from the adjacent public rights-of-way and residential properties.
  - (5) Illumination of signs adjacent to single-family residential uses: No sign located within fifty (50) feet of a single-family zoning district shall be internally illuminated.
2. *Manual Changing Message Displays.* One-half (1/2) of the area of the face of a Freestanding Monument or Marquee Sign may be a manual Changing Message Display, subject to the criteria and limitations of this Article.
  3. *Electronic Changing Message Displays.* As provided in this article, wall-mounted cabinet signs, marquee, freestanding monument, tower and freeway signs may be an electronic changing message display except in residential zoning districts and subject to the following operational limitations. For non-residential uses in residential zoning districts, one-half (1/2) of the Sign Face of a Freestanding Monument Sign may be an electronic Changing Message Display, subject to the following operation limitations:
    - a. Display: An electronic Changing Message Display may be in full color.
    - b. Minimum Display Time: An electronic Changing Message Display shall not change more than once every eight (8) seconds except in Commercial, Heritage Village Center and Gateway Village Center Zoning Districts where unlimited motion is permitted.
    - c. Transition Method: An electronic Changing Message Display shall change by an instant change method.
    - d. Illumination Levels: An electronic Changing Message Display shall incorporate photocell/ light sensors, with automatic dimming technology that appropriately adjusts to ambient light conditions at all times of the day and night. Displays shall have a brightness level of no greater than 0.3 foot candles above ambient light conditions at the property line as measured by foot candle meter.

- e. Maintenance: Any allowed electronic Changing Message Display that malfunctions, fails, or ceases to operate in its usual or normal programmed manner shall be repaired or disconnected within forty-eight (48) hours by the owner or operator of such sign.

B. ***Type of Permanent Signs.*** The following types of permanent signs are allowed in one or more of the Town of Gilbert’s zoning districts, as more specifically set forth in 4.409.B.1. through B.26. below.

1. *Street Address Signs.*

- a. Street Address Signs for single-family dwellings. Each single family dwelling unit shall be clearly identified by or associated with a street address for first responders to locate the residential unit as necessary to respond to any fire or public safety issue. The sign shall serve as a visible street address and identifier for delivery of mail and official governmental notification. The Street Address Sign shall not exceed three (3) square feet in Sign Area.
- b. Street Address Signs for multi-family dwellings. Each multi-family dwelling unit shall be clearly identified by or associated with a Street Address Sign for first responders to locate the multi-family dwelling unit as necessary to respond to any fire or public safety issue. The sign shall serve as a visible street address and identifier for delivery of mail and official governmental notification. The Street Address Sign may be externally illuminated. The Street Address Sign or Unit and Building Identification Signs shall not exceed six (6) square feet in Sign Area.
- c. Street Address Signs for establishments or other non-residential uses. Each location of a business or non-residential use shall be clearly identified by or associated with a street address for first responders to locate the same as necessary to respond to any fire or public safety issue. The sign shall serve as visible street address and identifier for delivery of mail and official governmental notification. The Street Address Sign may be externally or internally illuminated. The Street Address Sign shall not exceed six (6) square feet in Sign Area.

2. *Unit and Building Identification Signs.*

- a. Unit and building Identification Sign for multi-family dwellings. Each multi-family dwelling unit shall be clearly identified by a Unit and Building Identification Sign for first responders to locate the same as necessary to respond to any fire or public safety issue, unless the unit or building has a Street Address Sign that is specific to that unit or building as opposed to any other unit or building or grouping of same. The Unit and Building Identification Sign shall serve as a visible identifier for delivery of mail and official governmental notification. The Unit and Building Identification Sign may be externally

illuminated. The Sign Area of a Unit and Building Identification Sign shall not exceed six (6) square feet.

- b. Unit and Building Identification Sign for businesses and other non-residential uses. Each location of a business or non-residential use shall be identified by a Unit and Building Identification Sign for first responders to locate the same as necessary to respond to any fire or public safety issue, unless the unit or building has a Street Address Sign that is specific to that unit or building as opposed to any other unit or building or grouping of same. The Unit and Building Identification Sign shall serve as a visible identifier for delivery of mail and official governmental notification. The Unit and Building Identification Sign may be externally illuminated. The Sign Area of a Unit and Building Identification Sign shall not exceed six (6) square feet.

3. *Wall Signs.*

a. Dwelling Unit Wall Signs.

- (1) Each single family dwelling unit shall be clearly identified by a Street Address Sign for first responders to locate the residential unit as necessary to respond to any fire or public safety issue.
- (2) Each single family dwelling unit may have one (1) permanent wall or ground sign not to exceed three (3) square feet in size and not to exceed two (2) feet in height if placed as a ground sign. This allowed sign is in addition to the required Street Address Sign for a single family dwelling unit.
- (3) Each multi-family dwelling unit shall be clearly identified by a Street Address Sign and Unit and Building Identification Sign as applicable for first responders to locate the multi-family dwelling unit or building number as necessary to respond to any fire or public safety issue.
- (4) Each individual dwelling unit in a multi-family dwelling unit may have one (1) permanent wall or ground sign not to exceed three (3) square feet in size and not to exceed two (2) feet in height if placed as a ground sign.

b. Wall Signs in Commercial, Office, Employment, and Public Facility / Institutional Zoning Districts.

- (1) Design. Wall Signs shall fit proportionally with building massing and architectural features of the elevation.
- (2) Length. The length of a Wall Sign shall not exceed eighty (80) percent of the horizontal length of the exterior building elevation of a tenant suite.

- (3) Height. The height of a Wall Sign shall not exceed eighty (80) percent of the vertical dimension of the sign band or wall space on which the sign is placed.
- (4) Placement. Wall Signs shall not be located closer to the top of a parapet wall than one-half the vertical dimension of the largest letter or character. Top floor signage located on multi-story buildings may span floor plates.
- (5) Wall Signs on building elevations abutting property designated for residential use in the General Plan shall:
  - i. Not be illuminated;
  - ii. Not exceed sixteen (16) square feet in Sign Area; and
  - iii. Be installed no higher than fourteen (14) feet above grade.
- (6) Wall Sign Area. The Minimum and Maximum Sign Areas for a Wall Sign shall be determined as set forth below. See Appendix 1, Figures 17A and 17B, for graphic illustrations.
  - i. Wall Sign Area: Buildings One-Story in Height.
    1. Minimum Wall Sign Area. Each tenant or user suite shall be permitted a Wall Sign with a Minimum Sign Area of 32 square feet, and such Wall Sign shall be permitted on any exterior wall of the tenant or user suite on the first floor of the building.
    2. Maximum Wall Sign Area. Each tenant or user suite shall be limited to Wall Sign with a Sign Area no greater than the total Sign Allowance Area defined below for (a) the longest building elevation of the tenant or user suite facing the street, or (b) the length of the building elevation of the tenant or user suite where its principal entrance is located.
    3. Sign Allowance Area. Sign Allowance Area under this subsection shall mean “for buildings set back seventy-five (75) feet or less from the right-of-way, one (1) square foot of Sign Area for each one (1) lineal foot of the building elevation adjacent to the suite,” and “for buildings set back more than seventy-five (75) feet from the right-of-way, one and one-half (1.5) square feet of Sign Area for each one (1) lineal foot of building elevation adjacent to the suite.”

4. Double Sign Allowance Area for Certain Buildings. Buildings with at least two building elevations facing streets and/or main private circulation drives shall be permitted double (2X) the Sign Allowance Area. Signs may be located on more than two elevations so long as the maximum allowance is not exceeded. In no event shall the Double Sign Allowance Area be used on a single elevation.
  5. Approval. Approval is required through a Comprehensive Sign Program and/or a Master Sign Plan if the building is a multi-tenant building or otherwise meets the criteria for review and approval set forth in this Article 4.4. under such a program or plan.
- ii. Wall Sign Area: Buildings Two Stories in Height. Wall Signs on multiple floors of a building two (2) stories in height shall conform to the following criteria.
1. First Floor. Individual tenant signs located on the first floor of a building two (2) stories in height shall be subject to the same criteria as tenant signs for a building one story in height, as set forth above.
  2. Second Floor. Individual tenant signs and building signs located on the second floor of a building two (2) stories in height shall not exceed seventy-five (75) square feet in Sign Area. Individual tenant signs and any building signs may be placed on any approved sign band or wall space on the second floor. The maximum wall Sign Area, including all tenant signs and building signs, shall not exceed fifty (50) percent of the lineal building elevation on the second floor.
  3. Double Sign Allowance Area for Certain Buildings. Buildings with at least two building elevations facing streets and/or main private circulation drives shall be permitted double (2X) the Sign Allowance Area. Signs may be located on more than two elevations as long as the maximum allowance is not exceeded. In no event shall the Double Sign Allowance Area be used on a single elevation.
  4. Approval. Approval is required through either a Comprehensive Sign Program or a Master Sign Plan.

- iii. Wall Sign Area: Buildings Three or More Stories in Height. Wall Signs located on buildings three (3) or more stories in height shall be limited to the first floor and the top floor, and shall conform to the following criteria.
  - 1. First Floor. Individual tenant signs located on the first floor shall be subject to the same criteria as tenant signs for a building one story in height, as set forth above
  - 2. Top Floor. The Sign Area for a Wall Sign on the top floor shall not be counted against the Sign Allowance Area of a Wall Sign on the first floor. Wall Sign located on the top floor are limited to either (i) one (1) building sign and one (1) tenant sign, or (ii) two (2) tenant signs. A Wall Sign located on the top floor shall adhere to the criteria contained in Table 4.409.B.3: Top Floor Sign Area and Height Standards for On-Premise Wall Signs. The Maximum Sign Area for a Wall Sign on the top floor shall not be increased through a Comprehensive Sign Program or Master Sign Plan.
  - 3. Double Sign Allowance Area for Certain Buildings. Buildings with at least two building elevations facing streets and/or main private circulation drives shall be permitted double (2X) the Sign Allowance Area. Signs may be located on more than two elevations as long as the maximum allowance is not exceeded. In no event shall the Double Sign Allowance Area be used on a single elevation.
  - 4. Approval. Approval is required through either a Comprehensive Sign Program or a Master Sign Plan.
- c. Wall Signs in Heritage and Gateway Zoning Districts.
  - (1) Design. Wall Signs shall fit proportionally with building massing and architectural features of the elevation.
  - (2) Length. The length of a Wall Sign shall not exceed eighty (80) percent of the horizontal length of the exterior building elevation of a tenant suite.
  - (3) Height. The height of a Wall Sign shall not exceed eighty (80) percent of the vertical dimension of the sign band or wall space on which the sign is placed.

- (4) Placement. Wall Signs shall not be located closer to the top of a parapet wall than one-half the vertical dimension of the largest letter or character. Top floor signage located on multi-story buildings may span floor plates.
- (5) Wall Signs on building elevations abutting property designated for residential use in the General Plan shall:
  - i. Not be illuminated;
  - ii. Not exceed sixteen (6) square feet in area; and
  - iii. Be installed no higher than fourteen (14) feet above grade.
- (6) Wall Sign Area. The Minimum and Maximum Sign Areas for a Wall Sign shall be as set forth below.
  - i. Wall Sign Area: One-Story Buildings.
    - 1. Minimum Sign Area for a Wall Sign. Wall Signs are permitted on any exterior wall of the tenant or user suite on the first floor of the one-story building.
    - 2. Maximum Sign Area for a Wall Sign. Each tenant or user suite shall be limited to a Wall Sign with a Sign Area no greater than the total sign allowance area defined below for (i) the longest building elevation of the tenant/user suite facing the street, or (ii) the length of the building elevation of the tenant or user suite in which its principal entrance is located.
    - 3. Sign Allowance Area. Sign Allowance Area as used in this subsection, Wall Sign Area, shall mean “one and one-half (1.5) square feet in Sign Area for each lineal foot of building elevation adjacent to the suite.”
    - 4. Double Sign Allowance Area for Certain Buildings. Buildings with at least two building elevations facing streets and/or main private circulation drives shall be permitted twice the Sign Allowance Area. Signs may be located on more than two elevations so long as the Double Sign Allowance Area is not exceeded. In no event shall the Double Sign Allowance Area be used on a single elevation.

- ii. Wall Sign Area: Buildings Two Stories in Height. Wall Signs on the floors of a building two (2) stories in height shall conform to the following criteria.
  - 1. First Floor. Individual tenant signs located on the first floor of a building two (2) stories in height shall be subject to the same criteria as tenant signs for a building one story in height, as set forth above.
  - 2. Second Floor. Individual tenant signs may only be placed on the building walls of the space occupied by the tenant. The individual tenant Wall Sign shall not exceed six (6) square feet in area per tenant/user suit. The sign area shall be included in the maximum Wall Sign area set forth above. Wall Signs may be indirectly illuminated or internally illuminated. Lighting fixtures shall be decorative and architecturally compatible with the building. See Guidelines for fixtures in the Heritage District Redevelopment Plan.
  - 3. Double Sign Allowance Area for Certain Buildings. Buildings with at least two building elevations facing streets and/or main private circulation drives shall be permitted double (2X) sign area allowance. Signs may be located on more than two elevations as long as the maximum allowance is not exceeded. In no event shall the Double Sign Allowance Area be used on a single elevation.
  - 4. Approval. Approval is required through a Heritage Sign Plan or Gateway Sign Plan.
  
- d. Wall Signs for Non-Residential Uses in Residential Zoning Districts
  - (1) Design. Wall Signs shall fit proportionally with building massing and architectural features of the elevation.
  - (2) Length. The length of a Wall Sign shall not exceed eighty (80) percent of the horizontal length of the exterior building elevation of a tenant suite.
  - (3) Height. The height of a Wall Sign shall not exceed eighty (80) percent of the vertical dimension of the sign band or wall space on which the sign is placed.



- (4) Placement. Wall Signs shall be placed on an area that is free of architectural details. Wall Signs shall not be located closer to the top of a parapet wall than one-half the vertical dimension of the largest letter or character. Top floor signage located on multi-story buildings may span floor plates.
- (5) Wall Signs on building elevations abutting property designated for residential use in the General Plan shall:
  - i. Not be illuminated;
  - ii. Not exceed sixteen (16) square feet in area; and
  - iii. Be installed no higher than fourteen (14) feet above grade.
- (6) Wall Sign Area. The minimum and maximum Wall Sign area shall be determined as set forth below. See Appendix 1, Figures 17A and 17B, for graphic illustrations.
  - i. Wall Sign Area: Buildings One or More Stories in Height. Wall Signs shall only be located on one (1) floor of a single-story or multi-story building, and shall meet the following criteria.
    - 1. Minimum Wall Sign area. Each tenant or user suite shall be permitted a Wall Sign with a Minimum Sign Area of thirty-two (32) square feet, and such Wall Sign shall be permitted on any exterior wall of the tenant or user suite on the first floor of the one-story building.
    - 2. Maximum Wall Sign area. Each tenant or user suite shall be limited to a total Wall Sign area no greater than the total Sign Allowance Area, defined below for (a) the longest building elevation of the tenant/user suite facing the street, or (b) the length of the building elevation of the tenant/user suite in which the principal entrance to the business is located.
    - 3. Sign Allowance Area. Sign Allowance Area as used in this subsection shall mean:
      - a. For buildings set back seventy-five (75) feet or less from the right-of-way, one (1) square foot of Sign Area for each lineal foot of the building elevation adjacent to the suite; and

- b. For buildings set back more than seventy-five (75) feet from the right-of-way, one and one-half (1.5) square feet of Sign Area for each lineal foot of building elevation adjacent to the suite.
- 4. Double Sign Allowance Area for Certain Buildings. A tenant or user suite with at least two building elevations facing streets and/or main private circulation drives shall be permitted twice the Sign Allowance Area (“Double Sign Allowance”). In no event shall the Double Sign Allowance be used on a single elevation.
- 5. Top Floor. If the top floor of a multi-story building is chosen for the allowable Wall Signs, the top floor Wall Signs are limited to either (i) one (1) building sign and one (1) tenant sign, or (ii) two (2) tenant signs. A Wall Sign on the top floor shall adhere to the criteria contained in Table 4.409.B: Top Floor Sign Area and Height Standards for On-Premise Wall Signs. This Sign Area shall not be increased through a Comprehensive Sign Program or Master Sign Plan.
- 6. Approval. Approval is required through a Comprehensive Sign Program or Master Sign Plan as set forth in this Article 4.4.

| Facing Street Type                          | Sign Height (Feet) from Finish Floor Level to Top of Sign* | Maximum Allowable Size of Sign Face (Sq. Ft.)   | Maximum Letter Height (Inches) |
|---|--|---|--------------------------------|
| Local/Collector                             | 40+  | Per Code; or one percent of the area of the elevation to which it is attached, whichever is greater | 12                             |
| Arterial                                    | 40+  | Per Code; or one percent of the area of the elevation to which it is attached, whichever is greater | 15                             |
| Freeway                                     | 40+  | Per Code; or one percent of the area of the elevation to which it is attached, whichever is greater | 21                             |
| *Unless approved signage spans floor plates |  |   |                                |

4. *Painted Wall Signs.* In Commercial, Heritage Village Center, and Gateway Zoning Districts, Painted Wall Signs are permitted on any exterior building wall of the tenant/user suite to which they are appurtenant and shall be limited to an onsite sign. The Sign Area of a Painted Sign shall be included in the Sign Allowance Area for signs in Section 4.409.B. Painted Wall Signs may be indirectly illuminated. Lighting fixtures shall be decorative and architecturally compatible with the building. Recommended Guidelines for appropriate design, materials, and color of fixtures within the Heritage Village Zoning District are set forth in the Heritage District Redevelopment Plan.
5. *Wall Signs at Entrances to Non-Residential Tenant Offices or Suites.* Each non-residential tenant or user suite may have one (1) permanent Wall Sign not to exceed three (3) square feet in area. This allowed sign is in addition to any required Street Address Sign and Unit and Building Identification Sign.
6. *Wall Signs at Entrances to Restaurants.* In addition to any other Wall Sign allowance, a restaurant shall be allowed one (1) Wall Sign installed within ten (10) feet of its main entrance. The Wall Sign shall not exceed six (6) square feet in area and shall not exceed six (6) feet in height. The Wall Sign may be internally or externally illuminated.
7. *Wall Signs at Service and Delivery Entrances.* In addition to any other Wall Sign allowance, a service or delivery entrance shall be allowed one (1) permanent Wall Sign installed within ten (10) feet of its entrance. The Wall Sign shall not exceed six (6) square feet in area and shall not exceed six (6) feet in height. The Wall Sign may be internally or externally illuminated.
8. *Window Signs.* Window Signs are permitted in all zoning districts but may be placed in single-family residential zoning districts only in conjunction with non-residential uses as a permanent Wall Sign, provided that the Window Sign does not cover more than twenty-five percent (25%) of the area of any window. Window Signs may be internally illuminated. A sign permit is not required for a Window Sign as allowed herein. See Appendix 1, Figures 18, for graphic illustrations.
9. *Door Signs.* Door Signs are permitted provided that the Door Sign does not cover more than twenty-five percent (25%) of the area of any door. Door Signs shall not be illuminated. A sign permit is not required for a Door Sign as allowed herein.
10. *Wall-Mounted Cabinet Signs.* Permanent Wall-Mounted Cabinet Signs are allowed in non-residential zoning districts and shall be stylized in shape, rather than rectangular, to reflect the shape of the image printed on the Sign Face or the molded Sign Face, with embossed copy or sign copy or sign copy in relief. Cabinet signs with an electronic message display must be architecturally integrated within the building design and mounted flush with the building wall plane or built into a canopy fascia. In the Heritage Village Center and Gateway Village Center Zoning Districts, wall mounted cabinet signs with electronic changing message displays must not exceed fifty (50) percent of the sign area allowance set forth in Section 4.409.B. This provision does not apply to

Canopy Signs for Service Islands regulated in Section 4.409.B.25, but this provision does apply to Projecting Signs and Projecting Roof Signs.

11. *Projecting Signs.* In Commercial, Heritage Village Center, and Gateway Zoning Districts, permanent Projecting Signs are allowed when affixed to the exterior building wall of the tenant/user suite to which they are appurtenant. Projecting Signs shall be located at the customer entry area of the tenant/user suite if blinking, flashing or illumination elements are incorporated. The allowable sign area for a Projecting Sign shall be included in the Maximum Sign Area allowed in Section 4.409.B.3, and when combined with any other Sign Area, shall not exceed the Maximum Sign Area. Projecting Signs may be internally or indirectly illuminated, and may incorporate flashing or blinking elements within the allowable Sign Area. Lighting fixtures shall be decorative and architecturally compatible with the building. Projecting Signs shall be stylized in shape, rather than rectangular, to reflect the shape of the image printed on the Sign Face. Fixtures used to affix the Projecting Sign to building walls shall be decorative and architecturally compatible with the building. Recommended Guidelines for appropriate design, materials, and color of fixtures within the Heritage Village Center Zoning District are set forth in the Heritage District Redevelopment Plan.
12. *Projecting Roof Signs.* In Commercial, Heritage Village Center and Gateway Zoning Districts, permanent Projecting Roof Signs are allowed subject to the same criteria set forth above for Projecting Signs. However, the height of a Projecting Roof Signs shall not exceed the height of a roofline or parapet by more than twenty-five (25) percent of the overall height of the sign. The Planning Commission or the Redevelopment Commission as applicable may approve heights greater than the foregoing twenty-five (25) percent through a Comprehensive Sign Program, Master Sign Plan, Heritage Sign Plan, Gateway Sign Plan, or a Design Review application, only when the proposed plan or application demonstrates that the Projecting Roof Sign is incorporated into the building's architecture. In no event shall a Projecting Roof Sign incorporated into the building's architecture exceed the height of the building's roofline or parapet by more than thirty (30) percent of the overall height of the sign.
13. *Suspended Signs.* In Commercial, Heritage Village Center, and Gateway Zoning Districts, one (1) permanent Suspended Sign is allowed for each permitted tenant/user building elevation. The sign shall be suspended from a roof overhang of a covered porch or walkway, which is adjacent to the exterior building wall of the tenant/user suite to which the sign is appurtenant. The Sign Area shall not exceed six (6) square feet. The size of the Suspended Signs shall not be included in the Maximum Sign Area set forth in Section 4.409.B. Suspended Signs may be indirectly illuminated. Lighting fixtures shall be decorative and architecturally compatible with the building. Recommended Guidelines for appropriate design, materials, and color of fixtures within the Heritage Village Center Zoning District are set forth in the Heritage District Redevelopment Plan.

14. *Drive-Through Lane Signs.* No more than two (2) Drive-Through Lane Signs are allowed for each drive-through lane serving a business establishment. The signs may be either a wall mounted sign or a ground sign. The signs shall be no greater than fifty (50) square feet in area and seven (7) feet in height. A drive-through ground sign shall be constructed with a solid base.
  
15. *Freestanding Sign: Monument Signs.*
  - a. For a nonresidential use in a Residential Zoning District, one (1) onsite Monument Sign is permitted for any lot or parcel with a minimum of one hundred (100) feet of street frontage. One (1) additional Monument Sign is permitted for any lot or parcel with street frontage greater than or equal to 250 feet but less than 400 feet. One (1) additional Monument Sign is permitted for each additional three hundred (300) feet of street frontage. The size of a Monument Sign shall not exceed thirty-two (32) square feet in area and eight (8) feet in height. Monument Signs shall be set back a minimum of three (3) feet from the right-of-way.
  
  - b. In Commercial and Public Facility/Institutional Zoning Districts, one (1) onsite Monument Sign is permitted for any lot or parcel with a minimum of 100 feet of street frontage. One (1) additional Monument Sign is permitted for any lot or parcel with street frontage greater than or equal to 250 feet but less than 400 feet. One (1) additional Monument Sign is permitted for each additional three hundred (300) feet of street frontage. The height of a Monument Sign shall be no greater than twelve (12) feet to the top of design embellishments, and the Sign Face shall be located between two (2) feet and ten (10) feet above grade with design embellishments added to the top, sides or bottom of the sign. The size of a Monument Sign shall not exceed sixty (60) square feet in area. Monument Signs shall be set back a minimum of three (3) feet from the right-of-way. Monument Signs shall maintain a minimum spacing of one hundred (100) feet from any other Monument Sign on the same street frontage.
  
  - c. In Office, Employment and Gateway Business Center Zoning Districts, one (1) onsite Monument Sign is permitted for any lot or parcel with a minimum of 100 feet of street frontage. One (1) additional Monument Sign is permitted for any lot or parcel with street frontage greater than or equal to 250 feet but less than 400 feet. One (1) additional Monument Sign is permitted for each additional three hundred (300) feet of street frontage. The height of a Monument Sign shall be no greater than twelve (12) feet to the top of design embellishments, and the Sign Face shall be located between two (2) feet and ten (10) feet above grade with design embellishments added to the top, sides or bottom of the sign. The size of Monument Sign shall not exceed sixty (60) square feet in area. Monument Signs shall be set back a minimum of three (3) feet from the right-of-way. Monument Signs shall maintain a minimum spacing of one hundred (100) feet from any other Monument Sign on the same street frontage.

- d. In the Heritage Village Center and Gateway Village Center Zoning Districts, one (1) onsite Monument Sign is permitted for any lot or parcel. A Monument Sign is permitted to assist in the safe movement of vehicular traffic on a property containing an existing building that exceeds the required build-to lines, as set forth in Section 2.403C: Build-To Lines. The height of a Monument Sign shall be no greater than six (6) feet, and the height measurement includes structural supports, monument base, architectural features of the structure, and nonstructural or decorative trim. The size of a Monument Sign shall not exceed thirty-two (32) square feet in area. Monument Signs shall be set back a minimum of three (3) feet from the right-of-way. Monument Signs shall maintain a minimum spacing of one hundred (100) feet from any other Monument Sign on the same street frontage.
16. *Freestanding Sign: Tower Signs.* In the Regional Commercial and General Commercial Zoning Districts for retail centers exceeding forty (40) net acres, and in the Office, Employment and Public Facility / Institutional Zoning Districts for sites that both abut a freeway and exceed forty (40) net acres, one (1) onsite Tower Sign is permitted for each five hundred (500) feet of street frontage, provided the total number of all Freestanding Signs, including Monument Signs, shall not exceed one (1) sign per three hundred (300) feet of street frontage. The maximum height of a Tower Sign shall not exceed fifteen (15) feet. The Sign Area of a Tower Sign shall not exceed eighty (80) square feet. The Maximum Sign Area of a Tower Sign may be increased by an additional twenty (20) square feet for the identification of tenants or occupants of suites five thousand (5,000) square feet or less in area. Tower Signs shall be set back a minimum of three (3) feet from the right-of-way. Tower Signs shall maintain a minimum spacing of three hundred (300) feet from any other Freestanding Sign on the same street frontage.
  17. *Freestanding Sign: Freeway Signs.* In the Commercial, Office, Employment and Public Facility / Institutional Zoning Districts for properties that both exceed fifteen (15) acres and abut a freeway identified in the circulation element of the General Plan, one (1) onsite Freeway Sign shall be permitted for each four hundred (400) feet of freeway frontage. The height of the Freeway Sign shall not exceed sixty (60) feet above grade or thirty (30) feet above the grade of the nearest lanes of the adjacent freeway main travel surface, whichever is greater. The maximum size (area) for a Freeway Sign shall not exceed five hundred (500) square feet. The maximum size (area) of a Freeway Sign may be increased by an additional twenty (20) square feet for the identification of the center. Freeway signs shall be set back a minimum of one hundred fifty (150) feet from (i) the right-of-way other than a freeway and (ii) a property line adjacent to property designated for retail or residential use in the General Plan. Freeway Signs shall be located within one hundred (100) feet of the freeway right-of-way and shall be oriented to the freeway. A Freeway Sign shall be considered oriented to a freeway where the Sign Face makes an interior angle of more than thirty (30) degrees to the freeway. Freeway Signs shall maintain a minimum spacing of four hundred (400) feet from any other Freeway Sign on the same property.

18. *Freestanding Sign: Onsite Traffic Directional Signs.* In the Commercial, Heritage Village Center, Office, Employment, and Public Facility / Institutional Zoning Districts, Onsite Traffic Directional Signs are permitted as necessary to assist in movement of vehicular traffic on a property for the purpose of the safety of both pedestrian and vehicular traffic. The Sign Area of an Onsite Traffic Directional Sign shall not exceed three (3) square feet and the height of Onsite Traffic Directional Sign shall not exceed three (3) feet. An Onsite Traffic Directional Sign shall be set back a minimum of twenty-five (25) feet from the right-of-way, and shall not be located within the required perimeter landscape area. Onsite Traffic Directional Signs shall not be counted as part of a maximum or total sign area for any use.
19. *Freestanding Sign: Residential Subdivision Entry Signs.* A Residential Subdivision Entry Sign at the principal entry or entries to residential subdivisions may have one (1) entry sign on each side of the street. The Maximum Sign Area of the Residential Subdivision Entry Sign shall not exceed twenty-five (25) square feet and the maximum height shall not exceed eight (8) feet. The Residential Subdivision Entry Sign shall be set back a minimum of three (3) feet behind the right-of-way. A Residential Subdivision Entry Sign may be internally or indirectly illuminated. The Residential Subdivision Entry Sign shall be incorporated into the design of an entry wall, which shall be architecturally compatible with other subdivision improvements. Residential Subdivision Entry Sign structures require approval by the Design Review Board as part of the subdivision open space plan. Residential Subdivision Entry Sign structures that are added following the initial development of the subdivision require Administrative Design Review approval.
20. *Freestanding Sign: Multi-Family Complex Entry Signs.* A Multi-Family Complex Entry Sign at the principal entry or entries to a multi-family complex may have one (1) entry sign on each side of the street. The Maximum Sign Area of a Multi-Family Complex Entry Sign shall not exceed thirty-two (32) square feet and the maximum height shall not exceed eight (8) feet. The Multi-Family Complex Entry Sign shall be set back a minimum of three (3) feet behind the right-of-way. A Multi-Family Complex Entry Sign may be internally or indirectly illuminated. A Multi-Family Complex Entry Sign structure shall be architecturally compatible with the complex and shall be approved administratively.
21. *Freestanding Sign: Directory Sign.* In the Commercial, Office, Employment, Public Facility / Institutional, and Gateway Zoning Districts, one (1) Directory Sign is permitted for each four (4) commercial tenants or uses. The Maximum Sign Area of the Directory Sign shall not exceed forty (40) square feet and the maximum height of the Directory Sign shall not exceed eight (8) feet. A Directory Sign shall be set back a minimum of seventy-five (75) feet from any perimeter property line, except where such property line abuts other commercial or employment development and there is a cross-access between the commercial or employment properties. A Directory Sign shall only be installed onsite within landscape islands or pedestrian areas.

In the Heritage Village Center Zoning District, one (1) Directory Sign is permitted for each four (4) commercial tenants or uses. The maximum size (area) of the Directory Sign shall not exceed six (6) square feet and the maximum height of the Directory Sign shall not exceed six (6) feet. A Directory Sign shall be integrated into the building architecture or located within a courtyard or similar feature of a building.

22. *Awning Signs.* In Commercial, Heritage Village Center and Gateway Zoning Districts, an Awning Sign may be located on the valance of an awning. The Sign Area of an Awning Sign, together with the Sign Area of any other allowed lawful and permitted signs for the same building, shall not exceed the limitation for the Sign Allowance Area set forth in Section 4.409.B. Graphics shall be permanently affixed to the awning, and may be silkscreen, painted, cutout lettering heat color transfer, pressure sensitive vinyl films, sewn applique signs, or similar to the foregoing. An Awning Sign may be indirectly illuminated or backlit. An Awning Sign shall not obstruct sidewalks, required accessible paths of travel, or the visibility of other signs. Lighting fixtures shall be decorative and architecturally compatible with the building. Recommended Guidelines for appropriate design, materials, and color of fixtures are set forth in the Heritage District Redevelopment Plan.
23. *Marquee Signs.* In Commercial Zoning District and the Heritage Village Center and Gateway Village Center Zoning Districts, a Marquee Sign may be located on a marquee that is approved by the Planning Commission or the Redevelopment Commission as applicable as part of a Design Review application, a Comprehensive Sign Program, Master Sign Plan or Heritage Sign Plan. A Marquee Sign shall only be affixed on a marquee located at the primary entrance of the tenant/user suite to which it is appurtenant. The Sign Area of the Marquee Sign, together with the Sign Area of any other allowed lawful and permitted signs for the same building, shall not exceed the limitation for the Sign Allowance Area set forth in Section 4.409.B. The colors, materials, and design of a Marquee Sign shall complement the design of the building(s) which it serves. A Marquee Sign may be internally or indirectly illuminated. A Marquee Sign may include a manual or electronic Changing Message Display that is proportional and architecturally integrated with the Marquee structure and building design. A Marquee Sign shall not obstruct sidewalks, required accessible paths of travel, or the visibility of other signs. Lighting fixtures shall be decorative and architecturally compatible with the building, and a marquee sign may incorporate flashing or blinking elements within the permitted Sign Area. Recommended Guidelines for appropriate design, materials, and color of fixtures and the appropriate flashing and blinking frequency within the Heritage Village Center District are set forth in the Heritage District Design Guidelines.
24. *Canopy Signs for Service Islands.* Each service island may have up to two (2) Canopy Signs per service island. The Sign Area of a Canopy Sign shall not exceed twelve (12) square feet. No part of the sign shall project from a canopy wall by more than six (6) inches. A Canopy Sign shall be vertically centered on the face of the canopy and the



height shall not exceed eighty (80) percent of the vertical dimension of the canopy wall on which the sign is placed. The Sign Area of a Canopy Sign shall not count against the Maximum Sign Area allowed for Wall Signs on the parcel.

25. *Historic Markers.* One (1) Historic Marker per parcel is allowed. The Sign Area of a Historic Marker shall not exceed six (6) square feet.
26. *Heritage District Roof Signs.* In the Heritage Village Center Zoning District, a roof sign shall only be permitted on a building that is three stories above ground and taller, and fronts Gilbert Road, subject to the following conditions and criteria:
  - a. Only one (1) roof sign shall be permitted within each segment identified as Segment 1, Segment 2 and Segment 3. Segment 1 is bounded by Juniper Avenue to the north and the Consolidated Canal to the south. Segment 2 is bounded by the Consolidated Canal to the north and the railroad tracks to the south. Segment 3 is bounded by the rail road tracks to the north and by Elliot Road to the south.
  - b. The roof sign must be located at minimum two (2) feet from the edge of the roof.
  - c. The roof sign must have a horizontal dimension equal to or greater than its vertical dimension. The maximum sign area must not exceed 200 square feet. The allowable sign area for a Heritage District Roof Sign shall be exempt from the Maximum Sign Area allowed in Section 4.409. B.3.
  - d. The maximum height must not extend more than fifteen (15) feet above the roof line, parapet, or fascia of the building. The height measurement includes structural supports, architectural features of the structure, and nonstructural or decorative trim.
  - e. If single-sided, the back of the roof sign must include a stylized backer and must have all wires and accessory equipment concealed. A double-sided roof sign may only be permitted if mounted perpendicular to Gilbert Road.
  - f. The sign copy must be mounted as stylized, individual letters and graphics. A background panel or billboard-style backer is prohibited.
  - g. Sign illumination shall be limited to exposed neon, decorative bulbs or tubing.
  - h. The sign must not inhibit the required screening of mechanical equipment and must not impair roof access.
  - i. The roof sign must be architecturally compatible with the building. The Heritage District Design Guidelines set forth the appropriate design, materials and color of the roof sign.

- j. The Redevelopment Commission may approve the roof sign through a Heritage Sign Plan or a Design Review application where the proposed plan or application demonstrates that the roof sign is compatible with the building’s architectural design. Notwithstanding the foregoing, the Redevelopment Commission shall not base any decision on the message content of the sign.

#### 4.4010 Residential Zoning Districts

In Residential Zoning Districts, the Permanent Sign types allowed and the applicable permitting plan or program and/or other review process are set forth below in Table 4.4010. Refer to each sign type for criteria and limitations as more specifically set forth in Section 4.409.B.

| <b>Table 4.4010: Permanent Signs Allowed in Residential Zoning Districts</b> |                |
|--|----------------|
| <b>Sign Type</b>   | <b>Allowed</b> |
| 1. Street Address Signs  | Yes            |
| 2. Unit and Building Identification Signs                                    | Yes            |
| 3. Wall Signs at Entrances to Dwelling Units                                 | Yes            |
| 4. Painted Wall Signs  | No             |
| 5. Wall Signs at Entrances to Non-Residential Tenant Offices and Suites      | No             |
| 6. Wall Signs at Entrances to Restaurants                                    | No             |
| 7. Wall Signs at Service and Delivery Entrances                              | No             |
| 8. Window Signs  | No             |
| 9. Door Signs  | Yes            |
| 10. Wall-Mounted Cabinet Signs   | No             |
| 11. Projecting Signs   | No             |
| 12. Projecting Roof Signs  | No             |
| 13. Suspended Signs  | No             |
| 14. Drive-Through Lane Signs   | No             |
| 15. Freestanding Sign: Monument Signs  | No             |
| 16. Freestanding Sign: Tower Signs   | No             |
| 17. Freestanding Sign: Freeway Signs   | No             |
| 18. Freestanding Sign: Onsite Traffic Signs                                  | No             |
| 19. Freestanding Sign: Residential Subdivision Entry Signs                   | Yes            |
| 20. Freestanding Sign: Multi-Family Complex Entry Signs                      | Yes            |
| 21. Freestanding Sign: Directory Signs                                       | No             |
| 22. Awning Signs   | No             |
| 23. Marquee Signs  | No             |
| 24. Canopy Signs for Service Islands   | No             |
| 25. Historic Markers   | Yes            |

### 4.4011 Nonresidential Uses in Residential Zoning Districts

For non-residential uses in Residential Zoning Districts, the Permanent Sign types allowed and the applicable permitting plan or program and/or other review process are set forth below in Table 4.4011. Refer to each sign type for criteria and limitations as more specifically set forth in Section 4.409.B.

| <b>Table 4.4011: Permanent Signs Allowed for Non-Residential Uses in Residential Zoning Districts</b> |                |
|---|----------------|
| <b>Sign Type</b>  | <b>Allowed</b> |
| 1. Street Address Signs   | Yes            |
| 2. Unit and Building Identification Signs   | Yes            |
| 3. Wall Signs at Entrances to Dwelling Units  | Yes            |
| 4. Painted Wall Signs   | No             |
| 5. Wall Signs at Entrances to Non-Residential Tenant Offices and Suites                               | No             |
| 6. Wall Signs at Entrances to Restaurants   | No             |
| 7. Wall Signs at Service and Delivery Entrances   | No             |
| 8. Window Signs   | Yes            |
| 9. Door Signs   | Yes            |
| 10. Wall-Mounted Cabinet Signs  | No             |
| 11. Projecting Signs  | No             |
| 12. Projecting Roof Signs   | No             |
| 13. Suspended Signs   | No             |
| 14. Drive-Through Lane Signs  | No             |
| 15. Freestanding Sign: Monument Signs   | Yes            |
| 16. Freestanding Sign: Tower Signs  | No             |
| 17. Freestanding Sign: Freeway Signs  | No             |
| 18. Freestanding Sign: Onsite Traffic Signs   | No             |
| 19. Freestanding Sign: Residential Subdivision Entry Signs  | No             |
| 20. Freestanding Sign: Multi-Family Complex Entry Signs   | No             |
| 21. Freestanding Sign: Directory Signs  | No             |
| 22. Awning Signs  | No             |
| 23. Marquee Signs   | No             |
| 24. Canopy Signs for Service Islands  | No             |
| 25. Historic Markers  | Yes            |

## 4.4012 Commercial Zoning Districts

In Commercial Zoning Districts, the Permanent Sign types allowed and the applicable permitting plan, program or other review process are set forth below in Table 4.4012. Refer to each sign type for criteria and limitations as more specifically set forth in Section 4.409.B.

| <b>Table 4.4012: Permanent Signs Allowed in Commercial Zoning Districts</b> |                |
|---|----------------|
| <b>Sign Type</b>  | <b>Allowed</b> |
| 1. Street Address Signs   | Yes            |
| 2. Unit and Building Identification Signs                                   | Yes            |
| 3. Wall Signs at Entrances to Dwelling Units                                | Yes            |
| 4. Painted Wall Signs   | Yes            |
| 5. Wall Signs at Entrances to Non-Residential Tenant Offices and Suites     | Yes            |
| 6. Wall Signs at Entrances to Restaurants                                   | Yes            |
| 7. Wall Signs at Service and Delivery Entrances                             | Yes            |
| 8. Window Signs   | Yes            |
| 9. Door Signs   | Yes            |
| 10. Wall-Mounted Cabinet Signs  | Yes            |
| 11. Projecting Signs  | Yes            |
| 12. Projecting Roof Signs   | Yes            |
| 13. Suspended Signs   | Yes            |
| 14. Drive-Through Lane Signs  | Yes            |
| 15. Freestanding Sign: Monument Signs                                       | Yes            |
| 16. Freestanding Sign: Tower Signs  | Yes            |
| 17. Freestanding Sign: Freeway Signs  | Yes            |
| 18. Freestanding Sign: Onsite Traffic Signs                                 | Yes            |
| 19. Freestanding Sign: Residential Subdivision Entry Signs                  | No             |
| 20. Freestanding Sign: Multi-Family Complex Entry Signs                     | Yes            |
| 21. Freestanding Sign: Directory Signs                                      | Yes            |
| 22. Awning Signs  | Yes            |
| 23. Marquee Signs   | Yes            |
| 24. Canopy Signs for Service Islands  | Yes            |
| 25. Historic Markers  | Yes            |

### 4.4013 Heritage Village Center and Gateway Zoning Districts

In the Heritage Village Center and Gateway Zoning Districts, the Permanent Sign types allowed and the applicable permitting plan, program or review process are set forth below in Table 4.4013. Refer to each sign type for criteria and limitations as more specifically set forth in Section 4.409.B.

| <b>Table 4.4013: Permanent Signs Allowed in the Heritage Village Center and Gateway Zoning Districts</b> |                |
|--|----------------|
| <b>Sign Type</b>   | <b>Allowed</b> |
| 1. Street Address Signs  | Yes            |
| 2. Unit and Building Identification Signs  | Yes            |
| 3. Wall Signs at Entrances to Dwelling Units   | Yes            |
| 4. Painted Wall Signs  | Yes            |
| 5. Wall Signs at Entrances to Non-Residential Tenant Offices and Suites                                  | Yes            |
| 6. Wall Signs at Entrances to Restaurants  | Yes            |
| 7. Wall Signs at Service and Delivery Entrances  | Yes            |
| 8. Window Signs  | Yes            |
| 9. Door Signs  | Yes            |
| 10. Wall-Mounted Cabinet Signs   | Yes            |
| 11. Projecting Signs   | Yes            |
| 12. Projecting Roof Signs  | Yes            |
| 13. Suspended Signs  | Yes            |
| 14. Drive-Through Lane Signs   | Yes            |
| 15. Freestanding Sign: Monument Signs  | Yes            |
| 16. Freestanding Sign: Tower Signs   | No             |
| 17. Freestanding Sign: Freeway Signs   | No             |
| 18. Freestanding Sign: Onsite Traffic Signs  | Yes            |
| 19. Freestanding Sign: Residential Subdivision Entry Signs   | No             |
| 20. Freestanding Sign: Multi-Family Complex Entry Signs  | Yes            |
| 21. Freestanding Sign: Directory Signs   | Yes            |
| 22. Awning Signs   | Yes            |
| 23. Marquee Signs  | Yes            |
| 24. Canopy Signs for Service Islands   | No             |
| 25. Historic Markers   | Yes            |
| 26. Heritage District Roof Signs   | Yes            |

## 4.4014 Office Zoning Districts

In the Office Zoning Districts, the Permanent Sign types allowed and the applicable permitting plan, program or other review process are set forth below in Table 4.4014. Refer to each sign type for criteria and limitations as more specifically set forth in Section 4.409.B.

| <b>Table 4.4014: Permanent Signs Allowed in Office Zoning Districts</b> |                |
|---|----------------|
| <b>Sign Type</b>  | <b>Allowed</b> |
| 1. Street Address Signs   | Yes            |
| 2. Unit and Building Identification Signs                               | Yes            |
| 3. Wall Signs at Entrances to Dwelling Units                            | Yes            |
| 4. Painted Wall Signs   | No             |
| 5. Wall Signs at Entrances to Non-Residential Tenant Offices and Suites | Yes            |
| 6. Wall Signs at Entrances to Restaurants                               | Yes            |
| 7. Wall Signs at Service and Delivery Entrances                         | Yes            |
| 8. Window Signs   | Yes            |
| 9. Door Signs   | Yes            |
| 10. Wall-Mounted Cabinet Signs  | Yes            |
| 11. Projecting Signs  | No             |
| 12. Projecting Roof Signs   | No             |
| 13. Suspended Signs   | No             |
| 14. Drive-Through Lane Signs  | Yes            |
| 15. Freestanding Sign: Monument Signs                                   | Yes            |
| 16. Freestanding Sign: Tower Signs                                      | Yes            |
| 17. Freestanding Sign: Freeway Signs                                    | Yes            |
| 18. Freestanding Sign: Onsite Traffic Signs                             | Yes            |
| 19. Freestanding Sign: Residential Subdivision Entry Signs              | No             |
| 20. Freestanding Sign: Multi-Family Complex Entry Signs                 | No             |
| 21. Freestanding Sign: Directory Signs                                  | Yes            |
| 22. Awning Signs  | No             |
| 23. Marquee Signs   | No             |
| 24. Canopy Signs for Service Islands                                    | Yes            |
| 25. Historic Markers  | Yes            |

## 4.4015 Employment Zoning Districts

In Employment Zoning Districts, the Permanent Sign types allowed and the applicable permitting plan, program or other review process are set forth below in Table 4.4015. Refer to each sign type for criteria and limitations as more specifically set forth in Section 4.409.B.

| <b>TABLE 4.4015: Permanent Signs<br/>Allowed in Employment Zoning Districts</b> |                |
|---|----------------|
| <b>Sign Type</b>  | <b>Allowed</b> |
| 1. Street Address Signs   | Yes            |
| 2. Unit and Building Identification Signs                                       | Yes            |
| 3. Wall Signs at Entrances to Dwelling Units                                    | Yes            |
| 4. Painted Wall Signs   | No             |
| 5. Wall Signs at Entrances to Non-Residential Tenant Offices and Suites         | Yes            |
| 6. Wall Signs at Entrances to Restaurants                                       | Yes            |
| 7. Wall Signs at Service and Delivery Entrances                                 | Yes            |
| 8. Window Signs   | Yes            |
| 9. Door Signs   | Yes            |
| 10. Wall-Mounted Cabinet Signs  | Yes            |
| 11. Projecting Signs  | No             |
| 12. Projecting Roof Signs   | No             |
| 13. Suspended Signs   | No             |
| 14. Drive-Through Lane Signs  | Yes            |
| 15. Freestanding Sign: Monument Signs   | Yes            |
| 16. Freestanding Sign: Tower Signs  | Yes            |
| 17. Freestanding Sign: Freeway Signs  | Yes            |
| 18. Freestanding Sign: Onsite Traffic Signs                                     | Yes            |
| 19. Freestanding Sign: Residential Subdivision Entry Signs                      | No             |
| 20. Freestanding Sign: Multi-Family Complex Entry Signs                         | No             |
| 21. Freestanding Sign: Directory Signs  | Yes            |
| 22. Awning Signs  | No             |
| 23. Marquee Signs   | No             |
| 24. Canopy Signs for Service Islands  | Yes            |
| 25. Historic Markers  | Yes            |

## 4.4016 Public Facility/Institutional

In Public Facility/Institutional Zoning Districts, the Permanent Sign types allowed and the applicable permitting plan, program or review processes are set forth below in Table 4.416. Refer to each sign type for criteria and limitations as more specifically set forth in Section 4.409.B.

| <b>TABLE 4.4016: Permanent Signs<br/>Allowed in Public Facility/Institutional Districts</b> |                |
|---|----------------|
| <b>Sign Type</b>  | <b>Allowed</b> |
| 1. Street Address Signs   | Yes            |
| 2. Unit and Building Identification Signs   | Yes            |
| 3. Wall Signs at Entrances to Dwelling Units  | No             |
| 4. Painted Wall Signs   | No             |
| 5. Wall Signs at Entrances to Non-Residential Tenant Offices and Suites                     | Yes            |
| 6. Wall Signs at Entrances to Restaurants   | Yes            |
| 7. Wall Signs at Service and Delivery Entrances   | Yes            |
| 8. Window Signs   | Yes            |
| 9. Door Signs   | Yes            |
| 10. Wall-Mounted Cabinet Signs  | Yes            |
| 11. Projecting Signs  | No             |
| 12. Projecting Roof Signs   | No             |
| 13. Suspended Signs   | No             |
| 14. Drive-Through Lane Signs  | Yes            |
| 15. Freestanding Sign: Monument Signs   | Yes            |
| 16. Freestanding Sign: Tower Signs  | Yes            |
| 17. Freestanding Sign: Freeway Signs  | Yes            |
| 18. Freestanding Sign: Onsite Traffic Signs   | Yes            |
| 19. Freestanding Sign: Residential Subdivision Entry Signs                                  | No             |
| 20. Freestanding Sign: Multi-Family Complex Entry Signs                                     | No             |
| 21. Freestanding Sign: Directory Signs  | Yes            |
| 22. Awning Signs  | No             |
| 23. Marquee Signs   | No             |
| 24. Canopy Signs for Service Islands  | No             |
| 25. Historic Markers  | Yes            |



#### **4.4017 Sign Maintenance**

Maintenance of legal signs is allowed and maintenance of the same shall not require a permit. Sign maintenance is the replacement or repair of a part or portion of a sign required by ordinary wear, tear, or damage, with like material, color, and design. Maintenance of legal signs does not include changing the color, size, design, or style of signs. Any sign or component of a sign which is in a damaged or deteriorated condition and constitutes a danger or hazard to public safety shall be promptly repaired or replaced. Surface materials and components shall be kept free of chipping, peeling, fading, cracks, holes, buckles, warps, splinters, or rusting visible from an adjacent property or street. Illuminated signs shall be maintained in good operating condition including prompt removal and replacement of all defective bulbs, light emitting diodes, fluorescent tubes, neon or other inert gas light segments, damaged or deteriorated electrical wiring, and malfunctioning control devices and related circuitry.

#### **4.4018 Nonconforming Signs**

It is the intent of this section to recognize that the eventual elimination of nonconforming signs as expeditiously and fairly as possible is as much a subject of health, safety, and welfare as is the prohibition of new signs that would violate the provisions of this Article. The following provisions shall govern nonconforming signs.

- A. Non-conforming signs may receive reasonable repairs or alterations to the face, letters, and frame.
- B. If a non-conforming sign is structurally changed or is damaged by fire, lack of maintenance, or other causes by more than 50 percent of its reproduction value, or is temporarily or permanently removed by any means, including “acts of God,” then such sign shall be rebuilt, repaired, or replaced only in conformance with the provisions of this Article.
- C. If a non-conforming sign becomes an abandoned sign, it shall be removed after notice to the property owner, unless in the case of an abandoned sign the property owner establishes facts sufficient to rebut the presumption of abandonment.
- D. If a property or development is expanded or modified to add new signage, all nonconforming signs shall be removed or rebuilt to comply with the provisions of this Article.
- E. Sign Faces s may be replaced on non-conforming signs.
- F. Any change to a property that adds to or changes existing signage shall be prohibited until all non-conforming signs are removed or rebuilt in conformance with this Article. Nothing herein shall prevent the replacement of Sign Faces on a nonconforming sign. Nothing herein shall require that existing signage which does not conform to the restrictions on Cabinet Signs or raceways be brought into conformance where it is demonstrated to the Zoning Administrator that the type of signage permitted by this Article is not structurally feasible.

## 4.4019 Sign Violations

- A. **Requirement of Permit.** Unless specifically exempted herein, it shall be unlawful for any person to construct, install, attach, place, paint, alter, relocate, or otherwise maintain any sign in the Town without first obtaining a sign permit in accordance with the provisions of this Article.
- B. **Requirement of Compliance.** Signs shall be installed, placed, or maintained in the Town only in compliance with this Article. If provisions of this Article are in conflict with any other Town code, the more restrictive requirement(s) shall apply. Signs maintained contrary to the provisions of this Article are declared to be nuisances and may be abated as provided by law. The responsibility for compliance with this chapter rests jointly and severally upon the sign owner, the permit holder, any and all parties holding the present right of possession and control of the property whereon a sign is located, mounted or installed, and the legal owner of the lot or parcel, even if the sign was mounted, installed, erected or displayed without the consent or knowledge of the owner and/or other parties holding the legal right to immediate possession and control.
- C. **Permanent Signs.**
1. **Notice of Violation.** Notice of violation of this Article shall be provided by a Code Compliance Officer to one or more of the responsible persons listed in section B above. The time periods provided for correction of the violation shall be:
    - a. A ten (10) calendar day written notice shall be provided.
    - b. If determined to be in an unsafe condition, a two (2) calendar day written notice shall be provided. If the correction has not been made within forty-eight (48) hours, the building official may have the sign removed if it creates a danger to the public safety or have any necessary repairs or maintenance performed at the expense of the sign owner or owner or lessee of the property upon which the sign is located.
  2. **Enforcement.**
    - a. The Code Compliance Manager is authorized to require removal of any sign installed in violation of this Article. In the case of a sign code violation where the offending sign has been removed by the Code Compliance Officer, the notice shall state the reason for its removal.
    - b. The Building Official is authorized to remove or require the immediate removal or repair without written notice of any unsafe sign that creates an immediate hazard to persons or property.
    - c. **Recovery of Costs.** The costs of removal or repair of a sign by the Town shall be borne by the person who installed the sign, and, if unknown, the owner or lessee

of the sign and of the property on which the sign is located. If the Town incurs costs in the removal or repair of a sign, the Town may bring an action in Municipal Court or Superior Court to recover its costs.

**D. *Temporary Signs-Generally.***

1. *Notice of Violation.*

- a. For Temporary Signs, other than A-Frame/T-Frame Signs and Flying Banners which are addressed in Section 4.4019.E below, a two (2) calendar day written notice shall be provided.
- b. A notice of violation is not required for a Temporary Sign placed within the right-of-way, and such signs may be removed immediately by the Town at any time and without notice.

2. *Enforcement.* The Code Compliance Manager may remove or cause to be removed any Temporary Sign which is not removed by the owner.

**E. *Temporary Signs: A-Frame and T-Frame Signs; Flying Banner Signs.***

1. *Notice of Violation, Enforcement and Penalties.*

a. First Offense.

- (1) A two-day written notice of the violation shall be given by the Code Compliance Manager to the owner or lessee of the business to which the sign relates, or, if such violation relates to the spacing requirements set forth in Section 4.408 a written notice shall be given to all owners or lessees of businesses to which the signs relate.
- (2) Upon receipt of the notice, the owner or lessee of the business or businesses to which the sign(s) relate shall bring the sign(s) into conformance with this Article.

b. Second Offense.

- (1) If the Code Compliance Manager finds that there is a second violation by the same owner or lessee of a business to which a sign relates within any twenty-four (24) month period, then no notice shall be required. The offending A-Frame/T-Frame Sign or Flying Banner Sign shall be subject to immediate confiscation. For purposes of calculating the twenty-four (24) month period, the date of the commission of the first offense shall be used.

- (2) If the violation relates to the spacing requirements set forth in Section 4.408, then all signs in violation shall be subject to confiscation regardless of which sign was placed first.
- (3) The Code Compliance Manager shall give notice to the owner or lessee of the business to which a sign relates that the sign has been confiscated and that if not claimed within five (5) calendar days from the date of the notice, the sign shall be disposed of by the Town.

c. Third Offense.

- (1) If the Code Compliance Manager finds that there is a third violation by the same owner or lessee of a business to which a sign relates within any twenty-four (24) month period, such sign shall be confiscated. For purposes of calculating the twenty-four (24) month period, the date of the commission of the first offense shall be used.
- (2) If the Code Compliance Manager finds that there is a third violation by the same owner or lessee of a business to which a sign relates within any twenty-four (24) month period, A-Frame Signs, T-Frame Signs, and Flying Banners relating to the business shall not be permitted.

d. Fourth Offense.

- (1) If the Code Compliance Manager finds that there is a fourth violation by the same owner or lessee of a business to which a sign relates within any 24 month period, the owner or lessee of the business shall be guilty of a Class I Misdemeanor but shall be exposed to civil fines only for the conviction. For purposes of calculating the 24 month period, the date of the commission of the first offense shall be used.
- (2) Upon conviction of a violation of this Article, the court shall order a person who has been convicted of a violation of this section to pay a fine of not less than \$500.00 for each count upon which a conviction has been obtained.

#### **4.4020 State Preemption**

This Article shall be interpreted and enforced consistent with state law.

## 4.4021 Severability

- A. **Generally.** If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Article is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Article.
- B. **Severability where less speech results.** Without diminishing or limiting in any way the declaration of severability set forth in subsection (1), above, or elsewhere in this Article, the LDC, the Gilbert Code of Ordinances, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this division is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this division, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise.
- C. **Severability of provisions pertaining to prohibited signs.** Without diminishing or limiting in any way the declaration of severability set forth in subsection (1), above, or elsewhere in this Article, the LDC, the Gilbert Code of Ordinances, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this division or any other law is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Article that pertains to prohibited signs, including specifically those signs and sign types prohibited and not allowed under Section 4.404, Prohibited Signs, of this Article. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Section 4.404 is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Section 4.404 thereby ensuring that as many prohibited sign types as may be constitutionally prohibited continue to be prohibited.
- D. **Severability of prohibition on Billboards.** If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this division and/or any other code provisions and/or laws are declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the prohibition on Billboards as contained in this Article, the LDC, or the Gilbert Code of Ordinances, or any adopting ordinance.

## Article 4.5 Supplemental Use Regulations

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### Sections

|        |  |
|--------|--|
| 4.501  | Applicability  |
| 4.502  | Home Occupations   |
| 4.503  | Residential Day Care   |
| 4.504  | Group Homes for the Handicapped                              |
| 4.505  | Place of Worship   |
| 4.506  | Vacation or Short-Term Rentals                               |
| 4.507  | Farm Stands  |
| 4.508  | Animal Services  |
| 4.509  | Cemeteries   |
| 4.5010 | Non-Traditional Business Uses                                |
| 4.5011 | Sexually-Oriented Businesses                                 |
| 4.5012 | Temporary Uses   |
| 4.5013 | Temporary Structures   |
| 4.5014 | Medical Marijuana Dispensaries and Offsite Cultivation Sites |
| 4.5015 | Recovery Residence   |
| 4.5016 | Industrial Hemp  |
| 4.5017 | Miscellaneous Provisions                                     |

### 4.501 Applicability

In order to mitigate the potential adverse impacts of certain uses, supplemental regulations are provided in addition to the regulations set forth in Division 2: Land Use Designations.

### 4.502 Home Occupations

Home Occupations shall comply with the following regulations:

- A. ***Incidental to Principal Residential Use.*** A Home Occupation use is incidental to the principal use of the dwelling unit for residential purposes.
- B. ***Location.*** Other than Home Occupation Day Care, a Home Occupation use may only be conducted within the dwelling unit or an accessory structure.
- C. ***Employees.***
  1. Other than family members residing within the dwelling unit located on the lot or parcel, there shall be no more than one full time equivalent employee working at the home occupation.

2. The lot or parcel shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.

D. ***Exterior Appearance.***

1. The residential character of the property shall be maintained. There shall be no signs, display of merchandise or stock in trade, outdoor storage of materials, or other exterior indication of a home occupation.
2. When a Home Occupation use is conducted within any garage, the doors to the garage shall remain closed.
3. A Home Occupation use shall not result in any structural alterations or additions to a building that will change its primary use or building code occupancy classification.

E. ***Storage.*** On-site storage of hazardous materials including toxic, explosive, noxious, combustible, or flammable materials beyond those normally incidental to residential use is prohibited.

F. ***Neighborhood Impacts.*** A Home Occupation use shall not produce noise, odors, vibrations, glare, dust, fumes, or electrical interference above those levels normally expected in the residential neighborhood.

G. ***Traffic Generation.*** A Home Occupation use shall not generate vehicular or truck traffic in greater volume than that normally expected in the residential district in which the home occupation is located.

H. ***Parking.*** Any parking for the Home Occupation use shall be on site and comply with the requirements of Article 4.2: Off-Street Parking and Loading Regulations.

I. ***Licensing.*** Home Occupations shall comply with applicable licensing requirements.

### **4.503 Residential Day Care**

Residential Day Care uses shall comply with the following regulations:

- A. ***Incidental to Principal Residential Use.*** A Residential Day Care use is incidental to the principal use of the dwelling unit for residential purposes.
- B. ***Employees.*** Other than family members residing within the dwelling unit located on the lot or parcel, there shall be no more than one full time equivalent employee working at the Residential Day Care use.

C. ***Exterior Appearance and Structural Alterations.***

1. The residential character of the property shall be maintained. There shall be no signs, outdoor storage of materials, or other exterior indication of a Residential Day Care use.
2. A Residential Day Care use shall not result in any structural alterations or additions to a building that will change its primary use or building code occupancy classification.
3. Existing garages, carport structures, or driveways shall not be expanded, enclosed, displaced, or otherwise modified for the purpose of accommodating the Residential Day Care use.
4. Any permitted expansion, remodeling, or other modification of a dwelling unit shall comply with all applicable Town codes without requiring a variance or relief from standard requirements for the zoning district within which the dwelling unit is located.

D. ***Screening.*** All outdoor recreation areas shall be completely screened and enclosed by a 6 foot high solid masonry fence with solid self-closing and self-latching gates.

E. ***Separation.*** The minimum separation between Residential Day Care uses on the same street shall be 300 feet, as measured from the closest property lines.

F. ***Neighborhood Impacts.*** A Residential Day Care use shall not produce noise, odors, vibrations, glare, dust, fumes, or electrical interference above those levels normally expected in the residential neighborhood.

G. ***Traffic Generation.*** A Residential Day Care use shall not generate vehicular or truck traffic in greater volume than that normally expected in the residential district in which the Residential Day Care use is located.

H. ***Parking.*** Any parking for the Residential Day Care use shall be on site and comply with the requirements of Article 4.2: Off-Street Parking and Loading Regulations.

I. ***Licensing.*** The Residential Day Care use shall comply with applicable licensing requirements.

#### **4.504 Group Homes for the Handicapped**

A. ***Purpose.*** The purpose of these regulations is to permit handicapped persons to reside in single family residential neighborhoods in compliance with the Fair Housing Act, while preserving the residential character of the neighborhood and prevent a concentration of such facilities in any particular area so as to institutionalize that area.



- B. **Registration Required.** A completed registration form shall be submitted to the Development Services division on a form established by the Director of Planning. Registration shall become effective upon issuance of a Certificate of Occupancy for the group home and shall terminate when the group home use ceases. No registration shall be accepted for a group home that does not comply with the requirements of the Zoning Code.
- C. **Zoning Confirmation.** Prior to registration, a request for zoning confirmation may be submitted to the Development Services division to confirm that the proposed location of the group home is permitted under this section.
- D. **Standards.** Group Homes for the Handicapped shall be located, developed, and operated in compliance with the following standards:
1. **Separation.** The minimum separation between group homes and between any group home and any recovery residence shall be 1,200 feet, as measured from the closest property lines. No separation is required when group homes or a group home and recovery residence are separated by a utility right-of-way of at least 300 feet in width, or by a freeway, arterial street, canal, or railroad.
  2. **Occupancy.** The number of residents, excluding staff, shall not exceed 5 (unless permitted by State License for up to 10).
  3. **Exterior Appearance.** There shall be no sign or other exterior indication of a group home visible from a street.
  4. **Compliance with all Applicable Building and Fire Safety Regulations.** If a group home has one or more non-ambulatory residents, building code requirements in addition to those applicable to group homes with no non-ambulatory residents, shall apply.
  5. **Licensing.** Group homes shall comply with applicable licensing requirements. If a group home is required by Arizona law to obtain a State License, a copy of that license and all renewals there to shall be provided to the Town for record-keeping purposes within 10 days of receipt by the group home operator.
  6. **Parking.** Any parking for the group home shall be on site and comply with the requirements of Article 4.2: Off-Street Parking and Loading Regulations.
  7. **Tenancy.** No group home shall house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.
  8. **Exclusive Use.** All administrative activities including staffing, counseling and other visitations, shall serve only the residents of the group home.

- E. **Additional Requirements of State Law.** Notwithstanding the foregoing, if the State has adopted laws or rules for the regulation of a specific type of home, such as a group home for the developmentally disabled pursuant to A.R.S. § 36-582 or an assisted living home pursuant to A.R.S. Title 36, Chapter 4, then any such State law or rule shall apply in addition to the conditions listed herein and shall preempt any conflicting condition listed herein.
- F. **Request for Accommodation.** If a group home owner believes any requirement of the Zoning Code prevents the establishment of a group home, the owner shall submit to the Zoning Administrator a written request for accommodation and the reasons why the accommodation is required. The written request shall contain sufficient facts to allow the Zoning Administrator to make an individualized determination of the group home's needs, to address the Town's safety and welfare concerns, and to assure compliance with this section. The Zoning Administrator shall review the written request and determine:
1. Whether an accommodation should be made pursuant to the requirements of the Fair Housing Act; and
  2. If so, the nature of the accommodation taking into consideration the requirements of the Fair Housing Act, public safety and welfare concerns, and the residential character of the neighborhood.

The accommodation shall be made only to the extent necessary to comply with the Fair Housing Act.

#### **4.505 Place of Worship**

Places of Worship are not exempt from the requirements of the Zoning Code.

- A. **Request for Determination.** If a place of worship use believes any requirement of the Zoning Code imposes a substantial burden on its exercise of its religion, the place of worship use shall submit to the Zoning Administrator a written statement as to why any requirement imposes a substantial burden on its exercise of religion and a description of any requested accommodation. The Zoning Administrator shall review the statement and determine:
1. Whether the proposed use is a place of worship use under the Religious Land Use and Institutionalized Persons Act;
  2. Whether the requirement imposes a substantial burden on the exercise of religion by the place of worship use;

3. If the requirement imposes a substantial burden, whether the requirement furthers a compelling governmental interest of the Town, and if so, whether it is the least restrictive requirement necessary to further that compelling governmental interest; and
  4. The nature and extent of any accommodation, waiver, or adjustment to a requirement of the Zoning Code, if any.
- B. **Senior Housing.** Senior housing incidental to Large-Scale Place of Worship uses may be permitted upon approval of a Conditional Use Permit.

#### **4.506 Vacation or Short-Term Rentals**

- A. **Purpose.** The purpose of these regulations is to permit vacation or short-term rentals and to provide reasonable regulations to maintain the residential character of neighborhoods.
- B. **Registration Required.** Prior to beginning operations, the owner or operator of a vacation or short-term rental shall submit a completed registration form to the Development Services Department on a form established by the Planning and Development Services Manager. The registration form shall include:
1. Name, address and telephone number of the property owner and person in control of the property;
  2. Emergency point of contact/responsible party information shall include name, address, email address, signature and telephone number;
  3. If the property owner and emergency point of contact are not the same person or entity, applicant shall provide a notarized Letter of Authorization from the property owner.

#### **4.507 Farm Stands**

Farm stands shall be located and operated in compliance with the following standards:

- A. **Items for Sale.** A farm stand shall only be used for the retail sale of produce and agricultural products on the property.
- B. **Location.** Farm stands shall only be located:
1. Adjacent to an arterial or collector street;
  2. 300 feet from any intersection; and

3. 40 feet from the front property line.
- C. **Size.** Maximum area of a farm stand is 300 square feet.
- D. **Signs.** Two temporary on-site signs are permitted. No sign permit is required. Balloons and flags are prohibited. Signs shall comply with the following:
1. **Area:** A maximum of 16 sq. ft. each; and
  2. **Height:** A maximum of 6 feet.

#### **4.508 Animal Services**

Animal services shall comply with the following standards:

- A. **Setbacks.** Outdoor runs and exercise areas shall not be located within a required landscape setback or within 100 feet from any residential use or district, whichever is more restrictive. Interior boarding structures shall be located a minimum of 25 feet from any property line.
- B. **Fencing.** Outdoor runs and exercise areas shall be enclosed by a minimum 6 foot fence.
- C. **Prohibitions.** Outdoor boarding of animals other than livestock is prohibited.
- D. **Primary Building Entrances.** Outdoor runs and exercise areas shall not be located within 25 feet of any building's primary entrance on an adjacent lot or suite.

#### **4.509 Cemeteries**

Cemeteries shall be located, developed, and operated in compliance with the following standards:

- A. **Location.** Cemeteries shall be located on arterial streets and have a minimum frontage of 300 feet.
- B. **Minimum Lot Area.** The minimum contiguous lot area for a cemetery is 20 acres.
- C. **Accessory Uses.** Uses and structures accessory to the cemetery use may include a business office, chapel, columbarium, mausoleum, and equipment storage. A crematorium is not an accessory use. Accessory uses and structures shall be set back at least 50 feet from any property line.
- D. **Outdoor Storage.** Outdoor storage areas shall comply with the regulations set forth in Section 4.104: Outdoor Business Property Storage.

## 4.5010 Non-Traditional Business Uses

In the CC, SC, GC, RC and HVC zoning districts, Non-chartered Financial Institutions, Pawn Shops, Stand-alone Smoking Lounges, and Tattoo/Piercing Studios shall be located, developed, and operated in compliance with the following standards:

A. ***Location/Separation Requirements.***

1. *Separation Requirements – between all Non-Traditional Business Uses.* The minimum separation between any two non-traditional businesses shall be one-thousand (1,000) feet, as measured in a straight line in any direction from the closest perimeter business walls. No separation is required when non-traditional businesses are separated by a freeway.
2. *Additional separation requirements for Stand-alone Smoking Lounges, and Tattoo/Piercing Studios.* As measured in a straight line in any direction from the perimeter business walls:
  - a. Stand-alone Smoking Lounges and Tattoo/Piercing Studios shall be separated a minimum of one-thousand three hundred twenty (1,320) feet from any School, Public or Private.
  - b. Tattoo/Piercing Studios shall be separated a minimum of five hundred (500) feet from any Day Care Center or Place of Worship.

B. ***Hours of Operation.*** The hours that a Tattoo/Piercing Studio may be open to the public are limited to between 8:00 a.m. and 11:00 p.m. Increased hours of operation may be permitted with approval of a Conditional Use Permit to insure that there will be no significant adverse impact on the nearby uses.

## 4.5011 Sexually-Oriented Businesses

Sexually-Oriented Businesses shall be located, developed, and operated in compliance with the following standards:

A. ***Location.*** Sexually-Oriented Businesses shall be a minimum distance from the uses set forth in Table 4.5011: Sexually-Oriented Business Location Requirements. Measurements shall be made in a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property line of a parcel containing a sexually-oriented business to the nearest point on the property line of a parcel containing the relevant use or use classification shown in Table 4.5011.

**Table 4.5011: Sexually-Oriented Business Location Requirements**

| <b>Use or Use Classification</b>   | <b>Separation Requirement (feet)</b> |
|--|--------------------------------------|
| Another Sexually-Oriented Business   | 1,000                                |
| Establishment having an Arizona Spirituous Liquor License Series #06: Bar License or Series #07: Beer and Wine Bar License | 500                                  |
| Cultural Institutions  | 1,000                                |
| Day Care Center, public or private   | 1,320                                |
| Hotels and Commercial Lodging  | 500                                  |
| Public Park  | 1,320                                |
| Place of Worship   | 1,320                                |
| Residential district boundary  | 1,320                                |
| Schools, Public or Private   | 1,320                                |
| Single or Multi-Family dwelling  | 1,320                                |

B. **Municipal Code Compliance.** Sexually-oriented businesses shall comply with Gilbert Municipal Code Chapter 14, Article XII: Sexually-Oriented Businesses.

**4.5012 Temporary Uses**

Temporary uses shall be located and operated in compliance with the following standards:

A. **Table of Temporary Uses.** Temporary uses are limited to the times identified in Table 4.5012: Temporary Uses:

**Table 4.5012: Temporary Uses**

| <b>Use Classification</b>           | <b>Time Duration (days)</b>  | <b>Frequency of Use</b> | <b>Interval between Uses (days)</b> | <b>Special Event Permit Required</b> |
|-------------------------------------|--|-------------------------|-------------------------------------|--------------------------------------|
| Bazaar                              | 15 (Fifteen) Days of Use (Maximum) per Calendar Year                       |                         |                                     | yes                                  |
| Carnival                            | See Municipal Code Chapter 15: Special Events                              |                         |                                     | yes                                  |
| Carnival, Small-Scale               | 4  | 4 / year                | 3                                   | yes                                  |
| Farmer’s Market                     | See Municipal Code Chapter 15, Special Events                              |                         |                                     | yes                                  |
| Circus                              | See Municipal Code Chapter 15: Special Events                              |                         |                                     | yes                                  |
| Fireworks Display                   | See Municipal Code Chapter 15: Special Events                              |                         |                                     | yes                                  |
| Garage Sale                         | See Municipal Code Chapter 42 – Offenses and Abatement of Public Nuisances |                         |                                     | no                                   |
| Haunted House                       | 45   | 1 / year                | --                                  | yes                                  |
| Parade                              | See Municipal Code Chapter 15-52   |                         |                                     | yes                                  |
| Public Assembly                     | See Municipal Code Chapter 15-52   |                         |                                     | yes                                  |
| Seasonal Sales                      | 30   | 4 / year                | 14                                  | yes                                  |
| Sidewalk Sale/<br>Parking Lot Event | 4  | 8 days/month            | 3                                   | yes                                  |

**Table 4.5012: Temporary Uses**

| <i>Use Classification</i>           | <i>Time Duration (days)</i>                   | <i>Frequency of Use</i> | <i>Interval between Uses (days)</i> | <i>Special Event Permit Required</i> |
|-------------------------------------|---|-------------------------|-------------------------------------|--------------------------------------|
| Swap Meet and Auction, Single Event | See Municipal Code Chapter 15: Special Events |                         |                                     | yes                                  |
| Tent Sale-Vehicle                   | 3   | 4 / year                | 60                                  | no                                   |

- B. **Permits.** Temporary uses shall obtain applicable fire and building permits and transaction privilege tax licenses prior to commencement of activities. A Special Event Permit or Administrative Use Permit may also be required.
- C. **Standards.** Temporary uses shall be located and developed in compliance with the following standards:
1. **Setbacks.** The temporary use shall be set back a minimum of 20 feet from any adjacent, occupied residential lot or parcel.
  2. **Surfacing.** The area of the temporary use, including parking areas, access points, aisles, driveways, and travel ways, shall be surfaced with gravel, decomposed granite or other approved dust free material.
  3. **Parking.** Any parking for the use shall be on site and comply with the requirements of Article 4.2: Off-Street Parking and Loading Regulations.
  4. **Signage.** All signage shall comply with the regulations set forth in Article 4.4: Sign Regulations.
  5. **Inflatables.** Inflatables are allowed for the duration of any temporary use and shall be displayed only:
    - a. On private property where the temporary use is taking place;
    - b. During the hours the temporary use is open to conduct business;
    - c. Securely fixed at grade level;
    - d. So that no less than a minimum of 4 feet is clear for pedestrian passage on all sidewalks and walkways;
    - e. In a manner and location that does not create a hazard to pedestrian traffic;
    - f. In the following zoning districts: NC, CC, SC, GC, RC, HVC, BP, PF/I

6. *Balloons.* Balloons are allowed for the duration of any temporary use subject to the following requirements:
  - a. Balloons shall be securely attached by a strong and durable tether to a fixed place or securely mounted on the ground.
  - b. Balloons shall be displayed only:
    - (1) On private property where the temporary use is taking place;
    - (2) During the hours the temporary use is open to conduct business;
    - (3) Setback from the nearest public right-of-way a distance equal to or greater than the length of the tether;
    - (4) In a manner and location that does not create a hazard to pedestrian or vehicular traffic;
    - (5) In the following zoning districts: NC, CC, SC, GC, RC, HVC, BP, PF/I.

D. ***Additional Requirements.*** Adequate sanitation, water, traffic control, parking, and public health measures shall be provided for all temporary uses.

1. All entry points into any development must remain free of obstructions to allow unhindered access by emergency vehicles. A minimum area of no less than 4 feet wide must be maintained on all sidewalks and walkways within any development to allow for proper pedestrian passage.

#### **4.5013 Temporary Structures**

A. ***Construction Trailers.*** Construction trailers are permitted only on a lot or parcel during construction undertaken pursuant to a valid building permit. Construction trailers may be occupied for office or security purposes, or may be used for storage of equipment and material used in construction on the site. Temporary construction trailers shall be located and developed in compliance with the following standards:

1. *Setbacks.* Setbacks for construction trailers shall comply with the development regulations for each base zoning district.
2. *Surfacing.* The area of the construction trailer, including parking areas, access points, aisles, driveways, and travel ways, shall be surfaced with gravel, decomposed granite or other approved dust free material.
3. *Signage.* In accordance with Section 4.404 Prohibited Signs, the parking of a vehicle, trailer or other device marked or unmarked which is parked or driven in such a manner that it is used principally as a portable sign is prohibited.



- B. **Sales Trailers.** Sales trailers, including modular offices, used for the sale and lease of residential and nonresidential real estate, memberships, and similar activities, are permitted only on a lot or parcel during construction undertaken pursuant to a valid building permit. Temporary sales trailers shall be located and developed in compliance with the following standards:
1. **Setbacks.** Setbacks for sales trailers are set forth in the development regulations each base zoning district.
  2. **Surfacing.** Unless otherwise required by the Fire Marshal, the area of the sales trailer including parking areas, access points, aisles, driveways, and travel ways shall be surfaced with a minimum of a 4-inch-thick road base on compacted soil with dust palliative to support emergency apparatus and to reduce particulate matter.
  3. **Parking.** Any parking for the use shall be on site and comply with the requirements of Article 4.2: Off-Street Parking and Loading Regulations.
  4. **Signage.** All signage shall comply with the regulations set forth in Article 4.4: Sign Regulations.
- C. **Storage Containers.** Temporary storage containers on residential property are permitted only for the purpose of storage of household goods or personal items. Temporary storage containers on commercial and employment properties are permitted only for the purpose of storage of equipment, supplies, merchandise, or similar materials:
1. **Standards.** Temporary storage containers shall comply with the following standards:
    - a. **Zoning Districts.** Limited to Single-Family Residential Districts, Community Commercial, Shopping Center, General and Regional Commercial Districts, Light and General Industrial Districts, and Public Facility/Institutional Districts.
    - b. **Location.** Placed on a driveway or additional parking space as permitted in Section 4.203X on a developed residential lot or parcel; or placed outside the area located between the building and any street in applicable Commercial and Employment districts.
    - c. **Size.** No greater than 160 sq. ft. total on a developed residential lot or parcel. No greater than 320 sq. ft. total in applicable Commercial, Employment or Public Facility/Institutional districts. Within the Light Industrial, General Industrial and Public Facility/Institutional districts, the total area may be increased with Design Review approval and a Storage Container Master Site Building Permit.

- d. Time Duration. During construction on a lot or parcel pursuant to a valid building permit; or for no longer than 30 days within a 6 month period on a developed residential lot or parcel; or for no longer than 90 days in a 12 month period in a Commercial, Employment or Public Facility/Institutional district.
2. In Light and General Industrial and in the Public Facility/Institutional districts, storage containers are permitted for an indefinite period of time subject to Design Review approval.
  3. Temporary storage containers shall not be located in landscape areas, retention basins, travel ways and drive aisles, fire lanes, required parking spaces, sidewalks, 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.
  4. Temporary storage containers served by utilities, larger than 160 square feet or providing any function other than storage require building permit review. A container requiring a Certificate of Occupancy, a container that is accessible to the public or that is habitable is regulated as a structure.
- D. **Classroom Structures.** Temporary classroom structures are permitted as an expansion of an existing Place of Worship or School use by the issuance of an Administrative Use Permit (AUP), pursuant to Article 5.4: Use Permits. The AUP shall be issued only when the findings identified in Section 5.403: Required Findings and these additional findings are met:
1. The temporary structure is located on the same lot or parcel as the principal use;
  2. The temporary structure will not have any more impact on surrounding properties than the permanent use;
  3. There is an approved final design review plan for the property identifying a location for a permanent classroom;
  4. The final design review plan has not expired;
  5. The approval may be for the main structure, an expansion of the main structure or a related accessory structure;
  6. The location for the temporary classroom structure does not conflict with the location for the permanent facility; and
  7. Construction documents have been submitted to the Town for the permanent structure, whether it is the main structure, an expansion of the main structure or a related accessory structure.

- E. **Place of Worship Structures.** Temporary structures for Places of Worship uses are permitted as an expansion of an existing Place of Worship use by the issuance of an AUP, pursuant to Article 5.4: Use Permits. The AUP shall be issued only when the findings identified in Section 5.403: Required Findings and these additional findings are met:
1. The temporary structure is located on the same lot or parcel as the principal use;
  2. The temporary structure will not have any more impact on surrounding properties than the permanent use;
  3. There is an approved final design review plan for the property identifying a location for the permanent structure;
  4. The final design review plan has not expired;
  5. The approval may be for the main structure, an expansion of the main structure or a related accessory structure;
  6. The location for the temporary Place of Worship structure does not conflict with the location for the permanent facility; and
  7. Construction documents have been submitted for the permanent structure, whether it is the main structure, an expansion of the main structure or a related accessory structure.

#### **4.5014 Medical Marijuana Dispensaries, Offsite Cultivation Sites and Designated Caregiver Cultivation Locations**

Medical Marijuana Facilities shall be located, developed, and operated in compliance with the following standards:

- A. **Applicability.** The minimum requirements of this section shall apply to all Medical Marijuana Dispensary and Medical Marijuana Offsite Cultivation Site uses located in any zoning district.
- B. **General.** A Medical Marijuana Dispensary, Medical Marijuana Offsite Cultivation Site or Medical Marijuana Designated Caregiver Cultivation Location shall:
1. Be located in a permanent building and shall not be located in a temporary structure, trailer, cargo container, motor vehicle, or other similar non-permanent enclosure.

2. Medical Marijuana Dispensaries and Offsite Cultivation Sites shall be limited to 3,000 square feet gross floor area for all permitted uses with a single secure entrance. An emergency exit may be provided that shall be accessed only from the interior and alarmed to prevent its use for any purpose other than an actual emergency.
3. Be limited to a single secure on-site storage area of no greater than one thousand (1,000) square feet for medical marijuana stored at an offsite cultivation site.
4. Supply proof that the Dispensary is State-approved, certified and registered with the Arizona Department of Health Services pursuant to Arizona Revised Statutes, Title 36, Chapter 28.1.
5. Comply with all registration and recordkeeping required by the Town, Maricopa County and Arizona law.
6. Obtain, maintain and display a valid Town of Gilbert Business Registration or license as may be required by the Town code.
7. Supply the name of all the dispensaries with which it is affiliated, if offsite cultivation is proposed.
8. If medical marijuana is supplied to the dispensary by a qualified patient or caregiver, provide the name and contact information of the qualified patient or caregiver.
9. Not provide off-site deliveries of medical marijuana, except that a Designated Caregiver Cultivation Facility may deliver medical marijuana to the Qualifying Patient(s) for whom the caregiver is the Designated Caregiver, in compliance with the rules and regulations promulgated by the State of Arizona Department of Health Services.
10. Sell only medical marijuana and merchandise incidental to its use. The sale of items promoting the dispensary or its merchandise is prohibited.
11. Not have drive-through facilities or take-out windows.
12. Not emit dust, fumes, vapors or odors into the environment.
13. Prohibit consumption of medical marijuana on the premises.
14. Not permit or provide indoor or outdoor seating areas or facilities for the consumption of medical marijuana anywhere on the site.
15. Permit annual fire inspections pursuant to the Town of Gilbert Fire Code.

- 16. If designated caregiver cultivation is proposed, supply the residence locations and proof of registry identification cards of the qualifying patients for whom the medical marijuana will be cultivated and the location of the closest medical marijuana dispensary to the residence of each qualifying patient. Any changes in qualifying patients or residence locations shall be reported to the Planning Manager within 30 days of the change.
- 17. A single designated caregiver is permitted and the total cultivation area shall not exceed 120 square feet. The total cultivation area is the footprint required for growing the actual plant material.

C. **Location.** Medical Marijuana Facilities shall be a minimum distance from the uses set forth in Table 4.5014: Medical Marijuana Facilities Location Requirements, including medical marijuana facilities located in neighboring jurisdictions. Measurements shall be made in a straight line in any direction from the closest perimeter business walls. No separation is required when medical marijuana facilities are separated by a freeway.

**Table 4.5014: Medical Marijuana Facilities Location Requirements**

| <b>Use or Use Classification</b>                            | <b>Separation Requirement (feet)</b> |
|---|--------------------------------------|
| Another Medical Marijuana Dispensary or Offsite Cultivation | 5,280                                |
| Hospital  | 1,320                                |
| Day Care Center, public or private                          | 1,000                                |
| Public or Private Park                                      | 1,000                                |
| Place of Worship  | 1,000                                |
| Schools, Public or Private                                  | 1,000                                |
| Residential District Boundary                               | 1,000                                |

- D. **Hours of Operation.** A Medical Marijuana Facility shall have operating hours not earlier than 8:00 a.m. and not later than 8:00 p.m.
- E. **Security Plan Requirements.** A Medical Marijuana Facility shall submit a Security Plan containing the following information:
  - 1. Proof that the “Nonprofit Medical Marijuana Dispensary Agent” is at least twenty-one (21) years of age and has not been convicted of an excluded felony offense.
  - 2. Proof that any cultivation and storage of Medical Marijuana will take place in an “enclosed, locked facility” equipped with locks or other security devices that permit access only by persons authorized to enter pursuant to State and local law.
  - 3. A floor plan that details the security measures required by Arizona law including an on-site alarm system and a single secure entrance. If an emergency exit is provided, it shall be detailed on the plan as being operable only in an emergency.
  - 4. Additional protections, if any, against medical marijuana diversion and theft.

5. A sworn affidavit detailing the criminal history, if any, of the Board of Directors of the nonprofit operating the dispensary and/or detailing history of management employees.
6. Provide and update as needed a current list of all persons who are authorized to access the dispensary or offsite cultivation site.

#### **4.5015 Recovery Residence**

- A. **Purpose.** The purpose of these regulations is to permit persons recovering from substance abuse to reside in a group setting in residential neighborhoods in order to facilitate integration and stabilization and to provide reasonable regulations to maintain the residential character of neighborhoods and prevent a concentration of such facilities in any particular area so as to institutionalize that area.
- B. **Registration Required.** Prior to beginning operations, the owner or operator of a recovery residence shall submit a completed registration form to the Development Services Department on a form established by the Planning and Development Services Manager. The registration shall become effective upon verification by the Zoning Administrator that the registration complies with the requirements of the zoning code and that the recovery residence operator has obtained a valid Town of Gilbert Business License for the recovery residence. A registration shall terminate when the recovery residence use ceases.
- C. **Zoning Confirmation.** Prior to registration, a request for zoning confirmation may be submitted to the Development Services Department to confirm that the proposed location of the recovery residence is permitted under this section.
- D. **Procedures.** In addition to the registration form, the applicant shall submit an operations and management plan (“O&MP”) to ensure compliance with state and local laws. O&MP shall include:
  1. Name and address of the business owner;
  2. Name, address and telephone number of the property owner and person in control of the property;
  3. If the business owner and property owner are not the same person or entity, applicant shall provide a notarized letter of authorization from the property owner;
  4. Emergency contact telephone number;
  5. The number of persons occupying each bedroom;
  6. Maximum number of occupants;

7. A floor plan;
  8. Resident screening process; and
  9. Guest and resident rules of conduct.
- E. **Standards.** Recovery residences shall be located, developed, and operated in compliance with the following standards:
1. **O&MP Compliance.** The recovery residence shall be operated and managed in compliance with the O&MP submitted with registration, a copy of which shall remain on file with the Development Services Department.
  2. **Separation.** The minimum separation between recovery residences and between a recovery residence and a group home shall be 1,200 feet as measured from the closest property lines. No separation is required when recovery residences or a recovery residence and a group home are separated by a utility right-of-way of at least 300 feet in width, or by a freeway, arterial street, canal, or railroad.
  3. **Occupancy.** The number of residents shall not exceed 5, excluding staff,
  4. **Exterior Appearance.** There shall be no sign or other exterior indication of a recovery residence visible from the street.
  5. **Parking.** Parking for the recovery residence shall be on-site and comply with LDC Article 4.2: Off-Street Parking and Loading Regulations.
  6. **Tenancy.** No recovery residence shall house any person who tenancy would constitute a direct threat to the health or safety of other persons or would result in substantial physical damage to the property of others.
  7. **Exclusive Use.** All administrative activities, including staff, counseling and other visitations, shall serve only the residents of the recovery residence.
- F. **Request for Accommodation.** If a recovery residence owner believes any requirement of the zoning code prevents the establishment of a recovery residence, the owner shall submit to the Zoning Administrator a written request for accommodation and the reasons why the accommodation is required. The written request shall contain sufficient facts to allow the Zoning Administrator to make an individualized determination of the recovery residence's needs, to address the Town's safety and welfare concerns, and to assure compliance with this section. The Zoning Administrator shall review the written request and determine:
1. Whether an accommodation should be made pursuant to the requirements of the Federal and State Fair Housing Laws; and

2. If so, the nature of the accommodation taking into consideration the requirements of the Federal and State Fair Housing Laws, public safety and welfare concerns, and the residential character of the neighborhood.

The accommodation shall be made only to the extent necessary to comply with the Federal and State Fair Housing Laws.

#### **4.5016 Industrial Hemp**

Industrial Hemp uses shall be located, developed, and operated in compliance with the following standards:

- A. ***Purpose and Intent.*** This section is adopted to promote the health, safety, and welfare of the Gilbert community by enacting reasonable regulations for the commercial cultivation of industrial hemp by requiring compliance with zoning laws.
- B. ***Applicability.*** The minimum requirements of this section shall apply to all Industrial Hemp uses located in any zoning district.
- C. ***Compliance with State Licensing Requirements.***
  1. It shall be unlawful for any person to grow, harvest, store, transport or process industrial hemp, or to use eligible seed and propagative materials to produce an industrial hemp crop or plant, within the Town of Gilbert without having first obtained a valid license from the State pursuant to A.R.S. § 3-311 *et seq.* and Title 3, Chapter 4, Article 10 of the Arizona Administrative Code.
  2. It shall be unlawful for any person to grow, harvest, process, or store industrial hemp in any residential dwelling unit pursuant to Title 3, Chapter 4, Article 10 of the Arizona Administrative Code.
  3. A licensee shall notify the Town of Gilbert within 48 hours if the State imposes a corrective action plan on a licensee or the state suspends or revokes the license.
- D. ***Industrial Hemp Site Regulations.***
  1. Industrial Hemp is subject to the following conditions and limitations:
    - a. Industrial Hemp shall only be permitted in the Light Industrial (LI) and General Industrial (GI) zoning districts.



- b. Industrial Hemp Sites must meet the minimum separation requirements set forth in **Table 4.5016: Industrial Hemp Separation Requirements**. Measurements shall be taken in a straight line (in any direction) from the parcel line of the proposed Industrial Hemp Site to the closest parcel line of the uses described in **Table 4.5016**. A minimum separation requirement does not apply to any Use or Use Classification described in **Table 4.5016** that is separated from an Industrial Hemp Site by a freeway.

**Table 4.5016: Industrial Hemp Minimum Separation Requirements**

| <i>Use or Use Classification</i>     | <i>Min. Separation Requirement (feet)</i> |
|--------------------------------------|---|
| Cemetery                             | 1,000                                     |
| Day Care Center, Public or Private   | 1,000                                     |
| Public or Private Park               | 1,000                                     |
| Place of Worship                     | 1,000                                     |
| Schools, Public or Private           | 1,000                                     |
| Residential Zoning District Boundary | 500                                       |

- c. Disposal of industrial hemp waste shall not be allowed on public property or in any Town of Gilbert refuse or recycling container unless expressly authorized by the Town of Gilbert OR state law.
- d. In addition to the regulations in the Gilbert Municipal Code (including Section 66-231), it shall be unlawful to discharge or cause to be discharged any waste that can adversely affect or harm a sewer system or other public system, Gilbert personnel or equipment, water or effluent quality, or public or private property; endanger the public or the environment; any waste that creates a public or private nuisance; exceeds limitations set by the state or federal government; causes a public or private system to violate state or federal regulations or permits; or adversely affects water reclamation, air quality, water reuse or sludge disposal.
- e. Industrial Hemp activities, including storage and discharges, shall not emit smells or odors beyond the Industrial Hemp Site or ten (10) feet of the exterior of an Industrial Hemp Site building, whichever distance is less, which can be detected by a person with a “normal sense of smell” and are not generally found in a residential environment. Any activity performed contrary to this section or the license is a violation of land development code and a public nuisance under the gilbert municipal code.
- f. Industrial Hemp Sites shall allow inspections of the exterior premises by Gilbert Code Compliance or a designee at any time during regular business hours and as permitted by the Gilbert Municipal Code, including but not limited to Section 66-179.

- g. Industrial Hemp Sites shall comply with all municipal codes and ordinances.
- h. No vehicle or trailer used to transport industrial hemp to or from an industrial hemp site shall park in a residential zone or be left unattended on any public street, sidewalk, alley or other public right-of-way in the Town of Gilbert. Non-compliant vehicles and trailers shall be subject to the Gilbert Municipal Code, Chapter 62, Traffic and Vehicles.

#### **4.5017 Miscellaneous Provisions**

- A. **Caretaker.** A recreational vehicle is permitted as a temporary dwelling for a caretaker or security guard on a lot or parcel only during construction undertaken pursuant to a valid building permit.
- B. **Recreational Vehicle Occupancy.** Except as permitted under Section 4.5014A: Caretaker, no person shall occupy a recreational vehicle parked in a required front or street side setback for more than 24 consecutive hours. No recreational vehicle shall be occupied as a permanent dwelling unit in any district. Parking of a recreational vehicle in a front or street side setback shall not impede street access for public safety vehicles.
- C. **Inoperable Vehicles.** Inoperable vehicles shall be stored in a fenced area, a fully enclosed building, or at a business engaged in Vehicle Services or Motor Vehicle Sales and Leasing.
- D. **Abandoned Vehicles.** The parking of an abandoned vehicle is prohibited in all zoning districts.
- E. **Facility Manager Dwelling Unit.** Facility Manager Dwelling Units are allowed as an incidental use to certain non-residential uses when the principal use has a demonstrated need for a continuous on-site presence and the Facility Manager Dwelling Unit is developed in compliance with the following standards:
  - 1. **Applicability.** A Facility Manager Dwelling Unit is a permitted use incidental to the following commercial, employment or public facility/institutional zoning district principal uses:
    - a. Animal Shelter
    - b. Cemetery
    - c. Contractor's Yard
    - d. Crop and Animal Raising, Commercial
    - e. Funeral and Undertaking Services

- f. Garden Supply Store and Plant Nurseries
  - g. Kennel
  - h. Mining and Quarrying
  - i. Place of Worship
  - j. Salvage Yards or Junkyards
  - k. Schools, Public or Private
  - l. Stables, Commercial
  - m. Storage, Personal Property
2. *Standards.* A Facility Manager Dwelling Unit shall comply with the following standards:
- a. A business shall be allowed one Facility Manager Dwelling Unit except Crop and Animal Raising, Commercial; Stables, Commercial; and Garden Supply Stores and Plant Nurseries may be allowed two Facility Manager Dwelling Units.
  - b. A Facility Manager Dwelling Unit livable area shall not exceed 2,000 square feet.
- F. ***Gatehouse.*** Gatehouses are permitted in all zoning districts as an incidental structure with an approved site plan. A Gatehouse may not be located within retention basins, travel ways and drive aisles, fire lanes, required parking spaces, sidewalks, 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. The gatehouse gross floor area shall not exceed 700 square feet. If the gatehouse provides site access control, it may be located within the required perimeter landscape area.
- G. ***In-patient Treatment of Certain Behavioral Disorders.*** A hospital that provides in-patient treatment as listed in Parts 1 or 2 of this subsection must first receive conditional use permit approval and shall maintain a minimum 1,500-foot separation between the hospital's property line and any school or daycare center property line.
- 1. A hospital that services a Court Ordered Evaluation for Civil Commitment, as defined by Arizona Revised Statutes.
  - 2. A hospital that provides in-patient behavioral health treatment of pedophilia, exhibitionism, voyeurism, kleptomania or pyromania, as defined under federal law.

## Article 4.6 Non-Conforming Uses, Lots, Parcels, Structures and Signs

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### Sections

|       |   |
|-------|---|
| 4.601 | Purpose                                     |
| 4.602 | Definitions                                 |
| 4.603 | General Provisions                          |
| 4.604 | Abandonment of Non-Conforming Uses          |
| 4.605 | Repair or Rebuilding of a Damaged Structure |

### 4.601 Purpose

This article establishes uniform provisions for the regulation of uses, lots, parcels, structures, and signs that were lawfully established prior to the adoption of the Zoning Code, but which would now be prohibited or regulated differently under the requirements of the Zoning Code. It is the intent of this article to encourage the conversion of non-conforming uses, lots, parcels, structures, and signs to conforming status.

### 4.602 Definitions

- A. ***Non-Conforming Use.*** A use that is lawfully being conducted in a structure or on a lot or parcel on the effective date of the Zoning Code, or the effective date of amendments to the Zoning Code, but does not conform with the regulations for the district in which it is located.
- B. ***Non-Conforming Lot or Parcel.*** A legally established lot or parcel that conformed to the dimensional requirements for the district in which it was located at the time of recordation.
- C. ***Non-Conforming Structure.*** A structure that was lawfully constructed under the provisions of the Zoning Code or regulations of the district in effect at the time of construction. A change to the parking, loading, landscaping, or screening regulations in the district does not cause the structure to be non-conforming; provided however that the existing parking, loading, landscaping, or screening shall become non-conforming as of the effective date of the change.
- D. ***Non-Conforming Sign.*** A sign that:
  - 1. Was lawfully established prior to the effective date of the Zoning Code or of amendments thereto; or

2. Was lawfully established in another political jurisdiction prior to annexation to the Town; and
3. That does not conform to the regulations for signs for the district in which it is located.

#### **4.603 General Provisions**

- A. ***Continuation of Non-Conforming Uses.*** A non-conforming use may be continued, except as set forth in Section 4.604: Abandonment of Non-Conforming Uses.
- B. ***Uses in Non-Conforming Structures.*** A permitted use may be extended into any portion of a non-conforming structure.
- C. ***Expansion of Non-Conforming Uses.*** A non-conforming use that occupies any portion of any structure, lot, or parcel shall not be expanded to occupy additional building or land area except as permitted in Table 2.902: Use Regulations. A non-conforming use shall not be expanded in intensity or hours of operation except as permitted in Table 2.902: Use Regulations.
- D. ***Non-Conforming or Substandard Lot or Parcel.*** A non-conforming or substandard lot or parcel that contains at least 80 percent of the minimum lot area required in the district, and has at least 80 percent of all required lot dimensions, may be developed for a use permitted in the district.
- E. ***Non-Conforming Structures.*** A non-conforming structure shall not be altered unless required or permitted by law, unless the alteration will not increase the nonconformity or will result in reduction or elimination of the nonconformity.
- F. ***Non-Conforming Signs.*** Non-conforming signs shall be governed by Section 4.4018: Non-Conforming Signs.

#### **4.604 Abandonment of Non-Conforming Uses**

- A. ***Cessation of Non-Conforming Use.*** A non-conforming use shall terminate 1 year following cessation of the use unless the Zoning Administrator determines that the non-conforming use has not been abandoned, pursuant to Section 4.604B: Determination of Status.

- B. ***Determination of Status.*** A property owner or the Director of Planning may request the Zoning Administrator to determine if a use has been abandoned. The property owner shall have the burden of establishing intent not to have abandoned the use. The Zoning Administrator shall set forth his decision in a Notice of Decision. The Notice of Decision shall be mailed to the property owner by first class mail within 30 days of the filing of the request.
- C. ***Appeal of Zoning Administrator Determination.*** The applicant may file an appeal of the Zoning Administrator's determination to the Board of Adjustment within 10 days of the date of mailing of the Notice of Decision.
- D. ***Fact Finding by Hearing Officer.***
1. Prior to the Board of Adjustment appeal hearing, the Hearing Officer shall conduct a fact finding hearing to gather a complete record of all information pertaining to the request.
  2. The Hearing Officer shall have the authority to request all information necessary to compile a complete record pertaining to the request.
  3. Town officials and the applicant shall fully disclose all information pertinent to the fact finding.
  4. The Hearing Officer shall prepare a report and recommendation for Board of Adjustment consideration within 60 days of the filing of the request.
- E. ***Board of Adjustment Hearing.***
1. The Board of Adjustment shall conduct a public hearing on the request pursuant to the procedures set forth in Section 5.206: Public Hearing Procedures.
  2. In its deliberations, the Board of Adjustment shall consider only the applicant's written request, the findings of fact prepared by the Hearing Officer, and the Hearing Officer's recommendation. No new evidence shall be submitted.
  3. The Board of Adjustment shall uphold or reverse the determination of the Zoning Administrator or remand the matter to the Hearing Officer to develop additional findings.

#### **4.605 Repair or Rebuilding of a Damaged Structure**

- A. If a non-conforming structure has been damaged so that the cost of repair or rebuilding in compliance with current construction codes is less than 50 percent of the value of the structure prior to the damage, the structure may be repaired or rebuilt. The extent of non-conformity shall not be increased by the repair or rebuilding.

- B. If a non-conforming structure has been damaged so that the cost of repair or rebuilding in compliance with current construction codes equals or exceeds 50 percent of the value of the structure prior to the damage, the structure may be repaired or rebuilt, but only in conformance with the Zoning Code except as permitted in Table 2.902: Use Regulations.
- C. The value of a structure and costs of repair or rebuilding shall be determined by the Building Official. The Building Official shall consider appraisals, insurance adjuster's estimates, contract amounts, and similar information.
- D. An appeal of the determination of value may be made to the Building and Construction Regulations Code Board of Appeals. The decision of the Building and Construction Regulations Code Board of Appeals shall be final.

## Article 4.7      **Wireless Communication Facilities**

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### Sections

|       |                                    |
|-------|------------------------------------|
| 4.701 | Purpose and Applicability          |
| 4.702 | Procedures                         |
| 4.703 | Use and Development Regulations    |
| 4.704 | Additional Development Regulations |
| 4.705 | Required Findings                  |
| 4.706 | Miscellaneous Provisions           |

### **4.701 Purpose and Applicability**

A.      ***Purpose.*** The purpose of these regulations is to:

1. Establish uniform standards and procedures to manage the development, siting, installation, and operation of Wireless Communication Facilities (WCFs) in compliance with the Federal Telecommunications Act of 1996.
2. Provide for appropriate development of WCFs to provide services within the Town in a manner that will protect and promote public health and safety, and prevent visual blight, while supporting new technologies.
3. Provide for an efficient and capable wireless telecommunications network throughout the Town that promotes co-location and optimal facility locations to meet the current and future wireless telecommunications needs of the Town's residents, businesses, industry, and visitors.

B.      ***Applicability.***

1. This Article 4.7 and the Design Standards Manual For Wireless Communication Facilities for Wireless Communication facilities in Chapter II shall govern the development activities of wireless facilities within the Town of Gilbert, including the installation, construction, expansion, alteration, modification and operation of wireless facilities, subject to the rules contained in Section 4.701B.2 regarding the use of Town-owned Right-of-Way in connection with small wireless facilities.
2. Small Wireless Facilities in Town-owned Rights-of-Way and public utility easements shall be governed by Chapter 10 Buildings and Construction Regulations of the Town of Gilbert Code.
3. This Article 4.7 shall not apply to those uses set forth in Article 4.8; Over-The-Air Reception Devices, Large Satellite Dishes, Satellite Earth Stations, and Amateur Radio Facilities.



## 4.702 Procedures

- A. **Application.** An application for a new WCF, or expansion or alteration of any existing WCF, shall be filed with the Town in accordance with the application procedures set forth in Table 4.703E, Section 5.402: Use Permit Procedures, and Section 5.602: Design Review Procedures and Responsibility. In addition to any other requirements specified, applications shall not be deemed complete without submission of the following:
1. **Project Narrative.** Applicant shall provide a short written narrative describing the proposed facility plans, including details relating to existing conditions at and adjacent to the desired location, and the reasoning behind the selected location. Describe efforts to co-locate.
  2. **Facility Plans.** Applicant shall provide a complete set of plans for the facility and associated equipment. Said plans shall be prepared and stamped by a professional engineer of applicant.
  3. **Photographic Simulation.** Applicant shall provide a photographic simulation with a minimum of two (2) views of the proposed facility taken from surrounding properties and streets. Applicant shall provide a map that clearly shows the locations used for the analysis and their distances from the proposed WCF.
  4. **Title Report.** Applicant shall provide a Title Report prepared within the last thirty (30) calendar days of submitting of the application showing property ownership and utility easements.
  5. **Radio Frequency (RF) Exposure Compliance.** Applicant shall provide a letter from a qualified professional that confirms facility compliance with FCC OET Bulletin 65, related to Radio Frequency (RF) Exposure. The letter shall verify that, at its maximum load, including cumulative effect of multiple facilities, the WCF meets or exceeds the FCC safety standards.
  6. **Owner Consent.** Applicant shall provide a signed and notarized owner consent to file application form (signed by each owner of the property), and applicants may be required to provide a Prop 207 Waiver signed by each owner of the property.
  7. **Fees.** Applicant shall pay application fees in accordance with the fee schedule adopted by the Town of Gilbert Town Council.
- B. **Minor Modifications.** As set forth in section 5.404.B: Modifications and notwithstanding Section 704 of the Telecommunications Act of 1996 (Public Law 104-104) or any other provision of Law, proposed minor modifications to existing WCFs shall not require a use permit. Minor modifications to existing WCFs include, but are not limited to the following:

1. Upgrading the capacity of an existing facility by replacing antennas at the same mounting height on a pole;
2. Adding one or more antennas or other apparatus to an existing facility, which will not dramatically change the visual impact of the existing facility.
3. Increasing the height of an antenna slightly (1' – 2' maximum) such that it is visually insignificant at the height at which the antenna is mounted; or
4. Adding new equipment within an existing equipment cabinet or building that remains screened by the existing walls of the equipment cabinet or building.

C. ***Legal Non-Conforming WCFs.***

1. ***Maintenance Work.*** A WCF that was lawfully constructed under the provisions of the Land Development Code and Regulations of the Zoning District in effect at the time of construction shall not require a use permit for maintenance work. WCF maintenance means the realignment of antennas, replacement or repair of a part or portion of a WCF due to ordinary wear, tear or damage with like material, size, color, and design. Maintenance work does not include changing the number, color, size or design of the WCF or its components as set forth in Section 4.702 and Section 5.404.
2. ***Alteration.*** No alteration to a non-conforming WCF shall be made except where required or otherwise permitted by law to reduce or eliminate the non-conformity.

#### **4.703 Use and Development Regulations**

- A. ***Land Use Regulations.*** The land use regulations for each base zoning district in Division 2: Land Use Designations, establish the districts in which Wireless Communication Facilities are permitted.
- B. ***Regulations.*** Site development regulations are set forth in 4.703E. In addition, WCFs are subject to the development regulations set forth in Section 4.704: Additional Development Regulations and Chapter II: Design Standards Manual For Wireless Communication Facilities.
- C. ***Residential Zoning Districts.*** WCFs are permitted in single family and multi-family residential zoning districts when the property is owned by:
  1. The state, county, public school district, or community college district, if the primary use of such property is a governmental use;
  2. An electric utility company, if the property is used for an electric utility use; or

3. A Place of Worship use, if the primary use of such property is for worship or social use.

D. **Wireless Communication Facility Categories.** Each type of WCF has been organized into one of three categories, primarily based on the size and visual impact each type has to its surrounding property. Each category is subject to separate application and review processes as depicted in Table 4.703E.

1. *Category 1 WCFs.* Facilities in this category have minimal visual impact due to the small size, concealment efforts, and location on existing vertical elements. The process to review and approve Category 1 facilities is through an Administrative Design Review. Examples of Category 1 facilities include but are not limited to Microcells, new Small Wireless Facilities (SWFs) and WCFs on utility poles and recreational field light poles.
2. *Category 2 WCFs.* Facilities in this category have a more significant visual impact than those in Category 1 due to their larger size and new vertical elements. The process to review and approve Category 2 facilities is through an Administrative Use Permit. Examples of Category 2 facilities include but are not limited to new Small Stealth Structures, existing vertical elements.
3. *Category 3 WCFs.* Facilities in this category have the most significant visual impact on surrounding properties due to the increased heights permitted and fewer requirements for concealment. The process to review and approve Category 3 facilities is through a Conditional Use Permit. Examples of Category 3 facilities include but are not limited to Monopoles, Large Stealth Structures and Public Safety Communication Facilities.

**4.703.E: Wireless Communication Facility Categories**

| Category  | Maximum Height Permitted by Zoning District |   |                    |                    |                    |                                |                         |                         |
|---|---|---|--------------------|--------------------|--------------------|--------------------------------|-------------------------|-------------------------|
|   | Single Family Residential <sup>(1)</sup>    | Multi-Family Residential <sup>(1)</sup> | Commercial         | Office             | Employment         | Public Facility/ Institutional | Heritage Village Center | Gateway Zoning District |
| <b>Facilities listed under each category are examples, but may not include all eligible facility types. The Zoning Administrator has the authority to determine which Category a proposed WCF shall be processed under (Section 1.109).</b> |   |   |                    |                    |                    |                                |                         |                         |
| <b>Category 1: Administrative Design Review</b>   |   |   |                    |                    |                    |                                |                         |                         |
| Microcell   | No max. <sup>(1)</sup>                      | No max. <sup>(1)</sup>                  | No max.            | No max.            | No max.            | No max.                        | No max.                 | No max.                 |
| Small Wireless Facility – Existing Vertical Element – <i>Other</i>  | 10' <sup>(1)(2)</sup>                       | 10' <sup>(1)(2)</sup>                   | 10' <sup>(2)</sup> | 10' <sup>(2)</sup> | 10' <sup>(2)</sup> | 10' <sup>(2)</sup>             | 10' <sup>(2)</sup>      | 10' <sup>(2)</sup>      |
| Small Wireless Facility - New   | 40' <sup>(1)</sup>                          | 40' <sup>(1)</sup>                      | 40'                | 40'                | 40'                | 40'                            | -                       | -                       |
| Existing Vertical Element – <i>Utility Pole or Recreational Field Light Pole</i>  | 15' <sup>(1)(2)</sup>                       | 15' <sup>(1)(2)</sup>                   | 15' <sup>(2)</sup> | 15' <sup>(2)</sup> | 15' <sup>(2)</sup> | 15' <sup>(2)</sup>             | 15' <sup>(2)</sup>      | 15' <sup>(2)</sup>      |
| Stealth Building Element  | Height of Bldg. <sup>(1)</sup>              | Height of Bldg. <sup>(1)</sup>          | Height of Bldg.    | Height of Bldg.    | Height of Bldg.    | Height of Bldg.                | Height of Bldg.         | Height of Bldg.         |

**4.703.E: Wireless Communication Facility Categories**

| Category  | Maximum Height Permitted by Zoning District |                        |     |     |     |                    |     |     |
|---|---|------------------------|-----|-----|-----|--------------------|-----|-----|
| <b>Category 2: Administrative Use Permit</b>  |   |                        |     |     |     |                    |     |     |
| Stealth Structure (Small)   | 40' <sup>(1)</sup>                          | 40' <sup>(1)</sup>     | 40' | 40' | 40' | 40'                | 40' | 40' |
| Existing Vertical Element – <i>Light pole</i> or Existing Vertical Element - <i>Other</i> | 10' <sup>(1) (2)</sup>                      | 10' <sup>(1) (2)</sup> | -   | -   | -   | 10' <sup>(2)</sup> | -   | -   |
| Building Mounted Public Safety Antenna  | -   | -                      | -   | -   | -   | 10' <sup>(2)</sup> | -   | -   |
| Public Safety Communications Facility   | -   | -                      | -   | -   | -   | 75'                | -   | -   |
| <b>Category 3: Conditional Use Permit</b>   |   |                        |     |     |     |                    |     |     |
| Monopole  | -   | -                      | 75' | 75' | 75' | 75'                | -   | -   |
| Stealth Structure (Large)   | -   | -                      | 75' | 75' | 75' | 75'                | -   | -   |
| Public Safety Communications Facilities   | -   | -                      | -   | -   | -   | 250'               | -   | -   |

(1) Wireless Communication Facilities may only be permitted in residential zoning districts, as subject to Section 4.703C above.

(2) Measured above existing height.

**4.704 Additional Development Regulations**

A. **Height.** The permitted maximum heights for WCFs are set forth in Table 4.703E. Unless otherwise provided in Article 4.7, the height of WCFs shall be measured from finished grade to the highest point of the structure, including antenna and attachments. For facility types that are not specifically listed in Table 4.703E, the Zoning Administrator or Director shall determine the maximum height based on other similar facilities within the same category.

B. **Setbacks, WCF Support Structure.** The following setbacks shall apply to the support structure upon which a WCF is mounted.

1. **Measurement.** Setbacks shall be measured from the center point of the support structure to the boundary of the entire property prior to the WCF application even though the WCF may be sited on one or more smaller individual parcels within a larger lot or parcel.
2. **Required Setback Distances.** All new support structures shall be located a distance equal to or greater than the building setback for the district in which it is located, unless adjacent to any lot or parcel designated for residential use in the General Plan.
3. **Required Setback Distances From Residential.** All new support structures shall be set back from any lot or parcel designated for residential use in the General Plan to the maximum extent feasible and a distance equal to the greater of:
  - a. 75 feet; or

- b. 110 percent of the height of the WCF, including attached antennas.

C. ***Setbacks, Ground Equipment.***

1. ***Setback of the Base Zoning District.*** Except as otherwise provided Section 4.704D, ground equipment associated with WCFs, including but not limited to equipment cabinets and buildings, shall comply with the required building setbacks of the Base Zoning District within which the WCF is located.
2. ***Setback Measurement.*** Setbacks shall be measured from the closest perimeter wall of the equipment cabinet or building within which the ground equipment is mounted, to the boundary of the entire property. Setbacks shall be measured prior to the WCF application even though the proposed WCF may be sited on one or more smaller individual parcels within a larger lot or parcel. Setbacks shall not be measured from a wall surrounding the ground equipment, but rather from the actual ground equipment.

D. ***Setback Exemptions.*** The following are exempt from the setback requirements in Section 4.704C:

1. WCF antennas mounted on an existing vertical element;
2. WCF antennas incorporated as a stealth building element; and
3. Ground equipment located on an Electric Utility Substation site.

E. ***Ground Equipment.***

1. ***Screening.***
  - a. ***Equipment Cabinets and Associated Equipment.*** The equipment cabinet and associated equipment, including air conditioning units and emergency generators, shall be located within the cabinet within which the antenna is placed, or shall be fully screened from view by a decorative solid fence equal to or exceeding the heights of the equipment cabinet.
  - b. ***Equipment Buildings.*** An equipment building shall be screened with an 8 foot decorative solid separation fence.
  - c. ***Waiver or Modification of Screening Requirement.*** The screening requirement may be waived or modified if the Zoning Administrator determines that the equipment cabinet or building will only be visible from permanently unoccupied areas or is already screened from public view.

2. *Height.*

- a. Equipment cabinets shall not exceed 8 feet in height.
- b. Equipment buildings shall not exceed 15 feet in height.

3. *Area.*

- a. The area of an equipment cabinet or building that is used by a single provider shall not exceed 300 square feet.
- b. The area of an equipment cabinet or building that is used by multiple providers shall not exceed 600 square feet.

4. *Public Safety Communications Facility Exception.* The equipment cabinet or building of Public Safety Communications Facility may exceed the height and area limitations in 4.704E.2 and 4.704E.3, but only if approved as part of a Conditional Use Permit. The equipment cabinet or building of Public Safety Communications Facility shall comply with the screening requirements in Section 4.704E.1.

F. *Fencing.*

- 1. *Design.* Fencing shall be architecturally compatible with buildings and fencing on the property or of adjacent properties and shall be solid to fully screen the equipment it is surrounding.
- 2. *Height.* Fencing shall not exceed 8 feet in height.
- 3. *Prohibitions.*
  - a. The use of barbed wire or razor wire is prohibited except as permitted in Gilbert Municipal Code Sec. 42.110: Fences, Barbed Wire and Electric.
  - b. The use of chain link, woven wire or similar fence material is prohibited, except at temporary construction sites.

G. *Lighting.*

- 1. Artificial lighting of a WCF (including its components) is prohibited, unless required by the Federal Aviation Administration. A motion-sensor light may be used for security purposes only.
- 2. WCFs on light poles and recreational field light poles shall comply with Section 4.103: Light Standards.

**H. WCF Support Structures - Additional Regulations.**

1. *Monopole.* Any new monopole shall be constructed to allow for co-location of at least one (1) additional WCF antenna of similar type. If constructed to less than the maximum height permitted, the monopole shall also have the capability of having an additional vertical section added.
2. *Light Pole and Recreational Field Light Pole.* When a WCF light pole or recreational field light pole replaces one of a series of light poles, its dimensions and appearance shall replicate those of the existing light poles to the maximum extent feasible as determined by the Zoning Administrator.
3. *Non-Conforming Support Structures.* A support structure that was lawfully constructed under the provisions of the code or regulations of the district in effect at the time of construction. No alteration to a non-conforming support structure shall occur unless required by law or unless the alteration will result in reduction or elimination of the non-conformity, or unless the alteration conforms to the following provisions:
  - a. Additions. The Town may allow additional antennas pursuant to a Conditional Use Permit. In addition to the findings required for approval in Section 5.403: Required Findings and Section 4.705: Required Findings, the following findings shall establish the rationale for the granting of relief under this section 4.704H.3.A:
    - (1) The existing use of the property is conforming;
    - (2) The additional antenna conforms with the requirements of this article; and
    - (3) Any relief granted shall be the minimum required to implement the purposes of this article.
4. *Stealth Building Element.* No part of a Stealth Building Element shall extend above the highest point of a building, at the location in which it is mounted.

**I. Portable Monopoles.**

1. *Temporary Replacement Monopoles.* A portable monopole may be permitted during the construction modification, or replacement of an approved WCF. Placement of the portable monopole requires the approval of the Director of Planning.
2. *Special Event Monopoles.* A portable monopole may be permitted during a Special Event, but only if approved as part of a Special Event Permit pursuant to Chapter 15 of the Town Code.

3. *Height.* The Height of a portable monopole shall not exceed 65 feet in height in all Zoning Districts, with the exception of a portable monopole in an Employment and Public Facility/Institutional Zoning districts where a maximum height of no more than 75 feet is permitted.

J. ***Co-Location on Monopoles.*** The operator of a monopole shall allow the co-location of at least one additional WCF on the same monopole or site where feasible. Applicants and operators shall share technical information to enable evaluation of the feasibility of co-location. Permission shall be required for all operators and owners of this monopole in which co-location is proposed.

#### **4.705 Required Findings**

A. ***Administrative Design Review.*** In addition to the findings required in Section 5.603, the Director shall approve, approve with modifications and/or conditions, or deny a Design Review application after making the additional findings or approval as follows;

1. The proposed WCF conforms with the requirements of this article;
2. The applicant has demonstrated the inability to co-locate the proposed WCF on an existing vertical element; and
3. The visibility of the WCF is reduced to the extent feasible by decreasing the WCF height, increasing the WCF setback, locating the WCF in proximity to other structures, using antenna designs that minimize horizontal projects, and constructing the WCF with colors and materials that de-emphasize the WCF's visibility.

B. ***Administrative and Conditional Use Permits.*** In addition to the findings required in Section 5.403, the Planning Commission, or the Zoning Administrator, in the case of Administrative Use Permits, shall approve, approve with modifications and/or conditions, or deny a use permit after making the additional findings of fact as follows:

1. The proposed WCF conforms with the requirements of this Article.
2. The applicant has demonstrated the inability to co-located the proposed WCF on an existing vertical element; and
3. The visibility of the WCF is reduced to the extent feasible by decreasing its height, increasing its setback, by locating the WCF in proximity to other structures, by using antenna designs that minimize horizontal projections, and by constructing the WCF with colors and materials that de-emphasize the WCF's visibility.



#### 4.706 Miscellaneous Provisions

- A. ***WCFs on Utility Property.*** The costs of improvements to utility facilities, poles, and property to accommodate a WCF shall not be charged against any municipal aesthetics program funding granted to the Town.
- B. ***Independent Technical Study.*** Should the Zoning Administrator or the Director of Development Services require additional technical information that cannot be obtained from the applicant, the Town may require the applicant to pay the cost of an independent technical study.
- C. ***Revocation.*** To the extent permitted by law, failure to comply with co-location requirements as provided for in this Article is grounds for revocation of an existing use permit pursuant to Section 5.404C: Revocation.
- D. ***Abandonment; Non-Use.*** WCFs that are not in use for six (6) or more months shall be removed by the Wireless Communications Service Provider or the property owner no later than ninety (90) calendar days from the last date of use unless otherwise agreed to in writing by the Zoning Administrator.
- E. ***Security of WCFs.*** All WCFs and associated equipment shall be installed and secured in a manner to prevent unauthorized access. All WCFs and associated equipment shall also be constructed and shielded so that they cannot be climbed onto or run into. Access to transmitters and telecommunications control points shall be limited to persons authorized to operate or service the WCF only.
- F. ***Signage.*** No sign or advertising of any kind shall be permitted on any WCF, equipment cabinet or building antenna or support structures unless required by law or pursuant to a sign permit.
- G. ***Transfer of Rights.*** A Use Permit under this article shall not be assigned, transferred or conveyed without prior written notice to the Town. The written notice shall describe the assignee's name, address, contact person, and of the effective date of such assignment.
- H. ***Reservation of Authority to Inspect Wireless Telecommunications Facilities.***
  - 1. The Town reserves the right to inspect the permitted site to verify compliance with all applicable technical, safety, fire, building, code requirements, and all other applicable requirements.
  - 2. The Town shall pay for the costs associated with such an inspection, except that the permit holder shall reimburse the Town for the actual cost of the inspection where violations of this Article are found to exist and for those circumstances occasioned by said permit holder's, lessee's or licensee's refusal to provide necessary information, refusal to provide necessary access to facilities, or refusal to otherwise cooperate with the Town with respect to an inspection.

3. Payment of such costs shall be paid to Town no later than thirty (30) calendar days from the date of the Town's invoice or other demand for reimbursement. In the event of an appeal in accordance with the procedures set forth in Section 5.405, said reimbursement payment must still be paid to Town shall set aside the amount, pending the final decision on appeal.

I. ***Conflict With Other Laws or Ordinances.*** Where this Article differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the County, State or Federal Government, the more restrictive or protective of the Town and the public shall apply.

J. ***Severability.***

1. If any word, phrase, definition, sentence, part, section, subsection, or other portion of this Article or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reason, then such word, phrase, definition, sentence, part, section, subsection, or other portion of this Article, or the proscribed application thereof, shall be severable, and the remaining provisions of this Article and all applications thereof not having been declared void, unconstitutional or invalid, shall remain in full force and effect.
2. Any use permit issued under this Article shall be comprehensive and not severable. If part of a use permit is deemed or ruled to be invalid or unenforceable in any material respect by a competent authority, or is overturned by a competent authority, the use permit may be declared void in total upon determination by the Town.

## **Article 4.8: Over-The-Air Reception Devices, Large Satellite Dishes, Satellite Earth Stations, and Amateur Radio Facilities**

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### **Sections:**

- 4.801 Purpose
- 4.802 Applicability
- 4.803 Use and Development Regulations

#### **4.801 Purpose**

The purpose of this Article is to:

- A. Establish standards for Over-The-Air Reception Devices, Large Satellite Dishes, Satellite Earth Stations, and Amateur Radio Facilities;
- B. Minimize the visual impact of communication facilities; and
- C. Provide opportunities for such communication uses within the Town, subject to limits set by federal regulations.

#### **4.802 Applicability**

These regulations apply to:

- A. Over-The-Air Reception Devices;
- B. Large Satellite Dish Antennas;
- C. Satellite Earth Stations;
- D. Amateur (HAM) Radio Facilities; and
- E. Expansion and/or alteration of any such existing facilities.
- F. This Article shall not apply to Wireless Communication Facilities, set forth in Article 4.7: Wireless Communication Facilities.

#### **4.803 Use and Development Regulations**

- A. ***Land Use Regulations.*** The land use regulations for each base zoning district in Division 2: Land Use Designations, establish the districts in which Amateur Radio Facilities, Large Satellite Dish Antennas, Over-The-Air Reception Devices, and Satellite Earth Stations are permitted. Over-the-air reception devices are

permitted accessory uses in all base zoning districts, pursuant to the standards set forth in this article.

B. ***Over-the-Air-Reception Devices (OTARD) Standards.*** Unless these regulations would cause the installation or use of an OTARD to be unreasonably delayed, prohibited, would cause an unreasonable or increased cost, or would preclude it from reception of an acceptable quality signal, the following standards shall be met.

1. *Historical Sites.* Prior to installing an OTARD on a site within the Heritage District Redevelopment Area or on a site listed or eligible for inclusion on the National Register of Historic Places (National Register), the applicant shall notify the Town in writing. The Town may impose design restrictions no more burdensome than necessary to preserve the site for eligibility on the National Register.
2. *Equal Restrictions.* The Town shall not impose any greater restriction on an OTARD than is imposed on the installation, maintenance, or use of other modern appurtenances, devices, or fixtures comparable in size, weight and appearance, or safety risk to the OTARD.
3. *Safety Requirements.* If the antenna will be placed on a mast exceeding 12 feet above the roofline, the applicant shall obtain a building permit before installation due to safety concerns posed by wind loads and the risk of fall. Before installation, the applicant shall submit to the Town a technical description of the antenna, anchorage features, and mast. If the Town determines the mast will pose a safety hazard to persons or property, the Town may prohibit installation.
4. *Location.* Antennas shall be located outside of the required front yard.

C. ***Large Satellite Dish Antennas.*** Large Satellite Dish Antennas, other than Satellite Earth Station antennas, are subject to the following standards:

1. *General Standards.*
  - a. The antenna shall be the smallest diameter allowed by current technology to receive or transmit desired communications, but in no case shall exceed a diameter of 10 feet.
  - b. Ground-mounted large satellite dish antennas shall be located in the rear one-half of the lot or parcel.
  - c. Screen fencing shall be architecturally compatible with buildings or fencing on the property or adjacent properties.

- d. Any portion of the antenna visible from streets or adjacent residential lots or parcels shall be painted a color approved for use on the property. For parcels not having an approved color palette, the color shall be approved by the Director of Planning.
2. Single Family Residential Districts.
    - a. No more than 1 Large Satellite Dish Antenna may be located on any lot or parcel.
    - b. Large Satellite Dish Antennas shall be ground-mounted unless there is no feasible ground location on the lot or parcel to receive or transmit desired communications.
    - c. Ground-mounted Large Satellite Dish Antennas shall be screened from streets and adjacent lots or parcels by a 6 foot high solid fence.
3. Multi-Family Residential Districts.
    - a. No more than 1 Large Satellite Dish Antenna may be located on a lot or parcel with fewer than 10 units; no more than 2 large satellite dish antennas may be located on any lot or parcel with 10 or more units.
    - b. Roof-mounted Large Satellite Dish Antennas shall be fully screened by a parapet wall or other building elements equal to or exceeding the height of the antenna. These building elements shall be an integral part of the building design. Separate mechanical equipment screen enclosures or fences are prohibited.
4. Nonresidential Districts.
    - a. Ground-mounted Large Satellite Dish Antennas shall be screened from view from streets, areas accessible to the general public, and from areas shown for residential use in the General Plan. If the Design Review Board, or for Administrative Design Review, the Director of Planning, determines that the equipment will only be visible from permanently unoccupied areas, or are already screened from public view, the screening requirement may be waived or modified. The screening method shall be depicted on plans submitted with applications for design review and building permits.
    - b. Roof-mounted Large Satellite Dish Antennas shall be fully screened by a parapet wall or other building elements equal to or

exceeding the height of the antenna, but in no event shall such screen exceed a height of 8 feet above the roof deck. These building elements shall be an integral part of the building design. Separate screen enclosures or fences are prohibited.

D. ***Satellite Earth Stations, Large- and Small-scale.*** Antennas shall be:

1. Separated from adjacent uses and streets by an 8 foot high solid fence.
2. Located outside of the required perimeter landscape area.
3. Set back from adjacent property lines a minimum distance equal to the height of the antenna.
4. Painted a light, non-reflective color.
5. If roof-mounted, screened by a parapet or cornice and shall not extend above the roof line.

E. ***Amateur (HAM) Radio Facilities.***

1. *Antenna Standards.* Antenna structures shall be:
  - a. Limited to a maximum of 35 feet in height.
  - b. Limited to no more than 1 amateur radio antenna on any lot or parcel.
  - c. Mounted on the ground unless there is no feasible ground location on the lot or parcel to receive or transmit desired communications.
  - d. If ground-mounted, located in the rear one-half of the lot or parcel, but in no event shall the antenna structure be required to be set back more than 100 feet from the front property line.
  - e. Set back a minimum of 20 feet from side and rear property lines.
2. *Waiver of Standards.* If an amateur radio signal cannot be obtained when facilities are in compliance with the regulations set forth herein, the Zoning Administrator may permit a waiver from the height and location requirements of this section.
  - a. The waiver request shall:
    - (1) Provide evidence that a signal cannot be obtained by facilities in compliance with the standards; and

- (2) Document the minimum waiver from these regulations required in order to receive a signal.
- b. If a waiver of the height limit is necessary, the antenna shall be set back from adjacent property lines by a distance established by the Zoning Administrator.
- c. The decision of the Zoning Administrator shall be issued in the form of a Notice of Decision and include written findings.

## **Article 4.9: Common Area Ownership and Maintenance**

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### **Sections:**

- 4.901 Purpose
- 4.902 Applicability
- 4.903 Requirement

#### **4.901 Purpose**

The purpose of this article is to provide for the maintenance and operation of landscaping, open space, private streets, utilities and other facilities held in common for the benefit of private property owners in residential and non-residential developments.

#### **4.902 Applicability**

This article applies to all residential and non-residential developments where landscaping, open space, private streets, utilities, and other facilities are held in common ownership.

#### **4.903 Requirement**

A homeowners or property owners association shall be created to maintain and operate landscaping, open space, recreation facilities, private streets, utilities, and/or other facilities held in common ownership. The documents creating the association shall provide that this obligation continue in perpetuity. Evidence of compliance with this Article shall be submitted with an application for a final subdivision plat or minor subdivision.



## **Division 5          Administration**

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**Article 5.1    Planning Administration**

**Article 5.2    Common Procedures**

**Article 5.3    Administrative Relief from Development Standards**

**Article 5.4    Use Permits**

**Article 5.5    Variances**

**Article 5.6    Design Review**

**Article 5.7    Amendments to Zoning Code Text, a Zoning Ordinance or the Official Zoning Map**

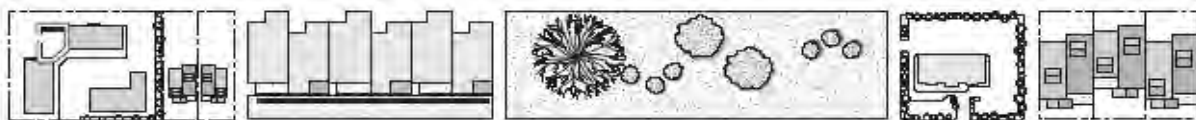
**Article 5.8    Amendments to General Plan Text or Map**

**Article 5.9    Protected Development Right Plan**

**Article 5.10   Appeals of Dedications, Exactions and Zoning Regulations and Reconsideration of Certain Decisions**

**Article 5.11   Annexations**

**Article 5.12   Enforcement**



# **Article 5.1      Planning Administration**

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## **Sections**

- 5.101      Purpose
- 5.102      Town Council
- 5.103      Planning Commission
- 5.104      Board of Adjustment
- 5.105      Director of Planning
- 5.106      Zoning Administrator
- 5.107      Zoning Hearing Officer
- 5.108      Design Review Board
- 5.109      Redevelopment Commission
- 5.1010      Code Compliance Manager
- 5.1011      Civil Hearing Officer

### **5.101 Purpose**

The purpose of this article is to identify those bodies, administrators, and officials with responsibilities under the Gilbert Land Development Code. Subsequent articles of Division 5: Administration, provide detailed information regarding procedures, applications, and permits, including Zoning and General Plan text and map amendments, fees, and enforcement. When carrying out their assigned duties and responsibilities, all bodies, administrators, and officials shall interpret and apply the provisions of the Zoning Code as minimum requirements adopted for the promotion of the General Plan to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote the public health, comfort, convenience, safety, and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements; to promote environmental quality and the public interest; and to preserve property values.

### **5.102 Town Council**

The Town Council has the following powers and duties under the Zoning Code:

- A. Consider and adopt, reject or modify amendments to the General Plan pursuant to the provisions of Article 5.8: Amendments to the General Plan Text or Map;
- B. Consider and adopt, reject or modify annexation of property and Maricopa County rights-of-way and roadways pursuant to the provisions of Article 5.11: Annexations;

- C. Consider and adopt, reject or modify amendments to the text of the Zoning Code pursuant to the provisions of Article 5.7: Amendments to Zoning Code Text, a Zoning Ordinance or the Official Zoning Map;
- D. Consider and adopt, reject or modify amendments to the Official Zoning Map, pursuant to the provisions of Article 5.7: Amendments to Zoning Code Text, a Zoning Ordinance or the Official Zoning Map;
- E. Hear and decide appeals from decisions of the Planning Commission on use permits, pursuant to the provisions of Article 5.4: Use Permits;
- F. Hear and decide appeals from decisions of the Planning Commission on preliminary subdivision plats, pursuant to the provisions of Chapter III: Subdivision Regulations;
- G. Hear and decide appeals from decisions of the Planning Commission on separation fence requirements, pursuant to Section 4.109G: Modification of Separation Fence Requirements;
- H. Consider and approve final subdivision plats and amendments thereto, pursuant to the provisions of Chapter III: Subdivision Regulations;
- I. Hear and decide appeals from decisions of the Design Review Board or Redevelopment Commission, pursuant to the provisions of Article 5.6: Design Review;
- J. Exercise appeal authority as authorized by the Zoning Code;
- K. Appoint members of the Planning Commission, Redevelopment Commission and Design Review Board;
- L. Establish, by resolution, a schedule of fees and charges for the various applications and services provided pursuant to the Zoning Code;
- M. Adopt Design Guidelines for the design review process;
- N. Consider and approve plans designated as protected development right plans, pursuant to the provisions of Article 5.9: Protected Development Right Plan;
- O. Revoke protected development right plans pursuant to the provisions of Article 5.9: Protected Development Right Plan; and
- P. Hear and decide Requests for Reconsideration pursuant to the provisions of Article 5.10: Appeals of Dedications, Exactions and Zoning Regulations and Reconsideration of Certain Decisions.

## 5.103 Planning Commission

The Planning Commission (the "Commission") is established pursuant to Chapter 1, Article IV, Division 6, of the Gilbert Municipal Code and the requirements of Arizona Revised Statutes.

A. ***Creation, Membership, and Terms of Office.***

1. The Commission is composed of 7 regular members and 2 alternate members appointed by the Town Council. Members of the Commission shall reside in the Town. A change of residence from the Town of any member shall create a vacancy as of the date of such change of residence.
2. The term of each regular member of the Commission shall be for a period of 4 years or until his successor assumes office. Members shall serve staggered terms whereby no more than 4 members' terms expire in any one year. The term of the alternate members shall be for a period of 1 year.
3. The alternate members of the Commission shall act as a regular member in the absence of a regular member at any meeting or hearing of the Commission.
4. The Commission shall elect a chair and vice-chair from its membership.

B. ***Meetings.*** All meetings of the Commission shall be held at the call of the chair and at such other times as the Commission may determine. Except for executive sessions authorized by law, all meetings of the Commission shall be open to the public.

C. ***Proceedings.*** The Commission shall adopt rules and regulations to govern its proceedings. The minutes and records of all Commission proceedings shall be kept and filed as public records in the office of the Town Clerk. The Executive Secretary of the Commission shall be the Director of Planning.

D. ***Powers and Duties.*** The Commission shall have the following powers and duties:

1. Recommend to the Town Council a General Plan and amendments thereto;
2. Annually review progress towards implementation of the General Plan and recommend to the Town Council changes desired due to new legislation, development trends and changing economic, social and environmental conditions;
3. Review and make recommendations to the Town Council on proposals to amend the Official Zoning Map or the provisions of the Zoning Code;
4. Initiate changes to the Official Zoning Map or text of the Zoning Code to insure conformance and consistency with the Town's General Plan;

5. Review and recommend approval to the Town Council of design guidelines for conducting design review;
6. Approve, approve with modifications and/or conditions, or deny Special and Conditional Use Permits, pursuant to the provisions of Article 5.4: Use Permits;
7. Revoke Administrative Use Permits pursuant to the provisions of Article 5.4: Use Permits;
8. Revoke Special and Conditional Use Permits pursuant to the provisions of Article 5.4: Use Permits;
9. Hear and decide appeals from decision of the Zoning Administrator on applications for Administrative Use Permits;
10. Review applications for Administrative Use Permits upon referral by the Zoning Administrator pursuant to the provisions of Article 5.4: Use Permits;
11. Appoint a Zoning Hearing Officer pursuant to Section 5.107: Zoning Hearing Officer;
12. Approve, approve with modifications and/or conditions or deny preliminary subdivision plats, pursuant to the provisions of Chapter III: Subdivision Regulations;
13. Hear and decide appeals from decisions of the Town Engineer on applications for minor land divisions, pursuant to the provisions of Chapter III: Subdivision Regulations;
14. Hear and decide appeals from decisions of the Director of Planning on applications for administrative relief, pursuant to the provisions of Article 5.3: Administrative Relief from Development Standards;
15. Review and make recommendations to the Town Council on proposals for Protected Development Right Plans pursuant to Article 5.9: Protected Development Right Plan;
16. Approve, approve with modifications and/or conditions, or deny Modification of Separation Fence Requirements, pursuant to Section 4.109G: Modification of Separation Fence Requirements; and
17. Revoke modification of separation fence decisions pursuant to the provisions of Section 4.109G: Modification of Separation Fence Requirements.

## 5.104 Board of Adjustment

The Board of Adjustment of the Town of Gilbert (the "Board") is established pursuant to Arizona Revised Statutes (A.R.S.) § 9-462.06.

- A. ***Creation and Membership.*** The Planning Commission shall serve as the Board. The Chair of the Board shall be the Chair of the Planning Commission or as designated by the Chair of the Planning Commission.
- B. ***Meetings.*** All meetings of the Board shall be held at the call of the chair and at such other times as the Board may determine. Except for executive sessions authorized by law, all meetings of the Board shall be open to the public.
- C. ***Proceedings.*** The Board shall adopt rules and regulations to govern its proceedings. The minutes and records of all Board proceedings shall be kept and filed as public records in the office of the Town Clerk. The Executive Secretary of the Board shall be the Director of Planning.
- D. ***Powers and Duties.*** The Board has the following powers and duties:
  - 1. Hear and decide appeals from decisions of the Zoning Hearing Officer on applications for variances;
  - 2. Review applications for variances upon referral by the Zoning Hearing Officer pursuant to the provisions of Article 5.5: Variances; and
  - 3. Hear and decide appeals from a decision, determination, or interpretation made by the Zoning Administrator in the enforcement of the Zoning Code pursuant to Section 5.2011: Procedures for Appeals.
- E. ***Ex parte Communications.*** The Board acts in a quasi-judicial manner and shall not entertain, accept or participate in any ex parte communications as set forth in Section 5.209: Ex parte Communications.

## 5.105 Director of Planning

The Director of Planning (the "Director") administers the Town Planning Department. The Director has the following powers and duties:

- A. Administer the Land Development Code;
- B. Provide professional recommendations to the Town Council, appointed officials and Town management on matters related to the physical development of the community;
- C. Administer the annexation process;

- D. Process, review, and make recommendations to the Planning Commission on applications for:
  - 1. Amendments to the General Plan text or map;
  - 2. Amendments to Land Use Code text or map; and
  - 3. Subdivision Plat maps.
- E. Process, review, and make recommendations with respect to property in the Heritage District Overlay District to the Redevelopment Commission on applications for:
  - 1. Amendments to the General Plan text or map;
  - 2. Amendments to the Zoning Code text or map; and
  - 3. Subdivision Plat maps.
- F. Process, review and make recommendations on applications for design review;
- G. Expand the boundaries of a preliminary design review application to incorporate adjacent properties that are owned by the applicant or are part of the same development;
- H. Perform administrative design review pursuant to Article 5.6: Design Review;
- I. Expand the notification area set forth in Sections 5.204C: Neighborhood Meeting Notification and 5.205: Notice of Public Hearings;
- J. Grant administrative relief from development standards, pursuant to Article 5.3: Administrative Relief from Development Standards;
- K. Determine if applications require a zoning amendment or amendment to the General Plan;
- L. Process and make recommendations on appeals, pursuant to Article 5.10: Appeals of Dedications, Exactions and Zoning Regulations and Reconsideration of Certain Decisions;
- M. Initiate proceedings for the revocation of a protected development right plan, pursuant to Article 5.9: Protected Development Right Plan;
- N. Appoint and supervise the work of the Zoning Administrator;
- O. Make recommendations to the Design Review Board, Redevelopment Commission and Planning Commission on design review guidelines;

- P. Make recommendations to the Zoning Hearing Officer;
- Q. Serve as Executive Secretary of the Board of Adjustment, Planning Commission and Design Review Board;
- R. Waive the pre-application process, pursuant to Section 5.203: Pre-Application Review;
- S. Exercise appeal authority as authorized by the Zoning Code; and
- T. Approve other applications and projects as authorized by the Zoning Code.

### **5.106 Zoning Administrator**

The Zoning Administrator is a member of the Planning Department appointed by the Director of Planning. The Zoning Administrator has the following powers and duties:

- A. Administer and enforce the provisions of the Zoning Code. The enforcement duties may be delegated to the Town Code Compliance and Police Departments.
- B. Interpret the Zoning Code to members of the public and to other Town departments;
- C. Review, approve, approve with modifications and/or conditions or deny applications for Administrative Use Permits, pursuant to the provisions of Article 5.4: Use Permits;
- D. Approve or deny applications for modifications to Administrative Use Permits, pursuant to the provisions of Article 5.4: Use Permits;
- E. Refer to the Planning Commission Administrative Use Permit applications determined in writing by the Zoning Administrator to merit review by the Planning Commission;
- F. Initiate proceedings for the revocation of a use permit, pursuant to the provision of Article 5.4: Use Permits;
- G. Initiate proceedings for the revocation of Modification of Separation Fence Requirements, pursuant to the provisions of Section 4.109G: Modification of Separation Fence Requirements;
- H. Make determinations regarding uses that are not included in a permitted use classification in this Code;
- I. Make determinations regarding parking requirements for uses that are not identified in this Code;
- J. Make determinations regarding Group Homes for the Handicapped, pursuant to the provisions of Section 4.504F: Request for Accommodation;



- K. Make determinations regarding place of worship uses, pursuant to the provisions of Section 4.505A: Request for Determination;
- L. Make determinations regarding non-conforming uses, lots, parcels, structures, and signs, pursuant to the provisions of Section 4.604B: Determination of Status;
- M. Modify or waive equipment cabinet screening requirements for Wireless Communication Facilities, pursuant to the provisions of Section 4.704E: Equipment Cabinets and Buildings; and
- N. Waive standards for the establishment of Amateur Radio Facilities, pursuant to the provisions of Section 4.803E: Amateur (HAM) Radio Facilities.

### 5.107 Zoning Hearing Officer

The Zoning Hearing Officer (the "Hearing Officer") is a member of the Planning Commission assigned to hear and make decisions on matters within the jurisdiction of the Board of Adjustment, subject to appeal to the Board of Adjustment.

- A. ***Appointment and Procedures.*** Individual members of the Planning Commission who have completed a minimum of 1 year on the Commission may be designated by the Chair as the Hearing Officer and Alternate Hearing Officer of the Town on a rotating basis. The term of the Hearing Officer and Alternate Hearing Officer shall be 24 months. Prior to conducting a hearing, the Hearing Officer shall complete a training course in the legal and procedural requirements of the position. No member of the Commission shall serve as Hearing Officer for more than 24 consecutive months during any 5 year period. Any period of time during which a member of the Commission served as Alternate Hearing Officer shall not be counted when calculating months of service as Hearing Officer.
- B. ***Powers and Duties.*** The Hearing Officer shall have the following powers and duties:
  - 1. Conduct hearings and make decisions on matters within the jurisdiction of the Board of Adjustment, subject to appeal to the Board of Adjustment;
  - 2. Approve, approve with modifications and/or conditions, or deny applications for variances pursuant to Article 5.5: Variances;
  - 3. Refer to the Board of Adjustment applications determined in writing by the Hearing Officer to merit review by the Board of Adjustment;
  - 4. Conduct a hearing, develop findings of fact, and submit a recommendation to the Town Council on requests for reconsideration of decisions pertaining to:

- a. Federal and State Fair Housing Act;
  - b. Federal Religious Land Use and Institutionalized Persons Act or the Arizona Free Exercise of Religion Act;
  - c. Americans with Disabilities Act or the Arizonans with Disabilities Act; and
  - d. Telecommunications Act.
5. Hear and decide appeals from any decision regarding dedications or exactions filed pursuant to A.R.S. § 9-500.12;
  6. Hear and decide appeals by property owners alleging a zoning regulation has created a taking in violation of A.R.S. § 9-500.13; and
  7. Conduct a hearing, develop findings of fact, and submit a recommendation to the Board of Adjustment on requests for determination of non-conforming use status, pursuant to the provisions of Sections 4.604D: Fact Finding by Hearing Officer.
- C. ***Ex parte Communications.*** The Hearing Officer acts in a quasi-judicial manner and shall not entertain, accept or participate in any ex parte communications as set forth in Section 5.209: Ex parte Communications.

## **5.108 Design Review Board**

The Design Review Board is created to evaluate the design of proposed developments to promote projects that are attractive, functional, in harmony with their surroundings, safe and consistent with adopted design guidelines and community goals.

### **A. *Creation, Membership, and Terms of Office.***

1. The Planning Commission shall serve as the Board. The Chair of the Board shall be the Chair of the Planning Commission.
2. The Design Review Board shall consist of 7 regular members and two alternate members appointed by the Town Council. New members of the Design Review Board shall reside in the Town. A change of residence from the Town of any member shall create a vacancy as of the date of such change of residence. The membership shall include any combination of the following:
  - a. A civil engineer;
  - b. A landscape architect;

- c. An architect other than a landscape architect;
  - d. A construction industry representative;
  - e. A business owner or real estate broker; and
  - f. A private citizen.
3. The term of each regular member of the Design Review Board shall be for a period of 4 years or until his successor assumes office. Members shall serve staggered terms whereby no more than 4 members' terms expire in any 1 year. The term of the alternate members shall be for a period of 1 year.
  4. The alternate member of the Design Review Board shall act as a regular member in the absence of a regular member at any meeting or hearing of the Design Review Board.
  5. The Design Review Board shall elect a chair and vice-chair from its membership.
  6. The Design Review Board members shall serve at the pleasure of the Town Council.
- B. **Meetings.** All meetings of the Design Review Board shall be held at the call of the chair and at such other times as a majority of the Design Review Board may determine.
- C. **Proceedings.** The Design Review Board shall adopt rules and regulations to govern its proceedings. The minutes and records of all Design Review Board proceedings shall be kept and filed as public records in the office of the Town Clerk. The Executive Secretary of the Design Review Board shall be the Director of Planning.
- D. **Powers and Duties.** The Design Review Board shall have the following powers and duties:
1. Approve, approve with modifications and/or conditions, or deny applications for design review pursuant to Article 5.6: Design Review;
  2. Hear and decide appeals from administrative design review decisions of the Director of Planning;
  3. Advise departments and elected and appointed bodies on matters related to community design;
  4. Review and make recommendations to the Town Council on proposals for Protected Development Right Plans pursuant to Article 5.9: Protected Development Right Plan; and

5. Conduct public hearings as required by the Zoning Code.

### **5.109 Redevelopment Commission**

The Redevelopment Commission is created to encourage development and redevelopment in the Heritage District Overlay District and other redevelopment areas designated by the Town Council, consistent with any adopted redevelopment plan and other applicable requirements.

**A. *Creation, Membership, and Terms of Office.***

1. The Redevelopment Commission shall consist of 5 regular members appointed by the Mayor. Members of the Redevelopment Commission shall be residents of the Town. The membership should include at least:
  - a. One architect, landscape architect, planner, designer or otherwise qualified by design background;
  - b. One land development or construction industry representative; and
  - c. One with a financial services background.
2. The term of each regular member of the Redevelopment Commission shall be for a period of 4 years or until his successor assumes office. Members shall serve staggered terms whereby no more than 2 members' terms expire in any 1 year.
3. The Mayor shall annually appoint a chair and vice-chair from among the members of the Redevelopment Commission.
4. The Redevelopment Commissioner shall meet all requirements of A.R.S. tit. 36, ch. 12, art. 3 for membership on the Redevelopment Commission
5. A Redevelopment Commissioner may be removed from office by the Mayor for inefficiency, neglect of duty or misconduct in office, but only after a hearing and after the commissioner has been given a copy of the charges at least 10 days prior to the hearing and had an opportunity to be heard in person or by counsel. A Commissioner's absence from 3 consecutive meetings may be considered neglect of duty for purposes of this section.

**B. *Meetings.*** All meetings of the Redevelopment Commission shall be held at the call of the chair and at such other times as a majority of the Redevelopment Commission may determine.

**C. *Proceedings.*** The Redevelopment Commission shall adopt rules and regulations to govern its proceedings. The minutes and records of all Redevelopment Commission proceedings shall be kept and filed as public records in the office of the Town Clerk.

The Executive Secretary of the Redevelopment Commission shall be the Director of Economic Development.

D. ***Powers and Duties.*** The Redevelopment Commission shall have the following powers and duties with respect to property in the Heritage District Overlay District and other redevelopment areas designated by the Town Council:

1. All powers conferred upon municipalities by the provisions of A.R.S. tit. 36, ch. 12, art. 3, except the power to borrow money, issue bonds, acquire and dispose of real property, enter into contracts with the federal government or any public body, prepare a general plan for the development of the town or approve redevelopment plans;
2. Recommend to the Town Council a Redevelopment Plan and amendments thereto;
3. Review and make recommendations to the Planning Commission on proposals to amend the Official Zoning Map or the provisions of the Zoning Code;
4. Approve, approve with modifications and/or conditions, or deny applications for design review pursuant to Article 5.6: Design Review;
5. Hear and decide appeals from administrative design review decisions of the Director of Planning;
6. Review and recommend approval to the Town Council of design guidelines for the Heritage District Overlay District;
7. Review and recommend approval, approval with modifications and/or conditions, or denial to the Planning Commission of Special and Conditional Use Permits, pursuant to the provisions of Article 5.4: Use Permits;
8. Review and comment to the Planning Commission on appeals of Administrative Use Permits;
9. Review and recommend approval, approval with modifications and/or conditions, or denial to the Planning Commission of preliminary subdivision plats, pursuant to the provisions of Chapter III: Subdivision Regulations;
10. Review and comment on applications for zoning, General Plan Amendments, Subdivisions, Variances, Design Review, and Use Permits within 1,000 feet of the exterior boundaries of the Heritage District Redevelopment Area; and
11. Conduct public hearings as required by the Zoning Code.

### **5.1010 Code Compliance Manager**

The Code Compliance Manager, pursuant to Chapter 2, Article III, Division 6 of the Gilbert Municipal Code, is a member of the Building and Code Compliance Department and administers the Code Compliance Division. The Code Compliance Manager shall enforce the provisions of the Land Development Code, including conducting inspections and issuing warrants and citations as provided for by State law and local ordinance.

### **5.1011 Civil Hearing Officer**

The Presiding Judge of the Gilbert Municipal Court shall appoint one or more Civil Hearing Officers to hear and decide matters related to violations of the Zoning Code. The Civil Hearing Officers shall hear and decide civil actions for violations of a zoning ordinance, the Zoning Code, a use permit, variance, Design Review approval, or administrative design review decisions of the Director of Planning. The Civil Hearing Officers shall act under the authority of the Presiding Judge. Decisions of a Civil Hearing Officer are appealable to the superior court pursuant to A.R.S. tit. 22, ch. 2, art. 4 (A.R.S. § 22-261 et seq.).

## Article 5.2 Common Procedures

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### Sections

|        |                           |
|--------|---------------------------|
| 5.201  | Application Process       |
| 5.202  | Fees and Fines            |
| 5.203  | Pre-Application Review    |
| 5.204  | Neighborhood Meeting      |
| 5.205  | Notice of Public Hearings |
| 5.206  | Public Hearing Procedures |
| 5.207  | Findings Required         |
| 5.208  | Administrative Procedures |
| 5.209  | Ex Parte Communications   |
| 5.2010 | Final Decisions           |
| 5.2011 | Procedures for Appeals    |

### 5.201 Application Process

- A. ***Applications.*** Completed applications shall be submitted to the Development Services division on a form established by the Director of Planning. Any of the following persons or entities may submit an application:
1. The owner of the property;
  2. An authorized agent of the owner; or
  3. A person acting under a purchase contract or exclusive option to purchase the property.
- B. ***Application Content.***
1. The Director of Planning shall specify the form and content of applications that are required pursuant to the Zoning Code. The Director may require additional supporting materials as part of the application, including but not limited to, legal descriptions, statements, photographs, plans, drawings, renderings, models, material samples and other items necessary to describe the existing situation and the proposed project. The applicant shall be responsible for the accuracy and completeness of all information submitted to the Town. The Director may waive the submission of specific material or information if he finds it is not needed to reach a decision on the application.

2. No application for amendments to the Zoning Map, General Plan land use designations, use permit, variance or annexation will be deemed complete without submission of a Waiver of Claims for Diminution in Value pursuant to the Arizona Revised Statutes, §§12-1131 through 12-1138 executed by all the owners of the property. The owner(s) shall verify property ownership by submitting a title report.
  3. Prior to and as a condition of final approval of a change to any land use law, the Director may require the owner to execute a new waiver of claims.
- C. ***Determination of Completeness.*** After receiving an application accompanied by the required fee, the Director of Planning shall determine if the application is complete within 7 working days of the filing date. The Director shall notify the Applicant if the application is incomplete. If the application is incomplete, the Town shall identify the items that must be filed to complete the application.
- D. ***Concurrent Applications.*** When a project requires approvals under more than one section of the Zoning Code, the individual applications may be accepted for concurrent review.
- E. ***Inspection and Reproduction of Public Records.*** All applications, including supporting materials, are public records. Public records may be reviewed and copied upon request during normal business hours. The applicant shall clearly label each page of copyrighted or trademarked materials, and such materials shall be available for public inspection, but copyrighted materials shall not be copied.
- F. ***Inactive Applications.*** All applications shall be actively pursued to a decision. If no applicant activity has occurred on an application for 180 days, the application shall be determined to be inactive. Thirty (30) days prior to that date the planning staff shall notify the applicant in writing that the application will become inactive. If the applicant requests in writing that the Director extend the 180 day period, such request shall be accompanied by an explanation for the period of inactivity. The Director may grant an extension for up to 180 days for good cause if there is a reasonable belief that the application will be actively pursued during the extension period. If an extension is not approved, the application will be deemed withdrawn and the file shall be closed.

## 5.202 Fees and Fines

- A. ***Required Fees.*** All applications required by the Zoning Code shall be accompanied by the required fees set by resolution of the Town Council. Applications shall not be accepted without payment of the required fee.
- B. ***Fee Refunds.*** If an application is withdrawn prior to a decision, the applicant may be eligible for a refund of a portion of the fee. The amount of the refund shall be determined by the Director of Planning based on direct and indirect costs incurred by the Town through the date of withdrawal. Fee refunds shall not be made for applications that have been denied or determined to be inactive.



- C. **Fines.** All fines imposed by the Town of Gilbert Municipal Court for violations of a zoning ordinance, the Zoning Code, a use permit, a variance or a Design Review approval shall be set forth in the court fine schedule.

### 5.203 Pre-Application Review

- A. **Pre-Application Requirements.** Pre-application review is required for all of the following before an application will be accepted for processing:
1. Zoning applications;
  2. General Plan Text, Land Use or Circulation Map Amendments.
  3. Preliminary subdivision plats;
  4. Design review for:
    - a. Shopping centers;
    - b. Individual commercial and employment buildings on sites 5 acres and larger that are not within an approved shopping center or industrial park;
    - c. Office complexes;
    - d. Employment projects located on parcels 3 acres or larger;
    - e. Any single building with more than 10,000 square feet of gross floor area;
    - f. Business parks;
    - g. Multi-family residential uses;
    - h. Public and private schools;
    - i. Public Safety Facilities, Government Offices and Facilities, Outdoor Entertainment and Recreation;
    - j. Other large-scale projects with multiple structures developed under a unified plan; and
  5. New vertical structures for Wireless Communication Facilities.
- B. **Pre-Application Waivers.** The Director of Planning may waive the requirement for a pre-application review based on a determination that no purpose will be served by the

review. In such cases, the Director shall prepare a written statement setting forth the reasons for approving the waiver.

- C. **Optional Review.** An applicant for a project not requiring pre-application review may request such review.
- D. **Application Submittal.** A request for pre-application review shall be filed with the Development Services division on a form established by the Director of Planning pursuant to the requirements of Section 5.201: Application Process. An incomplete application may be returned.
- E. **Pre-Application Meetings.** After reviewing the application for compliance with the Zoning Code, Town staff will meet with the applicant or representative to provide comments. Following the meeting, Staff shall provide the applicant with a written summary of comments and place a copy of the comments in the project file.

## 5.204 Neighborhood Meeting

- A. **Neighborhood Meeting Requirements.** Applicants for General and Specific Plan Text, Land Use or Circulation Map Amendments and rezoning shall schedule and conduct a neighborhood meeting in accordance with this section.
- B. **Neighborhood Meeting Scheduling.** The applicant shall schedule a neighborhood meeting to receive comments on the proposal. Neighborhood meetings shall be conducted prior to pre-application review and after filing of an application.
- C. **Neighborhood Meeting Notification.** At least 10 days prior to the neighborhood meeting, notification shall be provided as follows:
  - 1. Applicant shall notify by first-class mail all property owners of record within 300 feet of the property, unless the General Plan or other policy adopted by the Town Council requires notification within a larger area;
  - 2. Applicant shall notify by first-class mail all Homeowners Associations (HOAs) within 1,000 feet of the property;
  - 3. Applicant shall notify by first-class mail all neighborhoods within 1,000 feet of the property that are registered with the Town of Gilbert Neighborhood Services Office;
  - 4. The Director may expand the notification area set forth in Sections 5.204C.1, 5.204C.2, and 5.204C.3 if he determines the potential impact of the project extends beyond the required notification boundary;

5. Applicant shall notify any persons who have specifically requested notice regarding the application who register their names and addresses with the Town as being interested in receiving such notice. Registration shall be in written form addressed to the Director
  6. The notice shall set forth the purpose, substance of the proposed application, and the time, date and place of the meeting. A copy of the notice shall be submitted to the Director of Planning; and
  7. Applicant shall install a sign on the property in a location or locations clearly visible to adjacent residents setting forth the purpose, time, date, and place of the neighborhood meeting. Size, color, content, and location of the sign shall be designated by Town Council resolution for posting of public hearing and neighborhood meeting notices.
- D. **Neighborhood Meeting Procedure.** The applicant shall conduct the meeting in a location, time, and meeting format approved by the Director. Following the meeting, which the Town staff may attend, the applicant shall create a written summary of the meeting, including comments received. Staff may augment the meeting record as necessary.
- E. **Record of Proceedings.** Concurrent with application submittal for General or Specific Plan Map Amendments, and amendments to a zoning ordinance or the Official Zoning Map, the applicant shall file with the Director of Planning:
1. Certification, on a form established by the Director, that the meeting was noticed and conducted in compliance with requirements of this section;
  2. A dated photograph of the sign installed in compliance with Section 5.204C.7; and
  3. A written summary of the meeting prepared pursuant to Section 5.204D: Neighborhood Meeting Procedure, including a list of all attendees' names and addresses.
- F. **Additional Meetings.** The Director may require that 1 or more additional neighborhood meetings be held. If the application is substantially modified from what was presented at the neighborhood meeting, a second neighborhood meeting shall be held to present the modified application. The notification procedures set forth in Section 5.204C: Neighborhood Meeting Notification shall be followed.
- G. **Other Required Meetings.** For projects where the applicant is not otherwise required to conduct a neighborhood meeting, the Director may require that a neighborhood meeting be held if a determination is made that the project may substantially impact adjacent neighborhoods.

## 5.205 Notice of Public Hearings

Prior to consideration of any action for which the Zoning Code requires notice pursuant to this section, notice shall be given in compliance with the following requirements:

A. **Published Notice.** For General or Specific Plan amendments, amendments to the zoning code text, amendments to a zoning ordinance or the Official Zoning Map, conditional and special use permits, preliminary subdivision plats, zoning variances, and appeals heard by the Board of Adjustment, the Town Clerk or Director, as appropriate, shall prepare for publication a Notice of Public Hearing. The notice shall comply with the following requirements:

1. The notice shall be published at least 15 days prior to the date of the public hearing at least once in a newspaper of general circulation within the Town of Gilbert. Notice of a hearing on a major amendment to the General Plan shall be posted not more than 30 days prior to the hearing.
2. A general description of the proposed project or action and the property included in the application;
3. The date, time, location, and purpose of the public hearing;
4. The location and times at which the complete application and project file may be viewed by the public;
5. A statement that any interested person or authorized agent may appear and be heard; and
6. A statement describing how and when to submit written comments.

B. **Posting of Official Notice.** For applications for General and Specific Plan amendments, amendments to the zoning code text, amendments to a zoning ordinance or the Official Zoning Map, conditional and special use permits, preliminary subdivision plats, zoning variances, preliminary and final design review, and appeals heard by the Board of Adjustment, the Town Clerk or Director, as appropriate, shall prepare for posting a Notice of Public Hearing.

The Town shall post the notice at least 24 hours prior to the date of the public hearing at 4 public places within the Town designated by Town Council resolution governing posting of public notices.

C. **Property Posting.** For applications for annexation, General and Specific Plan map amendments, amendments to a zoning ordinance or the Official Zoning Map, conditional and special use permits, preliminary subdivision plats, preliminary and final design review, zoning variances, and appeals heard by the Board of Adjustment, the applicant shall post the Notice of Public Hearing on the subject property. Applications

for amendments to the text of the Zoning Code shall not require property posting. The notice shall be subject to the following requirements:

1. The notice shall be posted at least 15 days prior to the date of the public hearing.
2. Posting, maintenance and removal of signs are the responsibility of the applicant. Failure to remove the sign within 10 days of public hearing action shall result in Town removal of the sign and a charge to the applicant for costs incurred.
3. Size, color, content, and location of public hearing sign shall be designated by Town Council resolution for posting of public hearing notices.
4. The applicant shall submit a signed affidavit and dated, color photos of the sign or signs prior to the public hearing.
5. Failure of the applicant to provide evidence of posting shall result in a postponement of the public hearing.

D. **Neighborhood Notice.** For applications for General and Specific Plan amendments, rezoning, conditional and special use permits, preliminary subdivision plats, preliminary and final design review, zoning variances and appeals heard by the Board of Adjustment, the Director shall prepare a Notice of Public Hearing. The notice shall be subject to the following requirements:

1. At least 15 days prior to the date of the public hearing, the applicant shall notify by first-class mail:
  - a. All property owners of record within 300 feet of the property, unless the General Plan or other policy adopted by the Town Council requires notification within a larger area;
  - b. All HOAs within 1,000 feet of the property;
  - c. All neighborhoods within 1,000 feet of the property that are registered with the Town of Gilbert Neighborhood Services Office;
  - d. The property owner if the application is initiated by a person other than the property owner; and

- e. Any persons who have specifically requested notice regarding the application who register their names and addresses with the Town as being interested in receiving such notice. Registration shall be in written form addressed to the Director.
2. For any Wireless Communication Facility requiring a Conditional Use Permit, the applicant shall provide the notice required above at least 30 days prior to the date of the public hearing and if, in response to this notification, two or more individuals or a community association requests an opportunity for additional input, the applicant shall hold a neighborhood meeting prior to the Planning Commission public hearing on the project.
3. The Director may expand the notification area set forth in Section 5.205D.1a, 5.205D.1b, and 5.205D.1c and if he determines the potential impact of the project extends beyond the required notification boundary;
4. The notice shall set forth the purpose, time, date, and place of the meeting. A copy of the notice shall be submitted to the Director of Planning; and
5. The applicant shall submit a signed affidavit and copies of the mailing prior to the public hearing. Failure of the applicant to provide evidence of mailing shall result in a postponement of the public hearing.

The validity of the proceedings shall not be affected by the failure of any person to receive such mailed notice.

## **5.206 Public Hearing Procedures**

A public hearing held pursuant to the Zoning Code shall comply with the following procedures:

### **A. *Public Hearing Testimony.***

1. *Rights of All Persons.* Any person may appear at a public hearing and submit oral or written evidence related to the application, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be identified, state an address and, if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.
2. *Time Limits.* The Mayor, Chair, or Zoning Hearing Officer may establish time limits for individual testimony and may require that individuals with shared concerns select one or more spokespersons to present testimony on behalf of those individuals.

3. *Exclusion of Testimony.*

- a. The Mayor, Chair, or Zoning Hearing Officer may exclude testimony or evidence that is irrelevant, immaterial, or repetitious.
- b. In the event any testimony or evidence is excluded as irrelevant, immaterial, or repetitious, the person offering such testimony or evidence shall have an opportunity to offer a written statement in regard to such testimony or evidence for the record. Such written statement shall be presented to the Town Clerk within 3 working days of the hearing.

B. ***Order of Proceedings at Public Hearing.*** The order of the proceedings at the public hearing shall be as follows:

1. *Introduction of Item.* The Mayor, Chair, or Zoning Hearing Officer shall introduce the item.
2. *Public Hearing.* The Mayor, Chair, or Zoning Hearing Officer shall open the public hearing.
3. *Staff Report.* Staff shall present a report, which includes a written recommendation and shall respond to questions from the decision-making body.
4. *Applicant Presentation.* The applicant shall present the project, indicate concurrence or disagreement with advisory body or staff recommendations, and respond to questions from the body.
5. *Public Testimony.* Testimony will be accepted from those requesting to be heard, subject to the limitations of Section 5.206A: Public Hearing Testimony.
6. *Applicant Response.* The Mayor, Chair, or Zoning Hearing Officer may request the applicant to respond to testimony or evidence presented by the public or staff.
7. *Staff Response.* Staff and the Town Attorney may provide information or clarification regarding matters raised during the public hearing.
8. *Continuance of Public Hearing.* The body conducting the public hearing may by motion continue the public hearing to a fixed date, time, and place.
9. *Close of Public Hearing.* The Mayor, Chair, or Zoning Hearing Officer shall close the public hearing.
10. *Tabling.* The decision-making body conducting the public hearing may by motion table the public hearing. The public hearing on the matter shall not be conducted until notice is given in the same manner as for the initial hearing.

11. *Deliberation and Action.* The Town Council, Board of Adjustment, Planning Commission, Design Review Board, Redevelopment Commission, or Zoning Hearing Officer shall discuss the request and approve, approve with modifications and/or conditions or deny the request, unless it has been continued or tabled.

12. *Revision to Conditions.* If the Town Council, Board of Adjustment, Planning Commission, Design Review Board, Redevelopment Commission, or Zoning Hearing Officer makes a change to the recommended conditions, the public hearing shall be re-opened prior to the vote for the limited purpose of affording the applicant an opportunity to comment on any modified conditions. The public hearing shall be closed before action is taken.

C. *Approval of Items by Consent.* The hearing body may, by a single motion, approve any number of public hearing items where, after opening the public hearing, no person requests the item be removed from the public hearing consent calendar. If such a request is made, the hearing body shall then withdraw the item from the public hearing consent calendar for the purpose of public discussion and separate action.

### **5.207 Findings Required**

When making a decision to approve, approve with modifications and/or conditions, revoke, or deny any conditional or special use permit, administrative use permit, variance, preliminary or final design review, or preliminary subdivision plat, the decision-making body shall make findings of fact required by the Zoning Code. Findings shall be based upon consideration of the application, plans, testimony, reports, and other materials that constitute the record and shall be in writing or included in the minutes. The findings shall be set forth in the staff report and Notice of Decision that the Director issues following a decision.

### **5.208 Administrative Procedures**

Any person may examine an application and materials submitted in support of or in opposition to an application in the Planning Department offices during normal business hours. Copies of such materials shall be made available at a reasonable cost to be established from time to time through Town Council resolution. Staff reports to the Commission, Zoning Hearing Officer, Board, Design Review Board, or Town Council will not be made available to the public until they have been submitted to the body for which the report will be prepared.

### **5.209 Ex Parte Communications**

A. *Prohibition against Ex Parte Communications.* To ensure that the decision-making process is fair and impartial, the Zoning Hearing Officer or a member of the Board of Adjustment shall not, directly or indirectly, participate in any ex parte communication



relevant to an application pending before that body. Ex parte communications are oral or written communications related to the matter to be heard by the Hearing Officer or Board and which is made to or by the Hearing Officer or any member of the Board, including in person, telephonic or electronic communications that occur outside of a public meeting of the hearing body.

- B. **Exceptions.** This prohibition shall not apply to communications between the Hearing Officer or members of the Board and Town staff. This prohibition is not intended to prevent site visits, the receipt of expert opinions, and the review of mail and other correspondence relating to the proceedings. All such communications shall be documented and entered into the record of the proceedings as provided for in Section 5.209C: Disclosure of Communications.
- C. **Disclosure of Communications.** If a Zoning Hearing Officer or Board member receives an ex parte communication the Officer or Board member shall place the communication in the public record or shall enter into the record a statement describing the time, place, and content of the communication.

## 5.2010 Final Decisions

- A. **Time of Decision.** A final decision shall be deemed to have been made at the time action is taken by the Board of Adjustment, Planning Commission, Design Review Board, or Redevelopment Commission. A final decision shall be deemed to have been made on the date of issuance of Notice of Decision by the Zoning Hearing Officer, Zoning Administrator, or Director.
- B. **Notice of Decision.** If a final decision is made by Notice of Decision, the Notice shall describe the decision made and the findings that were the basis for the decision. The Director shall mail the Notice to the applicant at the mailing address stated in the application and to any other person or entity requesting such notification in writing with the Development Services division.

## 5.2011 Procedures for Appeals

This section sets forth the procedures for appeals except for appeals filed pursuant to Article 5.10: Appeals of Dedications, Exactions and Zoning Regulations and Reconsideration of Certain Decisions. Any decision within the authority of the decision-making body may be appealed, unless the Zoning Code provides that the decision is final.

- A. **Rights of Appeal.**
  - 1. Except as provided in Section 5.2011A.2, appeals may be filed by:
    - a. The owner of property that is the subject of a final decision by the Zoning

Administrator, Zoning Hearing Officer, Director of Planning, Planning Commission, Design Review Board, Board of Adjustment, or Redevelopment Commission;

- b. Any other person aggrieved by a final decision of a decision-making body identified in Section 5.2011A.1 and who has standing to appeal pursuant to State law;
  - c. A member of the Town Council;
  - d. The Town Manager; or
  - e. The Director of Planning.
2. All administrative remedies shall be exhausted prior to bringing legal action in Superior or Federal Court against the Town or any of its boards, commissions, employees, or officers.
- B. **Filing of Appeal.** An appeal shall be filed with the Development Services division on a form established by the Director of Planning. The appeal shall set forth the decision or decisions being appealed and the grounds upon which the appeal is based. The appeal shall be accompanied by any applicable fees.
- C. **Time Limits for Appeal.** All appeals shall be filed within 10 calendar days of the decision, except for appeals from decisions of the Zoning Hearing Officer and Board of Adjustment. Appeals from decisions of the Zoning Hearing Officer and Board of Adjustment shall be filed within 30 calendar days of the decision.
- D. **Proceedings Stayed by Appeal.** The timely filing of an appeal, except for the appeals of a decision of the Board of Adjustment to Superior Court, shall stay all proceedings in the matter appealed.
- E. **Public Notice.** Prior to consideration of any appeal for which State law or the Zoning Code requires a public hearing, the Town shall provide public notification in compliance with Section 5.205: Notice of Public Hearings or as required by State law, whichever requires the most notice.
- F. **Transmission of Record.** The Director shall forward the appeal, the Notice of Decision, and all other documents that constitute the record to the decision-making body.
- G. **Standards.** When reviewing any decision on appeal, the decision-making body shall use the same standards for decision-making required for the original decision.
- H. **Hearing Body Action.** Public hearings shall be conducted in accordance with procedures set forth in Section 5.206: Public Hearing Procedures. In addition, the decision-making body may remand the matter to the original decision-making body for reconsideration, for additional information or to cure a deficiency in the record or

proceeding. The decision-making body shall hold a hearing on the appeal within 60 days of the filing of the request. The decision-making body shall render its decision within 30 days of the date the hearing is closed unless State law requires a shorter deadline.

## **Article 5.3: Administrative Relief from Development Standards**

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### **Sections:**

- 5.301 Purpose and Applicability
- 5.302 Scope of Authority
- 5.303 Procedures and Standards of Review
- 5.304 Appeals

### **5.301 Purpose and Applicability**

The purpose of this article is to authorize minor deviations from the requirements of this Code.

The Director may grant administrative relief from development standards as authorized by this article where such deviations are necessary for the implementation of this Code and will improve the quality of development. Administrative relief granted pursuant to this article may only be granted prior to construction. Such relief is not a variance.

### **5.302 Scope of Authority**

The Director is authorized to grant administrative relief from dimensional requirements of the Zoning Code not to exceed 10 percent of the requirement. Any relief granted shall be the minimum required to implement the purposes of the Zoning Code and improve the quality of development.

### **5.303 Procedures and Standards of Review**

- A. **Application.** An application for administrative relief shall be filed with the Development Services division in accordance with the application procedures set forth in Article 5.2: Common Procedures.
- B. **Findings.** Any administrative relief authorized by the Director will be documented with findings to be filed with the appropriate Development Services division case files. The following findings shall establish the rationale for the granting of relief:
  - 1. Relief is necessary due to the physical attributes and conditions of the property and the proposed use or structure including, but not limited to, topography, noise exposure, irregular property boundaries, or other unusual circumstance;
  - 2. There are no alternatives to the requested modification that could provide similar benefits with less potential detriment;

3. Granting the relief does not threaten the health or safety of the public or the occupants of the property or would create a change in land use or density that would be inconsistent with the requirements of this Code;
4. Granting the relief does not impose an undue financial or administrative burden on the Town;
5. There are no compelling public interests that justify the denial of the requested relief or the imposition of conditions;
6. The applicant's demonstrated need substantially outweighs any detriment to public needs and interests; and
7. If relief is being requested pursuant to the requirements of State or Federal law, the relief is necessary to reasonably accommodate the needs of an applicant pursuant to the specific requirements of State or Federal law.

### **5.304 Appeals**

Any decision to grant relief from the provisions of this Code may be appealed to the Planning Commission pursuant to Section 5.2011: Procedures for Appeals.

## Article 5.4 Use Permits

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### Sections

|       |                                       |
|-------|---------------------------------------|
| 5.401 | Purpose and Applicability             |
| 5.402 | Procedures                            |
| 5.403 | Required Findings                     |
| 5.404 | Expiration; Modifications; Revocation |
| 5.405 | Appeals                               |
| 5.406 | Effective Date of Permit              |

### 5.401 Purpose and Applicability

Chapter I, Division 2: Land Use Regulations sets forth those uses for which a use permit is required. No use requiring a use permit may be commenced until a use permit is obtained. Generally these uses require special consideration to ensure that they can be designed, located, and operated in a manner that will not interfere with the use and enjoyment of surrounding properties. The process for review of use permit applications is designed to evaluate possible adverse impacts and to minimize them where possible through the imposition of specific conditions or requirements. Approval of a use permit requires review of the location, design, configuration, and special impacts of a proposed use to determine, based on standards set forth in the Zoning Code, the desirability of permitting the use on a particular site.

This article sets forth the requirements for three use permit classifications:

- A. ***Administrative Use Permit.*** A use permit approved by the Zoning Administrator for a use in specified districts based on a determination of compliance with standards set forth in the Base District Regulations and individual review of their location, design, configuration, intensity, and density of use or structures.
- B. ***Conditional Use Permit.*** A use permit approved by the Planning Commission for a use in specified districts based on a determination of compliance with standards set forth in the Base District Regulations and individual review of their location, design, configuration, intensity, and density of use or structures.
- C. ***Special Use Permit.*** A use permit approved by the Planning Commission for a use in any zoning district, based on consideration of the technical requirements of the use, characteristics of the location where the use is proposed to be established, and impacts on adjacent uses. Examples of uses that require Special Use Permits are Agritainment, police and fire stations, wastewater treatment facilities, and water reservoirs.

## 5.402 Procedures

- A. **Administrative Use Permit.** The following procedures shall apply to applications for Administrative Use Permits (AUP):
1. **Application.** An application for an Administrative Use Permit shall be filed with the Development Services division in accordance with the application procedures set forth in Article 5.2: Common Procedures.
  2. **Neighborhood Notice.** The Zoning Administrator shall prepare a Neighborhood Notification for applications for Administrative Use Permits. The notice shall be subject to the following requirements:
    - a. At least 15 days prior to the date of the Notice of Decision, the applicant shall notify by first-class mail:
      - (1) All property owners of record within 300 feet of the property, unless the General Plan or other policy adopted by the Town Council requires notification within a larger area;
      - (2) All HOAs within 1,000 feet of the property;
      - (3) All neighborhoods within 1,000 feet of the property that are registered with the Town of Gilbert Neighborhood Services Office;
      - (4) The property owner if the application is initiated by a person other than the property owner; and
      - (5) Any person or group who has specifically requested notice regarding the application.
    - b. The Director of Planning may expand the notification area set forth in Section 5.402A.2a.(1), 5.402A.2a.(2), and 5.402A.2a.(3) if he determines the potential impact of the project extends beyond the required notification boundary;
    - c. The applicant shall submit a signed affidavit and copies of the mailing, along with any responses and applicant's action, prior to decision. Failure of applicant to provide evidence of mailing shall result in a deferment of action on the item.
    - d. The neighborhood notification shall describe the proposed use; the date the decision will be rendered by the Zoning Administrator; the time and place where the public may review the entire application; and the procedure and deadline for filing an appeal of the decision.

3. *Validity of Proceedings.* The validity of the proceedings shall not be affected by the failure of any person to receive such mailed notice.
  4. *Option to Require Public Hearing.* The Zoning Administrator may require a public hearing before the Planning Commission for any Administrative Use Permit application that the Zoning Administrator determines to have special neighborhood or community significance. In such cases, the Commission shall review and act upon the Application in the manner described in this article for Conditional and Special Use Permits. The Zoning Administrator shall not schedule such applications for consideration by the Commission until the applicant has paid a fee for a public hearing as set by Council resolution.
  5. *Action.* Except as provided for in Section 5.402A.4: Option to Require Public Hearing, the Zoning Administrator shall review the application for compliance with the Zoning Code. The Zoning Administrator shall approve, approve with modifications and/or conditions, or deny the application and shall set forth any proposed findings and decision on a Notice of Administrative Decision. The Notice of Administrative Decision shall be mailed to the applicant by first class mail within 45 days from the filing of the application.
  6. *Appeal.* Decisions of the Zoning Administrator on Administrative Use Permits may be appealed to the Planning Commission pursuant to the procedures set forth in Section 5.2011: Procedures for Appeals. The Planning Commission's decision shall be final. The Planning Commission shall have the authority to uphold, modify, or overrule the decision of the Zoning Administrator. The Town Council may, however, certify for its review any action of the Commission regarding an AUP as provided for in Article 5.10: Appeals of Dedications, Exactions and Zoning Regulations and Reconsideration of Certain Decisions.
- B. ***Conditional and Special Use Permits.*** The following procedures shall apply to applications for Conditional and Special Use Permits:
1. *Application.* An application for a Conditional or Special Use Permit shall be filed with the Development Services division in accordance with the application procedures set forth in Article 5.2: Common Procedures.
  2. *Public Notice.* Public notice shall be provided in accordance with the public notification procedures set forth in Section 5.205: Notice of Public Hearings.
  3. *Staff Report.* The Director shall prepare and transmit to the Planning Commission a staff report, including an analysis and recommendation, setting forth any proposed findings and conditions upon which the Commission may base its decision.



4. *Public Hearing.* The Planning Commission shall conduct a public hearing in accordance with the procedures set forth in Section 5.206: Public Hearing Procedures.
5. *Action.* The Planning Commission may approve, approve with modifications and/or conditions, or deny special and conditional use permits. If the Planning Commission fails to take action within 90 days after closing the public hearing, the Planning Commission shall be deemed to have denied the application.
6. *Appeal.* Decisions of the Planning Commission may be appealed to the Town Council pursuant to the procedures set forth in Section 5.2011: Procedures for Appeals. The Town Council's decision shall be final. The Town Council shall have the authority to uphold, modify, or overrule the decision of the Planning Commission. The Town Council may, however, certify for its review any action of the Commission regarding a Use Permit as provided for in Article 5.10: Appeals of Dedications, Exactions and Zoning Regulations and Reconsideration of Certain Decisions.

### **5.403 Required Findings**

The Planning Commission or the Zoning Administrator, in the case of Administrative Use Permits, shall approve, approve with modifications and/or conditions, or deny a use permit after making findings of fact set forth in this section.

- A. *Findings Required for Approval of Administrative Use Permit.* The Zoning Administrator may approve an Administrative Use Permit as submitted or modified only upon making the following findings:
  1. The proposed use will not be detrimental to the 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 with the purposes, intent, and policies of the General Plan and its policies and any applicable area, neighborhood, or other plan officially adopted by the Town Council;
  3. The proposed use conforms with the conditions, requirements, or standards prescribed by the Zoning Code and any other applicable local, State, or Federal requirements; and
  4. The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties.

- B. ***Findings Required for Denial of Administrative Use Permit.*** If the Zoning Administrator is unable to make the required findings for approval, he shall deny the application, in which case he shall state in writing the reasons for that determination.
- C. ***Finding Required for Approval of Conditional Use and Special Use Permits.*** The Planning Commission may approve a Conditional Use Permit or Special Use Permit as submitted or modified only upon making the following findings:
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 with the purposes, intent, and policies of the General Plan and its policies and any applicable area, neighborhood, or other plan adopted by the Town Council;
  3. The proposed use conforms with the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements; and
  4. The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties.
- D. ***Additional Finding Required for Approval of Special Use Permit.*** In addition to the findings required for approval in Section 5.403.C: Finding Required for Approval of Conditional Use and Special Use Permits, in order to approve a Special Use Permit the Planning Commission shall find that the proposed location is reasonably necessary to meet the objectives of the proposed use based on technical requirements.
- E. ***Findings Required for Denial of Conditional Use and Special Use Permits.*** If the Commission is unable to make the required findings for approval, it shall deny the application, in which case the Chair shall state in writing the reasons for that determination.

#### **5.404 Expiration; Modifications; Revocation**

- A. ***Expiration.*** A use permit shall automatically expire 3 years from its effective date unless either of the following has occurred:
1. Commencement of the use, or
  2. Commencement of construction pursuant to a valid building permit.

- B. **Modifications.** No change is permitted in the use or structure for which a use permit has been issued except as follows:
1. *Administrative Use Permit.* The Zoning Administrator may approve modifications to any Administrative Use Permit. Modifications are limited to reasonable changes to the Administrative Use Permit that do not substantially alter a Final Design Review approval or any condition of the Administrative Use Permit. The Zoning Administrator shall provide written records of the decision and supportive findings.
  2. *Conditional Use and Special Use Permits.* Modifications to a Conditional or Special Use Permit may be granted by the decision-making body pursuant to the procedures set forth in Article 5.2: Common Procedures.
  3. *Conditional Use Permits for Wireless Communication Facilities.*
    - a. Substantial changes to conditional use permits for wireless communication facilities (WCF), including but not limited to a change in physical location of the structure on which antennas are mounted, shall proceed as set forth above in Section 5.404.B.2.
    - b. Minor changes to conditional use permits for wireless communication facilities (WCF) may be approved by the Zoning Administrator upon a finding that the change does not substantially alter the use permit approval or any condition of approval. The Zoning Administrator shall provide written records of the WCF decision and supportive findings.
- C. **Revocation.** A use permit may be revoked by the decision-making body following a public hearing if the use ceases for a period of 90 consecutive days, or because of failure to comply with the conditions of the use permit.
1. *Initiation of Revocation.* Proceedings for the revocation of a use permit may be initiated by the Zoning Administrator. The Zoning Administrator shall prepare a written report to the decision-making body that contains the following information:
    - a. The use permit to be revoked,
    - b. The property to which the permit applies; and
    - c. The reason or reasons for the proposed revocation.
  2. *Notice of Revocation Hearing.*
    - a. Notice of a revocation hearing shall be given by first class mail at least 15 days prior to the hearing as follows:

- (1) To the property owner of record;
  - (2) To the property address; and
  - (3) To the business address.
- b. Notice of the public hearing shall be published at least 15 days prior to the date of the hearing at least once in a newspaper of general circulation published or circulated within the Town of Gilbert.
  - c. Notice shall be posted at least 15 days prior to the date of the hearing at 4 public places within the Town designated by Town Council resolution for posting of public notices.
3. *Hearing.* The revocation hearing shall be held in accordance with the procedures for public hearing set forth in Section 5.206: Public Hearing Procedures.
  4. *Required Findings.* In order to revoke the use permit, the decision-making body shall make one or more of the following findings:
    - a. One or more of the terms of conditions of the use permit have been violated or there has been a violation of other applicable laws or regulations;
    - b. The use has ceased for at least 90 consecutive days and the applicant has not demonstrated any circumstances justifying the cessation of use.
  5. *Action.* Upon revocation of the use permit, the Zoning Administrator shall set forth the decision in a Notice of Decision describing the decision-making body's action, with its findings.
    - a. The Notice of Decision shall be mailed to the applicant by first class mail and to:
      - (1) To the property owner of record;
      - (2) To the property address; and
      - (3) To the business address.

## **5.405 Appeals**

- A. *Conditional and Special Use Permits.* Decisions on a Conditional and Special Use Permits may be appealed to the Town Council pursuant to the procedures set forth in Section 5.2011: Procedures for Appeals.

- B. ***Administrative Use Permits.*** Decisions on an Administrative Use Permits may be appealed to the Planning Commission pursuant to the procedures set forth in Section 5.2011: Procedures for Appeals.

#### **5.406 Effective Date of Permit**

The effective date of the use permit shall be the 11th day after the approval, unless the action is appealed in accord with Section 5.2011: Procedures for Appeals. No building, grading, or construction permit shall be issued until the use permit becomes effective.

## Article 5.5: Variances

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### Sections:

- 5.501 Purpose and Applicability
- 5.502 Procedures
- 5.503 Required Findings
- 5.504 Use Variances Prohibited
- 5.505 Conditions of Approval
- 5.506 Effective Date

### 5.501 Purpose and Applicability

Variances provide a mechanism for relief from the strict application of the Zoning Code where the strict application will deprive the property owner of privileges enjoyed by similar properties. Variances may be granted with respect to dimensional and performance standards including, but not limited to site dimensions, yards, height of structures, distances between structures, open space requirements, signage dimensions, fences, and walls. No variances from the use regulations of the Zoning Code shall be granted.

### 5.502 Procedures

- A. **Application.** A written application for a variance shall be filed with the Development Services division in accordance with the application procedures set forth in Article 5.2: Common Procedures. In addition to any other requirements specified, applications shall at a minimum include the following:
1. Evidence showing why, due to special circumstances applicable to the property, including its size, shape, topography, location or surroundings, strict application of the zoning ordinance would deprive the property owner of privileges enjoyed by other property owners of the same classification in the same zoning district.
  2. Evidence showing that the requested variance will not constitute a grant of special privileges inconsistent with limitations upon other properties in the vicinity and district in which the property is located.
  3. Evidence that the special circumstances applicable to the property were or are not self-imposed by the property owner.
  4. Evidence showing why granting the variance:

- a. Substantially meets the intent and purpose of the zoning district in which the property is located;
  - b. Will not be detrimental to the health, safety, and general welfare of persons living or working in the neighborhood;
  - c. Will not be detrimental to the general welfare of the Town; and
  - d. Is the least amount of relief necessary to permit use of the property similar to other properties in the district.
- B. **Public Notice.** Public notice shall be provided in accordance with the public notification procedures set forth in Section 5.205: Notice of Public Hearings.
- C. **Staff Report.** The Director shall prepare and transmit to the Zoning Hearing Officer a staff report, including an analysis and recommendation, setting forth any proposed findings and conditions upon which the Hearing Officer may base its decision. A copy of the staff report shall be made available to the public and the applicant prior to the public hearing.
- D. **Public Hearing.** The Zoning Hearing Officer shall conduct a public hearing in accordance with the procedures set forth in Section 5.206: Public Hearing Procedures.
- E. **Action.** The Zoning Hearing Officer shall render a written decision within 10 days of the date the hearing is closed. The Zoning Hearing Officer may approve, approve with modifications and/or conditions, or deny applications for variances.
- F. **Referral to Board of Adjustment.** The Zoning Hearing Officer may, upon review of the facts of the application, determine that the case merits review by the full Board of Adjustment. In such cases, the Zoning Hearing Officer shall prepare a written statement of the reasons for referring the matter to the Board. Staff shall schedule the matter for hearing at the next available Board of Adjustment hearing and submit the Hearing Officer's statement to the Board with the staff report.
- G. **Appeal.** Decisions of the Zoning Hearing Officer may be appealed to the Board of Adjustment pursuant to the procedures set forth in Section 5.2011: Procedures for Appeals.

### 5.503 Required Findings

The Zoning Hearing Officer or the Board of Adjustment, upon referral as provided for in Section 5.502F: Referral to Board of Adjustment, shall only approve a variance after finding that:

- A. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;
- B. Such special circumstances were not created by the owner or applicants;
- C. The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located; and
- D. The variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general.

#### **5.504 Use Variances Prohibited**

Neither the Board of Adjustment nor the Zoning Hearing Officer shall approve any changes in the uses permitted in any zoning district or approve any modification of the requirements of the Zoning Code that would have the effect of allowing the establishment of a use not otherwise permitted.

#### **5.505 Conditions of Approval**

In approving a variance, the Board of Adjustment or the Zoning Hearing Officer may impose reasonable conditions necessary to:

- A. Achieve the general purposes of the Zoning Code or the specific purposes of the zoning district in which the site is located, or to make it consistent with the general plan;
- B. Protect the public health, safety, and general welfare; or
- C. Insure operation and maintenance of the use in a manner compatible with existing and potential uses on adjoining properties or in the surrounding area.

#### **5.506 Effective Date**

The effective date of the variance shall be the 31<sup>st</sup> day after the approval, unless the action is appealed in accord with the procedures set forth in Section 5.2011: Procedures for Appeals. No building, grading, or construction permit shall be issued until the variance becomes effective.



## Article 5.6      Design Review

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### Sections

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|-------|--|
| 5.601 | Purpose and Applicability  |
| 5.602 | Procedures and Responsibilities  |
| 5.603 | Design Review Approval   |
| 5.604 | Appeals of Decisions of the Design Review Board, Redevelopment Commission and Director of Planning |
| 5.605 | Effective Date and Expiration Date   |
| 5.606 | Enforcement  |

### 5.601 Purpose and Applicability

- A. **Purpose.** The purpose of design review is to protect public health, safety, and general welfare, and to preserve and enhance property values by promoting and maintaining a functional and aesthetic community character founded on the principles of sound site planning, urban design, architecture, landscape design, and energy efficiency, sensitive to the desert environment, consistent with the policies and guidelines of the General Plan and adopted Design Guidelines. More specifically, design review is intended to ensure that:
1. Adopted Design Guidelines are applied consistently to developments subject to design review in the Town;
  2. Siting and architectural design of structures harmonize visually with surrounding development and creates a built environment that is safe and aesthetically pleasing;
  3. The arrangement of buildings, parking areas, drive aisles, storm water retention areas, pedestrian ways and other features of the site combine to create a functional project that is convenient for users of the property;
  4. Unsightly uses, features or activities are screened from public view and from adjacent property, and dissimilar uses are separated by buffers to prevent conflicts, promote privacy, and maintain property values;
  5. Landscaping provides a visually pleasing setting for structures on the site, complements the architecture of the project, mitigates the heat island effect, blends harmoniously with the natural landscape, conserves water, does not conflict with public or private utilities, and is suited to the site and the area's climatic conditions;
  6. Project materials and colors are appropriate to the architectural style of the structures, suited to the desert climate, complement neighboring properties and project a high quality image; and

7. Signage, building graphics, exterior lighting, and other decorative structures and features are compatible with the design of the structure(s) and with the architectural character of the surrounding area.
- B. **Applicability.** Design review is required for all new construction, exterior site and structure alterations, signs, and subdivision plats prior to issuance of a building permit, including Town facilities, with the following exceptions:
1. All single family detached dwelling units and related accessory structures buildings within the SF-35 district.
  2. Accessory structures within all single family districts.
  3. Individual single family units on separate single family zoned parcels including any unit that is designed and built by the owner of an individual lot in an approved subdivision.
  4. Minor exterior site and structure alterations. A minor exterior alteration means an alteration that does not materially affect the design concept or function of the site or structure.
  5. Repairs that do not alter the exterior design of a structure.
  6. Approved temporary construction offices.
  7. Approved Farm Stands.
  8. Changes to the face of an existing approved sign.
  9. Signs consistent with an approved Comprehensive Sign Program, Master Sign Plan, Heritage Sign Plan, or Gateway Sign Plan.
  10. Individual tenant signs in centers constructed before November 27, 1984 and not subject to the requirement for a Comprehensive Sign Program.

## **5.602 Procedures and Responsibility**

- A. **Procedures.** The following procedures shall apply to applications for preliminary and final design review, residential standard plans, and subdivision open space plan:
1. **Pre-Application Review.** Pre-application review shall be as required subject to procedures set forth in Article 5.2: Common Procedures.

2. *Applications.* Applications for design review approval or amendments to an existing approval shall be filed in accordance with the application procedures set forth in Article 5.2: Common Procedures. Applications may be filed for preliminary design review approval, final design review approval, or concurrent preliminary and final design review approval.
  - a. *Preliminary Design Review.* Prior to receiving final design review approval for any site, preliminary design review approval shall be obtained. Preliminary design review shall encompass all of a proposed phased or multiple building project. Preliminary design review establishes the overall organization of the project and the relationship between structures, vehicular and pedestrian access, landscape design concepts, preliminary grading and drainage, and any other significant improvements, both on-site and off-site. Preliminary design review for phased projects shall include approval of design guidelines for architecture and landscaping. Preliminary design review may include building elevations and signage.
  - b. *Final Design Review.* Final design review approval is required before a project may be submitted for building permit review. Final design review approval establishes a site plan, landscape plan, building elevations, materials and colors, exterior lighting, signage, and preliminary grading and drainage. Final design review may encompass all or part of the property covered by a preliminary design review approval and must be consistent with that approval. Final design review will serve as both preliminary and final approval when the area encompassed by the final application is the same area as that required for preliminary design review.
  - c. *Concurrent Review.* Preliminary and final design review applications may be processed concurrently when the final design review application area covers only a portion of the preliminary application area.
  - d. *Residential Standard Plans.* Residential standard plan approval is required before any plans may be submitted for building permit review.
  - e. *Subdivision Open Space Plan.* Subdivision open space shall be reviewed and a recommendation provided by the Design Review Board prior to preliminary plat approval by the Planning Commission.
3. *Public Notice.* Public notice shall be provided in compliance with Section 5.205: Notice of Public Hearings. The following applications do not require public notice or a public hearing by the Design Review Board or Redevelopment Commission:
  - a. Residential standard plans;

- b. Commercial, office, and employment buildings on sites, lots, or parcels of less than 5 acres within an approved nonresidential subdivision or preliminary site plan;
  - c. Subdivision Open Space Plans;
  - d. Individual signs; and
  - e. Comprehensive Sign Program, Master Sign Plan, Heritage Sign Plan and Gateway Sign Plan.
4. *Notice to Adjacent Jurisdictions.* When the application involves development of land that abuts other municipalities or unincorporated areas of Maricopa County or a combination thereof, the Department shall send a copy of the Notice of Public Hearing to the planning agency of the adjacent governmental unit. Applications listed in Section 5.602A.3: Public Notice, do not require notice to adjacent jurisdictions.
5. *Staff Report.* The Director of Planning shall prepare and transmit a staff report to the Design Review Board or Redevelopment Commission. A copy of the staff report shall be made available to the public and the applicant prior to the public hearing.
6. *Hearing.* The Design Review Board and the Redevelopment Commission shall conduct a public hearing for all items except for applications listed in Section 5.602A.3: Public Notice, not requiring public notice and administrative matters.
7. *Action.* The Design Review Board or the Redevelopment Commission may approve, approve with modifications and/or conditions, or deny the proposal. The Redevelopment Commission shall render decisions on signs located within the Heritage District Overlay Zoning District.
8. *Conditions of Approval.* The approval of a design review application may include conditions necessary to:
- a. Ensure conformance with the General Plan, and Redevelopment Plan if applicable, consistent with the purposes of this article.
  - b. Implement applicable design guidelines.
  - c. Ensure compatibility with adjacent and nearby development.
  - d. Provide for a functional, energy efficient, aesthetic, and safe project design.

B. ***Administrative Design Review.*** Administrative design review shall be conducted by the Director. The Director may refer any application for administrative design review to the Design Review Board or, in the Heritage District Overlay Zoning District, the Redevelopment Commission for action.

1. *Scope of Administrative Design Review Authority.* The Director shall conduct administrative design review of applications for:
  - a. Within a previously approved site plan, new structures of 5,000 square feet or less, and additions of 5,000 square feet or less to an existing or approved building;
  - b. For Employment zoning districts, additions to an existing or approved building within a previously approved site plan that are less than 50 percent of the gross floor area;
  - c. Minor revisions to approved Final Design Review plans that meet the standards of the Zoning Code, will not expand, intensify, or substantially change any approved site plan, landscape plan, or structure, and are consistent with the intent of the original approval;
  - d. Changes to colors and materials in an existing or approved project that do not substantially change the appearance of the site or its structure;
  - e. The addition of 2 residential standard plans to an approved standard plan application;
  - f. Residential standard plan transfers in accordance with policies adopted by the Design Review Board;
  - g. Locations of outdoor retail sales and merchandise displays not designated on a Final Design Review plan;
  - h. Signs that are not part of an approved Comprehensive Sign Program, Master Sign Plan, Heritage Sign Plan, Gateway Sign Plan, or Final Design Review;
  - i. Minor amendments to a Comprehensive Sign Program, Master Sign Plan, Heritage Sign Plan, or Gateway Sign Plan, where such changes are determined to have little or no visual impact and are consistent with the intent of the original approval;
  - j. Comprehensive Sign Programs, Heritage Sign Plans, or Gateway Sign Plans that comply with the requirements of Article 4.4;

- k. Open Space Plans for a subdivision less than 20 acres as part of the Preliminary Plat review;
  - l. Model Home Complex;
  - m. Projects that do not require public notice yet require approval by the Design Review Board or the Redevelopment Commission may be approved administratively after the project is discussed by the Design Review Board or the Redevelopment Commission at a Study Session and final exhibits meet review comments for code requirements; and
  - n. Category 1 Wireless Communication Facilities as set forth in Section 4.702..
2. *Applications for Administrative Design Review.* Applications for administrative design review approval or amendments to an existing administrative approval shall be filed in accordance with the application procedures set forth in Article 5.2: Common Procedures.
3. *Public Notice and Hearing.* No public notice or hearing is required for administrative design review applications.
4. *Director Action.* The Director may approve, approve with modifications and/or conditions, or deny the application. The decision of the Director shall be on a Notice of Decision, and a copy shall be mailed to the applicant.
5. *Conditions of Approval.* In approving an administrative design review application, the Director may impose conditions necessary to:
- a. Ensure conformance with the General Plan, and Redevelopment Plan if applicable, consistent with the purposes of this Article.
  - b. Implement applicable design guidelines.
  - c. Ensure compatibility with adjacent and nearby development.
  - d. Ensure safe and efficient provision of public services.
  - e. Provide for a functional, energy efficient, aesthetic, and safe project design.
6. *Modifications to Wireless Communication Facilities.* No change is permitted to the use or structure of a Wireless Communication Facility for which an Administrative Design Review approval has been issued except as follows:
- a. Subject to Section 4.702.B, minor modifications to Administrative Design Review approvals for Wireless Communication Facilities (WCF) may be

approved by the Zoning Administrator upon a finding that the change does not substantially alter the original approval or any condition of approval. The Zoning Administrator shall provide written records of the WCF decision and supportive findings.

- C. ***Building and Construction Regulations Code Board of Appeals.*** In order to hear and decide appeals of orders, decisions, and determinations made by the Building Official or the Fire Chief relative to the application and interpretation of the Building and Construction Regulations Code of the Town of Gilbert and amendments thereto, or suitability of alternative materials and types of construction, the Design Review Board shall serve as the Building and Construction Regulations Code Board of Appeals.

### **5.603 Design Review Approval**

- A. ***Action.*** The Design Review Board, Redevelopment Commission for projects in the Heritage District Overlay Zoning District, or the Director as appropriate shall approve, approve with modifications and/or conditions, or deny an application for Design Review subject to the requirements of the Zoning Code and based on compliance with approved design guidelines. An action of the Board and the Redevelopment Commission shall be accompanied by findings of fact giving the reasons for the action. If the Design Review Board or Redevelopment Commission fails to take action within 90 days after closing the public hearing, the application shall be deemed to have been denied.
- B. ***Findings for Approval.*** The following findings shall be made prior to approval of a Design Review application:
1. The project is consistent with applicable design guidelines;
  2. The project conforms to the General Plan, and specifically to the Land Use, Community Design, and Environmental Planning Elements;
  3. The project is consistent with all applicable provisions of the Zoning Code;
  4. The project is compatible with adjacent and nearby development; and
  5. The project design provides for safe and efficient provision of public services.
- C. ***Heritage District Overlay Zoning District Projects.*** The design of projects in the Heritage District Overlay Zoning District shall comply with the design guidelines of the Heritage District Redevelopment Plan and any design guidelines adopted pursuant to Article 3.4: Heritage District Overlay Zoning District. Such design shall be compatible with and not detract from the pedestrian orientation of the District. Where feasible, new development shall complement the historical character of the District and avoid repetitious or monotonous design.

## **5.604 Appeals of Decisions of the Design Review Board, Redevelopment Commission and Director of Planning**

- A. Final decisions of the Design Review Board and Redevelopment Commission may be appealed to the Town Council pursuant to the procedures set forth in Section 5.2011: Procedures for Appeals. The Town Council shall have the authority to uphold, modify, or reverse the decision of the Design Review Board or Redevelopment Commission. The decision of the Town Council shall be final, except as set forth in Article 5.10: Appeals of Dedications, Exactions and Zoning Regulations and Reconsideration of Certain Decisions.
- B. A decision of the Director of Planning may be appealed to the Design Review Board or the Redevelopment Commission for properties located in the Heritage District Overlay Zoning District pursuant to the procedures set forth in Section 5.2011: Procedures for Appeals. The Design Review Board and the Redevelopment Commission shall have the authority to uphold, modify, or reverse the decision of the Director of Planning. The decision of the Design Review Board and the Redevelopment Commission on appeals from a decision of the Director of Planning shall be final.
- C. Appeals of decisions of the Design Review Board, Redevelopment Commission, or Director shall be based on design issues that are within the scope of authority of the Design Review Board, Redevelopment Commission, or the Director.

## **5.605 Effective Date and Expiration Date**

- A. ***Effective Date.*** The effective date of the final design review decision shall be the 11th day after approval, if no appeal has been filed. No building, grading, or construction permit shall be issued until the final design review decision becomes effective.
- B. ***Expiration Date.*** Design Review approval shall expire automatically 3 years after the effective date unless a building permit has been issued and work authorized by such permit has commenced.

## **5.606 Enforcement**

No building or grading permit shall be issued until the Applicant submits a Final Design Review Plan showing any changes required as a condition of Design Review approval. All future development shall conform to the approved Final Design Review Plan unless modifications or changes are approved pursuant to the requirements of the Zoning Code.



# Article 5.7      Amendments to Zoning Code Text, a Zoning Ordinance or the Official Zoning Map

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## Sections

|       |                           |
|-------|---------------------------|
| 5.701 | Purpose and Applicability |
| 5.702 | Initiation of Amendments  |
| 5.703 | Procedures                |
| 5.704 | Findings                  |

### 5.701 Purpose and Applicability

The purpose of this article is to provide procedures consistent with applicable State requirements by which changes may be made to the text of the Zoning Code, a zoning ordinance and to the Official Zoning Map. This procedure shall apply to all proposals to change the text of the Zoning Code, a zoning ordinance, or to revise a zoning district classification or zoning district boundary line shown on the Official Zoning Map.

### 5.702 Initiation of Amendments

- A. **Town Council.** The Town Council may direct the Planning Commission to analyze, conduct a hearing, and make a recommendation to the Council for an amendment to the text of the Zoning Code, a zoning ordinance, or the Official Zoning Map.
- B. **Planning Commission.** The Commission may initiate consideration of an amendment by directing the Director of Planning to prepare an amendment to the text of the Zoning Code, a zoning ordinance, or the Official Zoning Map and to schedule a hearing on the proposed amendment pursuant to the procedures set forth in this article. Following the hearing the Commission may make a recommendation to the Town Council for action.
- C. **Owner Initiation.** A property owner or an agent authorized in writing may apply for an amendment to the Official Zoning Map or a zoning ordinance governing the property.

### 5.703 Procedures

- A. **Pre-Application Review.** All applications to amend the text of the Zoning Code, a zoning ordinance, or the Official Zoning Map shall be subject to pre-application review pursuant to the procedures set forth in Article 5.2: Common Procedures.
- B. **Citizen Review.** All applications to amend the text of the Zoning Code, a zoning ordinance, or the Official Zoning Map shall be subject to a citizen review process. The Director of Planning may establish additional procedures for the citizen review process. The citizen review process shall at a minimum consist of a neighborhood meeting or a

work session of the Planning Commission, as set forth below.

1. *Zoning Ordinance and Official Zoning Map Amendments.* The applicant shall schedule and conduct a neighborhood meeting in accordance with the procedures set forth in Section 5.204: Neighborhood Meeting.
  2. *Text Amendments to the Zoning Code.*
    - a. A citizen review session shall be held at a work session of the Planning Commission scheduled at least 5 days prior to the public hearing at the Planning Commission for the consideration of any proposed text amendment. Landowners and other citizens potentially affected by the proposed text amendment shall have an opportunity to comment on the proposal.
    - b. Notice of the citizen review session shall be given to landowners, citizens potentially affected by the proposed text amendments, and any person or group who has specifically requested notice regarding the application, at least 10 days prior to the Planning Commission work session. The notice shall state the date, time, and place of the citizen review session and shall include a general explanation of the proposed text amendment. A copy of the notice shall be submitted to the Director of Planning. The form of notice to be used may vary according to the type of text amendment proposed. Any form of notice used by the Director for the proposed text amendment shall be considered sufficient. The form of notice given may include, but is not limited to, the following:
      - (1) Publication in a local newspaper of general circulation distributed to residents living within the Town.
      - (2) Posting at 4 public places within the Town designated by Town Council resolution governing posting of public notices.
      - (3) Posting on the official Town website.
    - c. The Planning Commission may take into account issues and concerns raised by landowners and other citizens potentially affected by the proposed text amendments when it considers its recommendation to the Town Council. Prior to the Town Council hearing on the proposed text amendment the Commission shall report on the issues and concerns raised during the citizen review session.
- C. ***Application.*** Applications shall be filed in accordance with the application procedures set forth in Article 5.2: Common Procedures.
- D. ***Notification.*** Public notification shall be provided in compliance with Section 5.205: Notice of Public Hearings. When the proposed amendment involves land that abuts

other municipalities or unincorporated areas of Maricopa County or a combination thereof, the Department shall send a copy of the Notice of Public Hearing to the planning agency of the adjacent governmental unit.

- E. **Staff Report.** The Director of Planning shall prepare and transmit to the Planning Commission a staff report. The report shall include an evaluation of the consistency and conformance of the proposed amendment with the General Plan and any applicable specific plan adopted by the Town Council. A copy of the staff report shall be made available to the public and any applicant prior to the public hearing.
- F. **Planning Commission Hearing.** The Planning Commission shall conduct a public hearing on any application to amend the text of the Zoning Code, a zoning ordinance, or the Official Zoning Map as set forth in Article 5.2: Common Procedures.
- G. **Planning Commission Action.** The Planning Commission shall render its decision in the form of a written recommendation to the Town Council. The recommendation shall include the reasons for the recommendation. The Commission may recommend approval, approval with modification and/or conditions, or denial of the proposed amendment. If the Commission fails to make a recommendation to the Town Council within 90 days after closing the public hearing, the Planning Commission shall be deemed to have recommended denial and the application shall be scheduled for public hearing and action by the Town Council.
- H. **Protest Procedures.** If the owners of 20 percent or more of the property by area and number of lots, tracts and condominium units within the zoning area of the affected property file a protest in writing against the proposed amendment, the change shall not become effective except by the favorable vote of three-fourths (3/4) of the members of the Town Council. The three-fourths vote is to be rounded to the nearest whole number. The protest shall be filed in writing with the Town Clerk at least 5 days prior to the public hearing or any continued public hearing of the Town Council to allow time to verify the signatures on the protest.
- I. **Town Council Hearing.** The Town Council shall conduct a public hearing and take action as set forth in Article 5.2: Common Procedures.
- J. **Town Council Action.** The Town Council may approve, approve with modifications and/or conditions, or deny the application. Approval shall be by Ordinance.
- K. **Conditions of Approval.** In approving an amendment to a zoning ordinance or to the Official Zoning Map, the Town Council may impose conditions for the dedication of rights-of-way and easements related to the effect of the rezoning, establish a schedule for development, or impose other conditions permitted by law, and, if the amendment is for a Planned Area Development Overlay, may impose additional conditions necessary to ensure that the proposed amendment:
  - 1. Conforms to the General Plan and any applicable specific plan adopted by the Town Council; and

2. Will not be detrimental to public health, safety, and general welfare of persons living or working in the surrounding area or to the general welfare of the Town as a whole.

L. ***Failure to Meet Conditions within Specified Time Period.*** If the Town Council approves a Zoning Ordinance or an amendment to the Official Zoning Map with a condition that is required to be completed within a specific time period and the condition is not satisfied within that time period, the following actions may be taken:

1. The Town Council or Planning Commission may initiate an amendment to remove the condition or extend the time period and direct the Director of Planning to prepare an ordinance to do the same pursuant to the procedures set forth in Section 5.703 D-K, or
2. The Town Council or Planning Commission may initiate a rescission of the Zoning Ordinance to revert the zoning to its prior zoning classification for failure to comply with the conditions of the rezoning ordinance, pursuant to A.R.S. § 9-462.01(e) and direct the Director of Planning to notify the property owner by certified mail and prepare an ordinance to revert the zoning pursuant to the procedures set forth in Section 5.703 D- K, or
3. The property owner in writing may apply for an amendment to the zoning ordinance to amend or remove the condition pursuant to the procedures set forth in Sections 5.201 Application Process and 5.703 Procedures.

Will not be detrimental to public health, safety, and general welfare of persons living or working in the surrounding area or to the general welfare of the Town as a whole.

## **5.704 Findings**

- A. In considering amendments to a zoning ordinance or to the Official Zoning Map, the Planning Commission shall only recommend approval and the Town Council shall only approve the proposed amendment based on a determination that the amendment as proposed or as modified conforms with the General Plan, any applicable Specific Area Plan, neighborhood, or other plan, and any overlay zoning district.
- B. The Town Council in taking its action shall find the following:
  1. *Public Notice.* All required public notice has been conducted in accordance with applicable state and local laws;
  2. *Public Meetings and Hearings.* All required public meetings and hearings have been held in accordance with applicable state and local laws.

## **Article 5.8: Amendments to General Plan Text or Map**

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### **Sections:**

- 5.801 Purpose
- 5.802 Initiation of Amendments
- 5.803 Procedures

### **5.801 Purpose**

The purpose of this article is to provide procedures by which changes may be made to the text or map of the General Plan. The General Plan is a comprehensive long-range guide for orderly growth and development in the community.

### **5.802 Initiation of Amendments**

#### **A. *Initiation.***

1. *Town Initiated Amendments.* The Town Council or the Planning Commission may initiate an amendment to the map or text of the General Plan. An amendment shall be initiated by motion.
2. *Property Owner Initiated Amendments.* A property owner or an agent authorized in writing may apply for an amendment to the map or text of the General Plan governing the property.

#### **B. *Timing.***

1. *Major Amendments.* Applications for major amendments shall be filed no later than May 31 of each calendar year in order to be considered in that year. All applications for major amendments to the General Plan shall be heard by the Town Council at a single hearing during the calendar year in which they are filed. A major amendment is defined in Chapter 1: Amendments, of the Gilbert General Plan.
2. *Minor Amendments.* Applications for minor amendments may be filed at any time.

## 5.803 Procedures

- A. **Pre-Application Review.** All applications to amend the map or text of the General Plan shall be subject to pre-application review pursuant to the procedures set forth in Article 5.2: Common Procedures.
- B. **Citizen Review.** All applications to amend the General Plan shall be subject to a citizen review process. The Director of Planning may establish additional procedures for the citizen review process. The citizen review process shall at a minimum consist of a neighborhood meeting or a work session of the Planning Commission, as set forth below.
1. **Map Amendments.** The applicant shall schedule and conduct a neighborhood meeting in accordance with the procedures set forth in Section 5.204: Neighborhood Meeting.
  2. **Text Amendments.**
    - a. A citizen review session shall be held at a work session of the Planning Commission scheduled at least 5 days prior to the public hearing at the Planning Commission for the consideration of any proposed text amendment. Landowners and other citizens potentially affected by the proposed text amendment shall have an opportunity to address the Planning Commission on the proposal.
    - b. Notice of the citizen review session shall be given to landowners, citizens potentially affected by the proposed text amendments, and any person or group who has specifically requested notice regarding the application, at least 10 days prior to the Planning Commission work session. The notice shall state the date, time, and place of the citizen review session and shall include a general explanation of the proposed text amendment. A copy of the notice shall be submitted to the Director of Planning. The form of notice to be used may vary according to the type of text amendment proposed. Any form of notice used by the Director for the proposed text amendment shall be considered sufficient. The form of notice given may include, but is not limited to, the following:
      - i. Publication in a local newspaper of general circulation distributed to residents living within the Town.
      - ii. Posting at 4 public places within the Town designated by Town Council resolution governing posting of public notices.
      - iii. Posting on the official Town website.

- c. The Planning Commission may take into account issues and concerns raised by landowners and other citizens potentially affected by the proposed text amendments when it considers its recommendation to the Town Council. Prior to the Town Council hearing on the proposed text amendment the Commission shall report on the issues and concerns raised during the citizen review session.
- C. **Application.** Applications shall be filed in accordance with the application procedures set forth in Article 5.2: Common Procedures.
- D. **Public Notice.** Public notification shall be provided in compliance with Section 5.205: Notice of Public Hearings.
- E. **Notice to Other Jurisdictions.** Notice of amendments to the General Plan shall be given in accordance with the requirements of ARS § 9-461.06.
- F. **Staff Report.** The Director of Planning shall prepare and transmit to the Planning Commission a staff report. A copy of the staff report shall be made available to the public and any applicant prior to the public hearing.
- G. **Planning Commission Hearing.** The Planning Commission shall conduct at least 1 public hearing for minor General Plan amendments and at least 2 public hearings for major General Plan amendments. Hearings on major General Plan amendments shall be held in two separate locations in the Town. The Planning Commission shall conduct the hearings as set forth in Article 5.2: Common Procedures.
- H. **Planning Commission Action.** The Planning Commission may recommend the approval, approval with modifications or denial of the proposed amendment. If the Commission fails to make a recommendation to the Town Council within 90 days after closing the public hearing, the Planning Commission shall be deemed to have recommended denial and the application shall be scheduled for public hearing and action by the Town Council.
- I. **Town Council Hearing.** The Council shall conduct a public hearing as set forth in Article 5.2: Common Procedures.
- J. **Town Council Action.** The Town Council may approve, approve with modifications or deny the application. Approval of any major amendment to the General Plan shall require an affirmative vote by at least 2/3 of the members of the Council. Approval shall be by Resolution.

## **Article 5.9: Protected Development Right Plan**

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### **Sections:**

- 5.901 Purpose and Applicability
- 5.902 Procedures
- 5.903 General Provisions
- 5.904 Expiration Date and Extensions; Revocation

### **5.901 Purpose and Applicability**

The purpose of this article is to provide procedures consistent with applicable State law by which a plan may be designated as a Protected Development Right Plan. Except as provided in Section 5.903C: Subsequent Designation, only a plan submitted to the Town that is designated as a Protected Development Right Plan at the time of submittal shall be processed as a Protected Development Right Plan.

A protected development right is 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, and precludes the enforcement against the development of any legislative or administrative land use regulation of the town or an initiated measure that would change, alter, impair, prevent, diminish, delay or otherwise impact the development or use of the property as set forth in the approved Protected Development Right Plan. Upon approval of a Protected Development Right Plan, the owner has a protected development right to undertake and complete the development only to the extent of the specific elements and details shown on the plan without compliance with subsequent changes in zoning regulations and development standards.

This article sets forth the procedures for two classifications of Protected Development Right Plans: non-phased developments and phased developments.

### **5.902 Procedures**

- A. ***Application.*** Applications shall be filed in accordance with application procedures set forth in Article 5.2: Common Procedures and additional application requirements set forth in this article. Applications may be filed for non-phased development right plan, or phased development right plan.
  - 1. ***Non-Phased developments.*** Non-phased developments are developments that are constructed in one phase. Applications for Protected Development Right Plan for non-phased developments shall comply with the application requirements for final subdivision plat approval as set forth in Chapter III: Subdivision Regulations.



2. *Phased developments.* An application for a Protected Development Right Plan for phased developments shall comply with the application requirements set forth in this article and Article 3.1: Planned Area Development Overlay Zoning District. The application shall identify all improvements required to be constructed for each phase.

**B. *Application Content.***

1. *All Applications.* All applications for a Protected Development Right Plan shall include all of the following:
  - a. The proposed uses of the property;
  - b. The boundaries of the property;
  - c. Significant topographical and other natural features affecting development of the property;
  - d. The location of all existing and proposed utilities and provisions for other infrastructure on the property, including water, sewers, road and pedestrian walkways; and
  - e. All other studies and reports required by the Zoning Code, the Subdivision Regulations and other codes of the Town, including traffic reports, drainage reports, master street plans, development phasing schedules and phased public infrastructure schedules.
2. *Non-Phased Developments.* In addition to the requirements of Section 5.902B.1: All Applications, an application for a Protected Development Right Plan for a non-phased development shall be submitted either as a final subdivision plat application or as a Planned Area Development Overlay district application and shall:
  - a. Designate the plan as a non-phased Protected Development Right Plan at the time of submittal;
  - b. Include the general location on the property of the proposed buildings, structures and other improvements; and
  - c. Include the number of dwelling units and the square footage and height of the proposed buildings and other structures.
3. *Phased Developments.* In addition to the requirements of Section 5.902B.1: All Applications, an application for a Protected Development Right Plan for a phased development shall:

- a. Designate the plan as a phased Protected Development Right Plan at the time of submittal;
- b. Be submitted as a Planned Area Development Overlay zoning district;
- c. Include the proposed phasing plan, the boundaries of each phase, and the schedule of development of each phase;
- d. Include the general location on the property of the proposed buildings, structures and other improvements for the first phase;
- e. Include the number of dwelling units proposed for all phases of the development; and
- f. Include the square footage and height of the proposed buildings and other structures for the first phase.

### 5.903 General Provisions

- A. ***Final Subdivision Plat Protected Development Right Plan.*** The Protected Development Right Plan for a non-phased development shall be the final subdivision plat approved by the Town Council.
- B. ***Planned Area Development Protected Development Right Plan.*** The Protected Development Right Plan for a phased development shall be the Planned Area Development Overlay zoning district approved by the Town Council for that phase. Approval of a Protected Development Right Plan for one phase of a phased development is not approval of a Protected Development Right Plan for any other phase.
- C. ***Subsequent Designation.*** The Town Council may designate by ordinance or resolution a development plan that is not identified as a Protected Development Right Plan at the time it is submitted, as a Protected Development Right Plan upon a finding that granting a protected development right to undertake and complete the development shown on the plan will promote reasonable certainty, stability and fairness in the land use planning and regulatory process and secure the reasonable investment-backed expectations of the owner.
- D. ***Variances.*** A Protected Development Right Plan approved with a condition that a variance be obtained does not confer a protected development right until the variance is granted. Approval of a Protected Development Right Plan does not guarantee approval of a variance.
- E. ***Enforcement of Subsequent Land Use Regulations.*** A protected development right does not preclude enforcement of land use regulations that would change,

alter, impair, prevent, diminish, delay or impact the development or use of the property as approved in the Protected Development Right Plan under any of the following circumstances:

1. Changes agreed to in writing by the owner.
  2. Declaration by the Town Council by resolution after notice and a public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety and welfare if the project were to proceed as approved in the Protected Development Right Plan.
  3. Declaration by the Town Council by resolution after notice and a public hearing that the owner or his representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval of the Protected Development Right Plan by the Town.
  4. The enactment of a state or federal law or regulation that precludes development as approved in the Protected Development Right Plan, in which case the Town Council, after notice and a public hearing, may modify the affected provisions, on a finding that the change in state or federal law has a fundamental effect on the Protected Development Right Plan.
- F. ***Overlay Zoning, Development Fees, Building Codes.*** A protected development right does not preclude the enforcement of a subsequently adopted:
1. Overlay zoning classification that imposes additional requirements and that does not affect the allowable type or density of use, or ordinances or regulations that are general in nature and that are applicable to all property, so long as the overlay zoning classification does not affect the allowable type or density of use.
  2. Development fees applicable to similar properties in the town adopted pursuant to ARS § 9-463.05.
  3. Building, fire, plumbing, electrical, or mechanical code or other ordinance or regulation general in nature and applicable to all property subject to land use regulation by the Town.
- G. ***Non-Conforming Uses and Structures.*** A protected development right does not preclude, change, or impair the authority of the Town to adopt and enforce zoning ordinance provisions governing non-conforming uses or structures on the property.

- H. **Development Agreements.** Nothing in this article shall preclude, change, or limit the authority of the Town to enter into a Development Agreement pursuant to ARS § 9-500.05.

## 5.904 Expiration Date and Extensions; Revocation

A. **Expiration.**

1. **Non-Phased Development Right Plan.** A Protected Development Right Plan for a non-phased development is valid for 3 years. In its sole discretion, the Town Council may extend this time period for a maximum of 2 additional years if it determines such extension is warranted by all relevant circumstances, including the size and type of the development, the level of investment of the landowner, economic cycles, and market conditions. If no building permit has been issued prior to expiration, no construction shall commence under the plan.
2. **Phased Development Right Plan.** A Protected Development Right Plan for a phased development is valid for 5 years. In its sole discretion, the Town Council may extend this time period for a maximum of 2 additional years if it determines such extension is warranted by all relevant circumstances, including the size, type and phasing of the development, the level of investment of the landowner, economic cycles, and market conditions. No construction shall take place on the property for any phase for which a building permit has not been issued.

- B. **Compliance.** After the approval of a Protected Development Right Plan, the Director of Planning shall monitor the progress of the development to ensure compliance with the terms and conditions of the original approval or any development agreement applicable to the property. If the development is not progressing in compliance with the original approval or any development agreement applicable to the property, the Director of Planning shall prepare a report and recommendation to the Town Council. The report and recommendation shall contain the following:

1. The Protected Development Right Plan to be revoked;
2. The property to which the right applies; and
3. The reason or reasons for the proposed recommendation.

- C. **Revocation.** A Protected Development Right Plan may be revoked by the Town because of failure to comply with the applicable terms and conditions of the Protected Development Right Plan or development agreement.

1. *Initiation of Revocation.* The report and recommendation of the Director shall be submitted to the Town Council. The Director shall set a date for a public hearing on the proposed revocation.
2. *Notice of Public Hearing on Revocation.*
  - a. Notice of the public hearing shall be given by first class mail at least 15 days prior to the hearing as follows:
    - (1) To the property owner of record;
    - (2) To the property address; and
    - (3) To the business address.
  - b. Notice of the public hearing shall be published at least 15 days prior to the date of the hearing at least once in a newspaper of general circulation published or circulated within the Town of Gilbert.
  - c. Notice of the public hearing shall be posted at least 15 days prior to the date of the hearing at 4 public places within the Town designated by Town Council resolution for posting of public notices.
3. *Public Hearing.* The public hearing shall be held in accordance with the procedures for public hearing set forth in Section 5.206: Public Hearing Procedures.
4. *Required Findings.* In order to revoke the Protected Development Right Plan, the Town Council shall find that one or more of the terms of conditions of the Protected Development Right Plan have been violated or there has been a violation of other applicable laws or regulations; and
5. *Action.* Upon revocation of the Protected Development Right Plan, the Director of Planning shall set forth the decision in a Notice of Decision describing the Town Council's decision, with its findings. The Notice of Decision shall be mailed to the applicant by first class mail and to:
  - a. To the property owner of record;
  - b. To the property address; and
  - c. To the business address.

- D. ***No Vested Rights.*** Where a Protected Development Right Plan has been created, development of property without complying with the Protected Development Right Plan is not a legal use of that property. Therefore, there shall be no vested right to use property in accordance with a Protected Development Right Plan where the Protected Development Right Plan has been revoked, pursuant to Section 5.904C: Revocation.

## **Article 5.10: Appeals of Dedications, Exactions and Zoning Regulations, Reconsideration of Certain Decisions, and Claims for Diminution in Value**

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### **Sections:**

- 5.1001 Purpose and Applicability
- 5.1002 Appeals of Required Dedications and Exactions and of Zoning Regulations Pursuant to ARS § 9-500.12 and 9-500.13
- 5.1003 Reconsideration of Certain Town Council Decisions
- 5.1004 Claim for Diminution in Value Pursuant to A.R.S. § 12-1134

### **5.1001 Purpose and Applicability**

This article sets forth procedures for:

- A. Appeals of dedication requirements, exactions or zoning regulations pursuant to Section 5.1002: Appeals of Required Dedications and Exactions and of Zoning Regulations Pursuant to ARS § 9-500.12 and 9-500.13.
- B. Reconsideration of Town Council actions related to certain Federal and state statutes, pursuant to Section 5.1003: Reconsideration of Certain Town Council Decisions.
- C. Filing and processing claims for diminution in value pursuant to A.R.S. §12-1134.

### **5.1002 Appeals of Required Dedications and Exactions and of Zoning Regulations Pursuant to ARS § 9-500.12 and 9-500.13**

- A. **Appeals.** Appeals of a required dedication or exaction filed pursuant to ARS § 9-500.12 and of a zoning regulation alleged to create a taking pursuant to ARS § 9-500.13 shall comply with the procedures of this Section and ARS § 9-500.12G.
  - 1. *Fee.* No fee shall be charged for the appeal.
  - 2. *Filing of Appeal.* Appeals shall only be filed by a property owner. Appeals shall be filed on a form established by the Director within 30 days of the date of the final action imposing the dedication or exaction or adopting or amending the zoning regulation. The Town shall notify the property owner of the right to appeal pursuant to this Section and provide a description of the appeal procedure on a Notice of Decision for the zoning.

- B. **Notice of Hearing.** The property owner shall be given at least 10 days written notice of the time and place of the hearing by certified mail. The property owner may agree to a shorter time for such notice.
- C. **Hearing.** The hearing shall not be a public hearing. Prior to the hearing, the Town shall submit a takings report to the Zoning Hearing Officer. The hearing shall be held not later than 30 days after the appeal is filed.
- D. **Appeals Filed Pursuant to ARS § 9-500.12.** An appeal of a required dedication or exaction as a condition of approval for the use, improvement, or development of real property shall comply with this Subsection D. No appeal of a dedication or exaction may be filed under this Subsection if the dedication or exaction is imposed by a legislative act of the Town Council that does not give discretion to a town official or town department to determine the nature or extent of the dedication or exaction.
  - 1. **Findings.** In determining whether a dedication or exaction is in violation of the law, the Town has the burden to establish that:
    - a. There is an essential nexus between the dedication or exaction and a legitimate governmental interest of the Town; and
    - b. The required dedication or exaction is roughly proportional to the impact of the proposed use.
  - 2. **Decision.** If the Zoning Hearing Officer finds that the Town has not met its burden as described in Section 5.1002D.1: Findings, the Zoning Hearing Officer may modify or delete the dedication or exaction requirement. If the Zoning Hearing Officer finds that the Town has met its burden, the Zoning Hearing Officer may affirm the dedication or exaction requirement. The Zoning Hearing Officer shall decide the appeal within 5 working days after the appeal is heard.
- E. **Appeals Filed Pursuant to ARS § 9-500.13.** An appeal of the adoption or amendment of a zoning regulation by the Town Council alleged to create a taking shall comply with this section.
  - 1. **Findings.** In determining whether an adopted or amended zoning regulation creates a taking of property in violation of ARS § 9-500.13, the Town has the burden to establish that the zoning regulation does not create a taking. The Zoning Hearing Officer shall consider whether the zoning regulation would deny all economic use of the property. In determining whether the action would deny the owner all economic use of the property, the Zoning Hearing Officer shall consider the following factors:



- a. Uses Permitted. Evaluation of the range of uses allowed under the General Plan and the Zoning Code.
  - b. Economic Impact Study. Any economic impact study submitted related to the impact of the conditions of an amendment on the property.
2. *Decision.* If the Zoning Hearing Officer finds that the Town has not met its burden as described in Subsection E.1, the Zoning Hearing Officer shall transmit a recommendation to the Town Council and the Town Council may reconsider its prior action. If the Zoning Hearing Officer finds that the Town has met its burden, the Zoning Hearing Officer may affirm the zoning regulation. The Zoning Hearing Officer shall decide the appeal within 5 working days after the appeal is heard.
- F. *Appeal of Decision of Zoning Hearing Officer.* A property owner aggrieved by a decision of the Zoning Hearing Officer to modify or affirm a dedication or exaction requirement or to affirm a zoning regulation may file within 30 days after the decision a complaint in Superior Court, pursuant to ARS § 9-500.12G.

### **5.1003 Reconsideration of Certain Town Council Decisions**

- A. *Request for Reconsideration.* An applicant may request a reconsideration of a Town Council decision on any of the following grounds:
1. An alleged violation of the Fair Housing Act;
  2. An alleged violation of the Americans with Disabilities Act or the Arizonans with Disabilities Act;
  3. An alleged violation of the Religious Land Use and Institutionalized Persons Act or the Arizona Free Exercise of Religion Act; and
  4. An alleged violation of the Telecommunication Act.
- B. *Reconsideration Procedure.*
1. *Time of Filing.* The request for reconsideration shall be filed within 10 days of the Town Council decision.
  2. *Fact Finding Hearing.*
    - a. Prior to reconsideration by the Town Council, the Zoning Hearing Officer shall conduct a fact finding hearing to gather a complete record of all information relevant to the request.

- b. The Zoning Hearing Officer shall have the authority to request all information necessary to compile a complete record pertaining to the request.
  - c. Town officials and the applicant shall fully disclose all information relevant to the fact finding.
  - d. The Zoning Hearing Officer shall prepare a report and recommendation for Town Council consideration within 60 days of the filing of the request.
3. Town Council Reconsideration.
- a. The Town Council shall conduct a public hearing on the request pursuant to the procedures set forth in Section 5.206: Public Hearing Procedures.
  - b. In its deliberation, the Town Council shall consider only the applicant's written request, the findings of fact prepared by the Hearing Officer, and the Zoning Hearing Officer's recommendation. No new evidence shall be submitted.
  - c. The Town Council shall uphold, reverse, or modify their prior decision or remand the matter to the Zoning Hearing Officer to develop additional findings.

**5.1004 Claim for Diminution in Value Pursuant to A.R.S. § 12-1134**

- A. **Filing of Claim.** All claims for diminution in value pursuant to A.R.S. § 12-1134 shall be filed with the Town Clerk on a form prescribed by the Town.
- B. **Town Review.** After a claim is filed, Town staff shall review the claim to determine whether the enactment or application of a land use law has diminished the value of the claimant's property. A certified land appraiser, economist, or other qualified expert may be consulted to determine the amount of the diminishment of value, if any.
- C. **Staff Recommendation.** The Director shall prepare a recommendation to the Town Council to deny the claim, pay compensation for diminishment in value or rescind or modify the land use regulation.
- D. **Town Council Determination.** Within 90 days of the filing of the claim, Town Council shall make a determination whether to deny the claim, pay compensation, modify or rescind the land use law or its application to the claimant's property. The Council's determination shall be made in writing and a copy shall be provided to the claimant. Any rescission or modification of the application of a

land use law to an individual property shall be recorded against the property in the office of the Maricopa County Recorder.

- E. ***Satisfaction of Notice of Claims Requirements.*** Filing a claim pursuant to this section shall be deemed to satisfy the requirements set forth in A.R.S. § 12-821.01 for filing an administrative claim against the Town.

## Article 5.11: Annexations

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### Section:

- 5.1101 Purpose
- 5.1102 Initiation of Annexations
- 5.1103 Procedures

#### 5.1101 Purpose

The purpose of this article is to provide procedures consistent with applicable State law requirements for the annexation of land into the Town. This article shall apply to all applications to annex property into the Town.

#### 5.1102 Initiation of Annexations

- A. ***Town Council or Town Manager.*** The Town Council or Town Manager may direct staff to review specific property to determine whether it may be legally annexed and to contact property owners to determine whether they will sign an annexation petition.
- B. ***Owner Initiation.*** One or more property owners may submit an application to annex property owned by them into the Town.

#### 5.1103 Procedures

- A. ***Application by Property Owner.*** An application shall be filed in accordance with this Section and in accordance with the application procedures set forth in Article 5.2: Common Procedures.
- B. ***Staff Review.*** Staff shall review the proposed annexation to determine whether the property to be annexed meets the contiguity requirements of ARS § 9-471H or whether the proposed annexation is exempt from such requirements because it is within the strip-annexed area of the Town and touches an incorporated area of the Town. No proposed annexation shall be processed unless it either meets the contiguity requirements or is exempt from such requirements.
- C. ***Blank Petition.*** Except for annexations of County rights-of-way or roadways with no taxable real property, staff shall file a blank petition in the office of the Maricopa County Recorder setting forth a legal description and an accurate map of all the exterior boundaries of the property proposed to be annexed. The map shall include all county rights-of-way and roadways with no taxable value that are within or contiguous to the exterior boundaries of the area of the proposed annexation. The legal description shall be sealed by a registered surveyor or engineer. Signatures shall not be obtained on an annexation petition until the

expiration of a 30-day waiting period following the date of filing the blank petition.

- D. **Notice to County.** Notice and a copy of the filing of the blank petition shall be given to the Clerk of the Maricopa County Board of Supervisors and to the Maricopa County Assessor.
- E. **Content of Notice of Public Hearing.** Notice of a public hearing required to be held pursuant to Section 5.1103G: Public Hearing shall be given by the Town in accordance with this Section. The notice shall include the following information:
  - 1. A map showing the area proposed to be annexed;
  - 2. The date, time, location and purpose of the public hearing;
  - 3. A statement that any interested person or any authorized agent may appear and be heard; and
  - 4. A statement describing how to submit written comments.
- F. **Notice of Public Hearing.** The notice shall be given at least 6 days prior to the hearing in the following manner:
  - 1. The notice shall be published by the Town at least once in a newspaper of general circulation within the Town at least 15 days before the end of the 30 day waiting period.
  - 2. Posting by the applicant in at least three conspicuous public places on the property proposed to be annexed.
    - a. Posting, maintenance and removal of signs are the responsibility of the applicant. Failure to remove the sign within 10 days of public hearing action shall result in Town removal of the sign and a charge to the applicant for costs incurred.
    - b. Size, color, content, and location of public hearing sign shall be designated by Town Council resolution for posting of public hearing notices.
    - c. The applicant shall submit a signed affidavit and dated, color photos of sign or signs prior to the public hearing.
    - d. Failure of the applicant to provide evidence of posting shall result in a postponement of the public hearing.
  - 3. Notice by first class mail sent by the Town to the Chairman of the Board of Supervisors of Maricopa County.

4. Notice by first class mail with an accurate map of the property proposed to be annexed sent by the Town to each owner of the real and personal property that would be subject to taxation by the Town in the event of annexation in the territory proposed to be annexed.
- G. **Public Hearing.** A public hearing shall be held by the Town Council within the last 10 days of the 30-day waiting period described in Section 5.1103C: Blank Petition, to provide opportunity for public comment and to discuss the proposed annexation.
- H. **Signatures and Filing with County Recorder.** After the expiration of 30 days from the date the blank petition was filed in accordance with Section 5.1103C: Blank Petition, signatures may be obtained on an annexation petition. The petition shall contain the signatures of the owners of one-half or more in value of the real and personal property and more than one-half of the persons owning real and personal property that would be subject to taxation by the Town in the event of annexation, as shown by the last assessment of the property, may be circulated. No alterations increasing or reducing the property proposed to be annexed shall be made after a petition has been signed by a property owner.
- I. **Filing of Signed Petition and Expiration.** A signed petition for annexation shall be filed with the Development Services division within one year after the last day of the 30-day waiting period described in Section 5.1103C: Blank Petition or the blank petition will expire. A new application shall be submitted if the property owner desires to annex the property after that deadline. At the time of filing the petition for annexation, the petitioner shall submit a sworn affidavit verifying that no part of the property proposed to be annexed is already subject to an earlier filing for annexation.
- J. **Staff Review of Petitions.** Upon receipt of a signed petition for annexation, staff shall review the petition for sufficiency of signatures and conformance with other applicable requirements. Staff shall verify that the petition contains the signatures of the owners of one-half or more in value of the real and personal property and more than one-half of the persons owning real and personal property that would be subject to taxation by the Town in the event of annexation, as shown by the last assessment of the property.
  1. For the purpose of determining the sufficiency of the percentage of the value of property, such values of property shall be determined as follows:
    - a. In the case of property assessed by the County Assessor, values shall be the same as shown by the last assessment of the property; and
    - b. In the case of property valued by the Department of Revenue, values shall be appraised by the department in the manner provided by law for municipal assessment purposes.

2. For the purpose of determining the sufficiency of the percentage of persons owning property, the number of persons owning property shall be determined as follows:
  - a. In the case of property assessed by the County Assessor, the number of persons owning property shall be as shown on the last assessment of the property;
  - b. In the case of property valued by the Department of Revenue, the number of persons owning property shall be as shown on the last valuation of the property;
  - c. If an undivided parcel of property is owned by multiple owners, such owners shall be deemed as one owner and each may sign as a fractional interest; and
  - d. If a person owns multiple parcels of property, such owner shall be deemed as one owner for the purposes of this section.
- K. **Filing Petition and Affidavit with County Recorder.** After determination of sufficiency of signatures on the petition, the petition shall be filed in the office of the Maricopa County Recorder. The petitioner shall also submit a sworn affidavit verifying that no part of the territory is already subject to an earlier filing.
- L. **Staff Report.** The Director of Planning shall prepare and transmit to the Town Council a staff report with a proposed annexation ordinance. A copy of the staff report and proposed annexation ordinance shall be made available to the public and the applicant prior to the date of the meeting at which the Town Council will consider adopting the ordinance.
- M. **Town Council Action.** After the filing of the signed petition, the Town Council may adopt the proposed annexation ordinance.
- N. **Annexation Complete.** The annexation is final 30 days from the adoption of the ordinance annexing the property, subject to the review of the Maricopa County Superior Court pursuant to ARS § 9-471C. When the annexation is final, the Town Clerk shall record the annexation ordinance.
- O. **Annexation of County Right-of-Way.** County rights-of-way or roadways with no taxable real property may be annexed by mutual consent of the Town Council and the Maricopa County Board of Supervisors if the right-of-way or roadway is adjacent to the Town for its entire length. The proposed annexation shall be approved by ordinance as part of a published agenda item at regular public meetings of the Town Council and the Board of Supervisors.
- P. **Annexation Checklist.** Except for annexations of county rights-of-way and roadways, upon adoption of the annexation ordinance, a completed Annexation

Checklist in a form approved by the Town Attorney shall be permanently maintained in the annexation file.



## Article 5.12 Enforcement

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### Sections

- 5.1201 Invalid Permits and Approvals
- 5.1202 Enforcement Responsibilities
- 5.1203 Violation; Notice and Opportunity to Correct
- 5.1204 Violations and Citations
- 5.1205 Penalties
- 5.1206 Habitual Offenders
- 5.1207 Abatement
- 5.1208 Cumulative Procedures and Remedies
- 5.1209 Failure to Provide Evidence of Identity

### 5.1201 Invalid Permits and Approvals

Any permit issued or administrative approval granted in conflict with any provision of a zoning ordinance, the Zoning Code, a use permit, a variance, or a Design Review approval is void, unless relief is granted pursuant to Article 5.3: Administrative Relief from Development Standards.

### 5.1202 Enforcement Responsibilities

- A. ***Building and Code Compliance Department.*** Prior to issuance of building permits, the Building and Code Compliance Department shall ascertain that plans presented with the building permit application comply with those approved subject to the requirements of the Zoning Code.
- B. ***Code Compliance Manager.*** The Code Compliance Manager shall enforce the provisions of the Zoning Code and is authorized to stop any work undertaken not in compliance with any provision of a zoning ordinance, the Zoning Code, use permit approval, variance, or Design Review approval.
- C. ***Town Attorney.*** The Town Attorney may commence an action in Superior Court to abate a violation of the Zoning Code.

### 5.1203 Violation; Notice and Opportunity to Correct

- A. ***Notice.*** Before issuing a citation for a violation of a zoning ordinance, the Zoning Code, a use permit, variance, or Design Review approval, the Code Compliance Officer shall provide a written notice of the violation to the property owner, person in control, or authorized agent of the property. The notice shall set forth:

1. The violation.
  2. What is required to bring the property into compliance.
  3. The time period allowed to bring the property into compliance.
- B. **Time Period.** The time period provided to correct violations of a zoning ordinance, the Zoning Code, a use permit, variance, or Design Review approval other than landscape and signs shall be a minimum of 10 days. The time period provided to correct violations of landscape and sign regulations are set forth in:
1. Section 4.306: Landscape Maintenance and Enforcement sets forth the time period provided to correct violations of Article 4.3: Landscape Regulations.
  2. Section 4.4019: Notice of Violation sets forth the time period provided to correct violations of Article 4.4: Sign Regulations. A citation is considered an appropriate notice in the case of violations of Article 4.4: Sign Regulations, for signs installed without required permits.
- C. **Failure to Receive Notice.** Failure of the property owner, person in control, or authorized agent of the property to receive a notice shall not preclude issuance of a citation.

### **5.1204 Violations and Citations**

If a violation of a zoning ordinance, the Zoning Code, a use permit, variance, or Design Review approval continues past the time set forth in the notice of violation, a citation shall be issued by any person so authorized by the Zoning Code to the property owner, person in control, or authorized agent of the property.

- A. A civil action for violations shall be commenced by filing of the citation in the Town of Gilbert Municipal Court.
- B. Citations may be issued by the Code Compliance Manager, a Code Compliance Officer, or a Town of Gilbert Police Officer.
- C. Each day a violation continues, or the failure to perform any act or duty required by the Zoning Code or by the Town of Gilbert Municipal Court continues, shall constitute a separate civil offense.
- D. Every civil action or proceeding under this section shall be commenced and prosecuted in accordance with the laws of the State of Arizona relating to civil traffic procedures and the Arizona Rules of Procedure in Civil Traffic Violation Cases.

## 5.1205 Penalties

- A. A citation issued pursuant to Section 5.1204: Violations and Citations shall direct the person to whom the citation is issued to pay a fine in the amount set forth in the Town of Gilbert's Municipal Court adopted schedule of fines within 10 days of the issuance of the citation or to appear before the Town of Gilbert Municipal Court. Payment of the fine shall constitute a finding of responsibility for the violation for purposes of Section 5.1206: Habitual Offenders.
- B. Upon a finding by the Town of Gilbert Municipal Court that a person is responsible for a civil violation, the person, corporation, or other legal entity that violates a zoning ordinance, the Zoning Code, a use permit, a variance or a Design Review approval, the Town of Gilbert Municipal Court shall impose a civil fine of not more than \$500.00 for each violation.
- C. Any judgment for civil fines or penalties may be collected as any other civil judgment, as provided for in the Arizona Revised Statutes.

## 5.1206 Habitual Offenders

- A. Any person found responsible by the Town of Gilbert Municipal Court for committing 3 or more civil violations of a zoning ordinance, the Zoning Code, a use permit, variance or Design Review approval within a 24 month period, whether by admission, by payment of the fine, by default or by judgment after hearing shall be determined to be a habitual offender. For purposes of calculating the 24 month period under this paragraph, the dates of the commission of the offenses are the determining factor.
- B. A habitual offender who subsequently violates a zoning ordinance, the Zoning Code, a use permit, variance, or Design Review approval shall be guilty of a Class 1 Misdemeanor offense.
- C. Upon the conviction of a habitual offender for a violation of a zoning ordinance, the Zoning Code, a use permit, variance, or Design Review approval, the Court may:
  - 1. Impose a sentence of incarceration not to exceed 6 months in jail; or
  - 2. Impose a fine not to exceed \$2,500.00, exclusive of penalty assessments prescribed by law; or
  - 3. Impose a term of probation; or
  - 4. Impose any combination of incarceration, fine, and probation.

- D. Notwithstanding the above elective penalty, upon conviction of a habitual offender of a violation of a zoning ordinance, the Zoning Code, a use permit, variance, or Design Review approval, the Court shall impose a fine of not less than \$500.00 for each count upon which a conviction is obtained.
- E. A judge shall not grant probation to a habitual offender or suspend any part of a sentence or fine imposed upon a habitual offender for any sentence required by this subsection, except on the condition that the habitual offender pays the mandatory minimum fines as provided in this Section.
- F. Every action or proceeding under this section shall be commenced and prosecuted in accordance with the laws of the State of Arizona relating to misdemeanors and the Arizona Rules of Criminal Procedure.

### **5.1207 Abatement**

The Town of Gilbert Municipal Court may order abatement of a violation of this article pursuant to A.R.S. § 9-462.05.

### **5.1208 Cumulative Procedures and Remedies**

The procedures and remedies provided for herein shall be cumulative and in addition to any other procedures and remedies to which the Town may be entitled by law or equity.

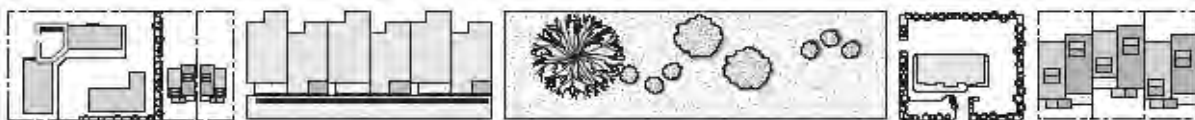
### **5.1209 Failure to Provide Evidence of Identity**

A person who fails or refuses to provide evidence of his or her identity to the Town of Gilbert Building Official, a Building Inspector, the Code Compliance Manager, a Code Compliance Officer, or a Police Officer or any other authorized agent of the Town upon request, when such agent has reasonable cause to believe the person has committed a violation of the Zoning Code, is guilty of a Class 1 Misdemeanor. Evidence of identity shall consist of a person's full name, residence address, and date of birth.

# Division 6      Use Definitions

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## Article 6.1    Use Definitions



## **Article 6.1            Use Definitions**

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**Adult Bookstore.** A commercial establishment having as a substantial or significant portion of its stock in trade, whether for sale, display, rent, lease, or other use, books, magazines, other periodicals, motion pictures, paintings, photographs, pictures, laser discs, software, video cassettes or other depictions that are distinguished or characterized by their emphasis on matter depicting, describing or relating to actual or simulated specified sexual activities or specified anatomical areas, or an establishment with a segment or section of the premises, containing a minimum of 20 different items or titles, devoted to the sale, display, rental, lease or other use of such material. For purposes of this definition, duplicate copies of the same item or title shall be counted as one item or title.

**Adult Show.** Any commercial establishment regularly used for the presentation of shows where persons display specified anatomical areas, or where persons perform acts of or acts which simulate specified sexual activities.

**Adult Theater.** Any commercial establishment, whether located in an enclosed building or open air, drive-in theater, regularly used for presenting for observation by patrons therein any film or plate negative, film or plate positive, film or tape, painting, photograph, picture, laser disc, software, or other depiction designed to be depicted, displayed, or projected on a screen for exhibition, or films, glass slides, or transparencies, either in negative or positive form, and which are designed for display, depiction, exhibition, or projection on a screen or monitor, or in any type of viewing booth, that is distinguished or characterized by an emphasis on matter depicting, describing, simulating or relating to specified sexual activities or specified anatomical areas

**Agritainment.** Agriculturally-based recreation and entertainment events and activities in conjunction with on-going agricultural uses on a property. Activities may include corn mazes, hay rides, petting zoos, Farm Stands, and Farmer's Markets.

**Airfield, Private.** Facilities for the takeoff and landing of airplanes and helicopters, including runways, aircraft storage hangars, helicopter pads, and support activities.

**Amateur Radio Facilities.** Equipment and structures used for airway communication purposes by persons holding a valid amateur radio (HAM) license issued by the Federal Communications Commission.

**Ambulance Services.** A facility for the provision of emergency and non-emergency medical transportation, including the parking and dispatching of ambulances, but excluding the maintenance of vehicles.

**Animal Raising, Non-Commercial.** The keeping, grazing or feeding of fowl or animals not for profit.

**Animal Services.** Facilities for care and treatment of animals, including incidental sales of pet supplies.

*Animal Grooming.* Any place or establishment where animals are bathed, clipped, or combed and a fee is charged for such services.

*Animal Shelter.* A facility used to house or contain stray, homeless, abandoned, or unwanted animals that is owned, operated, or maintained by a public body, humane society, animal welfare society, society of the prevention for cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

*Kennel.* Any structure, land, or combination thereof used, designed, or arranged for the boarding, breeding, or care of dogs, cats, pets, fowl or other domestic animals for a fee, but not including boarding, breeding or care of animals used for agricultural purposes.

*Large Animal Hospitals.* Animal services for large domestic and farm animals, including grooming and boarding of animals receiving medical treatment.

*Small Animal Clinics.* Animal services for small animals, including grooming and interior kennels for boarding of animals receiving medical treatment.

**Arboretum or Botanical Garden.** A botanical garden is an establishment where plants are grown for scientific study and display to the public. An Arboretum is a botanical garden containing living collections focused on woody plants.

**Auction.** See Swap Meet.

**Auction, Outdoor.** See Gilbert Municipal Code Chapter 15: Special Events.

**Automated Teller Machine (ATM).** An automated device that provides banking services.

**Automated Teller Machine (ATM), Remote.** An outdoor, freestanding automated device that provides banking services at a location removed from the controlling financial institution.

**Banks and Other Financial Institutions.** Establishments that provide retail banking, credit, and mortgage services to individuals and businesses. This classification includes banks and savings and loan establishments and credit unions.

**Banquet Facility.** An establishment rented to others for social gatherings, including outdoor assembly.

**Bazaar.** Means a temporary use operated by a homeowner, religious organization or non-profit organization, for the purpose of selling local handmade arts and crafts.

**Building Maintenance Services.** Establishments providing carpet cleaning, janitorial services, pool services, and similar uses.

**Building Material and Home Improvement Sales and Service, Retail.** Sale or rental of building or landscaping materials, supplies, hardware or construction equipment to the public.

*Large Scale.* Greater than 25,000 square feet gross leasable area.

*Small-Scale.* 25,000 square feet or less gross leasable area

**Building Material and Home Improvement Sales and Service, Wholesale.** Sale of building or landscaping materials, supplies, hardware or construction equipment to other firms for resale or distribution. Incidental retail sales may be conducted.

**Business Services.** Establishments providing document delivery, mail services and boxes, package services, blueprinting, typesetting, copying, desktop publishing and photographic services.

**Call Center.** A large-scale office providing incoming and outgoing telephone and computer services for one or more corporations. Call centers do not provide on-site customer services and are characterized by high employee density, open offices and 24-hour operations.

**Carport Sales.** See Municipal Code Chapter 14: Businesses.

**Carnival, Small-Scale.** A temporary event located on less than one acre that includes activities such as amusement rides, entertainment game booths, food stands, exhibitions, and animal displays.

**Cemetery.** Burial grounds for the interment of the human deceased.

**Cemetery, Pet.** Burial grounds for the interment of domestic animals.

**Circus.** See *Gilbert Municipal Code Chapter 15: Special Events*.

**Civic, Social and Fraternal Organization Facilities.** Facilities accommodating public, quasi-public, and private organizations including organized groups having a membership requirement and specific purpose related to the welfare of the members or community.

**Colleges, Public or Private.** Institutions of higher education (post-secondary) providing curricula of a general, religious, or professional nature, typically granting recognized degrees, including conference centers and academic retreats associated with such institutions. This classification includes business and computer schools, management training, technical and trade schools, but excludes Instructional Services, Specialized.



**Congregate Living Facility.** A long-term residential facility for 11 or more handicapped or other special needs persons. Congregate living facilities include common dining, social, and recreational amenities. Congregate living facilities may include independent living units, Nursing Homes and Hospice but only as part of a larger facility. Limited commercial services may be provided exclusively for residents.

**Contractor's Yard.** A facility for the outdoor storage of materials, equipment, and commercial vehicles used in construction, building maintenance, and similar activities, and maintenance of contractor's supplies and operational equipment, including incidental office space.

**Convention Center.** A facility, auditorium or exhibition hall, used for assemblies or meetings. This classification excludes Civic, Social and Fraternal organization facilities, or other meeting facilities of private or non-profit groups that are primarily used by group members.

**Crematorium.** A facility for the cremation of human or animal remains.

**Crop and Animal Raising, Commercial.** The growing of tree, vine, field, forage, and other plant crops, intended to provide food or fiber, and the keeping, grazing, or feeding of fowl or animals for animal products, animal increase, and value increase for profit. This classification excludes Industrial Hemp.

**Crop Raising, Non-Commercial.** The growing of tree, vine, field, forage, and other plant crops, intended to provide for food or fiber not for profit. This classification excludes Industrial Hemp.

**Cultural Institutions.** Museums, historic sites, art galleries, performing arts facilities, libraries, and similar uses.

**Data Center.** A facility whose primary service is data processing and is used to house computer systems and associated components, such as telecommunications and storage systems, including but not limited to web hosting organizations and internet service organizations. A server farm, telecom hotel, carrier hotel, telehouse co-location center, or any other term applicable to facilities which are used for these specified purposes shall be deemed to be a data center.

**Day Care Centers.** An establishment licensed by the Arizona State Department of Health Services providing care and supervision for 5 or more persons on a less than 24-hour basis. This classification includes nursery schools, preschools, day care centers for children or adults, and any other day care facility licensed by the State.

**Day Care, Home Occupation.** A permanent residential unit where an occupant provides day care and supervision for 5 or fewer children or adults not residing in the household, whether or not for compensation. The following uses are not a Home Occupation Day Care use: Group Homes for the Handicapped and Shelter Care Facility.

**Day Care, Residential.** Either child day care provided for at least 6 and not more than 10 children or adult day care for at least 6 and not more than 10 adults. The following uses are not a Residential Day Care use: Group Homes for the Handicapped and Shelter Care Facility.

**Digital Production.** Uses focused on digital production such as software and internet content development and publishing; computer systems design and programming; photography; and graphic and industrial design, including rental studios.

**Dry Cleaning and Laundry Outlet.** A retail facility where clothing and other fabrics are cleaned or laundered, by employees. Tailoring and similar services may be offered.

**Dry Cleaning and Laundry Central Plant.** A facility for cleaning or laundering fabrics, textiles, clothing, uniforms or similar items which does not include customer drop off.

**Eating and Drinking Establishments.** Businesses that primarily engage in the sale of food or beverages for consumption on or off the premises. Dancing, live music, or other similar live entertainment may be offered.

*Bars/Night Clubs/Lounges/Dance Halls.* Eating and Drinking Establishments that derive 50 percent or more of their gross revenues from the sale of alcoholic beverages for consumption on the premises. Serving of food is only incidental to the sale of alcoholic beverages. This classification excludes Sexually-Oriented Businesses.

*Brewery, Distillery, or Winery.* An establishment that produces alcoholic beverages in conjunction with incidental uses of a restaurant, retail sales and/or tasting room. The liquor may be distributed to other locations and be sold on site.

*Restaurants, Beverage Service.* Eating and Drinking Establishments providing beverages and limited prepackaged food goods primarily or partially from a drive-through window. This classification includes coffee kiosks and similar uses.

*Restaurants, Full Service.* Eating and Drinking Establishments providing food and beverage service to patrons who order and are served while seated at tables, and pay after eating. When alcoholic beverages are served, at least 40% of gross revenue must be from the sale of food to be classified as a full service restaurant. Takeout service may be provided. This classification may include as an incidental use an establishment licensed by the State of Arizona as a Teletrack Wagering Establishment.

*Restaurants, Limited Service.* Eating and Drinking Establishments providing food prepared on-site, sold to patrons who pay before eating. Food and beverages may be consumed on the premises, taken out, or delivered. No table service is provided. This classification includes cafeterias, cafes, fast-food outlets, pizzerias, and snack bars.

**Entertainment and Recreation, Indoor.** Public or private fitness centers, theaters, bowling alleys, skating rinks, billiard parlors and pool halls, amusement arcades, gymnasiums, sports courts, swimming pools, and similar uses. Incidental sales of food and beverages are permitted. The following uses are not entertainment and recreation uses: outdoor shooting ranges and Homeowners Association Facilities.

*Large-Scale.* Indoor entertainment and recreation uses that are greater than 10,000 square feet of building area.

*Small-Scale.* Indoor entertainment and recreation uses 10,000 square feet or less of building area.

**Entertainment and Recreation, Outdoor.** Public or private parks, playgrounds, open spaces, playing fields, sports courts, driving ranges not in conjunction with a Golf Course, swimming pools, amphitheater, miniature golf courses, community gardens, zoos, and similar uses. Incidental sales of food and beverages are permitted.

**Equestrian Arena.** A facility for equestrian exhibitions and competitions.

**Farm Stand.** A structure used for the sale of produce or agricultural product produced on the property.

**Farmers' Market.** The sale of agricultural products, arts and crafts, and prepared food by individual vendors at an open-air market, excluding games and rides.

**Feed and Tack Sales.** Outdoor sales of animal feed and supplies.

**Feed Lot.** A lot, yard, corral, or other area in which livestock are confined, primarily for the purposes of feeding and growth prior to slaughter. This classification does not include areas that are used for raising crops or other vegetation or upon which livestock are allowed to graze.

**Fireworks Exhibition.** See *Gilbert Municipal Code Chapter 15: Special Events*.

**Food Preparation.** A facility that prepares food and beverages for off-site consumption.

*Large-Scale.* A food preparation facility that produces packaged foods and beverages for sale and distribution primarily to other businesses, including incidental on-site retail.

*Small-Scale.* A food preparation facility that produces food and beverages primarily for sale to the general public. This classification includes catering kitchens and the production of specialty foods.

**Funeral and Undertaking Services.** Establishments primarily engaged in the care and preparation of the human deceased and the conduct of funeral services. Typical uses include funeral parlors and chapels, or mortuaries, but excluding Cemeteries and Crematoria.

**Garden Supply Stores and Plant Nurseries.** Establishments engaged in the retail sale of garden supplies and plants grown on the premises or elsewhere. This classification includes the incidental sales and rental of landscape materials and equipment.

**Golf Course.** Land laid out with at least nine holes for playing golf and which is improved with tees, greens, fairways, and hazards. Clubhouses, maintenance buildings, cart storage facilities, pro shops, restaurants or driving ranges may be incidental uses. The following use is not a golf course: miniature golf course.

**Government Offices and Facilities.** Office uses related to the administration of local, state, or federal government services or functions. This classification excludes airports, Utilities, and Public Safety Facilities.

*Large-Scale.* Government offices and facilities that occupy more than 10,000 square feet of building area or more than 5 acres.

*Small-Scale.* Government offices and facilities that occupy no more than 10,000 square feet of building area or 5 acres.

**Group Homes for the Handicapped.** A facility licensed or authorized by a governmental authority having jurisdiction over operations for handicapped persons who reside together as a single housekeeping unit and who receive care, supervision, or counseling from 1 or more staff persons. This use includes assisted living homes; homes for the mentally ill, group care agencies, hospice and similar residential living arrangements for handicapped persons, but shall not include boarding houses, Nursing Homes, or a Shelter Care Facility.

**Guest Quarters.** A permanent structure used for the temporary housing of family members and non-paying guests, which does not include built-in cooking facilities, and is not equipped for kitchen appliances requiring 220-volt electric service or natural gas.

**Haunted House.** A temporary use that contains a combination of displays, acts, exhibits, or other attractions intended to entertain or amuse patrons related to Halloween themes and images.

**Health Care Facilities.**

*Hospital.* A facility licensed by the State of Arizona that provides in-patient physical or behavioral health services through the diagnosis and treatment of patients and inpatient care by a medical staff.

*Urgent Care Facility.* A facility licensed by the Arizona State Department of Health Services that provides emergency medical services with no provision for continuing care on an inpatient basis.

**Medical Offices and Clinics.** An outpatient facility providing medical, dental, chiropractic and psychiatric services, as well as medical and dental laboratories incidental to the medical office use. This classification includes home health agencies as defined in A.R.S. Section 36- 151.

**Health Resort/Spa.** A vacation or recreation facility that may include lodging and is available to the general public for medical or therapeutic purposes.

**Heliport/Helipad.** Public or privately owned facility for takeoff and landing of helicopters, including aircraft storage hangars.

**Home Occupation.** A business or profession conducted in a dwelling unit in a residential district.

**Homeowners Association Facilities.** Private club houses, dining facilities, swimming pools, parks and open space, sports courts, play fields and similar facilities owned by and principally for the use of association members. Homeowners Association Facilities include facilities owned and operated by apartment complexes for use by tenants.

**Hotels and Commercial Lodging.** Establishments offering transient lodging including motor lodges, motels, hostels, extended stay hotels, timeshare facilities and tourist courts. This classification excludes Group Homes for the Handicapped, apartments and other facilities intended for long-term occupancy. These uses may provide accessory services, such as conference and meeting rooms, restaurants, bars, and recreation facilities available to guests or to the general public.

**Industrial Hemp.** The growing, harvesting, transporting, processing or storage of industrial hemp, or the use of eligible seed and propagative materials to produce Industrial Hemp, as authorized and licensed by the State of Arizona.

**Inflatables.** Devices made of strong plastic or rubber designed to be filled or driven with air such as large cold air balloons or characters or air/sky dancers.

**Instructional Services, Specialized.** Provision of instructional services including: arts, crafts, dance or music studios, diet centers, driving schools, martial arts, reducing salons, tutoring and similar uses.

**Laboratories, Commercial.** Medical, dental, imaging, and similar indoor testing facilities.

**Laboratories, Industrial.** Facilities for the testing or analysis of environmental, industrial, or similar products or materials.

**Laboratories, Research.** See *Research and Development*.

**Laundry Services.** Establishments that provide washing, drying, and dry cleaning facilities for clothing or other fabrics in machines operated by patrons.

**Maintenance and Repair Services.** Establishments providing repair services for personal and household goods, such as household appliances, computers, television, audio or video equipment, office machines, furniture, luggage, and leather goods conducted entirely within an enclosed building. This classification excludes Vehicle Services, both Light and Heavy, and internal combustion engine repair.

**Manufacturing and Assembly.** Manufacturing and assembly of products primarily for sale to other businesses.

*Artisan.* Small-scale production of goods by hand manufacturing or assembly, involving the use of hand tools and small-scale equipment. This classification includes artisan studios used by artists for the creation of art.

*Light.* Manufacturing, processing, assembly, packaging, treatment, fabrication, and storage of finished or semi-finished parts or products. Light manufacturing and assembly uses are conducted within an enclosed building with incidental outdoor storage.

*General.* Manufacturing, processing, compounding, assembly, packaging, treatment or fabrication of parts or products, mass produced from extracted or raw materials, or recycled or secondary materials, or bulk storage, handling of such products and materials, and related research and development. General manufacturing and assembly uses are conducted either fully or partially within an enclosed building with limited off-site impacts. Products may require shipping by large trucks. General Manufacturing and Assembly uses include those related to computer software and hardware, computer peripherals, semiconductor fabrication, bio technical and biomedical.

*Heavy.* Manufacturing, processing, compounding, assembly, packaging, treatment or fabrication of finished parts or products, mass produced from extracted or raw materials, or recycled or secondary materials, or bulk storage and handling of such products and materials. Heavy manufacturing and assembly uses may be conducted entirely outdoors and have moderate to significant off-site impacts, including visual impacts. Uses involving radioactive or highly toxic materials or chemicals, highly combustible or explosive materials, or other materials and substances of a noxious nature in the manufacturing process are included in this classification. This classification includes, but is not limited to, steel fabrication, concrete block manufacturing, and truss plants. Products require shipping by semi-trucks or rail.

## Medical Marijuana Terms

*Medical Marijuana.* Those portions of the plant of the genus cannabis administered and used by a registered qualifying patient, as that term is defined in A.R.S. Section 36-2801, solely for the purpose of treating or alleviating the patient's debilitating medical condition or symptoms associated with that debilitating medical condition.

*Medical Marijuana Dispensary.* A not-for-profit facility that, pursuant to A.R.S. §36-2804, is registered with and certified by the Arizona Department of Health Services to acquire, possess, cultivate, manufacture or infuse, deliver, transfer, transport, supply, sell or dispense medical marijuana or related supplies and educational materials to cardholders, as that term is defined in A.R.S. §36-2801.

*Medical Marijuana Designated Caregiver Cultivation Location.* The enclosed, locked facility where a registered designated caregiver, as defined and regulated pursuant to A.R.S. § 36-2801, authorized to cultivate marijuana.

*Medical Marijuana Facilities.* Medical Marijuana Dispensaries, Medical Marijuana Offsite Cultivation Sites and Medical Marijuana Designated Caregiver Cultivation Locations.

*Medical Marijuana Offsite Cultivation Site.* The enclosed, locked facility, at a different location from and identified by a Medical Marijuana Dispensary pursuant to A.R.S. Section 36-2806 (E), where the medical marijuana dispensed by said dispensary is grown or stored.

**Mining and Quarrying.** The extraction of metallic and nonmetallic minerals or other natural resources, including quarries, borrow pits, sand and gravel operations, oil and gas extraction, and mining.

**Model Home Complex.** Two or more uninhabited dwelling units used by a residential builder as models for the sales of residential lots and dwellings. Model home complexes may include a sales office, customer parking, a design and decorating center, and similar activities.

**Non-Chartered Financial Institution.** A business other than a state or federally chartered bank, credit union, mortgage lender or savings and loan establishment that offers check cashing services and loans for payment of a percentage fee. This classification includes check cashing businesses, payday loan businesses, or businesses that function as deferred presentment services.

**Non-Traditional Business.** A non-chartered financial institution, pawn shop, stand-alone smoking lounge or tattoo /piercing studio.

**Nursing Home.** A facility other than a hospital, licensed by the Arizona State Department of Health Services, that provides accommodation, personal assistance, and skilled nursing care to non-ambulatory residents who are dependent upon the services of others.

**Offices, General.** Professional or administrative offices. This classification excludes retail banking, financial institutions, and offices incidental to retail, Manufacturing and Assembly, storage, or other principal uses.

**Over-the-Air Reception Device (OTARD).** An antenna designed to:

- 1) Receive direct broadcast satellite service, including direct-to-home satellite services, or to receive or transmit fixed wireless signals via satellite and that is one meter (39.37 inches) or less in diameter; or
- 2) Receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, or to receive or transmit fixed wireless signals other than via satellite and that is one meter (39.37 inches) or less in diameter or diagonal measurement; or
- 3) Receive television broadcast signals.

For purposes of this definition, “fixed wireless signals” means any commercial non-broadcast communications signals transmitted via wireless technology to and/or from a fixed customer location, but shall not include among other things, AM radio, FM radio, amateur (“HAM”) radio, citizen’s band (“CB”) radio, and Digital Audio Radio Service (“DARS”) signals.

**Parade.** See *Gilbert Municipal Code Chapter 15: Special Events*.

**Park and Ride Lot.** An improved lot for the temporary parking of vehicles on a daily basis for persons traveling together to and from a place of employment through carpools or public transit.

**Parking Facilities.** Outdoor lots and enclosed garages offering parking to the public when such use is not accessory to another land use.

**Pawn Shops.** Establishments engaged in the buying and selling of new or secondhand merchandise and offering loans in exchange for personal property.

**Personal Services.** Provision of services of a personal nature. This classification includes barber shop, beauty salon, cosmetologist, electrolysis, massage therapy, tanning salon, day spa, and nail salon.

**Place of Worship.** A structure used for religious worship which may have accessory uses such as religious education, religious bookstores, rectories and parsonages, offices, social services, day care, columbarium and community programs. “Place of Worship” does not include buildings that are used as single-family or multi-family residences.

*Large-Scale.* A Place of Worship on 10 acres or more.



*Small-Scale.* A Place of Worship on less than 10 acres.

**Public Assembly.** See *Gilbert Municipal Code Chapter 15: Special Events*.

**Public Safety Facilities.**

*Large-Scale.* Facilities for public safety and emergency services, including facilities that provide police and fire protection, Ambulance Services, public safety offices, forensic laboratories and training facilities.

*Small-Scale.* Storefront offices for public safety and emergency services.

**Recovery Residence.** A dwelling unit or building used to provide a stable, clean and sober environment for individuals recovering from substance abuse. Individual residents do not live together as a single housekeeping unit and every person residing in the residence (excluding the House Manager) is an “individual with a disability”, as that term is used in the Federal and State Fair Housing Laws.

**Recreational Vehicle Park.** A developed property providing spaces for short-term rental to occupied recreational vehicles.

**Recreational Vehicle Storage, Residential Association.** A lot or parcel owned by and for the exclusive use of homeowner’s association members, reserved for the storage of unoccupied recreational vehicles and other personal property.

**Research and Development.** Facilities for research and development of products, including but not limited to technology-intensive fields such as chemical, biological, pharmaceutical, electronics and genetic research.

**Residential, Permanent.** Long-term living accommodations, excluding residential care facilities.

*Loft Unit.* A residential unit above a nonresidential use.

*Single Family.* A dwelling unit located on 1 lot designed for occupancy by 1 household. Single family units may be attached (commonly known as townhouses or duplexes) or detached from other units.

*Multi-Family.* A building, group of buildings, or portion of a building that contains 2 or more dwelling units on 1 lot. Multi-family dwellings may include apartment buildings and residential condominiums. Multi-family housing may be in a mixed-use building with ground floor commercial space.

*Secondary Dwelling.* A second, subordinate dwelling unit located on the same lot as the principal dwelling unit.

**Retail Sales, Convenience.** A retail establishment of less than 5,000 square feet offering a limited amount of groceries, household items, and automotive supplies. This classification may include incidental Fueling Facilities, Limited Service Restaurants with drive-through and Automated or Self-Service Car Wash Facilities.

**Retail Sales, Furniture.** Establishments selling furniture or a combination of furniture and appliances to the general public.

*Large-Scale.* Establishments of 10,000 square feet or more.

*Small-Scale.* Establishments of less than 10,000 square feet.

**Retail Sales, General.** Establishments engaged in the sale of merchandise, goods, and groceries. This classification includes rental services such as party supplies, clothing, video rental, and event furnishings. This classification excludes Building Material and Home Improvement Sales and Service, Furniture Retail Sales, Convenience Retail Sales, Commercial Vehicle/Equipment Sales and Rental, Motor Vehicle Sales and Leasing, and Pawn Shops.

**Roadside Sales.** See *Municipal Code Chapter 14: Businesses.*

**Salvage Yards or Junkyards.** Storage, dismantling and recycling of vehicles, equipment, metals, tires or other used materials for sale as parts or raw material, including but not limited to, the collection, storage, exchange or sale of goods, used building material, used containers or drums, and similar articles or property.

**Satellite Dish Antenna, Large.** A satellite dish antenna exceeding 1 meter (39.37 inches) in diameter designed or used for receiving communications from a satellite.

**Satellite Earth Station.** A facility equipped with transmitters, receivers, antennas, and other equipment for receiving and transmitting communications from satellites, and for interfacing communications with a land-based communications network.

*Large-Scale.* A facility in which 1 or more antennas exceed 2 meters (78.74 inches) in diameter or diagonal dimension.

*Small-Scale.* A facility in which no antenna exceeds 2 meters (78.74 inches) in diameter or diagonal dimension.

**Schools, Public or Private.** Facilities for educational and/or classroom purposes operated by public, private, or charter educational institutions offering a general course of study at primary, middle, or high school levels, including seminaries, study centers, athletic facilities, vocational and trade programs, and boarding that are incidental to the operation of such schools.

*Large-Scale.* Schools occupying 5 or more acres.

*Small-Scale.* Schools occupying less than 5 acres.

**Schools, Vocational-Technical and Trade.** Uses offering instruction in special business, technical, trade, and vocational skills such as real estate schools, business colleges, electronic schools, automotive and aircraft technician schools, and similar establishments operated by non-governmental organizations.

**Seasonal Sales.** The sale of merchandise related to a recognized state holiday or seasonal event including Christmas trees, consumer fireworks, pumpkins and other similar holiday or seasonal goods.

**Senior Housing.** Permanent residential unit(s) restricted by federal or state law, deed restriction, or similar requirement to occupancy by persons of a specific minimum age.

**Sexually-Oriented Business.** Adult Bookstores, Adult Shows, and Adult Theaters.

**Shelter Care Facility.** A residential care facility which provides temporary lodging, meals, counseling, and full time supervision to individuals and groups such as pregnant teenagers, victims of domestic violence, neglected children, and runaways for periods of less than 30 consecutive days.

*Large-Scale.* A shelter care facility that is not small-scale.

*Small-Scale.* A shelter care facility housing 5 or fewer persons.

**Shelter Care Facility, Homeless.** A facility which provides temporary lodging, meals, and sanitary facilities for persons without permanent housing.

**Show.** See *Gilbert Municipal Code Chapter 15: Special Events*.

**Sidewalk Sale/Parking Lot Event.** Small scale commercial activity or promotion which may include but not be limited to merchandise displays, sale of merchandise, food stands and informational booths.

**Stables, Commercial.** Facilities for boarding or renting horses, mules, or ponies where a fee is charged for such services. Equestrian lessons may be provided. A Feed Lot is not a commercial stable.

**Stables, Residential (Non-Commercial).** A detached accessory structure for the keeping of horses, mules, and ponies, regardless of ownership and not offered for compensation.

**Stand-Alone Smoking Lounge.** A self-contained, independently operating business establishment that is dedicated, in whole or in part, to the smoking of tobacco or other substances (excluding medical marijuana), whether or not such substances are purchased therein, including, but not limited to cigar lounges, hookah lounges, tobacco clubs, and tobacco bars, but not including retail tobacco stores, as that term is defined in the Gilbert Municipal Code, Section 42-266. The use of medical marijuana in a stand-alone smoking lounge is prohibited.

**Storage, Personal Property.** A facility offering storage of personal property and office records to the general public.

*Indoor.* A personal property storage facility where all storage occurs in one or more fully enclosed buildings. A facility may include one on-site dwelling unit for a facility manager.

*Outdoor.* A personal property storage facility where all or part of the storage occurs outdoors, including the storage of recreational vehicles. A facility may include one on-site dwelling unit for a facility manager.

**Swap Meet and Auction, Indoor.** Commercial activities held in an enclosed structure where: 1) groups of licensed vendors rent space to display, barter, or sell goods to the public; or 2) one or more sellers bring goods for auctioning to the public. The following uses are not swap meet and auction uses: Farmer's Market, occasional craft fairs and benefit sales held on public property or conducted by a non-profit organization.

**Swap Meet and Auction, Outdoor.** Commercial activities held in an open area where: 1) groups of licensed vendors (sellers) rent space to display, barter, or sell goods to the public; or 2) one or more licensed sellers bring goods for auctioning to the public. The following uses are not swap meet and auction uses: Farmer's Market, occasional craft fairs and benefit sales held on public property or conducted by a non-profit organization.

**Swap Meet and Auction, Single Event.** See *Gilbert Municipal Code Chapter 15: Special Events*.

**Tattoo / Piercing Studio.** An establishment whose primary business is permanent marking of the skin using ink or other substances by means of needles or other instruments and which may also offer services to create an opening in the body for the purpose of inserting jewelry or other decoration.

**Teen Nightclub.** A facility with music and dancing primarily for youth unaccompanied by adults, and which charges an admission fee or cover charge.

**Transportation Passenger Terminals.** Facilities for passenger transportation operations. This classification includes rail stations, bus terminals; transit stations, but excludes airports, and Heliports.

## **Utilities.**

*Facilities.* Buildings, structures or land used by a utility, railroad, or governmental agency for water or sewage treatment plants, lift and pumping stations, electric substations, telephone exchanges, resource recovery facilities or similar uses. This use does not include Utility Service Yards, Wireless Communication Facilities, Over-The-Air Reception Devices, Large Satellite Dishes, Satellite Earth Stations, well sites, or Amateur Radio Facilities.

*Large-Scale.* A facility occupying 2 acres or more.

*Small-Scale.* A facility occupying less than 2 acres.

*Service Yard.* Buildings, structures, or land used by a utility, railroad, or governmental agency for the purpose of storing and maintaining vehicles, equipment and materials.

*Well Site.* Groundwater extraction well locations, including pumps and associated equipment, not located within a building.

**Vacation or Short-Term Rentals.** A residential dwelling unit offering transient lodging as defined in A.R.S. Section 9-500.38, if the accommodations are not classified for property taxation under A.R.S. Section 42-12001. Vacation or Short-Term Rentals do not include a unit that is used for any non-residential uses, including retail sales, restaurant, banquet facility, convention center or another similar use. This classification excludes Group Homes for the Handicapped and Recovery Residences.

## **Vehicle and Equipment Sales, Leasing and Services.**

*Car Wash, Automated or Self-Service.* A facility providing self-service or automated car washing but requiring vacuuming, final drying or final finishing by vehicle operators.

*Car Wash, Full Service.* An establishment that provides complete vehicle cleaning by employees or from a combination of employees and an automated facility. Vehicle detailing and waxing may be offered.

*Commercial Vehicle/Equipment Sales and Rental; New and Used.* Sales or rental of trucks, tractors, construction or agricultural equipment, buses and similar equipment, including incidental maintenance.

*Fueling Facility.* A facility for the retail sale of vehicle fuel. Incidental uses may include convenience retail sales less than 1000 square feet, an Automated or Self-Service Car Wash, Light Vehicle Services and Alternative Fueling Facilities.

*Fueling Facility, Alternative.* Commercial sale of propane, natural gas, electric, or other alternative fuels to be used in vehicles.

*Fueling Facility, Fleet.* Fuel dispensing limited to fleet vehicles such as delivery trucks, school buses, and municipal vehicles where no retail sales are conducted.

*Motor Vehicle Sales and Leasing, New and Used.* Sale or leasing of automobiles, motorcycles, light trucks, motor homes, recreational vehicles, boats, and similar equipment, including incidental maintenance.

*Non-Commercial Vehicle Rental.* Rental of automobiles, light trucks, motorcycles, watercraft, and similar equipment, specifically excluding sales and maintenance. This classification does not include the rental of motor homes and recreational vehicles.

*Tent Sale.* The temporary outdoor sale of vehicles at other than a normal business location, by one or more licensed dealers.

*Vehicle Services, Heavy.* Major repair of automobiles, trucks, motor homes, recreational vehicles, or boats. This classification includes full or partial drive train removal, repair and replacement, body and paint shops, radiator shops, vehicle emissions testing, transmission shops and similar uses. This classification excludes vehicle dismantling or Salvage.

*Vehicle Services, Light.* Minor vehicle services limited to repair, replacement and installation of components, including batteries, tires, brakes, tune-ups, air conditioning, automobile glass replacement and tinting, upholstery, audio and video equipment, mufflers, and lubrication services. Light vehicle services exclude any operation specified under Vehicle Services, Heavy.

**Vehicle Towing Service Storage Yard; Impound Lot.** Any improved lot, structure, or the use of any portion of such lot or structure for the temporary outdoor storage of towed vehicles that are to be claimed by the titleholders or their agents. Any vehicle stored shall remain mechanically operable and licensed at all time.

**Warehousing.** Commercial storage and distribution facilities.

*Freight/Truck Terminal and Warehouse.* A facility for the receipt, transfer, short term storage, and distribution of goods transported by truck.

*Petroleum and Gas Storage.* Tank farms and outdoor facilities for the storage of petroleum products and natural gas.

**Waste Management.** Facilities for the collection, receipt, storage, transfer, and disposal of waste, excluding sewage.

*Hazardous Waste Collection and Transfer Facility.* Facilities where hazardous or medical waste material is collected, received, temporarily stored, or processed for transportation to another location for recycling, re-use, incineration or final disposal.

*Hazardous Waste Disposal Facility.* Facilities where hazardous or medical waste material is incinerated or otherwise put to other final disposition.

*Non-Hazardous Waste Collection and Transfer Facility.* Facilities where non-hazardous waste material is collected, received, temporarily stored or processed for transportation to another location for incineration or final disposal.

*Non-Hazardous Waste Disposal Facility.* Facilities where hazardous or medical waste material is incinerated or otherwise put to other final disposition.

*Non-Hazardous Material Recycling Collection Facility.*

*Large-Scale.* A private facility or property where recyclables are collected, received, temporarily stored or processed for transportation to another location for recycling.

*Small-Scale.* A private recycling container where the public is invited to bring materials to be recycled, reclaimed, reprocessed, or re-used, including but not limited to newspapers, bottles, cans, clothing, and small household goods.

**Wholesale Sales and Distribution.** Uses engaged in the wholesale sales, bulk storage and distribution of goods. Wholesale showrooms are also included in this use category.

**Wireless Communication Facilities (WCF).** Antennas, support structures and related equipment for the transmission or reception of personal wireless services, radio or microwave signals as authorized by the Federal Communication Commission. Personal wireless services include commercial mobile services, common carrier wireless exchange access services, and unlicensed wireless services, but not direct-to-home satellite services.

## **Chapter II      Design Standards and Guidelines**

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- Article 1.1    Residential Design and Development Guidelines for Low and Medium Density Subdivisions**
- Article 1.2    Medium High Density Framework Guidelines**
- Article 1.3    Single Family Attached and Multi-Family Design Guidelines (reserved)**
- Article 1.4    Commercial Design Guidelines**
- Article 1.5    Industrial/Employment Design Guidelines**
- Article 1.6    Gateway Area Right-of-Way Improvements Standards and Streetscape Design Guidelines**
- Article 1.7    Gateway Area – Traditional Neighborhood Design Guidelines, (General) and (Single-Family)**
- Article 1.8    Heritage District Design Guidelines**
- Article 1.9    Design Standards Manual for Wireless Communication Facilities**
- Article 1.10   Reserved**

(This chapter reserved for future incorporation of existing and proposed design standards and guidelines.)





## **Chapter III      Subdivision Regulations**

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### **Article 1.1    Subdivision Regulations**

### **Article 1.2    Minor Land Division and Minor Subdivision**

### **Article 1.3    Vacation of Streets and Easements**

### **Article 1.4    Penalties and Enforcement**



# Article 1.1      Subdivision Regulations

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## Sections

- 1.101      Purpose and Applicability
- 1.102      Platting Procedures
- 1.103      Submittal Requirements, Preliminary Plat Application
- 1.104      Submittal Requirements, Final Plat Application
- 1.105      Reservation of Land for Public Purpose
- 1.106      Dedication of Rights-of-Way and Easements
- 1.107      Subdivision Improvements
- 1.108      Gated Facility Entrances
- 1.109      Continuation of Streets
- 1.1010     Effective Date and Expiration Date
- 1.1011     Appeals
- 1.1012     Corrections to Recorded Plats

### 1.101    Purpose and Applicability

- A.      **Purpose.** The purpose of this article is to provide procedures consistent with State law to regulate and control the subdivision and division of land within the Town in a manner that will:
1.    Ensure that lands are suitable for subdivision by reason of availability of water and topography, and are free from flooding, high water table, adverse soils, subsidence, or other natural or man-made hazard to life or property;
  2.    Create and maintain safe and functional commercial and employment developments and safe, functional, and livable residential neighborhoods;
  3.    Ensure adequate vehicular and non-vehicular circulation through coordinated street, transit, bicycle and pedestrian systems with relation to major thoroughfares, adjoining developments and public facilities;
  4.    Allow the creation of individual lots of reasonable utility;
  5.    Ensure the provision of adequate facilities and easements for utilities, drainage and storm water retention, recreation and open space;
  6.    Ensure the provision of public streets by dedication to the Town;
  7.    Ensure the provision of adequate sites for schools and other public facilities;

8. Implement the General Plan, the Zoning Code, design guidelines, and other codes and ordinances of the Town; and
  9. Ensure the accurate conveyance of land.
- B. ***Applicability.*** The requirements of this article shall apply to all divisions of improved or unimproved land into five (5) or more lots or parcels for the purpose of financing, sale, or lease, whether immediate or future, with the following exceptions:
1. The adjustment or relocation of a boundary line or a sale or exchange of parcels between adjacent property owners or adjacent lots shown on a recorded subdivision or parcel map when the sale or exchange does not create additional lots;
  2. The adjustment or relocation of boundaries between adjoining units or subdivision of individual units in a previously approved and recorded condominium plat where such subdivision or relocation is expressly permitted by the condominium declarations;
  3. The creation of an interest in oil, gas, minerals, or water that is severed from the surface ownership of real property;
  4. Leasing of apartments, offices, stores, or similar space within an apartment building, commercial building, industrial building, or mobile home park; and
  5. The division of land by order of any court or by operation of law, or pursuant to the laws of eminent domain.
  6. Minor land division and minor subdivision, pursuant to Chapter III, Article 1.2: Minor Land Division and Minor Subdivision.

## **1.102 Platting Procedures**

- A. ***Preliminary Plat.*** A preliminary subdivision plat shall be approved by the Planning Commission prior to the filing of an application for a final subdivision plat.
1. ***Pre-Application Review.*** All applications for a preliminary subdivision plat shall be subject to pre-application review pursuant to the procedures set forth in Chapter I, Article 5.2: Common Procedures.
  2. ***Applications.*** Completed applications shall be submitted to the Development Services division on a form established by the Director of Planning. Any of the following persons or entities may submit an application:
    - a. The owner of the property;

- b. An authorized agent of the owner; or
  - c. A person acting under a purchase contract or exclusive option to purchase the property.
3. *Application Content.* Application content is set forth in Section 1.103: Submittal Requirements, Preliminary Plat. The Director may require additional supporting materials as part of the application, including but not limited to, legal descriptions, statements, plans, drawings, renderings, material samples and other items necessary to describe existing conditions and the proposed project. The applicant shall be responsible for the accuracy and completeness of all information submitted to the Town. The Director may waive the submission of specific material or information if he finds it is not needed to reach a decision on the application.
  4. *Determination of Completeness.* After receiving an application accompanied by the required fee, the Director of Planning shall determine if the application is complete within 7 working days of the filing date. The Director shall notify the Applicant if the application is incomplete. If the application is incomplete, the Town shall identify the items that shall be filed to complete the application.
  5. *Concurrent Applications.* When a project requires approvals under more than one section of Chapter I: Zoning Regulations, the individual applications may be accepted for concurrent review.
  6. *Inspection and Reproduction of Public Records.* All applications, including supporting materials, are public records. Public records may be reviewed and copied upon request during normal business hours. The applicant shall clearly label each page of copyrighted or trademarked materials, and such materials shall be available for public inspection, but copyrighted materials shall not be copied.
  7. *Inactive Applications.* All applications shall be actively pursued to a decision. If no applicant activity has occurred on an application for 180 days, the application shall be determined to be inactive. Thirty (30) days prior to that date the planning staff shall notify the applicant in writing that the application will become inactive. If the applicant requests in writing that the Director extend the 180 day period, such request shall be accompanied by an explanation for the period of inactivity. The Director may grant an extension for up to 180 days for good cause if there is a reasonable belief that the application will be actively pursued during the extension period. If an extension is not approved, the application will be deemed withdrawn and the file shall be closed.
  8. *Notice of Public Hearings.* Public notification shall be provided in compliance with Chapter I, Article 5.2: Common Procedures. When the proposed preliminary subdivision plat involves land that abuts other municipalities or unincorporated

areas of Maricopa County or a combination thereof, the Planning Department shall send a copy of the Notice of Public Hearing to the planning agency of the adjacent governmental unit.

9. *Staff Reports.* The Director of Planning shall prepare and transmit staff reports to the Design Review Board and the Redevelopment Commission, if applicable, and the Planning Commission. The reports shall include an evaluation of the consistency of the proposed preliminary subdivision plat with the Zoning Code, the General Plan, and any applicable specific plan. The staff report shall also provide an analysis and recommendation, setting forth any proposed conditions of approval. A copy of the staff report shall be made available to the public and the applicant prior to the public hearing.
10. *Redevelopment Commission.* The Redevelopment Commission shall review applications for preliminary subdivision plats within the Heritage District Overlay Zoning District at a public meeting.
11. *Redevelopment Commission Action.* The Redevelopment Commission may recommend approval, approval with modifications and/or conditions, or denial of preliminary plats to the Planning Commission.
12. *Planning Commission Hearing.* The Planning Commission shall conduct a public hearing on an application for a preliminary subdivision plat as set forth in Chapter I, Article 5.2: Common Procedures.
13. *Planning Commission Action.* The Planning Commission may approve, approve with modifications and/or conditions, or deny the proposed preliminary subdivision plat. The Planning Commission shall consider recommendations from the Design Review Board and Redevelopment Commission, if applicable. Conditions may be imposed to mitigate the impacts of topography, flooding, adverse soils, subsidence, high water table, or other natural or man-made hazard to life or property. Conditions may also be imposed to implement the General Plan, the Zoning Code, design guidelines, and other codes and ordinances of the Town.
14. *Design Review Board.* The Design Review Board shall review the open space plan for a subdivision of 20 acres or more at a public meeting following the approval of a preliminary plat by the Planning Commission. No public hearing shall be required.
15. *Design Review Board Action.* The Design Review Board shall approve, approve with modifications and/or conditions, or deny the subdivision open space plan.

16. *Appeal.*

- a. Design Review Board. Design Review Board action on a preliminary subdivision plat open space plan may be appealed to the Town Council pursuant to the procedures set forth in Chapter I, Section 5.2011: Procedures for Appeals. The Town Council decision shall be final. The Town Council shall have the authority to uphold, modify, or overrule the action of the Design Review Board.
- b. Planning Commission. Planning Commission action on a preliminary subdivision plat may be appealed to the Town Council pursuant to the procedures set forth in Chapter I, Section 5.2011: Procedures for Appeals. The Town Council decision shall be final. The Town Council shall have the authority to uphold, modify, or overrule the action of the Planning Commission.

17. Amendment. All or a part of an approved preliminary subdivision plat may be amended. The amendment process shall be the same as the original approval process. The public notification area shall be the area within 300 feet of the property subject to the amendment.

B. *Final Plat.*

1. *Applications.* Completed applications shall be submitted to the Development Services division on a form established by the Town Engineer. Any of the following persons or entities may submit an application:
  - a. The owner of the property;
  - b. An authorized agent of the owner; or
  - c. A person acting under a purchase contract or exclusive option to purchase the property.
2. *Application Content.* Application content is set forth in Section 1.104: Submittal Requirements, Final Plat. The Town Engineer may require additional supporting materials as part of the application, including but not limited to legal descriptions, plans, drawings, and other information necessary to describe the proposed project. The applicant shall be responsible for the accuracy and completeness of all information submitted to the Town. The Town Engineer may waive the submission of certain information if he finds it is not needed to reach a decision on the application.

3. *Determination of Completeness.* After receiving an application accompanied by the required fee, the Town Engineer shall determine if the application is complete within 7 working days of the filing date. The Town Engineer shall notify the Applicant if the application is incomplete. If the application is incomplete, the Town shall identify the items that shall be filed to complete the application.
4. *Inspection and Reproduction of Public Records.* All applications, including supporting materials, are public records. Public records may be reviewed and copied upon request during normal business hours. The applicant shall clearly label each page of copyrighted or trademarked materials, and such materials shall be available for public inspection, but copyrighted materials shall not be copied.
5. *Inactive Applications.* All applications shall be actively pursued to a decision. If no applicant activity has occurred on an application for 180 days, the application shall be determined to be inactive. Thirty (30) days prior to that date the Town Engineer shall notify the applicant in writing that the application will become inactive. If the applicant requests in writing that the Town Engineer extend the 180 day period, such request shall be accompanied by an explanation for the period of inactivity. The Town Engineer may grant an extension for up to 180 days for good cause if there is a reasonable belief that the application will be actively pursued during the extension period. If an extension is not approved, the application will be deemed withdrawn and the file shall be closed.
6. *Staff Report.* The Public Works Director shall prepare and transmit a staff report to the Town Council. The report shall include an evaluation of the consistency of the proposed final subdivision plat with the approved preliminary subdivision plat, the Zoning Code, the General Plan, any applicable specific plan, and all applicable Public Works standards. The staff report shall also provide an analysis and recommendation. A copy of the staff report shall be made available to the public and the applicant prior to the meeting.
7. *Town Council Action.* The Town Council shall approve or deny the final subdivision plat.
8. *Mayor's Signature.* Upon Town Council approval of a final subdivision plat and after all other required certifications have been executed, the Mayor shall sign the final subdivision plat.
9. *Recordation.* Improvement plans for the subdivision shall be approved by the Town Engineer prior to recordation of a final plat. The Public Works department shall record the final subdivision plat with the office of the Maricopa County Recorder.

10. *Dedications and Acceptance.*

- a. Dedications of Easements and Public Streets. Dedication of easements and public street rights-of-way shall be effective upon recordation of the final subdivision plat.
- b. Public Improvements. The recordation of the final subdivision plat shall not constitute acceptance by the Town of the dedication of any public improvement. The process for acceptance of public improvements shall be established by the Town Engineer.

11. *Protected Development Right Plan.* The Protected Development Right Plan for a non-phased development shall be the final subdivision plat approved by the Town Council, as set forth in Chapter I, Section 5.903A: Final Subdivision Plat Protected Development Right Plan.

**1.103 Submittal Requirements, Preliminary Plat Application**

A. *Project Narrative.*

1. Two copies of a narrative describing the project shall be submitted with an application for preliminary subdivision plat approval.
2. The narrative shall demonstrate that the project complies with the zoning code and the General Plan; and
3. The narrative shall describe proposed refuse and recycling collection system if other than standard Town collection.

B. *ALTA Survey.* An ALTA survey is required for all undeveloped properties.

1. One full size copy (24" x 36"). The survey shall be performed within 12 months of the date of the submission of the preliminary plat application.
2. The survey shall be sealed by a licensed surveyor or engineer.

C. *Landscape and Open Space Plans / Gateway Entrances.*

1. *Number of Full Size Copies.*
  - a. 6 copies, blue-line or black-line prints (24" x 36").
  - b. 1 copy presentation blackline not on photo paper, color rendered (24" x 36"), not folded or mounted.



2. *Number of Reduced Copies.* 1 copy of laser print or photo reduction (8.5" x 11"), not a photocopy of color rendered plan.
3. *Required Plan Information.*
  - a. Vicinity map;
  - b. Scale, north arrow, and dimensions;
  - c. Gross and net site area;
  - d. Property lines, easements, alleys, private streets, tracts and adjacent right-of-way;
  - e. Square footage of common area landscaping and worksheet identifying each area used to calculate the total square footage;
  - f. Square footage of public right-of-way landscaping and worksheet identifying each area used to calculate the total square footage;
  - g. Location of proposed landscape areas;
  - h. Site visibility triangles per Town of Gilbert standard details;
  - i. Existing and proposed landscaping materials, including non-vegetative groundcovers. Distinctive symbols shall be used for each plant variety;
  - j. Sizes, varieties and number of landscaping materials to be used;
  - k. One foot contour lines and sections for retention basins and earthen berms, labeled with spot elevations;
  - l. Location, type and height of proposed site lighting fixtures, including cut sheets;
  - m. Design and location of enhanced community mailboxes;
  - n. The location of all electrical transformers and proposed screen walls, including elevation and materials;
  - o. The location and elevations of entry monuments and all fence types. Plans should be dimensioned and include notations specifying the application of proposed materials and colors;

- p. Location and specifications of playground apparatus, ramadas or other shade structures, benches, barbecues, ball courts, pools, etc.;
- q. Schematic grading design of open space areas, including cross sections;
- r. Elevations of gateway entry monument signage, if any, including materials, colors, lettering dimensions and style, and accent lighting;
- s. Placement of proposed gateway entry monument signs, with dimensions indicating separation from other signage;
- t. Date of preparation including dates of any revisions; and
- u. Licensed landscape architect seal.

**D. *Preliminary Hydrology Report.***

- 1. Two copies shall be submitted.
- 2. This report shall be on separate, letter size (8.5" x 11") sheets with any necessary maps. Handwritten comments will not be accepted;
- 3. Delineated boundaries of watershed, if the subdivision is subject to off-site drainage;
- 4. Any existing drainage or irrigation structures such as tail water or delivery ditches, natural drainage channels, etc., and how they will be treated;
- 5. The retention volume required and the method to be used. Show a preliminary retention basin plan including size, depth and methods of drainage;
- 6. If the development, or any part of it, is located in a mapped floodplain, indicate the steps that will be taken to comply with Council Ordinance No. 525 (Flood Damage Prevention), as amended;
- 7. Date of preparation including dates of any revisions; and
- 8. The preliminary hydrology report shall be sealed by a licensed engineer.

**E. *Preliminary Grading and Drainage Plan.***

- 1. *Number of Full Size Copies.* 3 copies of blueline or blackline prints (24" x 36").
- 2. *Number of Reduced Copies.* 1 copy of laser print or photo reduction (8.5" x 11"), not a photocopy of color rendered plan.

3. *Required Plan Information.*

- a. Vicinity map;
- b. Scale, north arrow, and dimensions;
- c. Site details;
- d. Gross and net site area;
- e. Preliminary storm water retention calculations;
- f. Existing and proposed slope, depth, flow patterns, and location of retention areas;
- g. Proposed contour lines and sections for retention basins and earthen berms, with spot elevations;
- h. Proposed drainage pattern, grade breaks and slopes of all streets;
- i. Date of preparation including dates of any revisions; and
- j. Licensed engineer seal.

F. *Preliminary Plat.*

1. *Number of Full Size Copies.* 15 copies of blueline or blackline prints (24" x 36").
2. *Number of Reduced Copies.* 1 copy of laser print or photo reduction (8.5" x 11"), not a photocopy of color rendered plan.
3. *Required Plat Information.*
  - a. Vicinity map;
  - b. Key map on each page, if plat consists of more than two pages;
  - c. Scale, north arrow, and dimensions;
  - d. The preliminary plat shall be drawn at a scale of not more than 100 feet equals 1 inch or adjusted to produce an overall drawing of 24 inches by 36 inches. More than one sheet may be submitted if necessary. The scale shall be appropriate to the size of the development;

- e. Number each lot individually with the last lot number circled;
- f. Table of lot sizes indicating area of all lots, total number of lots, total lot area and corresponding zoning classification;
- g. Minimum lot dimensions. Do not show “typical” lots or zoning standards;
- h. Illustrate the minimum lot width at minimum front setback for all irregular lots;
- i. Table of tracts indicating use, area of each tract, and total tract area;
- j. Location of proposed multi-use and pedestrian trails;
- k. Name, book and page number of any recorded adjacent subdivision or Map of Dedication;
- l. Name, address and telephone number of subdivider;
- m. Name, address and telephone number of engineer preparing plat;
- n. Proposed name of subdivision;
- o. Location by Section, Township, and Range: referenced by dimension and bearing to two section corners. Basis of bearings used shall be stated on plat;
- p. Topography by contours and spot elevations related to N.G.V.D. or approved Town datum. Contour interval shall not exceed 2 feet and shall adequately reflect character and drainage of land;
- q. Location of existing fences, wells, lakes, ditches, power lines and trees over 4 inch trunk caliper;
- r. Permanent structures to remain, including water wells and utility lines within or adjacent to property;
- s. Location and extent of areas subject to inundation, indicating frequency of inundation;
- t. Location, dimensions of all existing streets (with names), railroads, utility property, and easements;
- u. Adjacent rights-of-way and easements showing existing and approved future improvements, access points, etc;

- v. Layout of proposed streets and alleys, giving widths, preliminary curve data and proposed street names;
- w. Proposed right-of-way dedications;
- x. Street cross sections, both public and private streets;
- y. For gated developments, details of entries, including gates, security control points, turnarounds, and vehicle stacking area;
- z. Designation of all land to be dedicated or reserved for public use, with the use indicated;
- aa. Conceptual drainage;
- bb. The method of sewage collection, including the preliminary sewer layout, indicating grades, manhole locations, cleanouts, slopes and depths;
- cc. The preliminary layout of the water system, indicating fire hydrants, valves, meter vaults and water line sizes;
- dd. Proposed improvement phasing;
- ee. Identification of on- and off-street guest parking;
- ff. Adjacent zoning districts within 300 feet;
- gg. Adjacent lot lines and structures within 150 feet;
- hh. Table indicating development land use data:
  - (1) Gross and net acres;
  - (2) Current zoning district(s) and General Plan Classification(s);
  - (3). Percent of total acreage in each zoning category;
  - (4). Number of proposed dwelling units (residential only);
  - (5) Minimum setbacks and maximum lot coverage;
  - (6) Open space/landscape areas and percentages; and
  - (7) Other tracts and purposes;

- ii. Date of preparation including dates of any revisions; and
- jj. Licensed engineer seal.

**G. *Materials/Color Board.***

1. *Number.* One material/color board (9" x 14"- maximum) and catalog cut sheets of materials and colors noting color/material name, number and manufacturer.
2. *Reduced Copy.* One 8.5" x 11" minimum photograph or color copy of the board.
3. *Required Information.*
  - a. Material/color board for entry monuments, walls, lighting and amenities;
  - b. Samples of proposed materials and actual color chips for fence/entry monument sign material noting the color and material name and manufacturer's number mounted on a maximum 9" x 14" foam for cardboard; and
  - c. Catalog pages of proposed materials and colors for lighting and amenities, noting the color and material name and manufacturer's number.

**1.104 Submittal Requirements, Final Plat Application**

**A. *Final Plat.***

1. *Full Size Copies.* 5 copies of blueline or blackline prints, (24" x 36").
2. *Digital Copies.* A digital final plat on CD or a 3.5 inch high density floppy disk shall be submitted following initial staff review, but prior to scheduling the item for a Town Council agenda.
  - a. Digital copies shall adhere to Computer Aided Drafting (CAD) standards conforming to civil engineering practices, and complying with the following documents: Maricopa County Subdivision Plat CAD Layering Guidelines – May 1997, and Maricopa County Plats CAD Standards and Naming Conventions – May 1997.
  - b. All files shall be submitted in a .DWG or .DXF file format and shall include the Real World Basemap File. Files may be submitted in a compressed format if they can be self-extracted.

3. *Required Plat Information.*

- a. Vicinity map;
- b. Key Map on each page, if plat consists of more than two pages;
- c. Scale, north arrow, and dimensions. Scale shall not be more than 100 feet equals 1 inch or adjusted to produce an overall drawing of 24 inch by 36 inch. Use more than one sheet, if necessary;
- d. Boundary closure, gross and net acreage;
- e. General Notes;
- f. Number each lot with the last lot number circled;
- g. Minimum lot width drawn parallel to the front property line at the minimum front setback for all irregular lots (Residential only);
- h. Table of lot sizes indicating size of all lot areas, total number of lots, total lot area and corresponding zoning classification (Residential only);
- i. Table of tracts indicating use, the area of each tract, and total tract area;
- j. Landscape areas owned and maintained by an association shown as landscape tract(s). If owned and maintained by an individual property owner, landscape areas do not need to be shown on the final plat;
- k. Name, book and page number of any recorded adjacent subdivision or Map of Dedication having common boundary;
- l. Name, address and telephone number of subdivider;
- m. Name, address and telephone number of surveyor preparing plat;
- n. Proposed name of final plat;
- o. Location by Section, Township, and Range: referenced by dimension and bearing to 2 section corners. Basis of bearings used shall be stated on plat;
- p. Location and extent of areas subject to inundation; indicate frequency;
- q. Location, dimensions of all existing streets (with names), railroads, utility property, and easements;

- r. Adjacent rights-of-way and easements showing existing and approved future improvements, access points, etc;
- s. Layout of proposed streets and alleys, giving widths and approved street names;
- t. Street curve data;
- u. Easements, labeled by type. Notes should clearly identify the purpose of each easement type;
- v. Cross access easement language;
- w. Designation of all land to be dedicated or reserved for public use, with the use indicated;
- x. Certifications required by law;
- y. Date of preparation; and
- z. Licensed Land Surveyor signature and seal.
- aa. A petition to initiate formation of a street lighting improvement district to pay for all costs of energy, maintenance and repair of all streetlights to be installed in the area shown on the plat or, if private streets, evidence of provisions to require payment of all costs related to energy, maintenance repair and replacement of all streetlights and lights in parks and open space set forth in recorded covenants, conditions and restrictions pertaining to the subdivision.

4. *Conditions, Covenants and Restrictions.* 1 copy.

### **1.105 Reservation of Land for Public Purpose**

The Town may require the reservation of land for public parks, recreational facilities, school sites, and fire stations for 1 year from the date of recording of a final plat as set forth in A.R.S. § 9-463.01. The reserved land area shall be identified on the preliminary subdivision plat approved by the Planning Commission. At the applicant's option a lot and street pattern for the reserved land area may be approved as part of the preliminary subdivision plat. Prior to the end of the 1 year period following recording of the final plat, the Town or public agency for whose benefit an area has been reserved may enter into an agreement to acquire the land. If no agreement is reached within the 1 year period the reservation of land shall terminate.



## 1.106 Dedication of Rights-of-Way and Easements

- A. ***Streets, Rights-of-Way and Public Easements.*** All proposed streets, rights-of-way, and easements shall be identified on both the preliminary and final subdivision plats. The final subdivision plat shall contain a dedication for all rights-of-way and public easements. The Town Engineer shall establish required dedication language.
- B. ***Private Utility Easements.*** All easements proposed for dedication to a private utility company shall be identified on both the preliminary and final subdivision plats. The final subdivision plat shall contain an offer of dedication for all such easements to the appropriate utility company. Acceptance of such offers shall be the responsibility of the utility company.
- C. ***Vehicular Non-Access Easements (VNAE).*** Vehicular non-access easements shall be shown on the subdivision plat. No driveway or vehicle gate shall be installed which would permit a vehicle to access or cross a vehicular non-access easement.
- D. ***Other Easements.*** Other easements required by the General Plan, the Zoning Code or the Town Engineer shall be shown on both the preliminary and final subdivision plats.
- E. ***Appeals of Dedications and Exactions.*** Appeals of a required subdivision plat dedication or exaction filed pursuant to A.R.S. § 9-500.12 or alleged to create a taking pursuant to A.R.S. § 9-500.13 shall comply with the procedures of Chapter I, Section 5.1002A: Appeals, and A.R.S. § 9-500.12G.

## 1.107 Subdivision Improvements

- A. ***Improvements Required.*** The cost of all subdivision improvements within and adjacent to new subdivisions shall be the responsibility of the subdivider. All subdivisions shall install public and private improvements pursuant to improvement plans approved by the Town Engineer. Required improvements to be shown on the plat, including, but not limited to, streets, utilities, stormwater drainage and retention, recreation and open space facilities, survey monuments, landscaping, street lights, street and traffic control signs, and fencing.
- B. ***Preparation of Improvement Plans.*** Improvement plans shall be prepared and sealed by an engineer licensed by the State of Arizona. Improvement plans shall conform to minimum standards, requirements, and specifications established by the Town Engineer.

- C. ***Assurance of Construction.*** The subdivider shall provide assurance of construction that required improvements will be installed or constructed in accordance with approved plans and Town details and specifications, in accordance with A.R.S. § 9-463.01.C8. Such assurance of construction shall be in an amount equal to 110 percent of the estimated cost of completion of the required improvements, as determined by the Town Engineer. The assurance of construction shall be provided in a form satisfactory to the Town Engineer and Town Attorney. The following forms of assurance may be used:
1. ***Cash Deposit.*** Upon satisfactory completion of the improvements, the Town shall inspect the improvements, and, if said improvements are in compliance with approved plans and Town details and specifications, the Town shall initially accept said improvements. After Initial Acceptance, the deposit may be reduced to 10 percent of the original cash deposit and such amount shall remain with the Town until Final Acceptance of the work. Upon Final Acceptance, the remaining cash deposit shall be returned to the subdivider. The subdivider may elect to substitute a surety bond until Final Acceptance of the improvements.
  2. ***Surety Bond.*** A surety bond, executed by the subdivider as principal, from a corporation duly authorized to transact surety business in the State of Arizona. The bond shall be in favor of the Town. The bond shall remain in full force and effect until Initial Acceptance of the improvements. After Initial Acceptance, the amount of the bond may be reduced to 10 percent of the original bond and such bond shall remain with the Town until Final Acceptance of the improvements. Upon Final Acceptance, the bond shall be returned to the subdivider.
  3. ***Loan Commitment.*** The subdivider may provide assurance of construction of subdivision improvements by delivering to the Town Engineer prior to the recording of said plat an agreement between an approved lending institution and the subdivider. The agreement shall state that funds sufficient to cover the entire cost of installing the required improvements, including engineering and inspection costs, and the cost of replacement or repairs of any existing streets or improvements damaged by the subdivider in the course of development of the subdivision, in an amount approved by the Town Engineer, have been deposited with the lending institution. The agreement shall provide that such funds are specifically allocated, and will be used by the subdivider or on his/her behalf, only for the purpose of installing the subdivision improvements. The Town shall be the beneficiary of such agreement. The agreement shall remain in full force and affect until Initial Acceptance of the required improvements. After Initial Acceptance, the amount required to be available may be reduced to 10 percent of the original amount and the agreement shall remain in effect with the revised amount until Final Acceptance of the improvements. Upon Final Acceptance, the agreement may be terminated. At the option of the subdivider, the subdivider may provide a surety bond to cover the costs until Final Acceptance.

4. *Alternative to Assurance of Construction - Hold on Certificates of Occupancy.* The Town may accept as an alternative assurance of construction a written agreement with the subdivider that no certificates of occupancy will be issued for a subdivision until the required improvements are complete in accordance with the approved plans and Town's details and specifications. This alternate method of assurance will only be accepted for subdivisions that require no water and sewer improvements outside property lines and no improvements are required to existing arterial or collector roadways and if the following criteria are met:
  - a. The subdivider has engaged in business in the Phoenix Metro area for a period of 3 consecutive years prior to making request, and
  - b. The subdivider has completed all the required improvements in a minimum of 2 jurisdictions in a manner satisfactory to the local jurisdiction's City Engineer. The written agreement shall provide that as an alternative to the assurance provisions of Section 1.107C.1: Cash Deposit, Section 1.107C.2: Surety Bond, and Section 1.107C.3: Loan Commitment, the Town shall be authorized to withhold building permits or final building inspections until all required improvements are completed and the work is inspected and accepted by the Town Engineer. The Building and Code Compliance Director shall deny final approval of any building permit or final building inspection for any structure located within a subdivision unless a written certification has been received from the Town Engineer that all required improvements are complete and the work has been inspected and accepted. If the subdivider fails to complete all required improvements in accordance with the terms of the agreement, the Town Engineer may authorize the completion of the work. The Town shall be reimbursed the costs (as determined by the Town Engineer) of construction, installation, and dedication of the uncompleted portion of the required improvements. The Town may take such action as necessary to obtain reimbursements from the subdivider.
- D. ***Town Completion of Work.*** If the subdivider abandons the installation of construction of required improvements or fails to complete the improvements in accordance with the Town's details and specifications, the Town may complete such installation or construction and the cost shall be deducted from the assurance of construction. The cost of construction exceeding the amount of the assurance shall be the responsibility of the subdivider, and the Town may recover such construction costs through all available remedies.
- E. ***Phasing.*** The Town Engineer shall approve any plan for the phased construction of a subdivision or subdivision improvements.
- F. ***Design Standards.*** The Town Engineer shall publish design standards and details for public and private improvements to be constructed within the Town. All subdivision improvements shall conform to the design standards.

**G. Residential Subdivision Plat Design and Development Guidelines.**

1. *Low and Medium Density Subdivisions.* Residential subdivisions with a density of 4 units per net acre or less shall comply with the guidelines established in the Residential Design and Development Guidelines for Low and Medium Density Subdivisions.
2. *Medium High Density Framework Guidelines.* Residential subdivisions with a density of more than 4 units per net acre shall comply with the guidelines established in The Medium High Density Framework Guidelines.

**H. Street Lighting Improvement District.** Prior to Final Plat approval, the subdivider shall, at no cost to Gilbert and pursuant to the provisions of Arizona Revised Statutes Title 48, Article 2, prepare, execute and deliver to Gilbert, a petition and all supporting documentation required to form a street lighting improvement district for lighting the public streets and parks within the subdivision. If the subdivision provides for private streets, the subdivider shall ensure that all provisions requiring payment of all costs related to energy, maintenance, repair and replacement of all streetlights and lights in parks are provided for in the recorded covenants, conditions and restrictions related to the subdivision.

### **1.108 Gated Facility Entrances**

A minimum of 40 feet of vehicle queuing area shall be provided behind each security control point. The minimum width of the vehicular entry shall be 20 feet in width. A vehicular turn-around area shall be provided between the control point and the security gate. The vehicular turn-around area shall have a minimum interior turning radius of 35 feet and an exterior turning radius of 55 feet.

### **1.109 Continuation of Streets**

Streets in a new subdivision shall align with and continue streets in adjacent developments. Single family residential subdivisions adjacent to undeveloped property designated for single family residential use on the General Plan shall provide for the continuation of streets to access the adjacent property, as determined by the Planning Commission.

### 1.1010 Effective Date and Expiration Date

- A. **Effective Date.** The effective date of the preliminary subdivision plat shall be the 11th day after approval, if no appeal has been filed. The effective date of a preliminary subdivision plat which has been appealed to the Town Council is the date of Town Council approval.
- B. **Expiration Date.** A preliminary subdivision plat shall automatically expire 2 years from its effective date unless a complete application for a final subdivision plat has been filed with the Town.

### 1.1011 Appeals

- A. **Preliminary Subdivision Plats.** The decision of the Planning Commission on a preliminary subdivision plat may be appealed to the Town Council pursuant to the procedures set forth in Chapter I, Section 5.2011: Procedures for Appeals.
- B. **Final Subdivision Plats.** Decisions of the Town Council on a final plat are final.

### 1.1012 Corrections to Recorded Plats

- A. Except as provided in this section, any change to a recorded subdivision plat shall be processed in accordance with Section 1.102B Final Plat of this Chapter III.
- B. **Corrective Plats.** Corrective Plats may be approved by the Town Engineer, subject to the following requirements:
  - 1. All corrections to a recorded plat shall be illustrated on the recorded plat for clarity.
  - 2. Items to be corrected and the reason for the correction shall be indicated on the corrective plat by adding a plat note to the recorded plat. The note(s) shall be signed and sealed by the party responsible for the plat. The word “corrective” shall be added to the title block on the Corrective Plat.
  - 3. The Corrective Plat shall be reviewed by the Town Engineer for completeness and accuracy. If no revisions are necessary, after receiving an approval signature by the Town Engineer, the plat shall be recorded in the Office of the Maricopa County Recorder and a copy shall be kept in the Town’s file with the Final Plat.
  - 4. At the discretion of the Town Engineer, a Certificate of Plat correction may be substituted for a corrective plat. A Certificate of Plat Correction shall be subject to the same requirements as a Corrective Plat set forth in this section.

C. ***Application Procedure.***

1. ***Correction Requested by Owner***

- a. An owner requesting a Corrective Plat or Certificate of Plat Correction shall file a complete application for the requested correction in writing, with all required documentation and fees.
- b. A complete application for Certificate of Correction or form of certificate shall be on the form provided by the Development Services Department and shall include:
  - (1) Corrections requested;
  - (2) The date the plat was recorded
  - (3) The docket and page number of the plat being corrected;
  - (4) Signature line for approval by Town Engineer

- 2. If the correction is initiated by Gilbert, the Town Engineer shall file a complete application including all of the information set forth in Section 1.1012.C.1.b.

## Article 1.2      Minor Land Division and Minor Subdivision

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### Sections

|        |   |
|--------|---|
| 1.201  | Purpose and Applicability                                 |
| 1.202  | Procedures  |
| 1.203  | Submittal Requirements                                    |
| 1.204  | Reservation of Land for Public Purpose, Minor Subdivision |
| 1.205  | Dedication of Rights-of-Way and Easements                 |
| 1.206  | Standards   |
| 1.207  | Improvements  |
| 1.208  | Gated Facility Entrances                                  |
| 1.209  | Effective Date and Expiration Date                        |
| 1.2010 | Appeals   |

### 1.201 Purpose and Applicability

- A. **Purpose.** The purpose of this article is to provide procedures consistent with State law to regulate and control the minor division and minor subdivision of land within the Town in a manner that will:
1. Ensure that lands are suitable for division by reason of availability of water and topography, and are free from flooding, high water table, adverse soils, subsidence, or other natural or man-made hazard to life or property;
  2. Ensure adequate vehicular and non-vehicular circulation through coordinated street, transit, bicycle and pedestrian systems with relation to major thoroughfares, adjoining developments and public facilities;
  3. Allow the creation of individual lots of reasonable utility;
  4. Ensure the provision of adequate facilities for utilities, drainage and stormwater retention, and open space;
  5. Implement the General Plan and the Zoning Code; and
  6. Ensure the accurate conveyance of land.

B. **Applicability.** This article sets forth the requirements for 2 types of land division:

1. **Types.**

a. **Minor Land Division.** Each of the following shall be a minor land division subject to the requirements of this article:

(1) The division of improved or unimproved land whose area is 2.5 acres or less into 2 or 3 lots or parcels for the purpose of sale or lease, where no new street is involved.

(2) The division of improved or unimproved land for the purpose of sale, or lease, whether immediate or future, into 2 parts, where the boundaries of such property have been fixed by a recorded plat.

(3) Lot line adjustments, whether or not a new lot is created.

(4) Lot Ties, where two existing lots are joined by the removal of a lot line.

b. **Minor Subdivision.** The division of improved or unimproved land of any size for the purpose of sale or lease, into four (4) or fewer lots or parcels, whether or not a new street is involved.

2. **Exclusions.** This article does not apply to Subdivisions, other than Minor Subdivisions, pursuant to Chapter III, Article 1.1: Subdivision Regulations.

## 1.202 Procedures

A. **Minor Land Division.**

1. **Application.** Applications shall be filed in accordance with the application procedures set forth in Chapter I, Article 5.2: Common Procedures.

2. **Process.** The review process for a minor land division shall be established by the Town Engineer. A preliminary plat shall not be required.

3. **Town Engineer Action.** The Town Engineer shall approve or deny the minor land division.

4. **Signature.** Upon approval of a minor land division, and after all other required certifications have been executed, the Town Engineer shall sign the minor land division map.



5. *Recordation.* Improvement plans for the minor land division shall be approved by the Town Engineer prior to recordation of the minor land division map. The Public Works department shall record the minor land division with the office of the Maricopa County Recorder.
  6. *Acceptance of Public Improvements.* The approval of the minor land division by the Town Engineer shall not be deemed to constitute acceptance by the Town of the dedication of any proposed public way, space, or improvement. The process for acceptance of public improvements shall be established by the Town Engineer.
- B. ***Minor Subdivision.*** A residential or nonresidential minor subdivision shall be approved by the Town Council.
1. *Application.* Applications shall be filed in accordance with the application procedures set forth in Chapter I, Article 5.2: Common Procedures.
  2. *Staff Report.* The Public Works Director shall prepare and transmit a staff report to the Town Council. The report shall include an evaluation of the consistency of the proposed subdivision plat with the Zoning Code, the General Plan, and any applicable specific plan. The staff report shall also provide an analysis and recommendation. A copy of the staff report shall be made available to the public and the applicant prior to the meeting.
  3. *Amendment.* All or a part of an approved minor subdivision may be amended. The amendment process shall be the same as the original approval process.

### **1.203 Submittal Requirements**

Application submission requirements are as set forth in Chapter III, Section 1.104: Submittal Requirements, Final Plat Application.

### **1.204 Reservation of Land for Public Purpose, Minor Subdivision**

The Town may require the reservation of land in a minor subdivision for public parks, recreational facilities, school sites, and fire stations for 1 year from the date of recording of a final plat as set forth in A.R.S. § 9-463.01. The reserved land area shall be identified on the minor subdivision plat approved by the Town Council. Prior to the end of the 1 year period, the Town or public agency for whose benefit an area has been reserved may enter into an agreement to acquire the land. If no agreement is reached within the 1 year period the reservation of land shall terminate.

## 1.205 Dedication of Rights-of-Way and Easements

- A. ***Streets, Rights-of-Way and Public Easements.*** All proposed streets, rights-of-way and easements shall be identified on minor subdivision plats. Public easements shall be identified on minor land division maps. Minor subdivision plats and minor land division maps shall contain a dedication for all rights-of-way and public easements. The Town Engineer shall establish required dedication language.
- B. ***Private Utility Easements.*** All easements proposed for dedication to a private utility company shall be identified on minor subdivision plats and minor land division maps. The minor subdivision plat and minor land division map shall contain an offer of dedication for all such easements to the appropriate utility company. Acceptance of such offers shall be the responsibility of the utility company.
- C. ***Vehicular Non-Access Easements (VNAE).*** Vehicular non-access easements shall be shown on minor subdivision plats and minor land division maps. No driveway or vehicle gate shall be installed which would permit a vehicle to access or cross a vehicular non-access easement.
- D. ***Other Easements.*** Other easements required by the General Plan, the Zoning Code or the Town Engineer shall be shown on minor subdivision plats and minor land division maps.
- E. ***Appeals of Dedications and Exactions.*** Appeals of a required minor subdivision plat dedication or exaction filed pursuant to A.R.S. § 9-500.12 or alleged to create a taking pursuant to A.R.S. § 9-500.13 shall comply with the procedures of Chapter I, Section 5.1002A: Appeals, and A.R.S. § 9-500.12G.

## 1.206 Standards

- A. Minor land divisions and minor subdivisions shall conform to the lot, street, block, alley, and easement standards and requirements for subdivisions. All lots or parcels created by a minor land division and minor subdivision shall conform to the General Plan and the Zoning Code.
- B. Any lot or parcel shall have a minimum 20 foot wide legal access to a street or nonresidential drive aisle.
- C. Any lot or parcel shall have access to all utilities necessary for the uses permitted on the property.

## 1.207 Improvements

- A. **Improvements Required.** All minor land divisions and minor subdivisions shall install public and private improvements pursuant to improvement plans approved by the Town Engineer. Improvements include, but are not limited to, streets, utilities, stormwater drainage and retention, recreation and open space facilities, survey monuments, landscaping, street lights, street and traffic control signs, and fencing.
- B. **Preparation of Improvement Plans.** Improvement plans shall be prepared and sealed by an engineer licensed by the State of Arizona. Improvement plans shall conform to standards established by the Town Engineer.
- C. **Assurance of Construction.** Assurance of construction of improvements shall be provided as set forth in Chapter III, Section 1.107C: Assurance of Construction.
- D. **Phasing.** The Town Engineer shall approve any plan for the phased construction of a minor subdivision or minor subdivision improvements.
- E. **Design Standards.** The Town Engineer shall publish design standards and details for public and private improvements to be constructed within the Town.
- F. **Residential Design and Development Guidelines.**
  - 1. **Low and Medium Density Subdivisions.** Residential subdivisions with a density of 4 units per net acre or less shall comply with the guidelines established in the Residential Design and Development Guidelines for Low and Medium Density Subdivisions.
  - 2. **Medium High Density Framework Guidelines.** Residential subdivisions with a density of more than 4 units per net acre shall comply with the guidelines established in The Medium High Density Framework Guidelines.

## 1.208 Gated Facility Entrances

A minimum of 40 feet of vehicle queuing area shall be provided behind each security control point. The minimum width of the vehicular entry shall be 20 feet in width. A vehicular turn-around area shall be provided between the control point and the security gate. The vehicular turn-around area shall have a minimum interior turning radius of 35 feet and an exterior turning radius of 55 feet.

## 1.209 Effective Date and Expiration Date

- A. **Effective Date.** The effective date of the minor land division or minor subdivision shall be the 11th day after approval, if no appeal has been filed.
- B. **Expiration Date.** A minor land division or minor subdivision shall automatically expire 2 years from its effective date if not properly recorded with the Office of the Maricopa County Recorder.

## 1.2010 Appeals

- A. **Minor Land Division.** Appeals of the decision of the Town Engineer regarding a minor land division, except for appeals filed pursuant to Chapter I, Article 5.10: Appeals of Dedications, Exactions and Zoning Regulations and Reconsideration of Certain Decisions, shall be heard by the Planning Commission.
- B. **Rights of Appeal.** Except as provided in Chapter I, Section 5.2011A.2, appeals may be filed by:
  - 1. The applicant;
  - 2. Any other person aggrieved by the final decision of the Town Engineer, and who has standing to appeal pursuant to State law;
  - 3. A member of the Town Council;
  - 4. The Town Manager; or
  - 5. The Director of Planning.

All administrative remedies shall be exhausted prior to bringing legal action in Superior or Federal Court against the Town or any of its boards, commissions, employees, or officers.

- C. **Minor Subdivision.** Decisions of the Town Council on a minor subdivision plat are final.

## Article 1.3: Vacation of Streets and Easements

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### Sections:

- 1.301 Procedures
- 1.302 Submittal Requirements
- 1.303 Effective Date
- 1.304 Appeals

### 1.301 Procedures

- A. **Initiation.** The vacation of a street or easement shall be initiated by the Town Engineer.
- B. **Process.** The Town Engineer shall prepare a legal description of the right-of-way or easement to be vacated.
- C. **Notice.** The Town Engineer shall provide written notice of the proposed vacation to the owners of all property, any homeowners or property owners association, and any utility company or public agency affected by the vacation. Notice shall be mailed no later than fifteen days prior to Town Council action.
- D. **Staff Report.** The Public Works Director shall prepare and transmit a staff report to the Town Council. The report shall include an evaluation of the consistency of the proposed vacation with the Zoning Code, the Redevelopment Plan, the General Plan, any applicable specific plan, and all applicable Public Works standards. The staff report shall also provide an analysis and recommendation. A copy of the staff report shall be made available to the public and affected parties prior to the public hearing.
- E. **Town Council Hearing.** The Town Council shall conduct a public hearing as set forth in Chapter I, Article 5.2: Common Procedures.
- F. **Town Council Action.** The Town Council shall approve or deny the proposed vacation by resolution.
- G. **Mayor's Signature.** Upon Town Council approval of the vacation, and after all other required certifications have been executed, the Mayor shall sign the final vacation resolution.
- H. **Recordation.** The Public Works department shall record the final vacation resolution with the office of the Maricopa County Recorder.

### 1.302 Submittal Requirements

All application submission requirements are specified in the Vacation of Streets and Easements Process Guide.

**1.303 Effective Date**

The effective date of vacation of streets and easements is the date of Town Council approval.

**1.304 Appeals**

Decisions of the Town Council on the vacation of streets and easements are final.

## Article 1.4 Penalties and Enforcement

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### Sections

- 1.401 Invalid Permits and Approvals
- 1.402 Enforcement Responsibilities
- 1.403 Violation; Notice and Opportunity to Correct
- 1.404 Violations and Citations
- 1.405 Penalties
- 1.406 Habitual Offenders
- 1.407 Abatement
- 1.408 Cumulative Procedures and Remedies
- 1.409 Failure to Provide Evidence of Identity

### 1.401 Invalid Permits and Approvals

Any permit issued or administrative approval granted in conflict with any provision of the subdivision regulations, an approved and recorded final plat, or an approved minor land division or minor subdivision plat is void.

### 1.402 Enforcement Responsibilities

- A. ***Plan Review and Inspection Division of the Development Services Department.*** Prior to issuance of building permits, the Plan Review and Inspection Division shall ascertain that plans presented with the building permit application comply with the approved final plat, minor land division or minor subdivision plat, subject to the requirements of the subdivision regulations.
- B. ***Code Compliance Administrator.*** The Code Compliance Administrator shall enforce the provisions of the subdivision regulations and is authorized to provide notice of violations, issue citations for violations and to stop any work undertaken not in compliance with any provision of a final plat, subdivision regulations, minor land division or minor subdivision plat.
- C. ***Town Attorney.*** The Town Attorney may commence an action in Superior Court to abate a violation of the subdivision regulations.

### 1.403 Violation; Notice and Opportunity to Correct

- A. **Notice.** Before issuing a citation for a violation of the subdivision regulations, an approved and recorded final plat or an approved minor land division or minor subdivision plat, the Code Compliance Administrator or his agent shall provide a written notice of the violation to the property owner, person in control, or authorized agent of property. The notice shall set forth:
  - 1. The violation;
  - 2. What is required to bring the property into compliance;
  - 3. The time period allowed to bring the property into compliance.
- B. **Time Period.** The time period provided to correct violations of the subdivision regulations, an approved and recorded final plat or an approved minor land division or minor subdivision plat shall be a minimum of 10 days.
- C. **Failure to Receive Notice.** Failure of the property owner, person in control, or authorized agent of the property to receive a notice shall not preclude issuance of a citation.

### 1.404 Violations and Citations

- A. If a property owner, person in control or authorized agent continues to be in violation of the subdivision regulations, an approved and recorded final plat or an approved minor land division or minor subdivision plat past the time set forth in the notice of violation, a citation shall be issued to the property owner, person in control, or authorized agent of the property.
- B. A civil action for violations shall be commenced by filing of the citation in the Town of Gilbert Municipal Court.
- C. Citations may be issued by the Code Compliance Administrator, a Code Compliance Inspector, or a Town of Gilbert Police Officer.
- D. Each day a violation continues, or the failure to perform any act or duty required by the subdivision regulations, an approved and recorded final plat or an approved minor land division or minor subdivision plat or by the Town of Gilbert Municipal Court continues, shall constitute a separate civil offense.
- E. Every civil action or proceeding under this section shall be commenced and prosecuted in accordance with the laws of the State of Arizona relating to civil traffic procedures and the Arizona Rules of Procedure in civil traffic violation cases.



## 1.405 Penalties

- A. A citation issued pursuant to Section 4.104: Violations and Citations shall direct the person to whom the citation is issued to pay a fine in the amount set forth in the Town of Gilbert's Municipal Court adopted schedule of fines within 10 days of the issuance of the citation or to appear before the Town of Gilbert Municipal Court. Payment of the fine shall constitute a finding responsibility for the violation for purposes of Section 4.106: Habitual Offenders.
- B. Upon a finding by the Town of Gilbert Municipal Court that a person is responsible for a civil violation, the person, corporation, or other legal entity that violates the subdivision regulations, an approved and recorded final plat or an approved minor land division or minor subdivision plat, the Town of Gilbert Municipal Court shall impose a civil fine of not more than \$500.00 for each violation.
- C. Any judgment for civil fines or penalties may be collected as any other civil judgment, as provided for in the Arizona Revised Statutes.

## 1.406 Habitual Offenders

- A. Any person found responsible by the Town of Gilbert Municipal Court for committing 3 or more civil violations of the subdivision regulations, an approved and recorded final plat or an approved minor land division or minor subdivision plat within a 24 month period, whether by admission, by payment or the fine, by default or by judgment after hearing shall be determined to be a Habitual Offender. For purposes of calculating the 24 month period under this paragraph, the dates of the commission of the offenses are the determining factor.
- B. A Habitual Offender who subsequently violates the subdivision regulations, an approved and recorded final plat or an approved minor land division or minor subdivision plat shall be guilty of a Class I Misdemeanor Offense.
- C. Upon the conviction of a Habitual Offender for a violation of the subdivision regulations, an approved and recorded final plat or an approved minor land division or minor subdivision plat, the Court may:
  - 1. Impose a sentence of incarceration not to exceed 6 months in jail; or
  - 2. Impose a fine not to exceed \$2,500.00, exclusive of penalty assessments prescribed by law; or
  - 3. Impose a term of probation; or
  - 4. Impose any combination of incarceration, fine, and probation.

- D. Notwithstanding the above elective penalty, upon conviction of a Habitual Offender of a violation of the subdivision regulations, an approved and recorded final plat or an approved minor land division or minor subdivision plat, the court shall impose a fine of not less than \$500.00 for each count upon which a conviction is obtained.
- E. A Judge shall not grant probation to a Habitual Offender or suspend any part of a sentence or fine imposed upon a Habitual Offender for any sentence required by this subsection, except on the condition that the Habitual Offender pays the mandatory minimum fines as provided in this section.
- F. Every action or proceeding under this section shall be commenced and prosecuted in accordance with the laws of the State of Arizona relating to misdemeanors and the Arizona Rules of Criminal Procedure.

### **1.407 Abatement**

The Town of Gilbert Municipal Court may order abatement of a violation of this chapter pursuant to ARS § 9-499.

### **1.408 Cumulative Procedures and Remedies**

The procedures and remedies provided for herein shall be cumulative and in addition to any other procedures and remedies to which the Town may be entitled by law or equity.

### **1.409 Failure to Provide Evidence of Identity**

A person who fails or refuses to provide evidence of his or her identity to the Town of Gilbert Building Official, a Building Inspector, the Code Compliance Administrator, a Code Compliance Inspector, or a Police Officer or any other authorized agent of the Town upon request, when such agent has reasonable cause to believe the person has committed a violation of the subdivision regulations, an approved and recorded final plat or an approved minor land division or minor subdivision plat, is guilty of a Class I Misdemeanor. Evidence of identity shall consist of a person's full name, residence address, and date of birth.

# Glossary of General Terms

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## Glossary of General Terms

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- Abandoned Sign *(see Sign Types)*  
Abandoned Vehicle *(see Vehicle Related Terms)*  
Abutting or Adjoining  
Accessory Entry Monument  
Accessory Structure  
Accessory Use *(see Incidental Use)*  
Acre, Gross  
Acre, Net  
Act of God *(see Sign Related Terms)*  
Adjacent  
Adverse Impact  
A-Frame Sign *(see Sign Types)*  
Affected Property  
Alley *(see Street Types)*  
Alteration  
Alternative WCF Building Element *(see Wireless Communication Related Terms)*  
Alternative WCF Structure *(see Wireless Communication Related Terms)*  
Ambient Noise Level *(see Noise Related Terms)*  
Animated Sign *(see Sign Types)*  
Antenna *(see Wireless Communication Related Terms)*  
Antenna Mast  
*(see Wireless Communication Related Terms)*  
Apartment Building  
Architectural Detail/Feature/Element  
*(see Sign Related Terms)*  
Arterial, Major *(see Street Types)*  
Arterial, Minor *(see Street Types)*  
Attached Dwelling *(see Dwelling, Attached)*  
Attached Single Family Dwelling *(see Residential Housing Types)*  
A-Weighted Sound Level *(see Noise Related Terms)*  
Awning  
Awning Sign *(see Sign Types)*  
Balcony  
Balloon Sign *(see Sign Types)*  
Bandit Sign *(see Sign Types)*  
Banner Sign *(see Sign Types)*  
Basement  
Bazaar Sign *(see Sign Types)*  
Bed and Breakfast Home *(see Use, Vacation or Short-Term Rentals)*  
Bedroom  
Berm  
Billboard *(see Sign Types)*  
Blinking Sign *(see Sign Types)*  
Block  
Block Face  
Building  
Building, Detached  
Building Envelope  
Building Height  
Building, Main or Principal  
Building Setback *(see Setback, Building)*  
Building Step-Back  
Building, Temporary *(see Structure, Temporary)*  
Building Wall  
Build-To Line  
Cabinet Sign *(see Sign Types)*  
Canopy  
Canopy Signs for Service Islands *(see Sign Types)*  
Carport  
Certificate of Plat Correction  
Changing Message Sign *(see Sign Types)*  
Civil Hearing Officer  
Collector Street *(see Street Types)*  
Co-Location *(see Wireless Communication Related Terms)*  
Commercial Building, Multiple Tenant *(see Sign Related Terms)*  
Commercial Center  
*(see Sign Related Terms)*  
Commercial Vehicle *(see Vehicle Related Terms)*  
Common Driveway  
Comprehensive Sign Program *(see Sign Related Terms)*  
Condominium *(see Residential Housing Types)*  
Contiguous Lot or Parcel  
Corner Lot *(see Lot Types)*  
Cornice  
Cul-De-Sac *(see Street Types)*  
Cutoff, Full *(see Lighting Related Terms)*  
Cutoff, Semi-*(see Lighting Related Terms)*

Day Care, Adult  
Day Care, Child  
Day/Night Level (DNL or Ldn) *(see Noise Related Terms)*  
Decibel (dB) *(see Noise Related Terms)*  
Decibel, A-Weighted (dBA) *(see Noise Related Terms)*  
Decision-Making Body  
Dedication  
Density  
Development Plan  
Developmentally Disabled  
Dining, Outdoor  
Directory Sign *(see Sign Types)*  
Double Frontage Lot *(see Lot Types)*  
Drive-Through Facility  
Drive-Through Lane-Sign *(see Sign Types)*  
Driveway, Major  
Duplex *(see Residential Housing Types)*  
Dust Free  
Dwelling Unit  
Dwelling Unit, Attached  
Dwelling Unit, Facility Manager  
Easement  
Easement, Vehicular Non-Access  
Elevation, Architectural  
Equipment Cabinet or Building *(see Wireless Communication Related Terms)*  
Equivalent Sound Level (Leq) *(see Noise Related Terms)*  
Equivalent Sound Level, Hourly (Leq(h)) *(see Noise Related Terms)*  
Existing Vertical Element *(see Wireless Communication Related Terms)*  
Existing Vertical Element, Recreational  
Field Light Pole *(see Wireless Communication Related Terms)*  
Exotic Animals  
Facade  
Family  
Fence  
Fence, Open  
Finished Grade *(see Grade, Finished)*  
Flag *(see Sign Types)*  
Flag Lot *(see Lot Types)*  
Flashing Sign *(see Sign Types)*  
Floor Area, Gross  
Floor Area Ratio (FAR)  
Flying Banner *(see Sign Types)*  
Footcandle *(see Lighting Related Terms)*  
Fowl  
Freestanding Sign *(see Sign Types)*  
Freeway  
Freeway Sign *(see Sign Types)*  
Front Lot Line *(see Lot Line, Front)*  
Frontage, Building  
Frontage, Lot  
Frontage, Street  
Garage, Detached  
Garage, Side-Entry  
Gatehouse  
Grade, Existing  
Grade, Finished  
Grade Plane  
Grade, Street  
Handicapped  
Hazardous Waste *(see Waste Related)*  
Height *(see Building Height)*  
Height, Story  
Heritage District Roof Signs *(see Sign Types)*  
High Turnover Use  
Historic Marker *(see Sign Types)*  
Homeowners Association  
Hospice  
Identification Sign *(see Sign Types)*  
Ideological Sign *(see Sign Types)*  
Illegal Use  
Improvements *(see Subdivision Related)*  
Improvement, Off-Site  
Improvement Plan  
Incidental Use *(see Use, Incidental)*  
Indirect Illumination *(see Sign Related Terms)*  
Individual Letters *(see Sign Related Terms)*  
Industrial Hemp Related Terms  
Inflatable Sign *(see Sign Types)*  
Inoperable Vehicle *(see Vehicle Related Terms)*  
Interior Building Separation  
Interior Lot *(see Lot Types)*  
Interior Lot Line *(see Lot Line, Interior)*  
Intermittent Sign *(see Sign Types)*  
Internal Illumination *(see Sign Related Terms)*  
Internal Indirect Lighting (Halo Lighting) *(see Sign Related Terms)*

FmariLand Use Law  
Lighting Related Terms  
Livestock  
Livestock, Large  
Livestock, Small  
Local Street *(see Street Types)*  
Logo *(see Sign Related Terms)*  
Lot  
Lot Area  
Lot Coverage  
Lot Depth  
Lot Line  
Lot Line, Front  
Lot Line, Interior  
Lot Line, Rear  
Lot Line, Side  
Lot Width  
Maintenance  
Map of Dedication  
Marquee  
Marquee Sign *(see Sign Types)*  
Master Sign Plan *(see Sign Related Terms)*  
Median  
Medical Waste *(see Waste Related)*  
Minor Land Division *(see Subdivision Related)*  
Minor Subdivision *(see Subdivision Related)*  
Mixed Use Development  
Monopole *(see Wireless Communication Related Terms)*  
Monopole, Portable *(see Wireless Communication Related Terms)*  
Monument Sign *(see Freestanding Sign)*  
Motor Vehicle *(see Vehicle Related Terms)*  
Moving Sign *(see Sign Types)*  
Multi-Family Dwelling *(see Residential Housing Types)*  
Mural  
Neon Sign *(see Sign Types)*  
Noise Related Terms  
Non-Conforming Lot or Parcel  
Non-Conforming Sign  
Non-Conforming Structure  
Non-Conforming Use  
Nonresidential  
Offsite Commercial Sign *(see Sign Types)*  
Onsite Signage *(see Sign Types)*  
Open Air Accessory Structure  
Open Air Attached Patio  
Open Air Porch  
Open House Sign *(see Sign Types)*  
Open Space  
Outdoor Light Fixture *(see Lighting Related Terms)*  
Overflight Areas  
Painted Wall Sign *(see Sign Types)*  
Pan-Channel Letter *(see Sign Related Terms)*  
Parapet  
Parcel *(see Lot)*  
Parking, Required  
Parking, Tandem  
Patio, Covered  
Pedestrian, Sidewalk and Landscape Tract  
Pennant *(see Sign Types)*  
Permanent Sign *(see Sign Types)*  
Plat, Corrective  
Plat, Final  
Plat, Preliminary  
Plat, Recorded  
Pole Sign *(see Sign Types)*  
Porch  
Portable Sign *(see Sign Types)*  
Principal Structure  
Principal Use *(see Use, Principal)*  
Private Park  
Project  
Projecting Roof Sign *(see Sign Types)*  
Projecting Sign *(see Sign Types)*  
Property, Business  
Property Line *(see Lot Line)*  
Property Owner  
Property, Public  
Protected Development Right  
Public Park  
Public Safety Communications Facility *(see Wireless Communication Related Terms)*  
Pull-Through Parking Space  
Raceway *(see Sign Related Terms)*  
Rear Lot Line *(see Lot Line, Rear)*  
Recreational Vehicle *(see Vehicle Related Terms)*  
Reptile  
Residential Entry Sign *(see Sign Types)*

Residential Housing Types  
Retail Sales  
Right-of-Way  
Rodent  
Roof Line  
Roof Sign *(see Sign Types)*  
Rotating Sign *(see Sign Types)*  
Scrolling Sign *(see Sign Types)*  
Secondary Dwelling Unit *(see Residential Housing Types)*  
Service Bay Facility  
Setback  
Setback, Front  
Setback, Rear  
Setback, Side  
Setback Area  
Setback Area, Front  
Setback Area, Rear  
Setback Area, Side  
T-Frame Sign *(see Sign Types)*  
Side Lot Line *(see Lot Line, Side)*  
Sign  
Sign Face *(see Sign Related Terms)*  
Sign Plan *(see Sign Related Terms)*  
Sign Related Terms  
Sign Structure  
Sign Types  
Single Family Dwelling Unit *(see Residential Housing Types)*  
Single Housekeeping Unit  
Site  
Site Plan  
Snipe Sign *(see Sign Types)*  
Stacking Space  
Storage Container, Residential  
Storage Container, Non-Residential  
Storage, Outdoor  
Story  
Street  
Street Pole Banner Sign *(see Sign Types)*  
Street Types  
Structure  
Studio Dwelling Unit *(see Residential Housing Types)*  
Subdivider *(see Subdivision Related)*  
Subdivision *(see Subdivision Related)*  
Subdivision Related  
Support Structure *(see Wireless Communication Related Terms)*  
Suspended Sign *(see Sign Types)*  
Swimming Pool  
Swimming Pool, Public  
Teletrack Operator  
Teletrack Wagering Establishment  
Temporary Sign *(see Sign Types)*  
Temporary Use *(see Use, Temporary)*  
Through Lot *(see Lot Types, Double- Frontage)*  
Tower Sign *(see Sign Types)*  
Trail, Equestrian  
Trail, Multi-Use  
Traffic Control Device Sign *(see Sign Types)*  
Umbrella Sign *(see Sign Types)*  
Unlawful Vehicle Sign *(see Sign Types)*  
Use, Incidental  
Use, Principal  
Use, Temporary  
Vacation  
Variance  
Vehicle Related Terms  
V-Shaped Sign *(see Sign Types)*  
Wall Sign *(see Sign Types)*  
Waste Related  
Wholesale Sales  
Window Sign *(see Sign Types)*  
Wireless Communication Related Terms  
Zoning Area

## Terms

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**Abutting or Adjoining.** Having district boundaries or lot lines in common. For streets, abutting or adjoining shall mean a lot or parcel touching the street at any point.

**Accessory Entry Monument.** An architectural structure signifying and marking a major arrival point to a multiple-tenant commercial or employment project.

**Accessory Structure.** A detached subordinate structure, the use of which is incidental to the use of the principal structure, and which is located on the same lot or parcel as the principal structure. Common accessory structures are garages, parking canopies, swimming pools, storage sheds and cabanas. *Guest Quarters, Secondary Dwellings, signs, and fences* are not accessory structures.

**Accessory Use.** (See *Use, Incidental*)

**Acreage, Gross.** The land area within the perimeter of a parcel or project, including one-half the right-of-way of all adjoining streets and other land dedications.

**Acreage, Net.** The land area of a parcel or project excluding land to be dedicated or reserved for streets, schools, parks or other public facilities.

**Adjacent.** Near or close to.

**Adverse Impact.** A negative consequence to the physical, social, or economic environment resulting from an action or project.

**Affected Property.** The proposed site of rezoning including rights-of-way to centerline.

**Alteration.** Any enlargement, addition, relocation, repair, remodeling, change in number of living units, development of or change in an open area, development of or change in a sign, demolition or removal, or other change in a facility for which a building permit is required, excluding ordinary maintenance.

**Apartment Building.** A multi-family residential structure under single ownership containing 3 or more dwelling units for lease.

**Awning.** A roof-like cover entirely supported by and extending from a building for the purpose of protecting openings from the elements, providing shade or architectural embellishment.

**Balcony.** A platform that projects from the wall of a building, typically above the first level, and is surrounded by a rail, balustrade, or parapet.



**Basement.** That portion of a building that is partly or completely below grade plane. A basement shall be considered a story above grade where the finished surface of the floor above the basement is:

1. More than 6 feet above grade plane;
2. More than 6 feet above the finished ground level for more than 50 percent of the total building perimeter; or
3. More than 12 feet above the finished ground level at any point.

**Bedroom.** Any habitable room that may legally function as a bedroom in that it complies with, or is required by the Building Official to comply with, all applicable laws and regulations pertaining to sleeping rooms.

**Berm.** An earthen mound designed to provide visual interest, screen objects from view, reduce noise, or control drainage flows.

**Block.** An area of land bounded by adjacent streets, canals or drainage ways, railroads, open space, corporate or subdivision boundaries.

**Block Face.** The portion of a block that abuts a street.

**Building.** Any structure for the shelter or support of any use or occupancy.

**Building, Detached.** A building is detached when it is not attached or otherwise permanently fastened to any other building.

**Building Envelope.** The volume of space for building as defined by the minimum building setbacks and the maximum allowable building height (SEE APPENDIX 1, FIGURE 19).

**Building Height.** The vertical distance from the finish floor level to the highest level of the roof surface of flat or mansard roofs, or to the mean height between eaves and ridges of gable, gambrel, or hip roofs (SEE APPENDIX 1, FIGURE 20).

**Building, Main or Principal.** A building where the principal use of a lot is conducted.

**Building Step-Back.** A required setback for a portion of a building above the first floor (SEE APPENDIX 1, FIGURE 21).

**Building Wall.** The exterior of any side of a building.

**Build-To Line.** The maximum distance a building may be set back from a property line (SEE APPENDIX 1, FIGURE 22).

**Canopy.** A roof-like cover partially supported by poles or columns affixed to the ground and partially supported by a building.

**Carport.** A roofed structure not fully enclosed by walls for the purpose of providing shelter for one or more vehicles.

**Certificate of Plat Correction.** An official document administratively approved and recorded for the purpose of correcting errors of minor survey, drafting or typographical nature to a recorded plat.

**Civil Hearing Officer.** An individual appointed by the Presiding Judge of the Gilbert Municipal Court to hear and decide civil matters pursuant to the Zoning Code.

**Common Driveway.** A driveway providing a shared access to 2 or more lots.

**Contiguous Lot or Parcel.** Lots or parcels that are in contact with or touching at one or more points.

**Cornice.** Any projecting horizontal molding that finishes or crowns the top of a building, wall, arch or similar.

**Day Care, Adult.** The care and supervision of an adult for periods of less than 24 hours per day, in a place other than the adult's own home or homes.

**Day Care, Child.** The care, supervision, and guidance of a child or children through the age of 12 years; unaccompanied by parent, guardian or custodian, for periods of less than 24 hours per day, in a place other than the child's or the children's own home or homes.

**Decision-Making Body.** Any individual, officer, board, or commission representing the Town authorized to approve, approve with modifications and/or conditions, or deny an application.

**Dedication.** The offer to convey land, an interest in land, or improvements to the Town or other public agency for public use, and the acceptance of such offer by the Town or public agency.

**Density.** The number of dwelling units per gross acre.

**Development Plan.** The site plan, preliminary landscape plan, building elevations, design guidelines, residential lot layout, open space plan, and other plans submitted as exhibits to a Planned Area Development zoning application.

**Developmentally Disabled.** (See Arizona Revised Statutes A.R.S. § 36-581)

**Dining, Outdoor.** An exterior area used as seating for a contiguous *Eating and drinking establishment*.

**Drive-Through Facility.** An establishment that provides services to customers in motor vehicles. Drive-through facilities do not include *Eating and drinking establishments* that serve food to customers in parked vehicles.

**Driveway, Major.** The principal vehicular access drive from an arterial street serving a nonresidential or multi-family development where inbound left turn movements are permitted. Developments may have more than 1 major driveway.

**Dust Free.** Property that is paved with one of the following methods:

1. Asphaltic concrete;
2. Cement concrete;
3. Penetration treatment of bituminous material and a seal coat of bituminous binder and a mineral aggregate; or
4. The equivalent of the above.

**Dwelling Unit.** A single residential unit or portion thereof providing complete, independent living facilities for 1 family, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**Dwelling Unit, Attached.** A building containing 2 or more dwelling units, connected along and sharing 1 or more common walls, or stacked above each other.

**Dwelling Unit, Facility Manager.** A dwelling unit allowed in certain non-residential districts provided that the person(s) occupying the dwelling unit is an employee of the business where the dwelling unit is located and that employee provides a service or function for the business that requires a continuous on-site presence (such as site security, access control, maintenance or monitoring).

**Easement.** A grant by a property owner to others for the use of land or airspace for a specific purpose or purposes.

**Easement, Vehicular Non-Access.** A recorded easement prohibiting access or crossing by vehicles.

**Elevation, Architectural.** A two-dimensional scaled drawing of a building or structure.

**Exotic Animals.** (See Gilbert Municipal Code Chapter 6, Article III Livestock and Non- domestic Animals, Section 6-126: Definitions).

**Facade.** That portion of any exterior elevation of the building extending from grade to top of the parapet, wall, or eaves, and extending the entire width of the building elevation.

**Family.**

1. An individual or 2 or more persons related by blood, marriage, or adoption, and resident domestic employees, living together as a single housekeeping unit in a dwelling unit; or,
2. Not more than 5 unrelated persons, living together as a single housekeeping unit in a dwelling unit; or
3. A functional family, consisting of not more than 5 persons, plus their offspring, adopted and/or foster children who have a relationship functionally equivalent to a family. Functional family does not include any society, club, fraternity, sorority, association, lodge, organization or group of students or other individuals where the common living arrangement or basis for the establishment of the housekeeping unit is temporary.

**Fence.** A barrier or made of wire, wood, metal, masonry, PVC or other similar material. Vegetative material, tennis court enclosure, and golf ball protective net are not considered to be fences.

**Fence, Open.** A fence through which clear vision is possible for 75 percent or more of the structure as viewed on a horizontal plane, from any point perpendicular to the fence line.

**Floor Area, Gross.** The total area in square feet of all floors designed for tenant occupancy and common use, including basements, mezzanines, stairwells, and storage areas, measured from the centerline of interior partitions and from outside wall faces. Non air conditioned courtyards shall not be considered in gross floor area calculations.

**Floor Area Ratio (FAR).** The gross floor area of a building or buildings on a lot divided by the net lot or parcel area (SEE APPENDIX 1, FIGURE 23).

**Fowl.** (See Gilbert Municipal Code Chapter 6, Article III Livestock and Non-domestic Animals, Section 6-126: Definitions)

**Freeway.** A controlled access, divided, grade-separated highway, and all associated rights-of-way.

**Frontage, Building.** The length of the side of a building abutting or generally parallel to the front lot line. For a building on a corner lot, the combined lengths of the sides of the building abutting or generally parallel to the front and corner side lot lines.

**Frontage, Lot.** That part of a lot or parcel abutting a street.

**Frontage, Street.** The total length of all lot lines abutting streets.

**Garage, Detached.** An enclosed structure for the storage of vehicles and separated from a dwelling unit by a minimum distance of 6 feet.

**Garage, Side-Entry.** An enclosed structure for the storage of vehicles oriented such that the entrance is a minimum angle of at least 45 degrees from the front setback line.

**Grade, Existing.** The level of the ground or pavement at a specific location as it exists prior to disturbance in preparation for development.

**Gatehouse.** An incidental structure provided for aesthetic enhancement, security or site access control purpose.

**Grade, Finished.** The final elevation of the ground surface after man-made alterations.

**Grade Plane.** A reference plane representing the average of finished ground level adjoining the building at the exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6 feet from the building, between the building and a point 6 feet from the building.

**Grade, Street.** The top of the curb. Where no curb exist, the top of the edge of pavement.

**Handicapped.** A person who:

1. Has a physical or mental impairment which substantially limits one or more of such person's major life activities;
2. Has a record of having such an impairment; or
3. Is regarded as having such impairment.

"Handicapped" shall not include current illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substance Act [21 United States Code 802]).

**Height.** (See Building Height)

**Height, Story.** The vertical distance from top to top of two successive finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

**High Turnover Use.** A land use that is characterized by high vehicle trip generation per square foot of building area, in excess of 100 vehicle trips per 1,000 square feet per day.

**Homeowners Association.** A nonprofit corporation or unincorporated association of owners created pursuant to a declaration of restrictions to own and operate portions of a planned community and which has the power under the declaration to assess association members to pay the costs and expenses incurred in the performance of the association's obligations under the declaration.

**Hospice.** A facility licensed or authorized by a governmental authority having jurisdiction over operations that provide 24-hour nursing and supportive care and other services in a home-like setting to persons who have a medical diagnosis of terminal illness.

**Illegal Use.** An activity that is not permitted.

**Improvement, Off-Site.** Any physical improvements, above or below ground, required by the Town for streets, utilities, landscaping, trails or other public purposes, adjacent to or in the vicinity of a project.

**Improvement Plan.** A plan submitted by a registered professional engineer showing the location and construction details of streets, drainage facilities, utilities, landscaping, and lighting required for a subdivision or other project.

**Incidental Use.** (See Use, Incidental)

### **Industrial Hemp Related Terms**

**Grower.** An individual, partnership, company, or corporation that propagates industrial hemp under Title 3, Chapter 2, Article 4.1 of the Arizona Revised Statutes and Title 3, Chapter 4, Article 10 of the Arizona Administrative Code.

**Harvester.** An individual, partnership, company, or corporation that is licensed by the State of Arizona Department of Agriculture to harvest industrial hemp for a licensed grower.

**Hemp Products.** All products made from industrial hemp, including cloth, cordage, fiber, fuel, grain, paint, paper, construction materials, plastics, and by-products derived from sterile hemp seed or hemp seed oil. Hemp products exclude any product made to be ingested except food made from sterile hemp seed or hemp seed oil.

**Hemp Seed.** Any viable *Cannabis sativa* L. seed that produces an industrial hemp plant that is subject to Title 3, Chapter 2, Article 4.1 of the Arizona Revised Statutes and Title 3, Chapter 4, Article 10 of the Arizona Administrative Code.

**Industrial Hemp.** Any viable *Cannabis sativa* L. and any part of such a plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.300% percent on a dry-weight basis.

**Industrial Hemp Site.** The location in which a grower, harvester, transporter, or processor possesses a crop, a harvested crop, or hemp seed.

**Nursery.** Real property or other premises on or in which industrial hemp stock is propagated, grown, or cultivated and intended for sale, gift, or propagation, either cultivated or collected in the wild, or from which source industrial hemp stock is offered for distribution or sale.

**Processor.** An individual, partnership, company or corporation that is licensed by the State of Arizona Department of Agriculture to receive industrial hemp for processing into hemp products or hemp seed.

**Transporter.** An individual, partnership, company or corporation that is licensed by the State of Arizona Department of Agriculture to transport industrial hemp for a state-licensed grower to a processor.

**Interior Building Separation.** The distance between exterior walls of buildings on a site.

**Landscaping, Interior.** A landscaped area or areas within the shortest circumferential line defining the perimeter or exterior boundary of the parking or loading area, or similar paved area, excluding driveways or walkways providing access to the facility (as applied to parking and loading facilities or to similar paved areas).

**Land Use Law.** Any rule, ordinance, resolution or law enacted by the Town that regulates the use or division of land or any interest in land or that regulates accepted farming or forestry practices. (See A.R.S. § 12-1136)

**Lighting Related Terms.**

**Cutoff, Full.** Fixtures constructed so that light rays emitted, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane extending from the lowest point on the fixture where light is emitted.

**Cutoff, Semi-.** Fixtures constructed so that the bottom edge of the lens extends below the bottom plane of the fixture, and that allow some light to extend above a horizontal plane extending from the lowest point on the fixture where light is emitted.

**Footcandle.** A measure of light intensity representing the amount of light received by 1 square foot of a surface located 1 foot from a point source of light equivalent to one candle in brightness or illumination.

**Outdoor Light Fixture.** Artificial outdoor lamps and other devices, permanent or portable, used for illumination or advertisement. Such devices include, but are not limited to: search, spot or flood lights; security lights; parking lot lighting; landscape and trail lighting; street lights; signage lighting; exterior building illumination, and similar light sources. Traffic lights are not outdoor light fixtures.

**Livestock.** (See Gilbert Municipal Code Chapter 6, Article III Livestock and Non-domestic Animals, Section 6-126: Definitions)

**Livestock, Large.** (See Gilbert Municipal Code Chapter 6, Article III Livestock and Non-domestic Animals, Section 6-126: Definitions)

**Livestock, Small.** (See Gilbert Municipal Code Chapter 6, Article III Livestock and Non-domestic Animals, Section 6-126: Definitions)

**Lot.** A unit of land shown on a recorded subdivision plat, record of survey map, parcel map, or recorded as a metes and bounds description.

**Lot Area.** The area bounded by the lot lines, exclusive of streets and areas in future streets as established by easement, dedication, or ordinance. Lot area does not include that area of a lot where the lot width is less than the minimum required by the base zoning district.

**Lot Coverage.** The percentage of a lot covered by buildings and structures. Lot coverage is determined by measuring the dimensions of the buildings or structures on the lot as follows:

1. All buildings and structures are measured from each exterior wall closest to the property line to the opposite exterior wall closest to the other property line on whatever floor is closest to the property line, including the exterior wall of any cantilevered element.
2. For covered architectural features attached to a building or structure, including but not limited to open air attached patios, open air porches, patio covers, decks, balconies and porches whether the roof is solid or an open or semi-open lattice roof element, lot coverage includes the area from exterior face of support column or post to exterior wall of building.
3. For detached accessory structures, including but not limited to open air attached patios, open air porches, patio covers, decks, ramadas and similar structures, lot coverage includes the area between the exterior face of support columns or posts whether the roof is solid or an open or semi-open lattice roof element. Where only one support element is provided lot coverage includes the area under the exterior perimeter of the covered architectural feature.
4. Lot coverage does not include uncovered patios, decks, balconies, porches, awnings and other similar architectural features having no support columns or posts. Lot coverage does not include the projection of cornices, roof eaves, overhangs and other similar architectural projections. Lot coverage does not include areas paved at grade for driveways, walkways, uncovered parking, walls or fences.



**Lot Depth.** The depth (or length) of a lot shall be (SEE APPENDIX 1, FIGURE 24):

1. If the front and rear lines are parallel, the shortest distance between such lines.
2. If the front and rear lines are not parallel, the shortest distance between the midpoint of the front lot line and the midpoint of the rear lot line.
3. If the lot has more than 4 sides, the shortest distance between:
  - a. A straight front lot line, or a line tangent to a curved front lot line; and
  - b. A 30 foot long assumed rear lot line lying parallel to the front lot line in a. above, lying within the lot.

**Lot Line.** Any property line bounding a lot (SEE APPENDIX 1, FIGURE 25).

*Front.* The front lot line shall be determined as follows:

*Corner Lot.* The front lot line of a corner lot is the shortest lot line abutting a street from which access may be taken. If the street lines are the same length, any one may be considered the front lot line.

*Double-Frontage (Through) Lot.* Each frontage from which access is permitted shall be deemed a front lot line. The front lot line for lots having vehicular access only via an alley shall be the lot line adjacent to the local or collector street.

*Flag Lot.* The front lot line of a flag lot shall be determined at the time of a Final Subdivision Plat. If no Final Subdivision Plat is required, the front lot line shall be established at the time a building permit is issued.

*Interior Lot.* The front property line of an interior lot shall be the line abutting a street.

*Other.* For lots other than the types listed above, front lot lines shall be established at the time of Final Subdivision Plat. If no Final Subdivision Plat is required, the front lot lines shall be established at the time a building permit is issued.

*Interior.* A lot line not abutting a street.

*Rear.* That lot line opposite the front property line. Where the side property lines of a lot meet in a point, the rear property line shall be assumed to be a lot line not less than 30 feet in length, lying within the lot and parallel to a line tangent to a curved front lot line, or parallel to a straight front line.

*Side.* Any lot line that is not a front lot line or a rear lot line.

**Lot Types.** (SEE APPENDIX 1, FIGURE 25)

*Corner.* A lot located at the intersection of 2 or more streets.

*Double-Frontage.* A lot having frontage on 2 or more non-intersecting streets. Double-frontage lots are also known as through lots.

*Flag.* A flag-shaped lot with its widest dimension set back from the street and having a narrow strip of land connecting to the street. Flag lots are also known as panhandle or pipe stem lots.

*Interior.* A lot having only one side abutting a street.

**Lot Width.** (SEE APPENDIX 1, FIGURE 24) The distance between side property lines measured at the front setback line, entirely outside of the front setback area.

**Marquee.** A permanent structure attached to, supported by, and projecting from a building for the purpose of protecting openings from the elements, providing shade or architectural embellishment. A *Marquee* does not include an *Awning* or *Canopy*.

**Maintenance.** Ordinary upkeep, replacement, or repair of minor components of a building, structure, sign or landscaping. Maintenance shall include repainting of buildings or structures to match existing colors and the replacement of Sign Faces.

**Map of Dedication.** {Need definition}

**Median.** An area in the approximate center of a street that is used to separate the directional flow of traffic.

**Mixed-Use Development.** A coordinated Development Plan with a functional integration of residential and non-residential uses, where a variety of different living activities (live, work, shop, and play) are in close proximity (walking distance) to most residents, resulting in measurable reductions in traffic impacts.

**Mural.** A hand-painted work of original visual art that is painted directly on the exterior surface of a building, structure, wall or surface with the express permission of the property owner; and is non-commercial in that it does not promote a particular business, service or product. .

**Noise Related Terms.**

*Ambient Noise Level.* The all-encompassing noise level associated with a given environment, being a composite of sounds from all sources, excluding any alleged offensive noise. In this context, the ambient noise level constitutes the normal or existing level of environmental noise at a given location.

*A-Weighted Sound Level.* The total sound level in decibels of all sound as measured with a sound level meter with a reference pressure of 20 micropascals using the A- weighted network scale at slow response. The unit of measurement shall be defined as dBA or dBa.

**Day/Night Level (DNL or Ldn).** The 24 hour average sound level in A-weighted decibels, obtained after the addition of ten decibels to sound levels for the periods between 10 p.m. and 7 a.m. as averaged over a span of one year. The Federal Aviation Administration standard metric for determining the cumulative exposure of individuals to noise.

**Decibel (dB).** A unit for measuring the amplitude of sounds, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals.

**Decibel, A-Weighted (dBA).** A unit for describing the amplitude of sound as measured on a sound level meter that approximates the frequency response of the human ear using the A-weighted network.

**Equivalent Sound Level (Leq).** The equivalent, steady-state A-weighted sound level that in a stated period of time contains the same acoustic energy as the time-varying sound level during the same period.

**Equivalent Sound Level, Hourly (Leq(h)).** The hourly value of Leq.

**Non-Conforming Lot or Parcel.** (See Section 4.602: Definitions).

**Non-Conforming Sign.** (See Section 4.602: Definitions).

**Non-Conforming Structure.** (See Section 4.602: Definitions).

**Non-Conforming Use.** (See Section 4.602: Definitions).

**Nonresidential Use.** All uses other than single family and multi-family residential uses.

**Open Air Accessory Structure.** Means a freestanding permanent structure that has a solid roof, lattice roof or fabric roof surface supported by poles, posts, columns or other vertical structural members that are permanently anchored into the ground. The structure may have up to one wall on any of the sides with the remaining sides open.

**Open Air Attached Patio.** Means a patio within the rear half of the lot attached to the house or to an accessory structure, guest quarters or secondary dwelling unit that is open on at least one side. The patio may have a solid roof, lattice roof or fabric roof surface supported by poles, posts, columns or other vertical structural members.

**Open Air Porch.** Means a porch attached to the front of a dwelling unit or to an accessory structure, guest quarters or secondary dwelling unit that is open on at least two sides.

**Open Space.** Any area of land or water permanently dedicated or designated for use for active or passive recreation areas, landscape buffers, flood control, storm water retention, or resource management.

**Overflight Areas.** Areas designated on the Official Zoning Map as overflight areas. Overflight areas are divided into Overflight Areas 1, 2 and 3.

**Parapet.** That portion of an exterior wall that extends above the roof line.

**Parcel.** (See Lot)

**Parking, Required.** The number of spaces located closest to the uses they serve, identified in Table 4.204: Off-Street Parking Requirements and Table 4.205: Off-Street Parking Requirements for Shopping Center and Regional Commercial Districts.

**Parking, Tandem.** Two parking spaces arranged end-to-end.

**Patio, Covered.** An attached roofed structure, open on one or more sides, whose use is for indoor-outdoor living and recreation.

**Pedestrian, Sidewalk and Landscape Tract.** A parcel of land designated on the final plat for the exclusive use by the public for pedestrian amenities and activities, including sidewalks and landscaping.

**Plat, Corrective.** A plat approved and recorded for the purpose of eliminating errors of minor survey, drafting or typographical nature on a recorded plat.

**Plat, Final.** A record map of all or part of a subdivision essentially conforming to an approved preliminary plat.

**Plat, Preliminary.** A map showing a proposed subdivision, including supporting data.

**Plat, Recorded.** A final plat bearing all executed certificates of approval and recorded with the office of the Maricopa County Recorder.

**Porch.** An attached, covered platform open on at least 2 sides located at the front of a dwelling unit.

**Principal Structure.** The main building or structure on a lot or parcel.

**Principal Use.** (See Use, Principal)

**Private Park.** A private park means an area owned by a homeowner's association, property owner's association or business that is used as a playground, or contains playground equipment, or areas with trees/turf or ramadas or contains the following facilities or amenities: paths, trails, picnic tables, sports fields, basketball courts, bbq grills, splash pads, tennis courts, volleyball courts, or swimming pools. A private park is not a non-turf retention/detention basin primarily used to contain stormwater or property used as an employee break or amenity area.

**Project.** Any proposal for new or changed use of land or buildings, or for new construction, alteration, or enlargement of any structure.

**Property, Business.** Personal property owned, leased, or under the control of a business. Business property may include inventory, equipment, materials, supplies, and vehicles, including vehicles and equipment owned by others but used in conjunction with a business.

**Property Line.** (See Lot Line)

**Property Owner.** The owner of real property, or the authorized representative of the owner.

**Property, Public.** A lot or parcel owned or controlled by the Town or other governmental entity, whether or not the Town or governmental entity owns the property in fee.

**Protected Development Right.** The right to undertake and complete the development and use of property under the terms and conditions of a protected development rights plan, without compliance with subsequent changes in zoning regulations and development standards.

**Public Park.** A public park is a town recreation facility or town park as defined in municipal code chapter 46-1 definitions.

**Pull-Through Parking Space.** A parking space than can be accessed from both ends.

**Reptile.** (See Gilbert Municipal Code Chapter 6, Article III Livestock and Non- domestic Animals, Section 6-126: Definitions)

### **Residential Housing Types**

**Attached Single Family Dwelling.** A dwelling unit on an individual lot that has at least 1 wall in common with 1 or more other dwelling units on separate lots.

**Condominium.** Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of the separate portions.

**Duplex.** A building on 1 lot used and designed as a residence for 2 families living independently of each other with individual cooking and sanitary facilities in each dwelling unit.

**Multi-Family Dwelling.** A building on 1 lot used and designed as a residence for 3 or more families living independently of each other with individual cooking and sanitary facilities in each dwelling unit. Multi-family dwellings may include apartment buildings and residential condominiums. Multi-family housing may be in a mixed- use building with ground floor commercial space.

**Secondary Dwelling Unit.** A second, subordinate dwelling unit located on the same lot as the principal dwelling unit.

**Single Family Dwelling Unit.** 1 building on 1 lot or parcel designed for occupancy by 1 family for living and sleeping purposes, and having cooking and sanitary facilities.

**Studio Dwelling Unit.** A unit containing only a single habitable room for living and sleeping purposes, and having cooking and sanitary facilities.

**Retail Sales.** The sale, rental, or lease of goods, products, or material directly to the consumer.

**Right-of-Way.** A strip of publicly owned land occupied by or planned for a street, utilities, landscaping, sidewalks, trails, and similar facilities.

**Rodent.** (See Gilbert Municipal Code Chapter 6, Article III Livestock and Non- domestic Animals, Section 6-126: Definitions)

**Roof Line.** The eave line on any part of a building with a pitched roof, or the upper edge of the parapet wall or vertical architectural wall feature on any part of a building with a flat roof.

**Service Bay Facility.** A building containing bay or roll-up doors or similar service openings to provide a service within the building.

**Setback.** The minimum distance by which any building or structure is required to be separated from a property line. (SEE APPENDIX 1, FIGURE 26)

**Setback, Front.** A line within the lot or parcel parallel to a straight front property line. Where the front property line is not straight, the front setback line is a line within the lot or parcel separated from the front property line at all points by a distance equal to the front setback set forth in the base zoning district regulations.

**Setback, Rear.** A line opposite the front property line extending across the full width of a lot or parcel, the depth of which is the shortest horizontal distance between the rear property line or, if none exists, the assumed rear property line and a line parallel thereto.

**Setback, Side.** A line extending from the front setback line to the rear setback line, the depth of which is the horizontal distance set forth in the base zoning district regulations. The side setback extends from the front setback line, or the front property line of a lot or parcel where no front setback is required, to the rear setback line, or the rear property line of the site where no rear setback is required.

**Setback Area.** The area of a lot or parcel outside of the building envelope. (SEE APPENDIX 1, FIGURE 27)

**Setback Area, Front.** The area bounded by the front property line or lines, the side property lines, and the front setback line.

**Setback Area, Rear.** The area bounded by the rear property line or lines, the side property lines and the rear setback line.

**Setback Area, Side.** The area bounded by a side property line, a side setback line, and the front and rear setback lines.

**Sign.** Any device, fixture, placard or structure, including its component parts, which draws attention to an object, product, place, activity, opinion, person, institution, organization, or place of business, or which identifies or promotes the interests of any person and which may be viewed from the private property of another or from any public street, road, highway, right-of-way or parking area (collectively referred to as a “public area”). For the purposes of these regulations, the term “sign” shall include all structural members. A sign shall be construed to be a display surface or device containing organized and related elements composed to form a single unit. In cases where matter is displayed in a random or unconnected manner without organized relationship of the components, each such component shall be considered to be a single sign. The term “sign” for regulatory purposes shall not include the following objects: Grave yard and cemetery markers visible from a public area, vending machines or express mail drop-off boxes visible from a public area, decorations visible from a public area, artwork or a building’s architectural features visible from a public area, or a manufacturer’s or seller’s markings on machinery or equipment visible from a public area.

***Sign Related Terms.***

**Act of God.** An event which is caused solely by the effect of nature or natural causes and without any interference by humans whatsoever.

**Architectural Detail / Feature / Element.** Prominent or significant parts or elements of a building or structure including but not limited to; cornices, belt courses, lintels, sills, pediments, columns or pilasters, rustications, or base courses.

**Balloon.** Any lighter than air, gas filled inflatable object attached by a tether to a fixed place or mounted on the ground or a building.

**Commercial Building, Multiple Tenant.** A commercial building with 2 or more separate tenants having individual entrances and shared parking.

**Commercial Center.** A group or cluster of retail shops, offices, or employment buildings which share common parking, landscaping, and/or frontage, and may have a property owners association and have a name which is generally understood by the public to refer to the group or cluster.

**Comprehensive Sign Program.** A set of sign design standards established for a multi-tenant building, non-residential complexes with multiple buildings, or large-scale mixed-use developments.

**Indirect Illumination.** An external source of illumination that is not part of or attached to a sign.

**Individual Letters.** A cutout or etched letter or logo which is individually placed on a wall or freestanding sign.

*Internal Illumination.* A light source entirely within a sign where the source of the illumination is not directly visible.

*Internal Indirect Lighting (Halo Lighting).* A source of illumination, not directly visible, lighting only the background upon which the individual letter is mounted.

*Logo.* A graphic symbol representing an activity, use, or business. Logos are registered trademarks or symbols commonly used by a business and may include lettering in addition to graphic designs.

*Master Sign Plan.* A comprehensive sign plan for large scale multiple tenant commercial or employment uses, building complexes for a single commercial or employment use, auto malls, hospitals, or enclosed regional retail malls.

*Pan-Channel Letter.* An individual three-dimensional letter constructed by means of a three-sided metal channel.

*Raceway.* A structure used for wall-mounted signage with individual letters or characters, located upon the exterior wall surface between the wall and the letters or sign characters. Raceways contain wiring, conduit, transformers, and other electrical components.

*Sign Face.* The surface upon, against or through which the sign copy and/or graphic is displayed or illustrated, not including: structural supports; monument base; architectural features of a building or monument sign structure; nonstructural or decorative trim. When a sign only consists of letters, designs, or figures engraved, painted, projected, or fixed on a building or perimeter wall or other structure, and does not include a background contrasting with the material or color of the building or perimeter wall or other structure, the sign face shall consist of the entire fixed lettering and/or artwork, together with the spacing between the letters, figures or designs.

*Sign Plan.* A drawing required to be submitted with an application for a sign permit. The plan may show 1 or more signs.

*Sign Structure.* The supports, uprights, braces and framework of a sign.

### ***Sign Types.***

*Abandoned sign.* A sign that is not operated or maintained for a period of one hundred eighty (180) calendar days or longer. The following conditions shall be considered as the failure to operate or maintain a sign: (1) the sign displays advertising for a product or service which is no longer available, (2) the sign displays advertising for a business which is no longer licensed, or (3) the sign is blank. An abandoned sign includes a sign on which is advertised a business that is no longer doing business on the parcel where the sign is located. An abandoned sign includes a sign for a purpose for which the purpose has lapsed.

*A-Frame Sign.* A portable, stand-alone sign comprised of two separate panels or faces joined at the top and spread apart at the bottom to form a base upon which the sign stands.



*Animated Sign.* A sign that uses movement or change of lighting to depict action or the appearance of motion. This definition includes blinking, flashing, moving and revolving signs; strobe, laser, fiber optic, search lights and string lighting of any type.

*Awning Sign.* A sign painted, installed, attached or otherwise applied to or located directly on an awning.

*Banner Sign.* A Temporary Sign of fabric, plastic, paper or other light pliable material not enclosed in a rigid frame.

*Balloon Sign.* A SIGN supported by a balloon anchored to the ground or a fixed object.

*Bandit Sign* means the same as a snipe sign. *See Snipe sign.*

*Billboard.* A sign or structure, other than a Temporary Sign, portraying information or directing attention to a business, activity, commodity service, entertainment, or communication which is not conducted, sold or offered at the parcel on which the sign or structure is located or which does not pertain to the parcel upon which the sign or structure is located.

*Blinking Sign.* *See Flashing Sign.*

*Cabinet Sign.* A three-dimensional enclosed structure which includes all messages and copy with a single or double Sign Face(s).

*Canopy Sign.* A wall sign designed to be installed, attached or otherwise applied to or located directly on the roof of a canopy and used to accent the building entry.

*Canopy Sign for Service Islands.* A sign mounted permanently on, under, or otherwise mounted on a service island canopy.

*Changing Message Sign.* A sign designed to permit change of copy manually, mechanically or electronically, including such signs where the change of copy is by remote or automatic means.

*Directory Sign.* A sign showing the locations of tenants in a multi-tenant commercial, office, or employment complex, or tenants in a multi-family residential project.

*Drive-Through Lane Sign.* A oriented to occupants of vehicles utilizing a drive-through lane at an establishment that offers transactions through a window, with or without ordering capability.

*Flag.* A Temporary Sign consisting of a piece of cloth, fabric or other non-rigid material.

*Flashing Sign.* Any illuminated sign, on which the artificial source of light is not maintained stationary or constant in intensity and color at all times when such sign is illuminated. For the purposes of this definition, any moving illuminated sign affected by intermittent lighting shall be deemed a flashing sign.

*Flying Banner.* A portable, stand-alone sign comprised of light fabric that moves with the wind and can turn 360° and is supported by a pole structure and a base.

*Freestanding Sign.* A sign erected or mounted on its own self-supporting structure or base detached from any supporting elements of a building, wall or fence.

*Freeway Sign.* A freestanding sign intended to advertise or identify uses to motorists on a freeway.

*Historic Marker.* A marker commemorating a historic person or event, or identifying a historic place, structure or object.

*Heritage District Roof Sign.* A sign mounted to the roof of a building whose horizontal dimension is equal to or greater than its vertical dimension and whose height exceeds the roofline or parapet of the building to which it is attached. The roof sign will be considered a non-commercial sign as it does not promote a particular business, service or product but contributes to the visual identity and character of the Heritage District through extraordinary aesthetic quality, creativity, or innovation.

*Inflatable Sign.* A form of inflatable device or a sign that is displayed, printed or painted on the surface of a balloon or any other form of inflatable background and is used to attract attention to or advertise a noncommercial or commercial message or location.

*Intermittent Sign.* A sign which permits light to be turned on or off intermittently more frequently than once every twelve hours or which is operated in a way whereby light is turned on or off intermittently or which varies in intensity or color more frequently than once every twelve hours, including any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including but not limited to an LED (light emitting diode) or digital sign.

*Marquee Sign.* A sign painted, installed, attached or otherwise applied to or located directly on a *Marquee*.

*Moving Sign.* A sign designed or made to move freely in the wind or designed or made to move by an electrical or mechanical device.

*Neon Sign.* A sign using neon or any other inert gas under low pressure, which glows in a distinctive color when exposed to a high voltage electrical current.

*Offsite Commercial Sign.* Any sign which advertises a use, product, service, or activity occurring on a lot or parcel other than where the sign is located.

*Onsite Directional Sign.* A sign providing necessary direction for vehicular and pedestrian traffic on the premises on which the sign is located.

*Onsite Signage.* Any sign which advertises a use, product, service, or activity occurring on a lot or parcel where the sign is located.

*Painted Wall Sign.* A sign painted directly onto the exterior wall of a building.

*Permanent Sign.* A sign constructed of durable materials, attached to the ground or a building in a manner provided by the building code.

*Pole Sign.* A permanent freestanding sign supported by a single column, upright, pole, or post.

*Portable Sign.* A sign not permanently attached to, mounted upon or affixed to a building, structure or the ground, and which is easily moved. Examples include A-Frame Signs, T-Frame Signs, and signs on wheels. *Portable Sign* does not include a Temporary Sign carried by a person or animal.

*Projecting Roof Sign.* A sign mounted to and projecting from the wall of a building or structure whose depth is greater than its width; and exceeding the height of a roofline or parapet of the building or structure to which it is attached. *Projecting Roof Sign* does not include a *Marquee Sign*.

*Projecting Sign.* A sign mounted to and projecting from the wall of a building or structure whose depth is greater than its width. *Projecting Sign* does not include a *Marquee Sign* or *Projecting Roof Sign*.

*Reflective Sign.* A sign constructed of mirrors or other surfaces that reflect light.

*Roof Sign.* A sign erected on a roof, or projecting above the highest point of the roof line, parapet, or fascia of a building.

*Rotating Sign.* A sign that revolves or turns or has external sign elements that revolve or turn. Such sign may be power-driven or propelled by the force of wind or air.

*Scrolling Sign.* A sign that uses changing lights or colors to form one or more sign messages that move by electronic means horizontally or vertically across a display screen.

*Snipe sign.* A sign made of any material when such sign is tacked, nailed, posted, pasted, glued or otherwise attached to or placed on public property such as but not limited to a public utility pole, a public street sign, a public utility box, a public fire hydrant, a public right-of way, public street furniture, or other public property; except for A-frame and T-frame signs that are temporarily placed on public property under such limitations and constraints as may be set forth in the Land Development Code.

*Street Pole Banner SIGN.* A display containing changeable copy on vinyl or fabric with printed or sewn graphics which is mounted from brackets perpendicular to a street light pole or other freestanding armature structure.

*Suspended Sign.* A sign suspended from a roof overhang of a covered porch or walkway, which identifies the tenant of the adjoining space.

*Temporary Sign.* A sign not permanently attached to the ground, a wall or a building, and not designed or intended for permanent display.

*T-Frame Sign.* A portable, stand-alone sign comprised of one single double-sided panel joined at the bottom to a base that is spread apart upon which the sign stands.

*Tower Sign.* A freestanding sign greater than 8 feet and not more than 15 feet in height.

*Traffic Control Device Sign.* Any Government Sign located within the right-of-way that is used as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) and approved by the Federal Highway Administrator as the National Standard. A traffic control device sign includes those Government Signs that are classified and defined by their function as regulatory signs (that give notice of traffic laws or regulations), warning signs (that give notice of a situation that might not readily be apparent), and guide signs (that show route designations, directions, distances, services, points of interest, and other geographical, recreational, or cultural information).

*Umbrella Sign.* A sign painted, installed, attached or otherwise applied to or located directly on an umbrella, including name brands and symbols.

*Unlawful Vehicle Sign.* A sign which covers more than twenty (20) square feet of the vehicle, which identifies a business, products, or services, and which is attached to, mounted, pasted, painted, or drawn on a motorized or drawn vehicle, and is parked and visible from the public right-of-way; unless said vehicle is used for transporting people or materials in the normal day to day operation of the business.

*V-Shaped Sign.* Signs erected upon common or separate structures which present a v-shape appearance and having an exterior angle between faces of not more than 45 degrees with distance between faces of such signs at their closest point not exceeding 2 feet.

*Wall Sign.* A sign permanently fastened to or painted on the wall or parapet of a building or structure in such a manner that the wall or vertical surface of the structure is the supporting structure.

*Window Sign.* A sign applied or attached to a window, or displayed within 6 feet of the interior of a first floor window area so as to attract attention of persons outside the building. Window Signs do not include merchandise in a window display.

***Single Housekeeping Unit.*** An interactive group of persons jointly occupying a residential unit, including the joint use of and responsibility for common areas, and sharing household activities and responsibilities such as meals, chores, household maintenance, and expenses, and where, if the residents are renters, all adult residents have chosen to jointly occupy the entire premises of the dwelling unit under a single written lease with joint use and responsibility for the premises, and the makeup of the household occupying the unit is determined by the residents of the unit rather than the landlord or property manager.

***Site.*** One or more contiguous lots or parcels under single ownership or unified control.

**Site Plan.** A plan prepared to scale showing the boundaries of a site and the proposed location of all buildings and structures, circulation, landscaping, improvements and open space areas.

**Stacking Space.** The area occupied by a vehicle while waiting to be served at the initial order point, fuel pump island, or service bay. Each stacking space is 20 feet in length and does not include the space of the vehicle at the initial order point.

**Storage Container, Residential.** A portable, weather resistant receptacle designed and used for the shipment or storage of household goods or personal items.

**Storage Container, Non-Residential.** A portable prefabricated non-combustible factory built storage structure used for the storage of equipment, supplies, merchandise, or similar materials.

**Storage, Outdoor.** Storage of material, goods, vehicles, or equipment outside of a building not for immediate use, sale or display.

**Story.** That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

**Street.** A public or private thoroughfare for vehicular use providing access to public or private property and other streets, including dedicated roadway easements. A public street includes the associated right-of-way. A private street includes any associated roadway or access easement.

### **Street Types**

**Alley.** A public or private way providing vehicular access to the rear or side of abutting properties.

**Arterial, Major.** A major surface street designated in the General Plan to carry the highest volumes of traffic across the Town, often connecting to freeways, and providing access to major commercial and employment areas.

**Arterial, Minor.** A major surface street designated in the General Plan to carry large volumes of traffic across the Town, not generally connecting to freeways, and providing access to commercial and employment areas.

**Collector Street.** A street that serves as a connection between local and arterial streets. Collector streets carry moderate amounts of traffic.

**Cul-De-Sac.** A street connecting to another street at one end and terminating in a vehicular turnaround.

**Local Street.** A minor street generally providing direct access to properties.

**Structure.** Anything constructed or erected and located on the ground, or attached to something located on the ground.

***Subdivision Related.***

***Improvements.*** Streets, sidewalks, curbs, gutters, driveways, drainage and storm water retention facilities, parks, recreational amenities, trails, street lighting, medians, signage, water mains, sanitary sewers and facilities, public utilities, landscaping and fences installed by a subdivider, and any other improvements required by the Zoning Code and Subdivision Regulations.

***Minor Land Division.***

1. The division of improved or unimproved land whose area is 2.5 acres or less into 2 or 3 lots or parcels for the purpose of sale or lease, where no new street is involved.
2. The division of improved or unimproved land for the purpose of financing, sale, or lease, whether immediate or future, into 2 parts, where the boundaries of such property have been fixed by a recorded plat.
3. Lot line adjustments, whether or not a new lot is created.

***Minor Subdivision.*** The division of improved or unimproved land of any size for the purpose of sale or lease, into 10 or fewer lots or parcels, whether or not a new street is involved.

***Subdivider.*** A person, firm, corporation, partnership, association, syndicate, trust or other legal entity that files application and initiates proceedings for the subdivision of land. An individual serving as agent for such legal entity is not a subdivider.

***Subdivision.*** The division of improved or unimproved land or lands for the purpose of financing, sale or lease, whether immediate or future, into 4 or more lots, tracts or parcels of land, or, if a new street is involved, any such property which is divided into 2 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 2 parts. Subdivision also includes any condominium, cooperative, community apartment, townhouse or similar project containing 4 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.

***Swimming Pool.*** A public or private, portable or permanent structure intended for swimming or full or partial immersion, but not including ornamental pools or fishponds.

***Swimming Pool, Public.*** A pool owned or operated by a governmental agency; a privately owned pool open to the general public for a fee or by membership; or a pool operated in conjunction with Hotels and commercial lodging.

***Teletrack Operator.*** Any person who holds an Arizona Racing Commission Permit for horse or dog racing events within Arizona and who accepts bets or wagers on the results of any pari-mutuel race at a location other than the race track.

**Teletrak Wagering Establishment.** Any establishment at which a Teletrak Operator accepts bets or wagers on the results of a horse or dog racing program conducted by a Teletrak Operator at an authorized track within Arizona.

**Temporary Use.** (See Use, Temporary)

**Trail, Equestrian.** A linear path designated for equestrian use.

**Trail, Multi-Use.** A linear path designated for use by pedestrians, bicycles, and equestrians.

**Use, Incidental.** The use of a building or land which is subordinate to the principal use of the building or land on the same lot or parcel.

**Use, Principal.** The primary or predominant use or activity occurring on a property.

**Use, Temporary.** A use established for a limited period of time.

**Vacation.** The termination of, or termination of interest in, an easement, right-of-way, or public dedication of land.

**Variance.** Relief from the strict application of the Zoning Code where strict application will deprive the property owner of privileges enjoyed by similar properties.

**Vehicle Related Terms.**

**Abandoned Vehicle.** An unregistered motor or recreational vehicle left unattended for a period of 72 hours on a street or private property. Vehicles stored within a fully enclosed building, at a towing or impound facility, or at a business engaged in *Vehicle Services* or *Motor Vehicle Sales and Leasing* are not considered abandoned.

**Commercial Vehicle.** Any vehicle licensed as a commercial vehicle.

**Inoperable Vehicle.** Any vehicle incapable of being lawfully driven.

**Motor Vehicle.** Any self-propelled device, excluding aircraft, by which any person or property may be transported, including but not limited to licensed or unlicensed vehicles, automobiles, trucks, motor boats, personal water craft, mini- bikes, go-carts, go-peds, motorized skateboards, and motorcycles.

**Recreational Vehicle.** A self-propelled or towed vehicle or camper shell designed for travel or recreational use, including motor homes, boats, personal watercraft, trailers, all-terrain vehicles, snowmobiles, motorcycles, dune buggies, and similar vehicles.

***Waste Related.***

*Hazardous Waste.* Any chemical, compound, mixture, substance, product or other material which is a hazardous waste pursuant to Arizona Revised Statutes, Title 49, Chapter 4, Article 2 and C.F.R. Part 261 and poly-chlorinated biphenyls (PCBs).

*Medical Waste.* Any solid waste that is generated in the diagnosis, treatment, or immunization of a human being or animal or in any research relating to that diagnosis, treatment or immunization, or in the production or testing of biologicals, but not including hazardous waste as defined in Title 49, Chapter 4, Article 2, Arizona Revised Statutes.

***Wholesale Sales.*** The sales of goods, product, or material to other wholesale or retail businesses.

***Wireless Communication Related Terms***

*Antenna.* Communications equipment that transmits or receives electromagnetic radio frequency signals and that is used in providing wireless services.

*Co-Location.* The use of a single support structure and/or site by more than one telecommunications provider.

*Equipment Cabinet or Building.* A cabinet or building used to house ground mounted equipment used by telecommunications providers to support a wireless communications facility.

*Existing Vertical Element – Other.* Any existing monopole tower or other vertical structure performing a non-WCF function. Existing vertical element “other” does not include a light pole, utility pole, recreational field light pole, building or sign.

*Existing Vertical Element, Recreational Field Light Pole.* A light pole constructed and used to provide an appropriate lighting function for a recreational ball field.

*Microcell.* A device that is connected to arterial 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).

*Monopole.* A single pole attached to a permanent foundation.

*Monopole, Portable.* A single pole and associated equipment mounted on a transportable base.

*Public Safety Communications Facility.* A tower or monopole required for the purpose of public safety communications of the Town, a neighboring city, Maricopa County, or the State of Arizona.



*Remote Radio Heads (RRH) / Remote Radio Units (RRU).* Electronic devices that are used to amplify radio signals in order to increase the distance of the outgoing radio signal from the antenna.

*Small Wireless Facility.* A Wireless Communication Facility that meets both of the following qualifications:

1. All Antennas are located inside and enclosure of not more than six (6) cubic feet in volume (or, in the case of an antenna that has exposed elements, the antennas and all of the antenna's exposed elements could fit within an imaginary enclosure or not more than six (6) cubic feet in volume).
2. All other wireless equipment associated with the facility is cumulatively not more than twenty-eight (28) cubic feet in volume, or fifty (50) cubic feet in volume if the equipment was ground mounted before the effective date of this section. The following types of associated ancillary equipment are not included in the calculation of equipment volume pursuant to this subsection:
  - a. An Electric Meter
  - b. Concealment Elements
  - c. A Telecommunications Demarcation Box
  - d. Grounding Equipment
  - e. A Power Transfer Switch
  - f. A Cutoff Switch
  - g. Vertical Cable Runs for the Connection of Power and Other Services.

*Stealth Building Element.* A non-residential building element designed to conceal and/or camouflage Wireless Communications Facilities, including but not limited to a wall mount, clock tower, cupola or church steeple.

*Stealth Structure.* A structure designed to conceal and/or camouflage Wireless Communications Facilities. Structures may include but are not limited to a freestanding structure such as an artificial cactus or tree, or a sculpture. Stealth structures do not include a flagpole, monopole with an attached flag, or a monopole with a minimal design feature.

*Utility Pole.* A pole or similar structure that is used in whole or in part for a communications services, electric distribution, lighting or traffic signals. Utility pole does not include a monopole.

*Wireless Support Structure.* A freestanding structure to which Wireless Communication Facility antennae and other hardware are mounted.

**Zoning Area.** For the purpose of a legal protest, the area of the affected property and the area within one hundred fifty feet of the affected property subject to the proposed change, including all rights-of-way.

# Appendix 1      Graphics

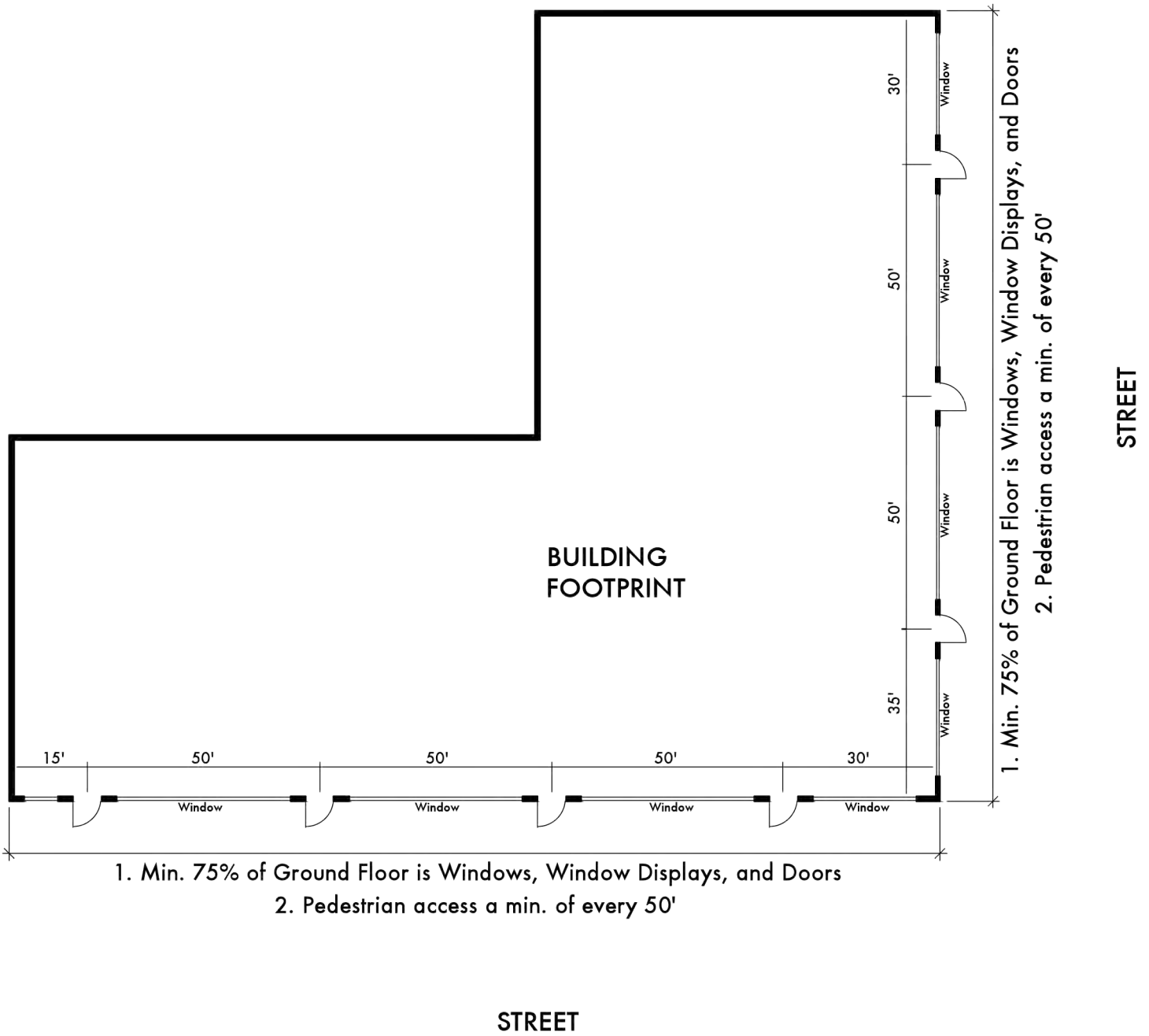
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The following graphics are intended to illustrate the general intent of Zoning Code requirements. Where there is a conflict between the text and the associated graphic, the text shall control.



**Reserved**

Fig. 1

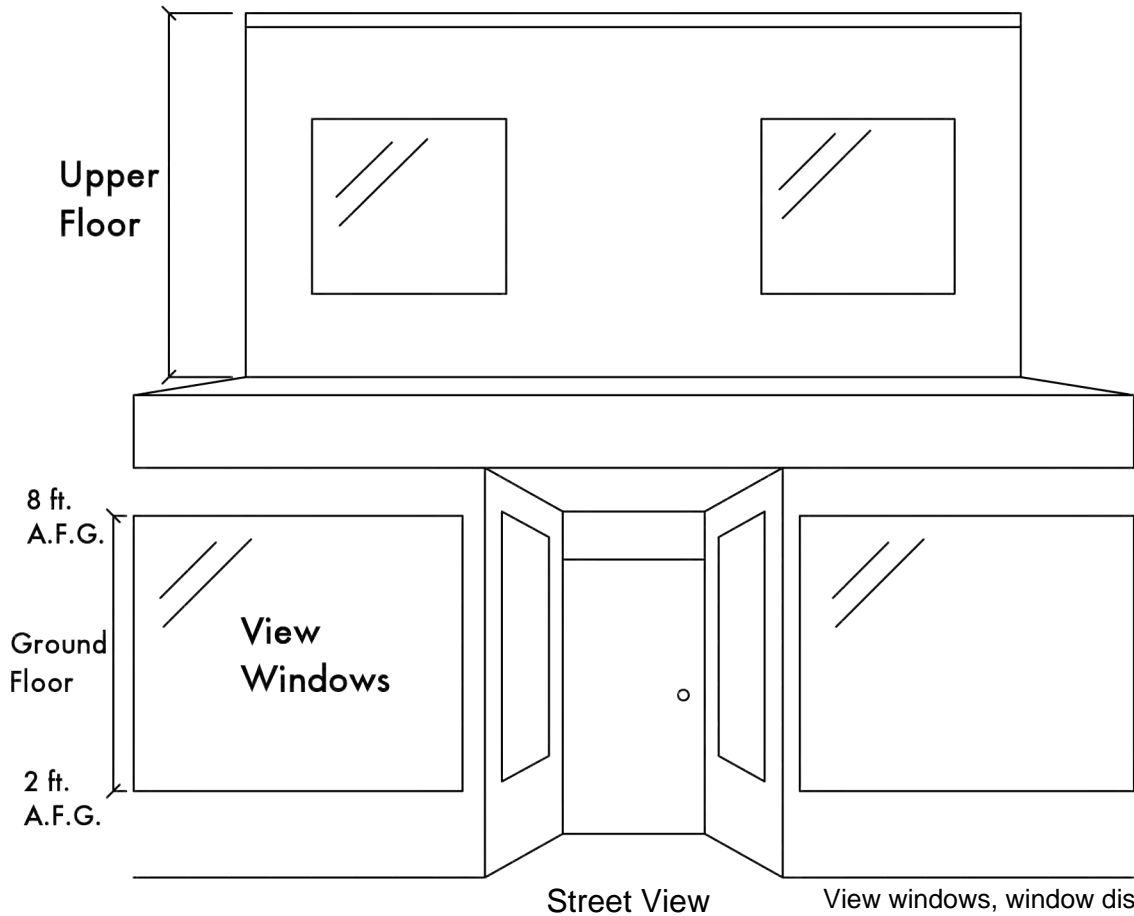


# Storefronts and Access

## Fig. 2 - Section 2.403D

A minimum of 25 percent of a building's upper floor elevations along streets shall have view windows with non-reflective glass.

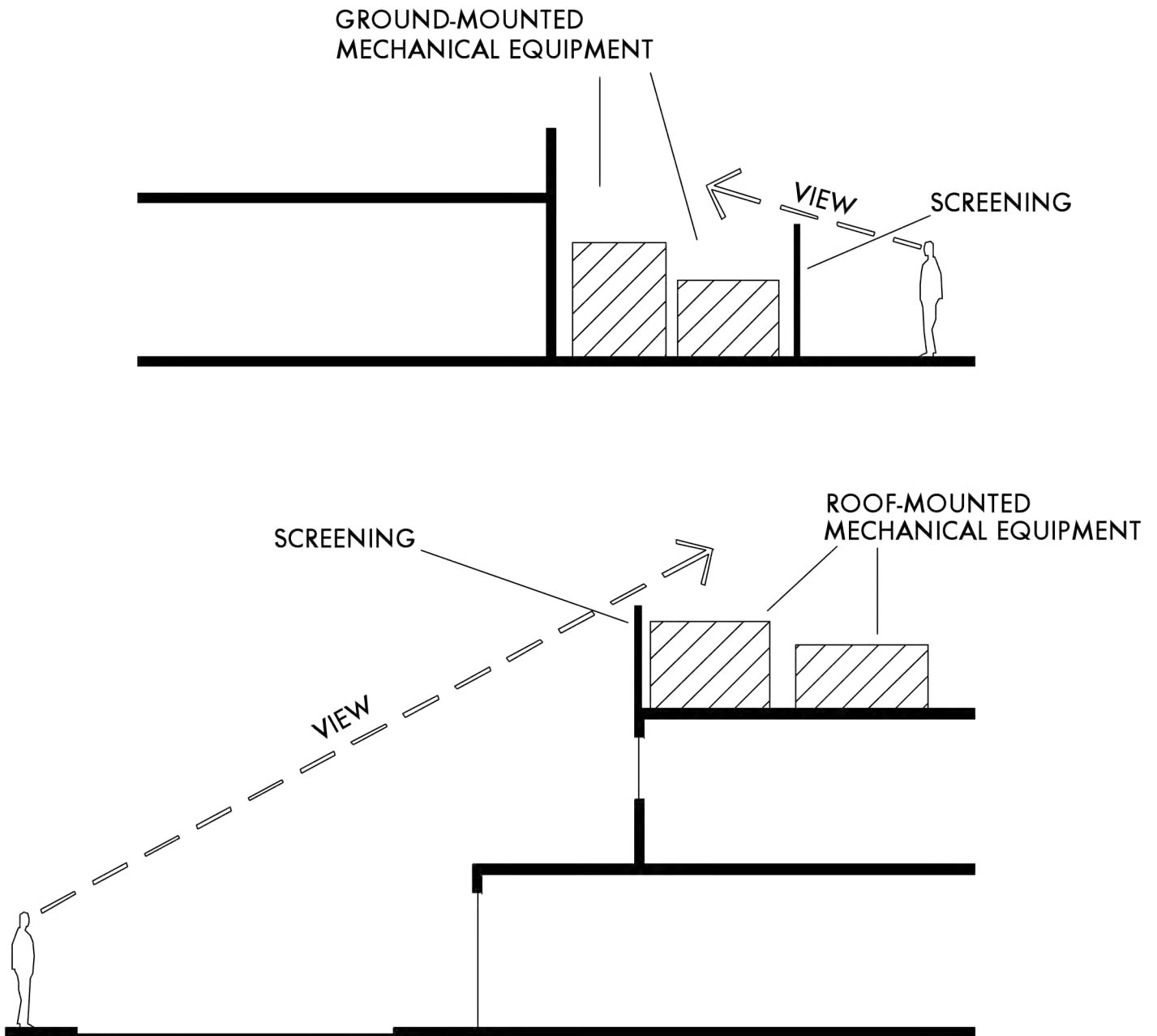
## Minimum 25% Non-Reflective Glass Windows



View windows, window displays, or doors shall be provided in a zone between 2 and 8 feet above grade adjacent to the principal building frontage.

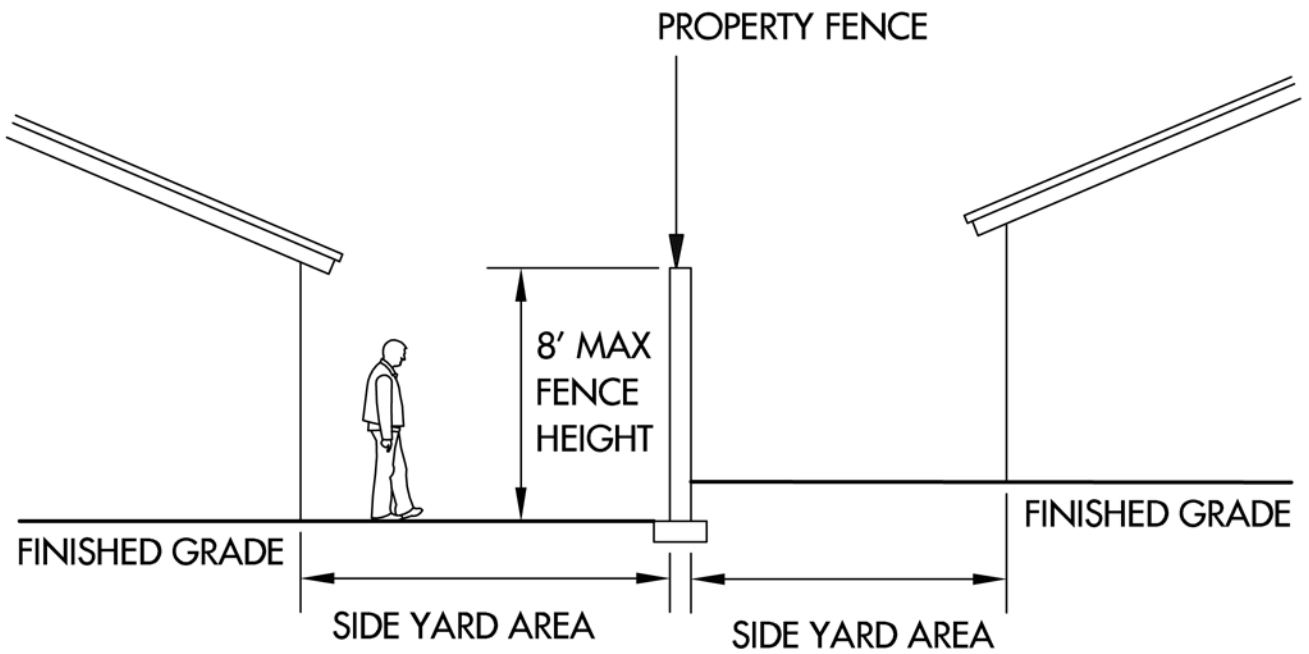
# Transparency

Fig. 3  
Section 2.403E

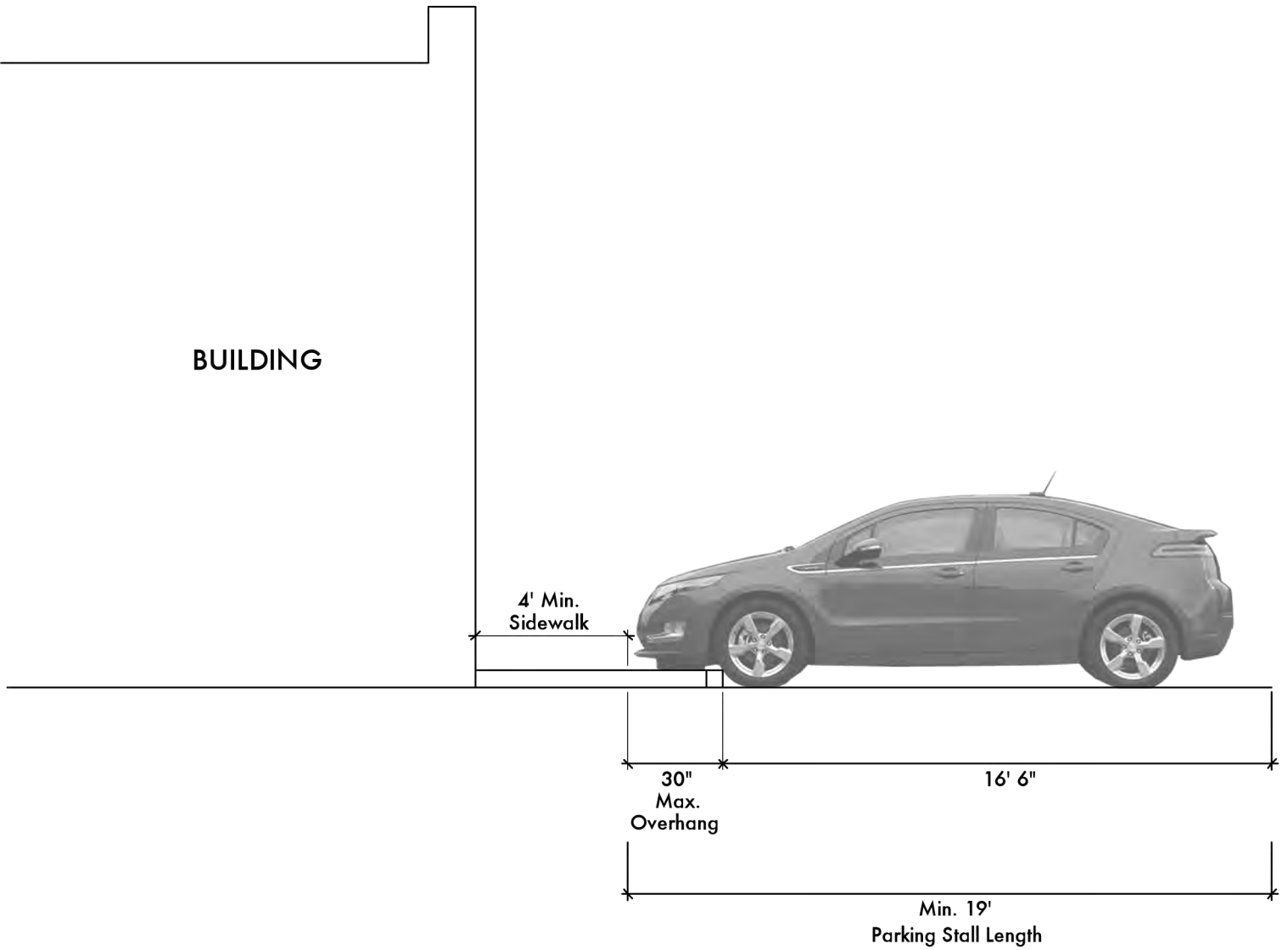


# Screening Mechanical Equipment

Fig. 4  
Section 4.105B.1b



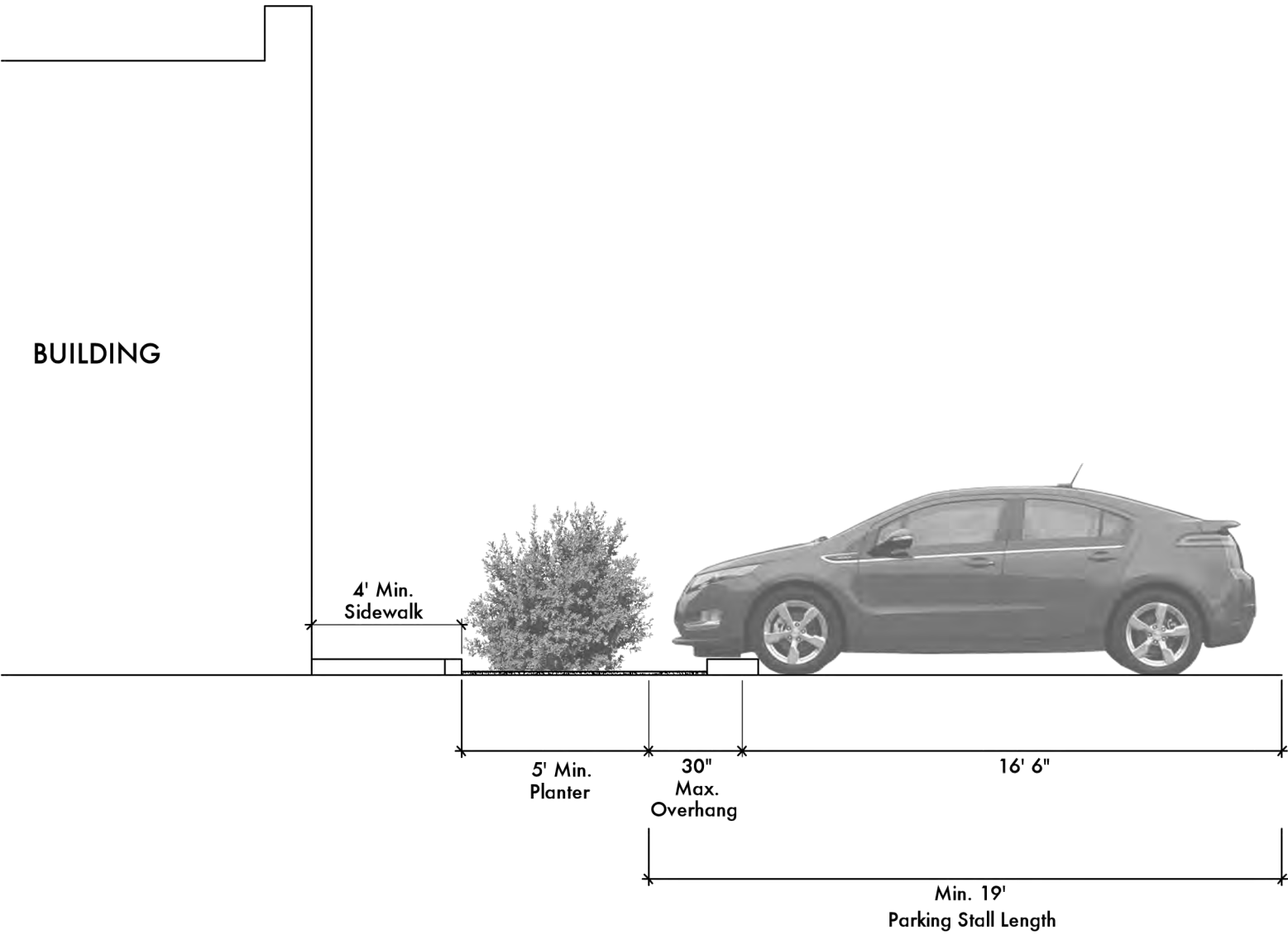
**Fences**  
Fig. 5- Section 4.109



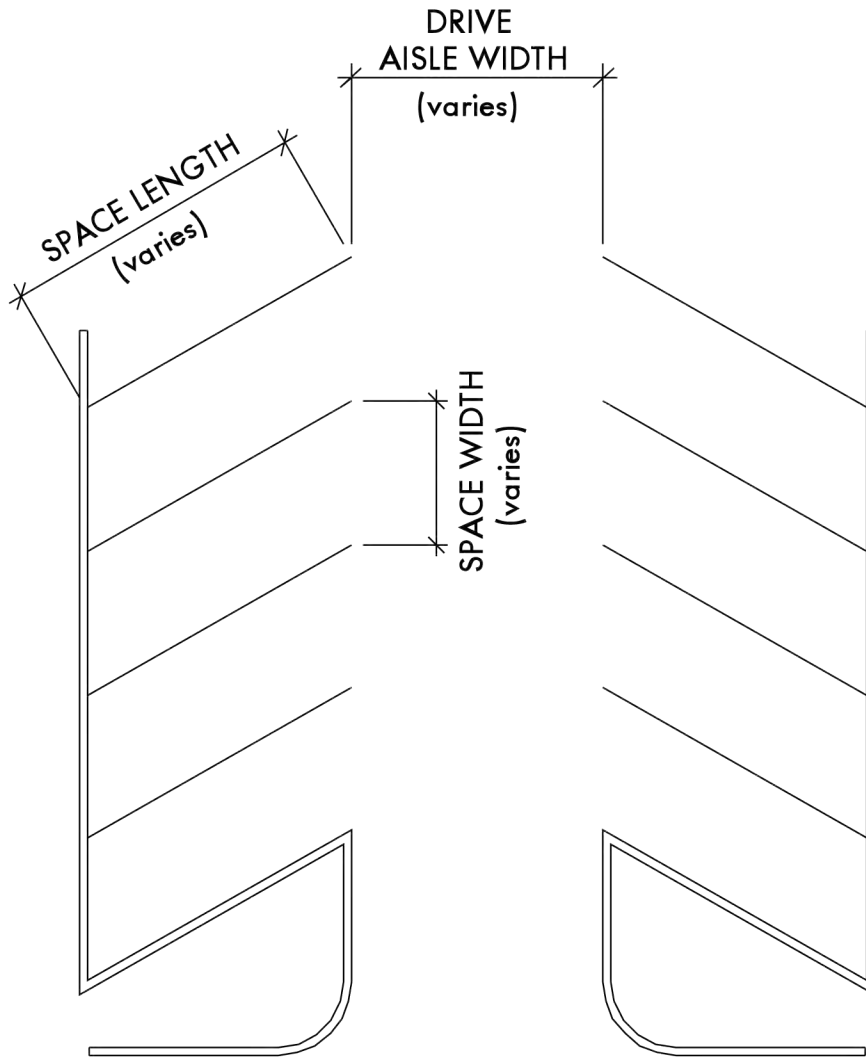
# Separation from Buildings

Fig. 6 - Section 4.203N





**Parking Overhang**  
Fig. 7 - Section 4.203O 1,2

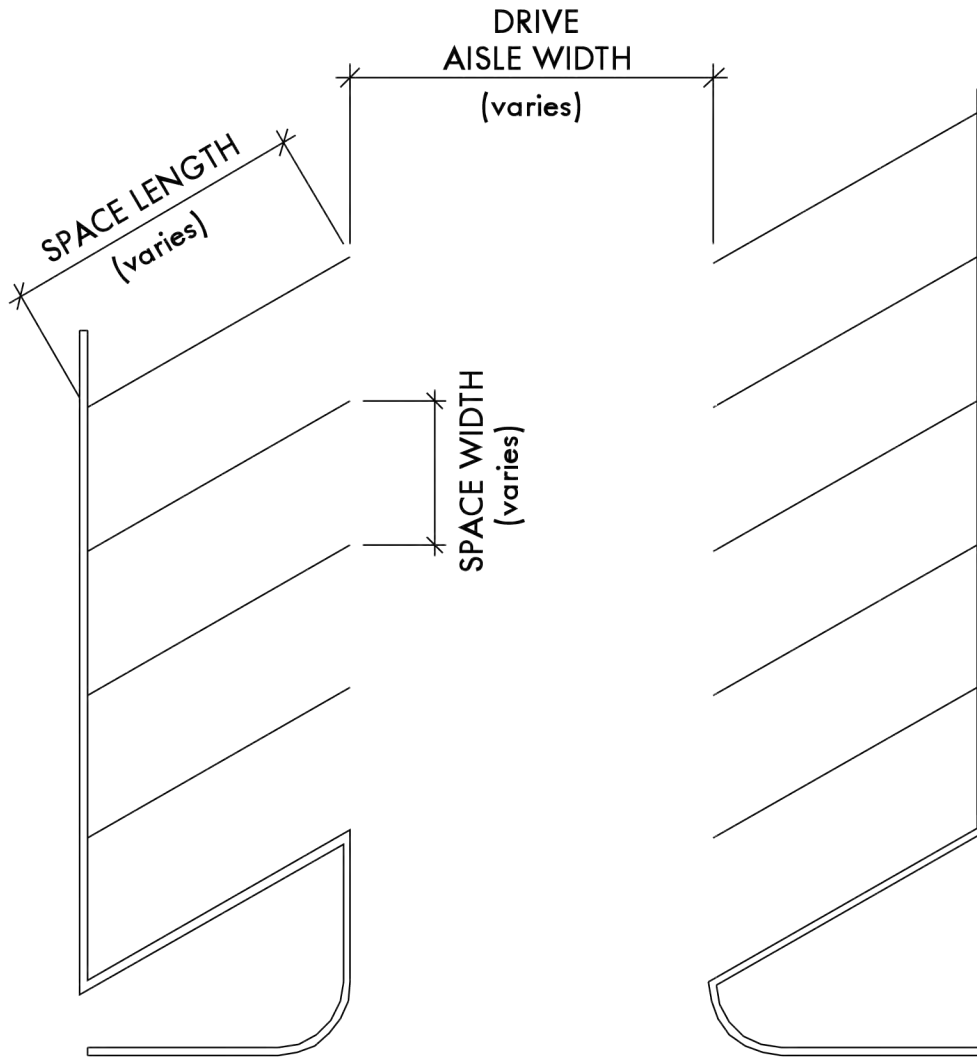


ONE-WAY AISLE

# Angle Parking Less Than 90°

Fig. 8A

## Section 4.206H

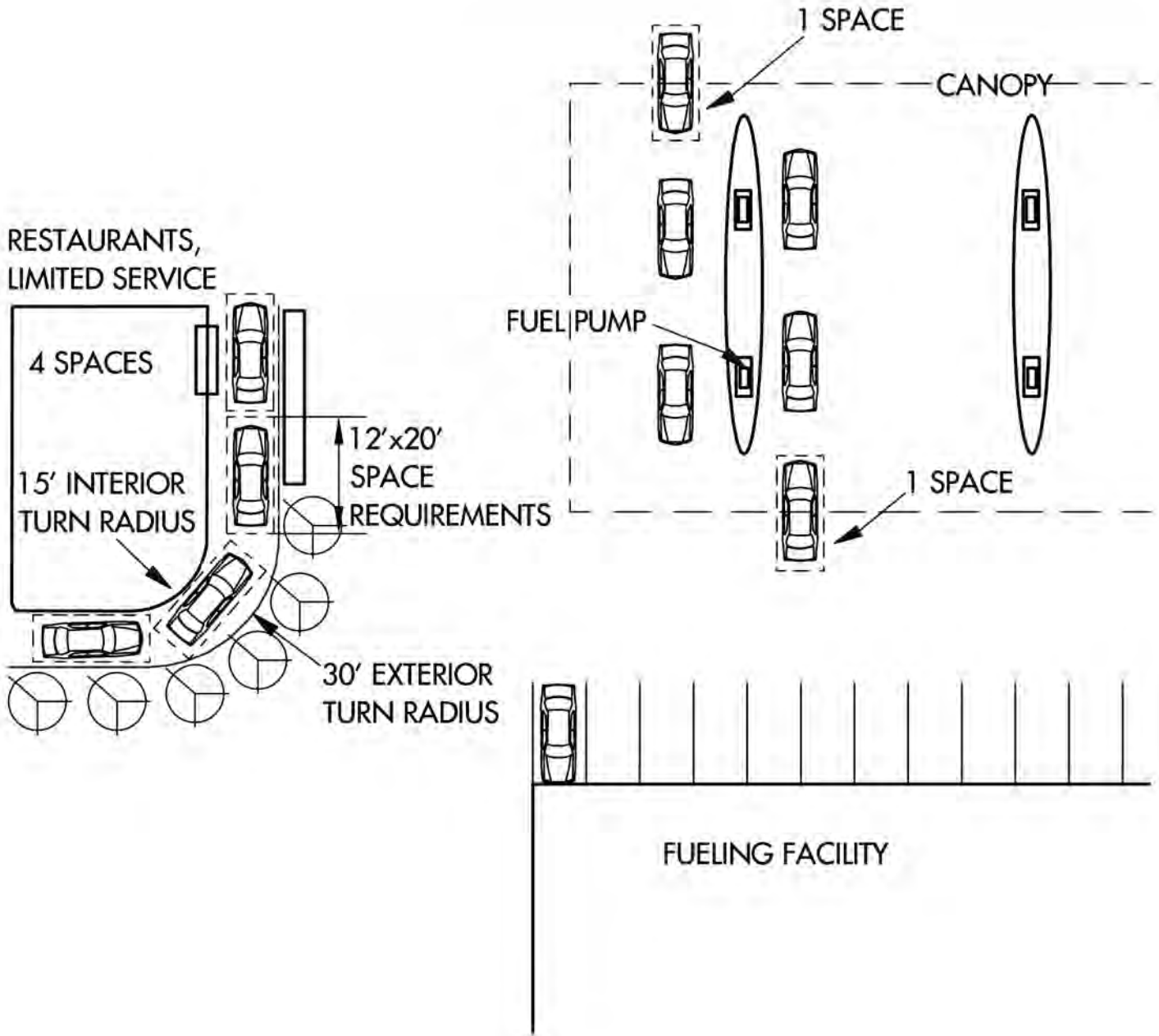


TWO-WAY AISLE

# Angle Parking Less Than 90°

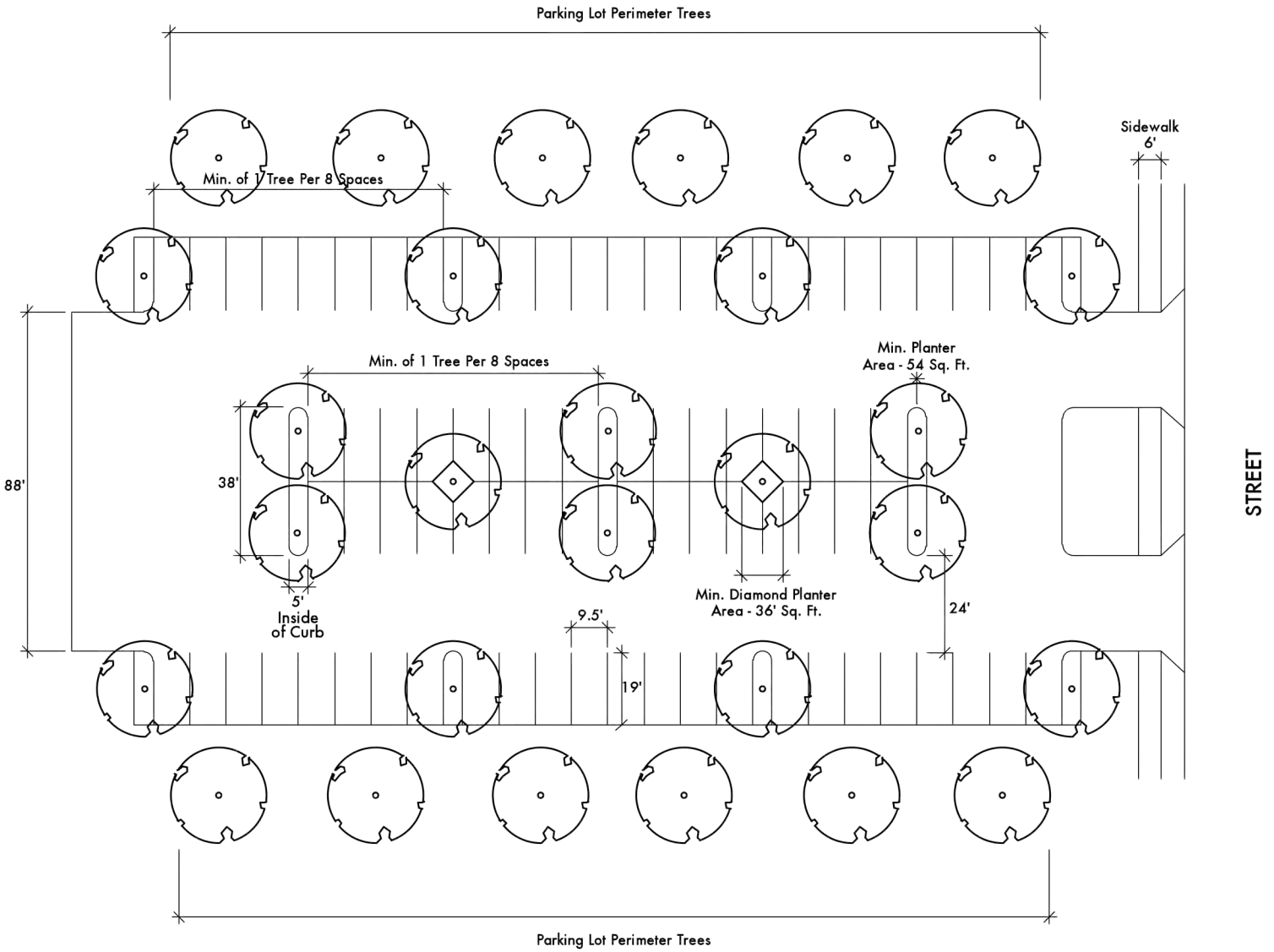
Fig. 8B

## Section 4.206H



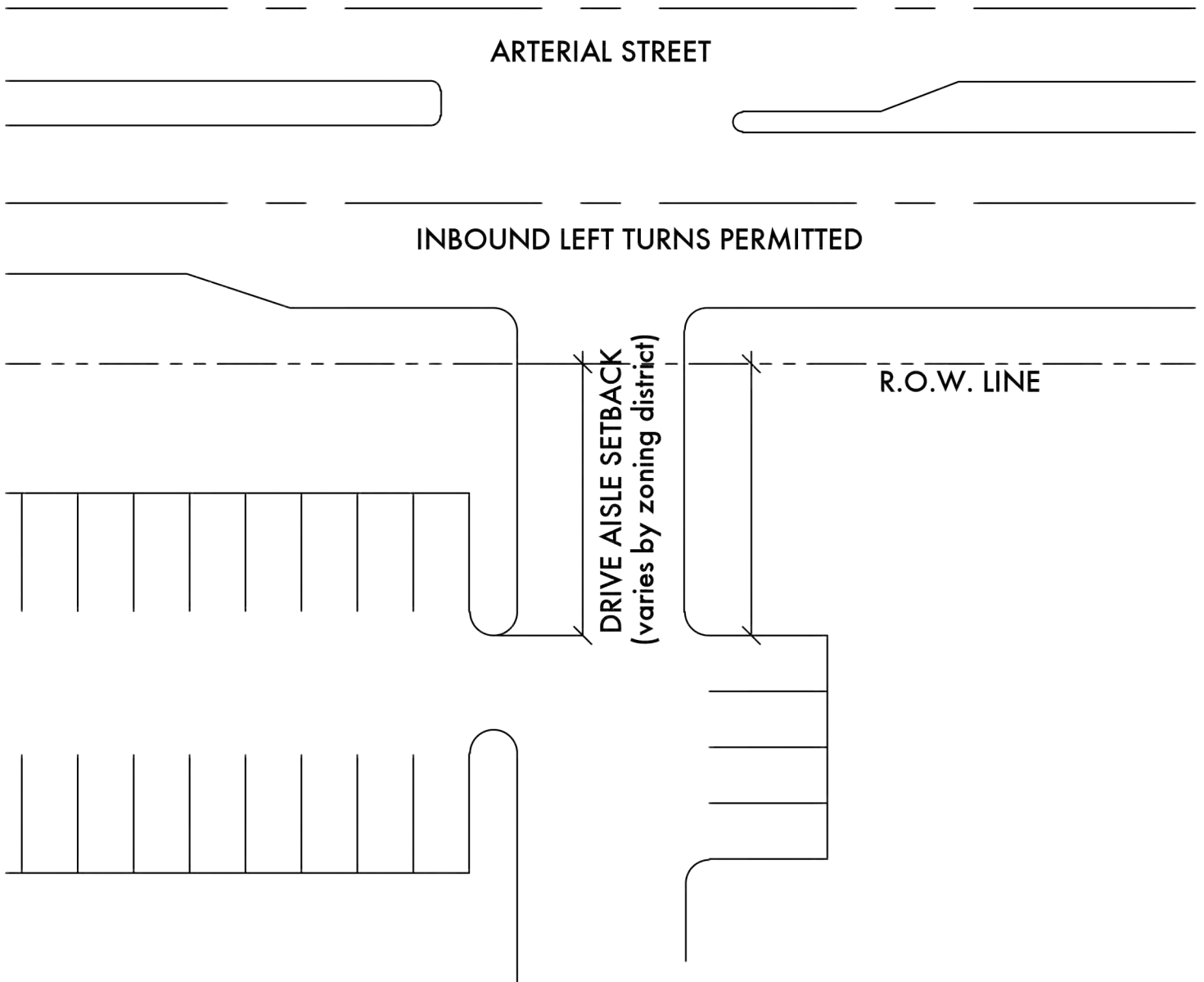
# Drive-Through Facility Stacking Space Requirements

Fig. 9- Section 4.2010



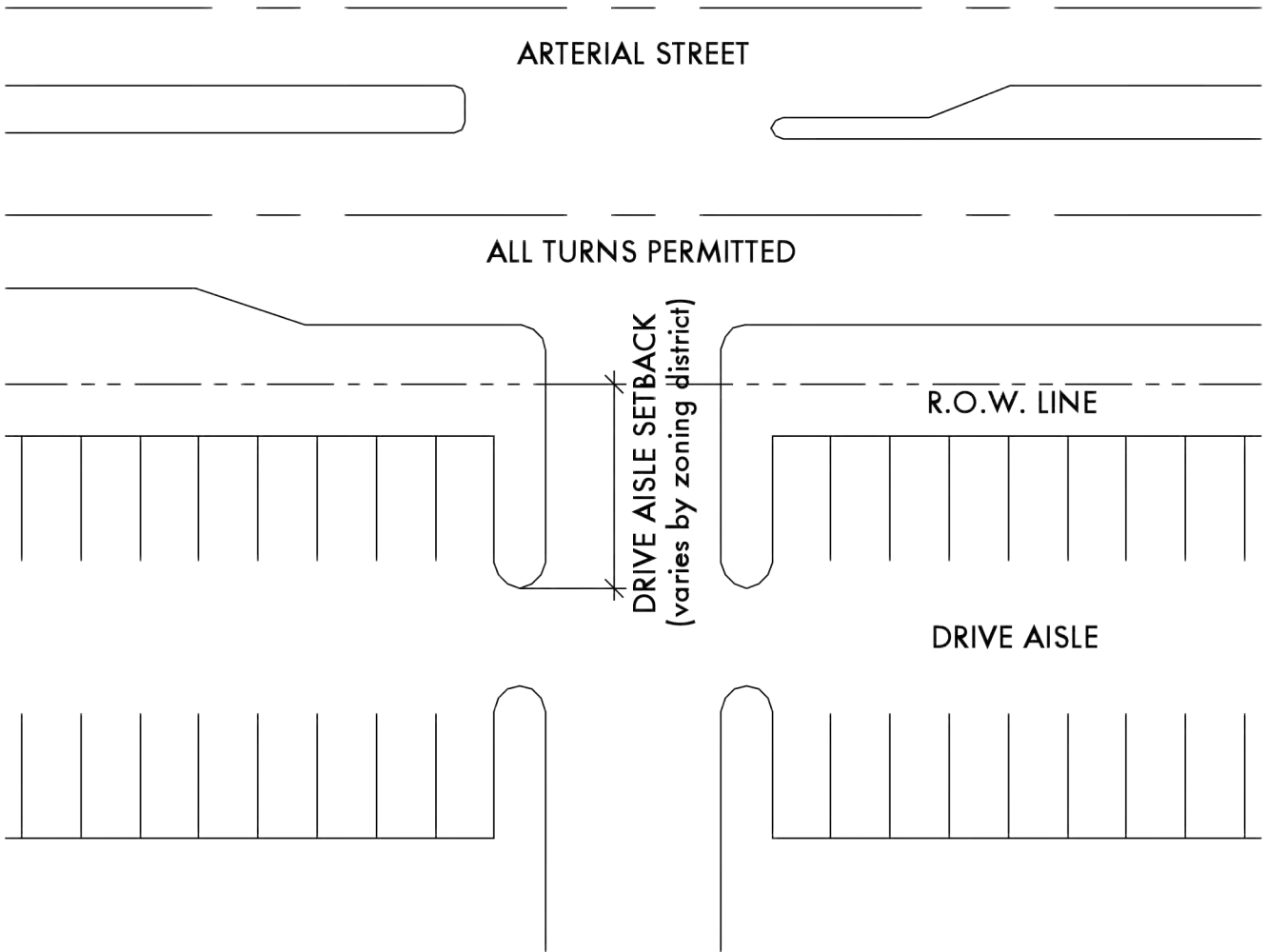
# Shade Trees

Fig. 10 - Section 4.2012B 1a,b,c



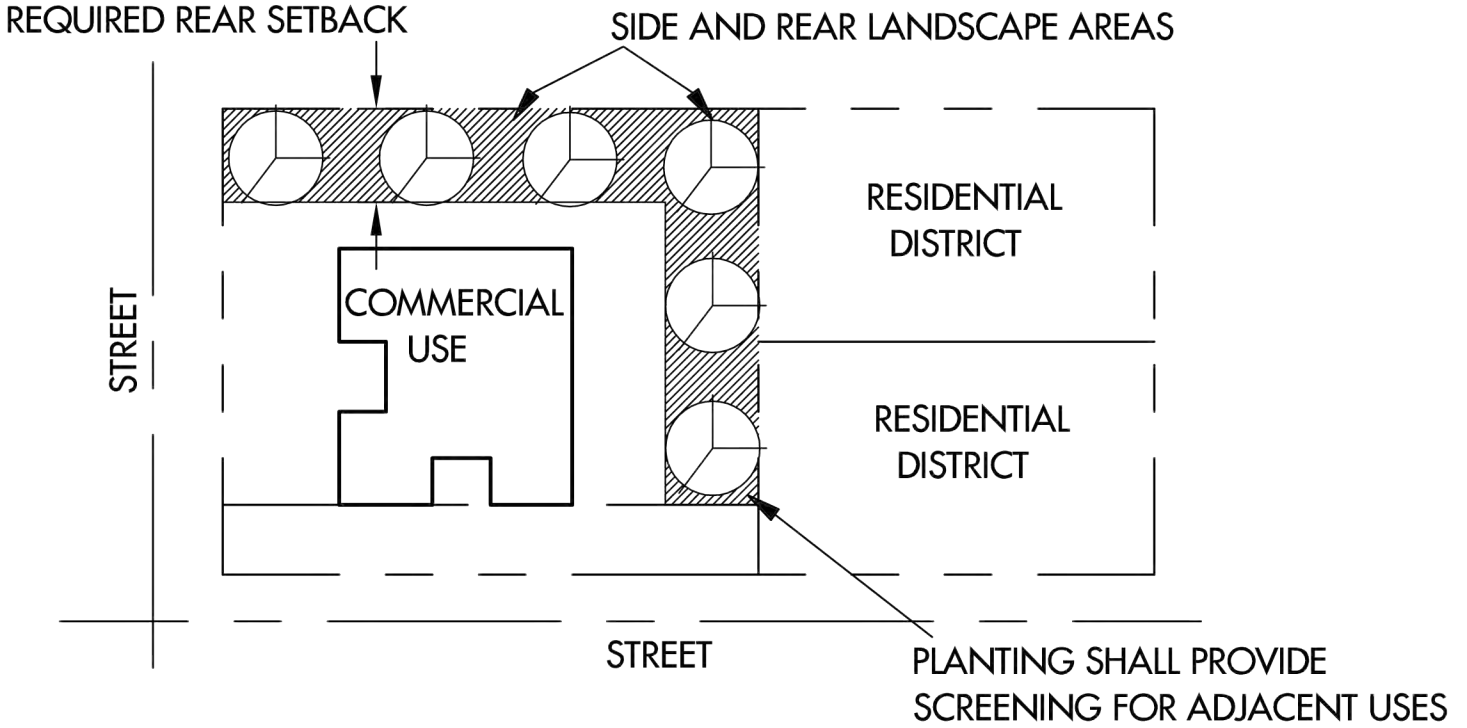
# Parking Setbacks, Inbound Left Turn Permitted

Fig. 11  
Section 4.2013A

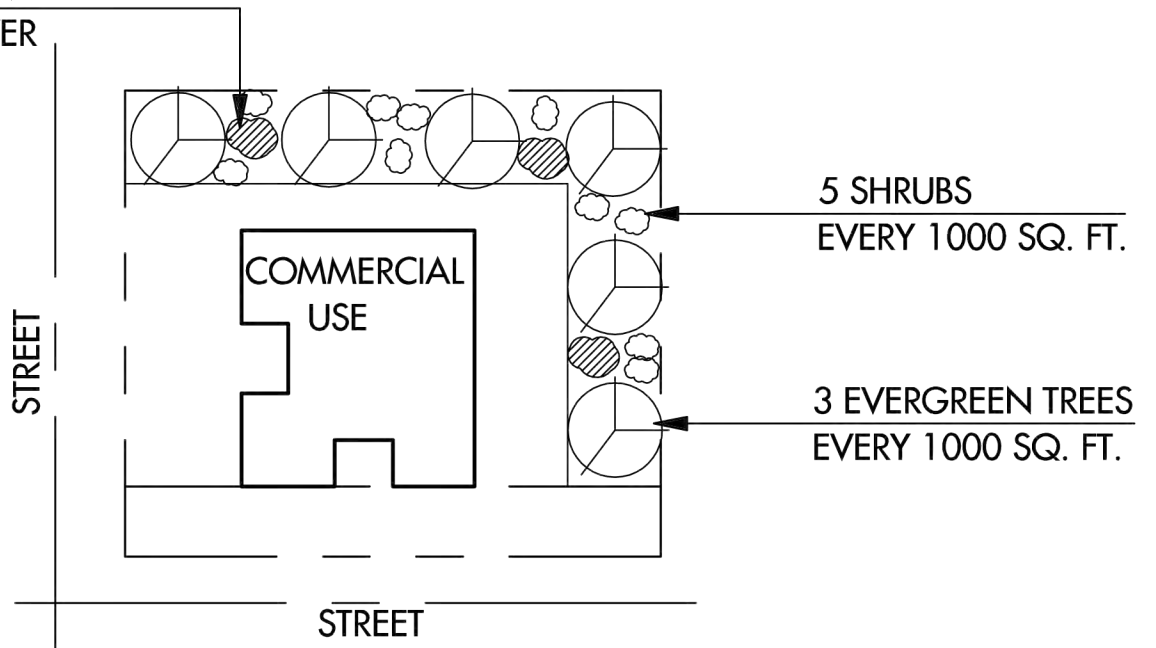


# Drive Aisle Setbacks

Fig. 12  
Section 4.2013C



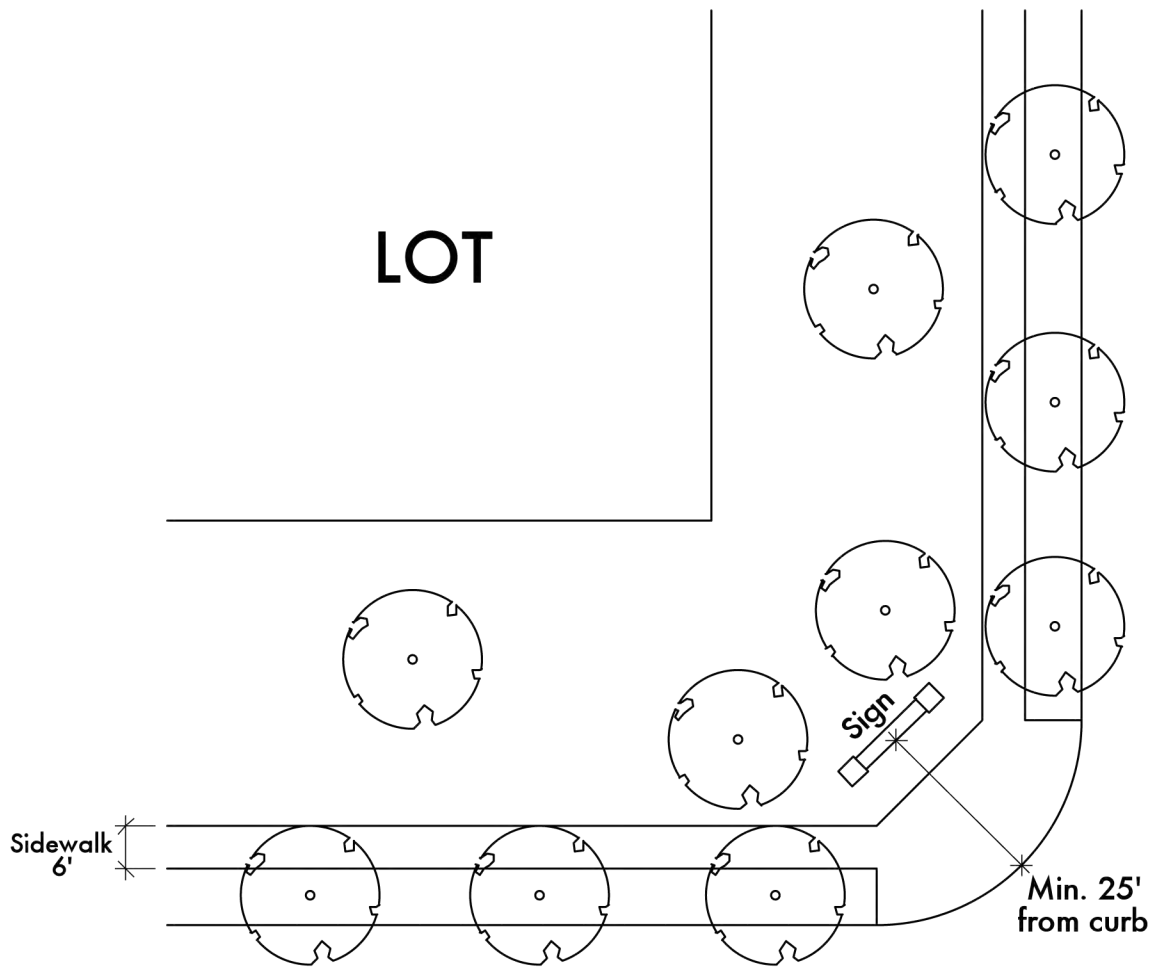
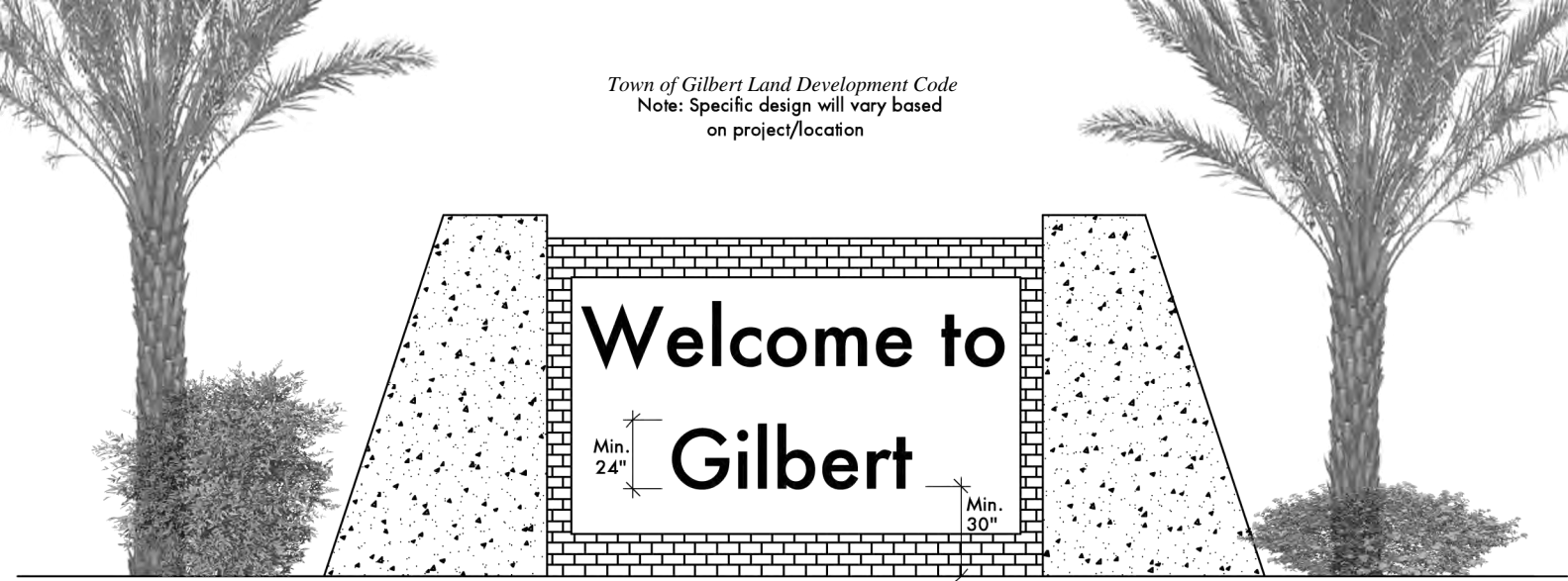
20% VEGETATIVE  
GROUND COVER



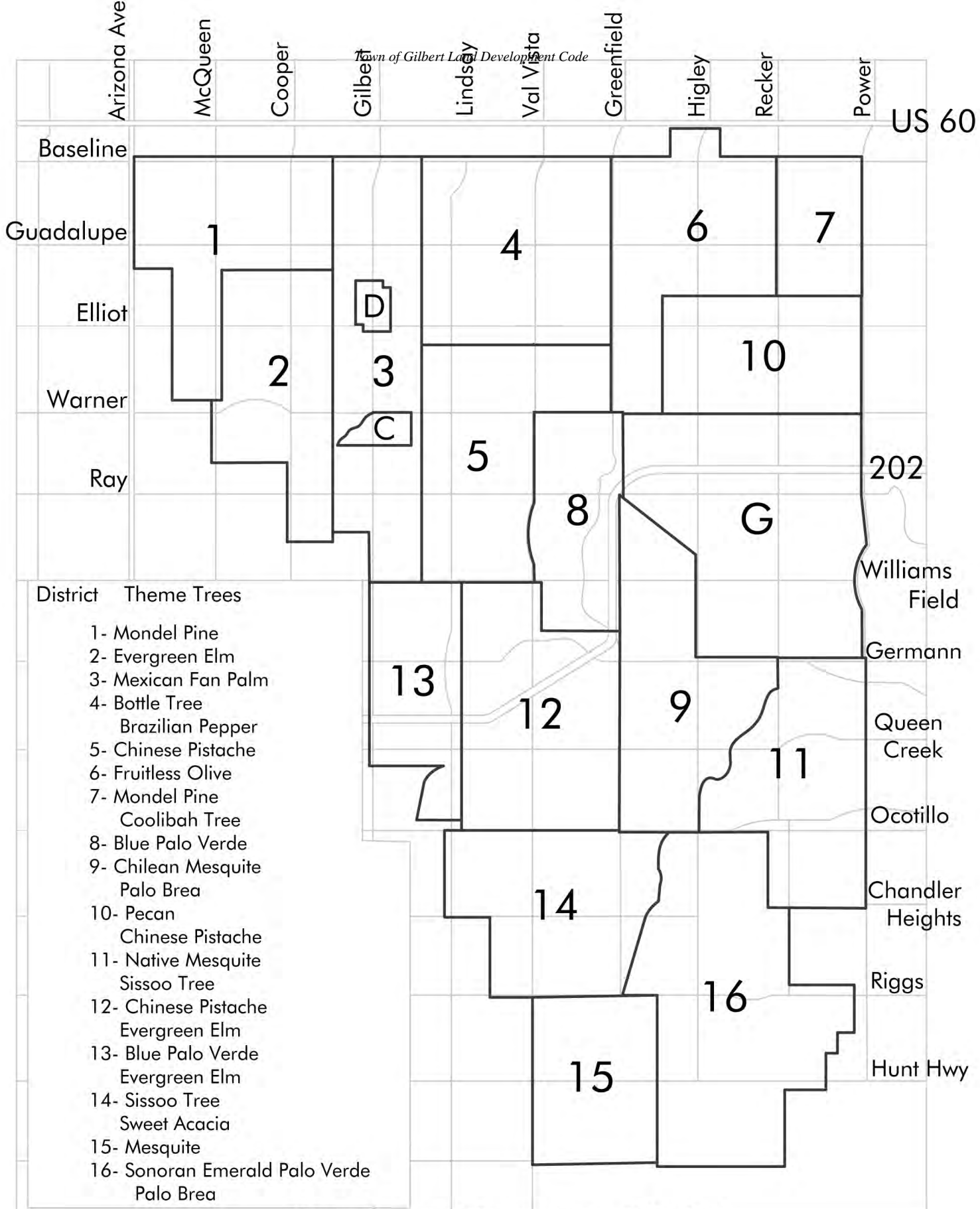
## Side and Rear Perimeter Landscape Areas

Fig. 13- Section 4.303P

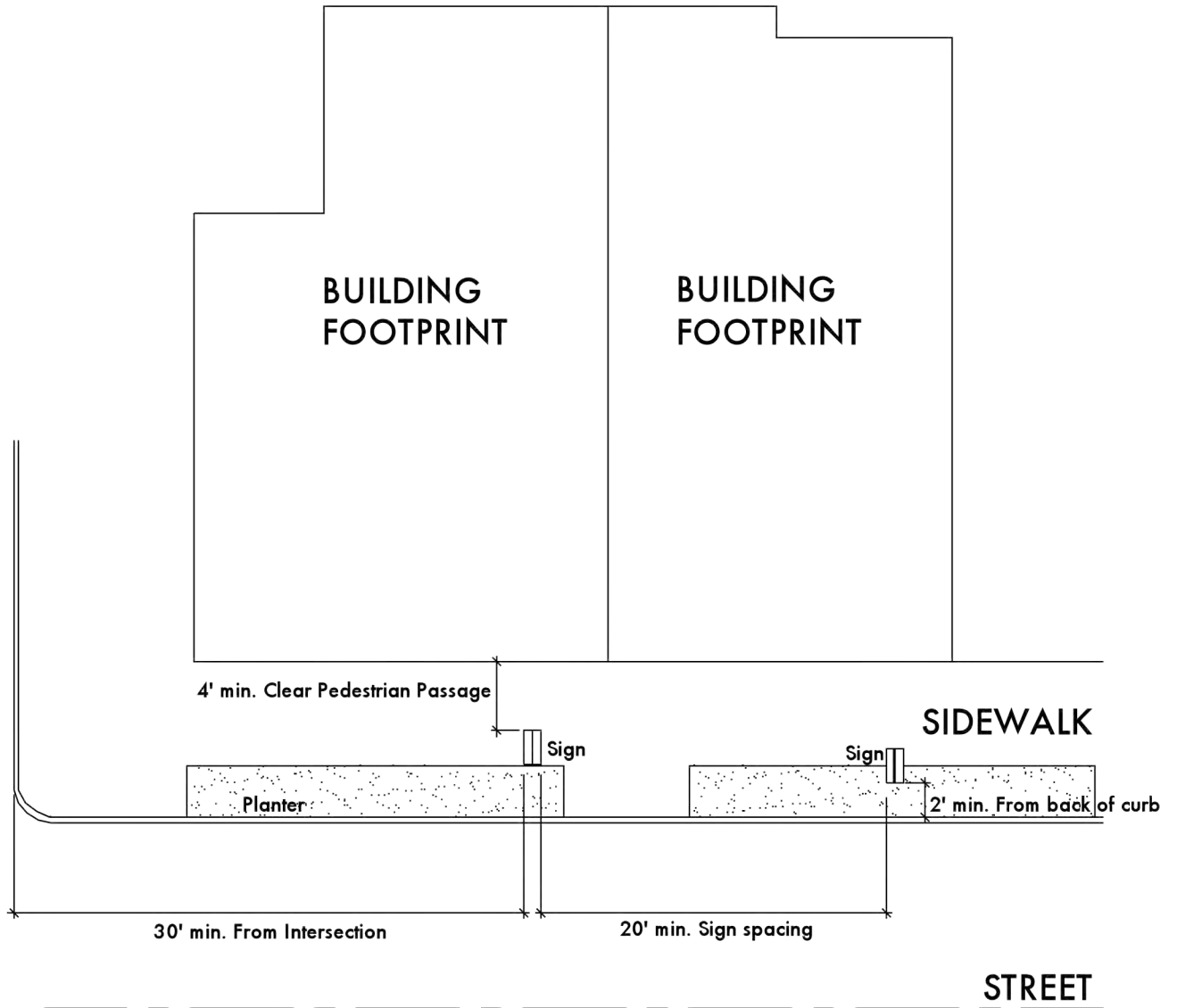




**Gateway Entries**  
Fig. 14 - Section 4.304



**Fig. 15- 4.305**



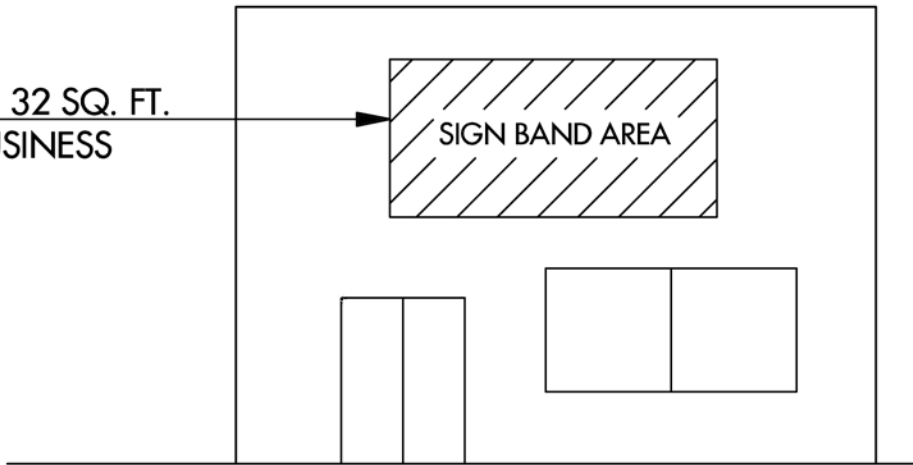
# A-Frame Sign Placement

Fig. 16

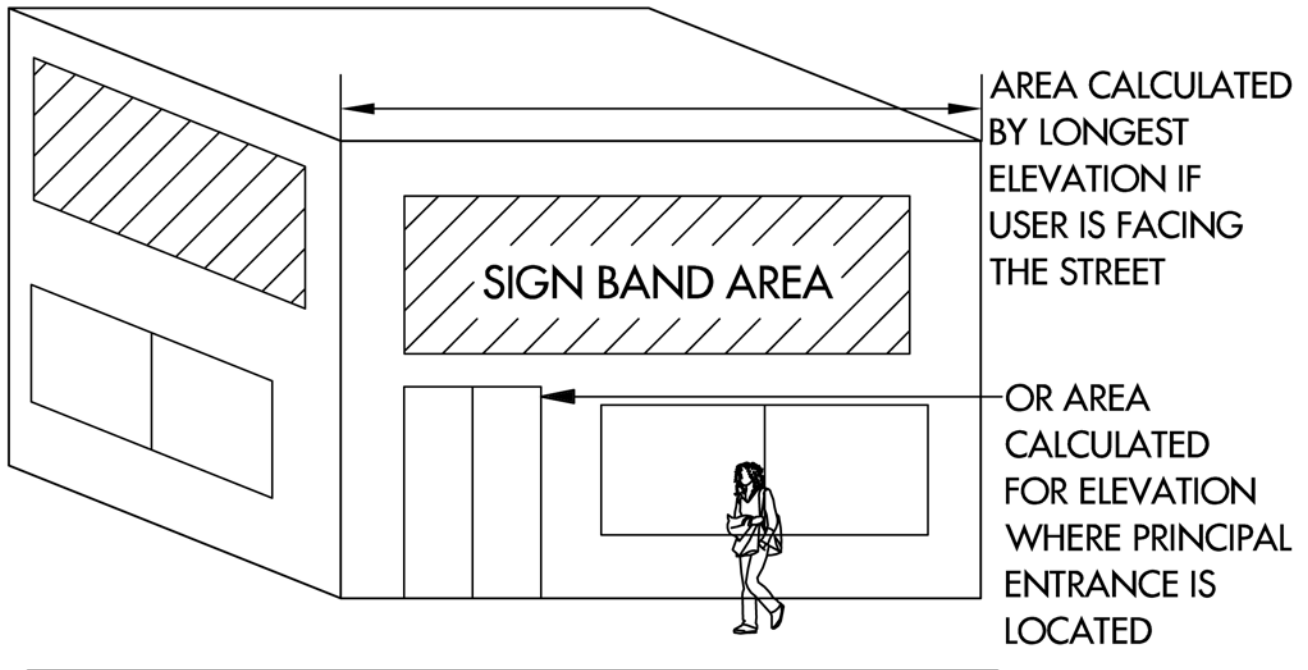
## Section 4.408B

BUSINESSES WITH SINGLE FRONTAGE

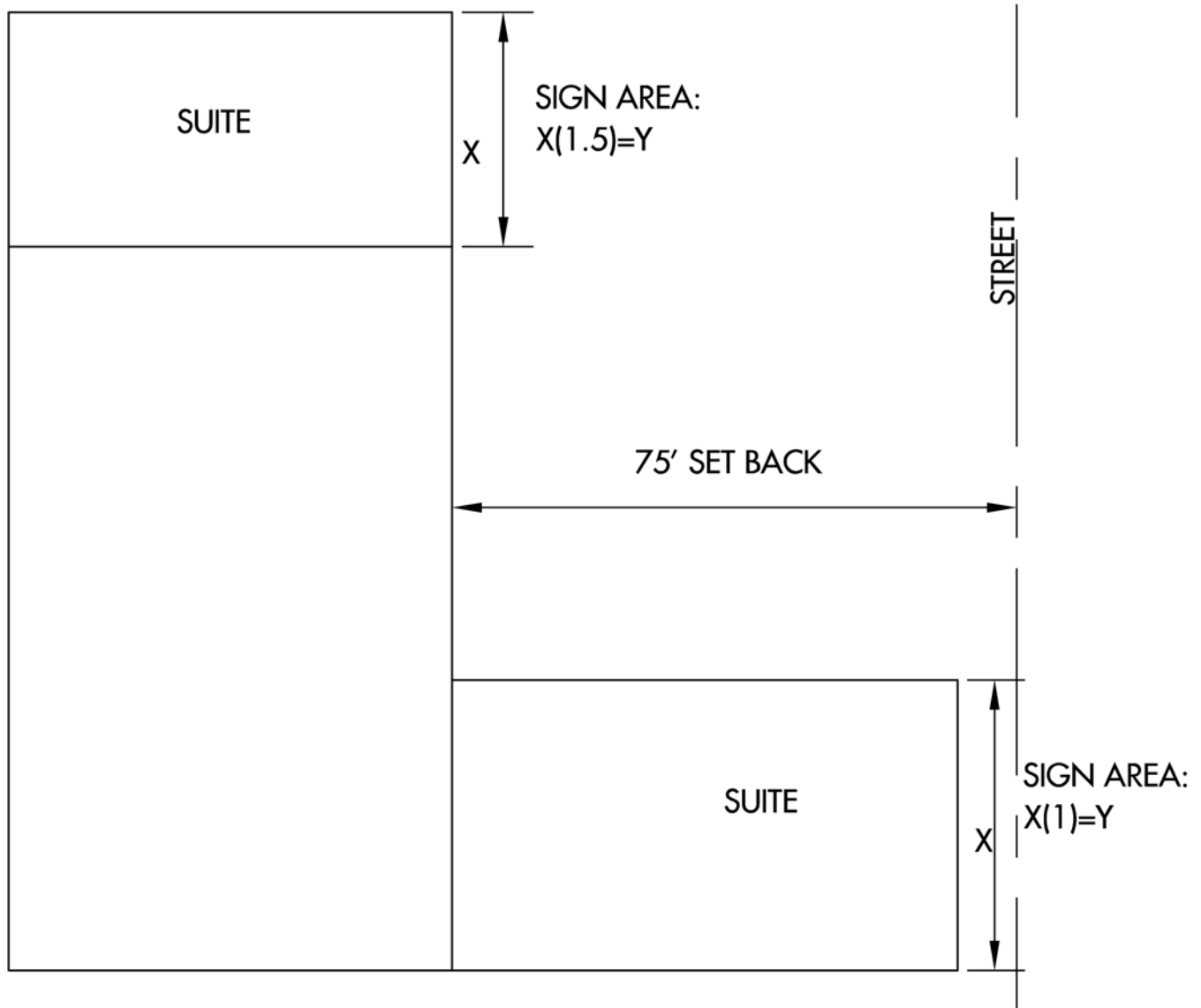
MINIMUM OF 32 SQ. FT.  
FOR EACH BUSINESS



BUSINESSES WITH DOUBLE FRONTAGE



Total Business Wall Sign Area  
Fig. 17A- Section 4.409.B.3



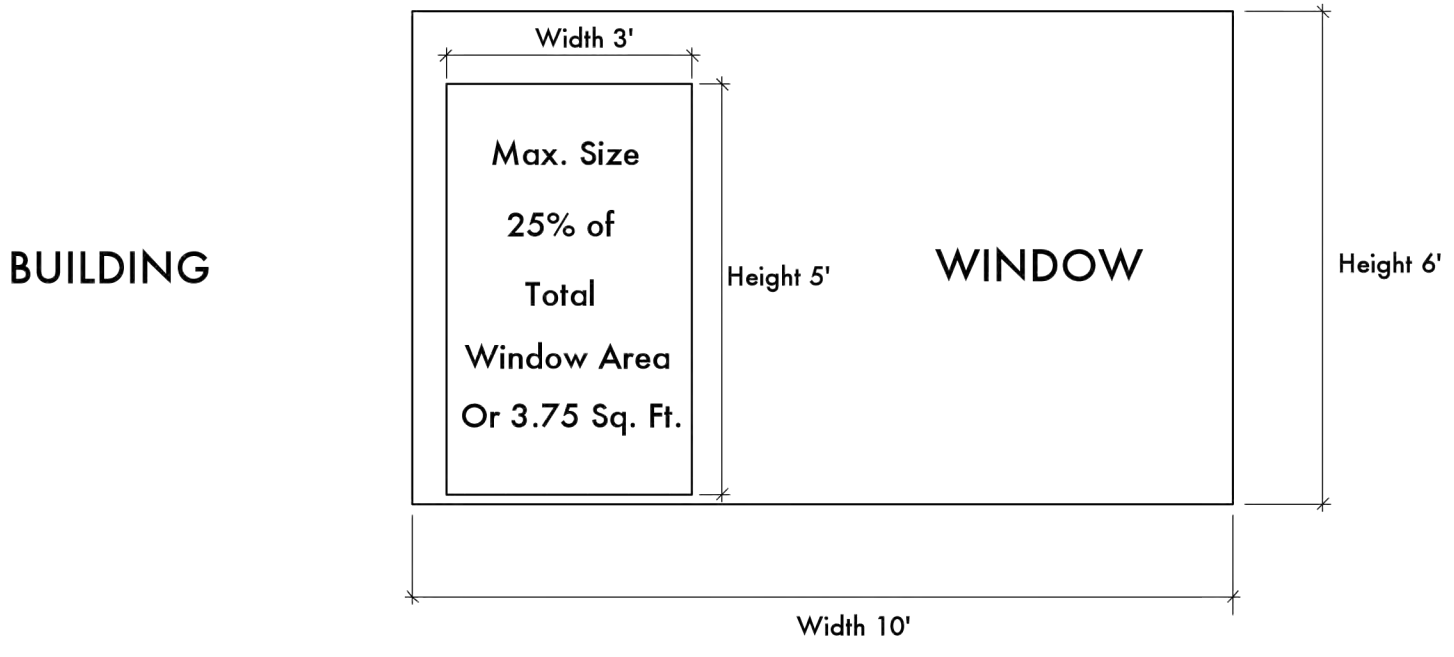
Y=PERMITTED FOR EACH 1 LINEAL FOOT OF BUILDING ELEVATION  
ADJACENT TO THE SUITE

# Sign Area Allowances

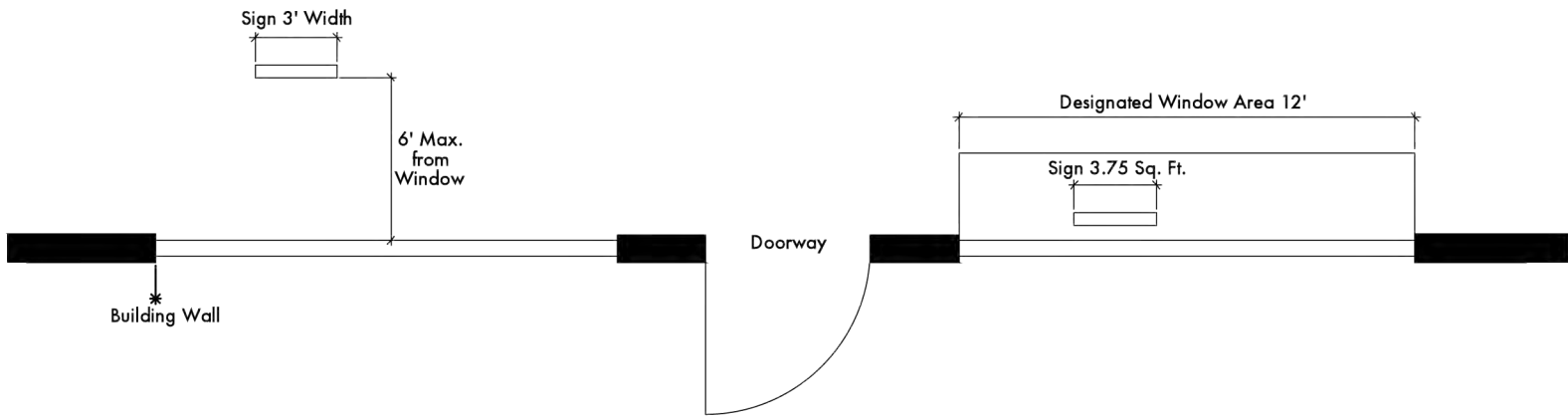
Fig. 17B- Section 4.409.B.3

# Area

Town of Gilbert Land Development Code

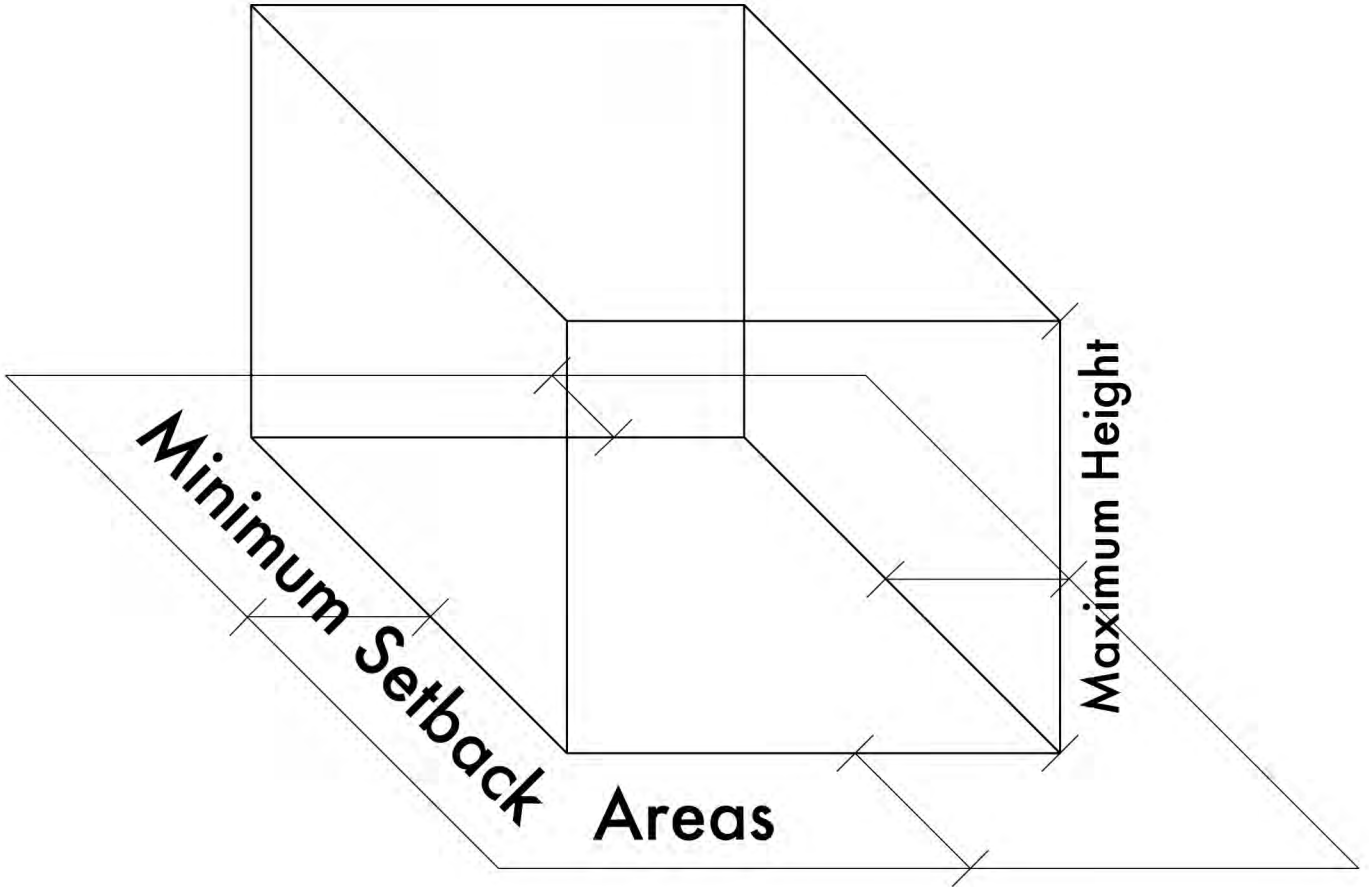


# Location

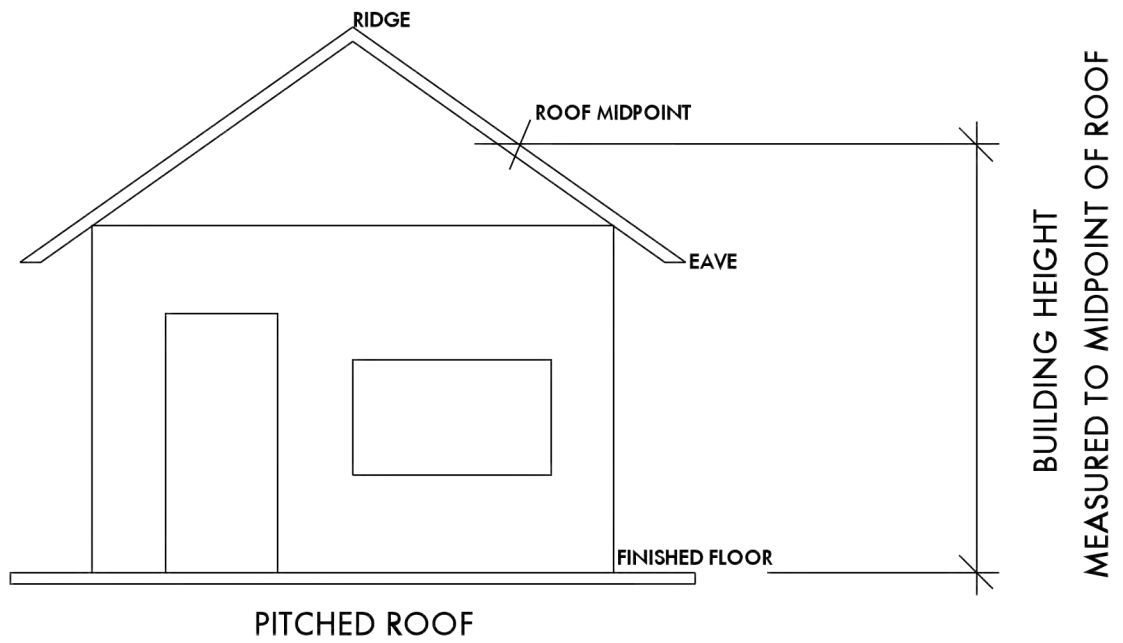
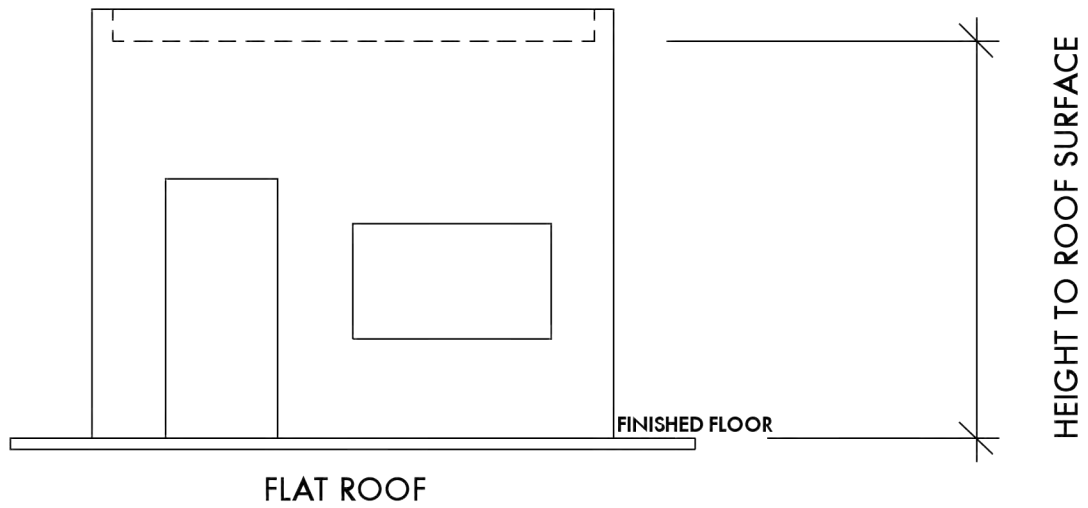


# Window Signs

Fig. 18 - Sections 4.408.A & 4.409.B.8



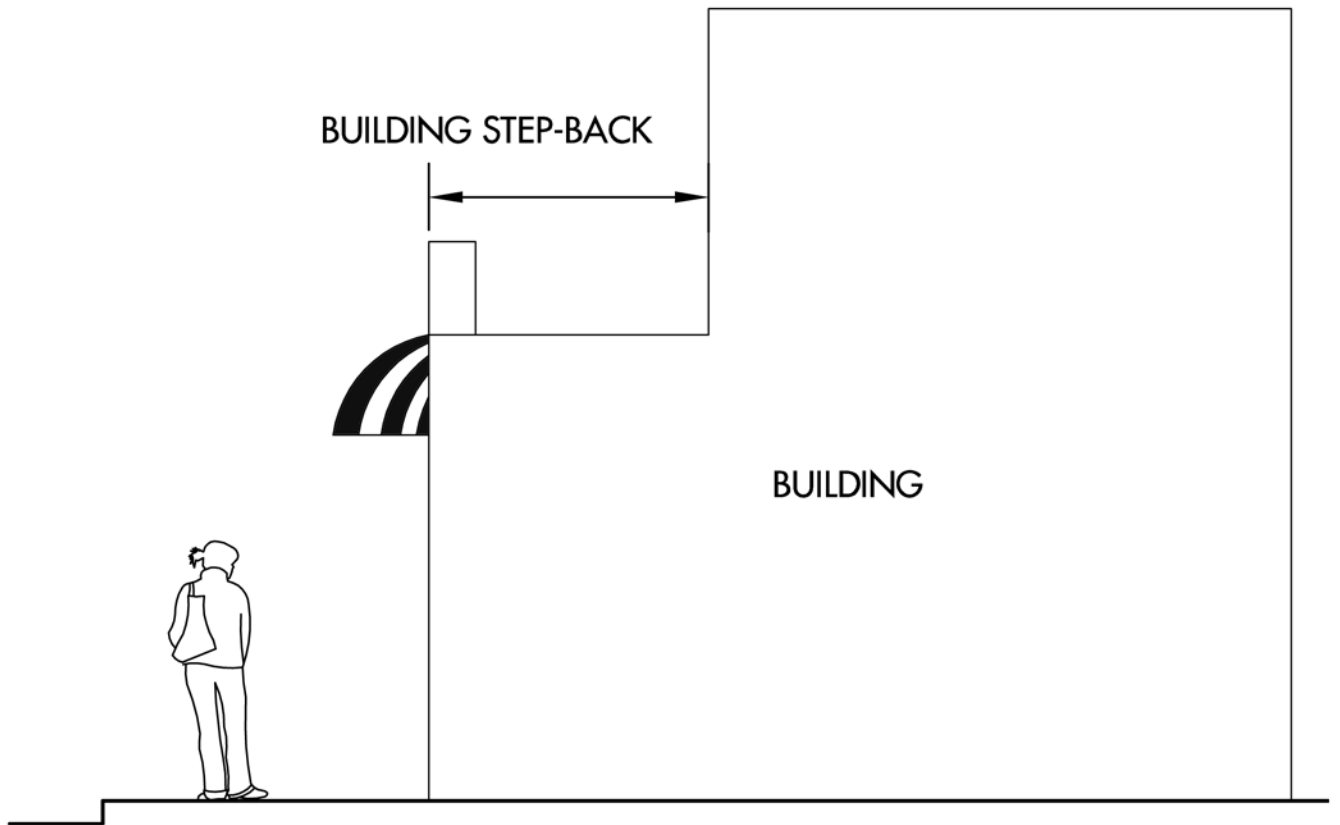
**Glossary of General Terms- Building  
Envelope  
Fig. 19**



# Glossary of General Terms: Building Height

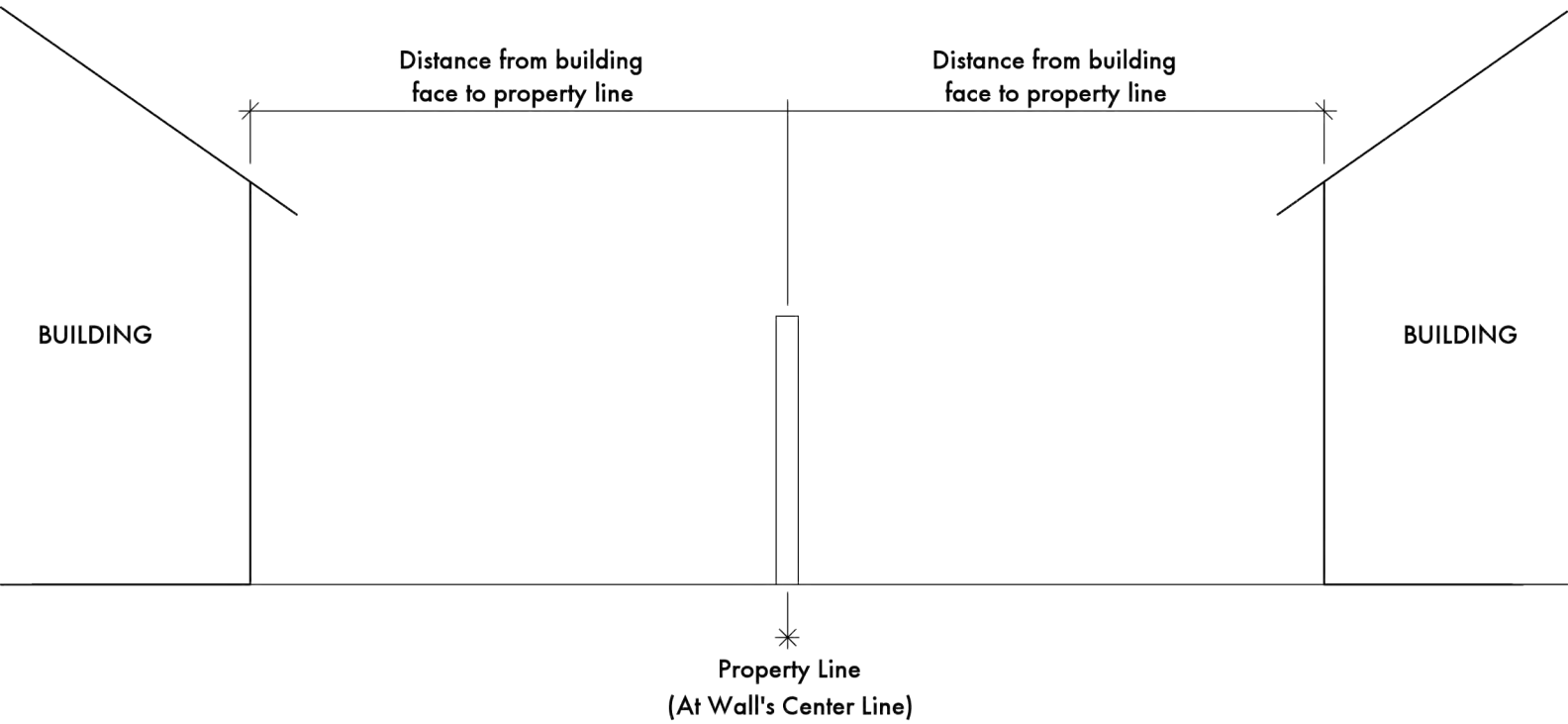
## Fig. 20





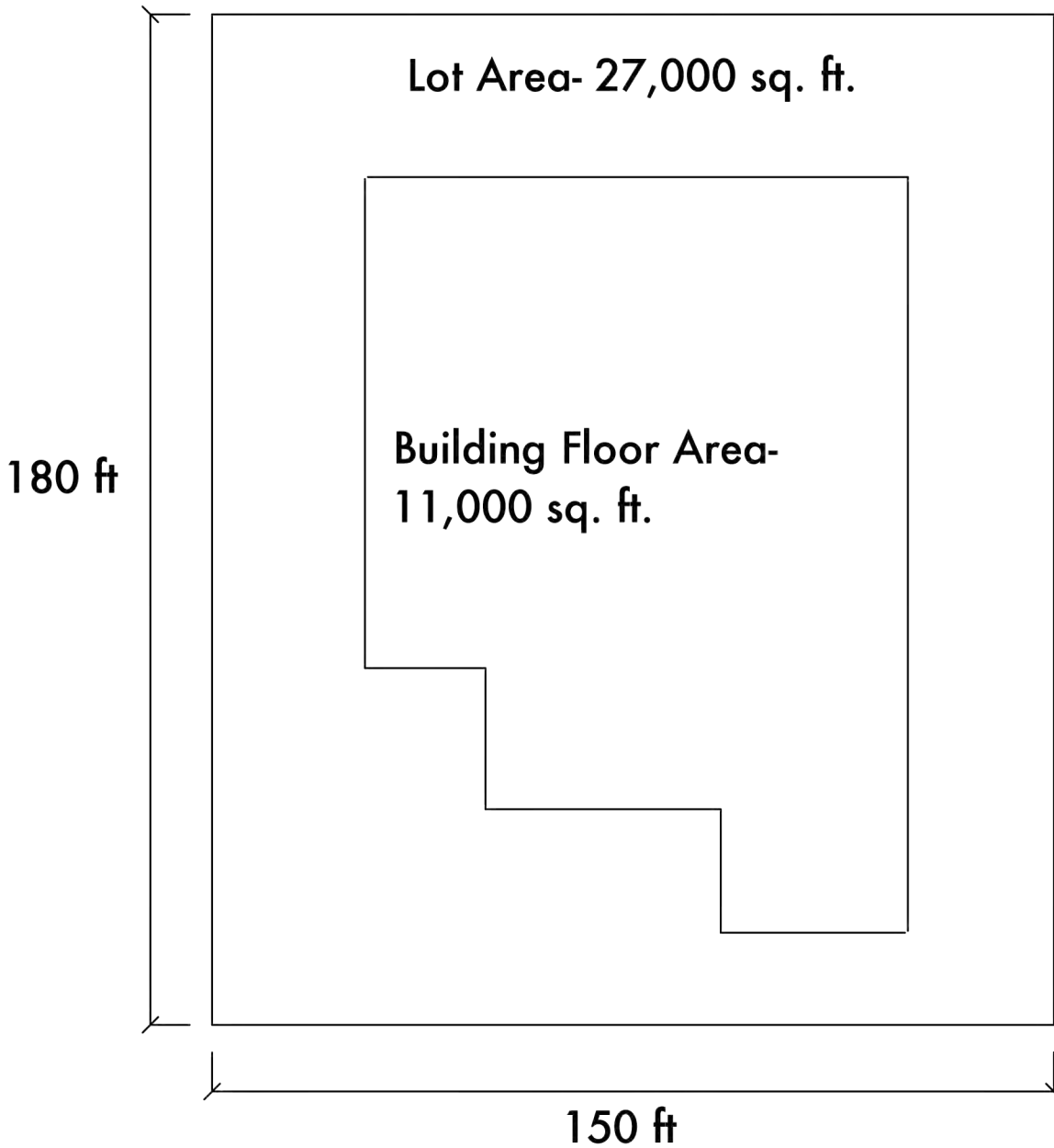
# Glossary of General Terms: Building Step-Back

Fig. 21



# Glossary of General Terms - Build to Line

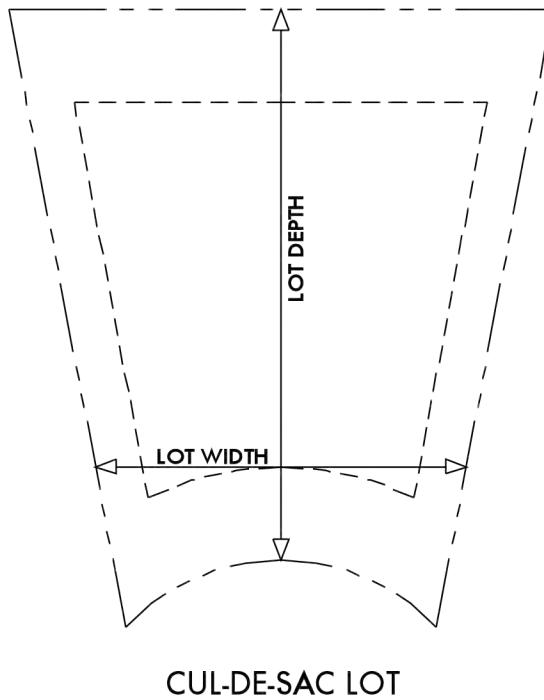
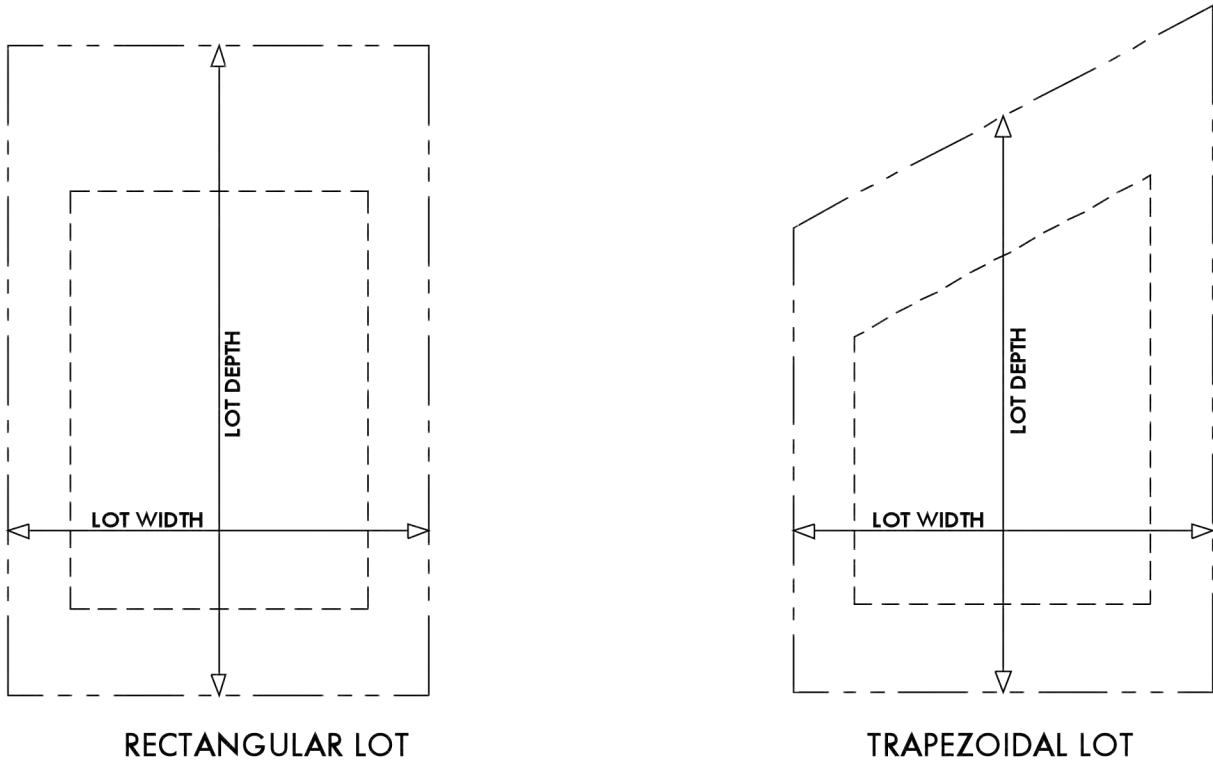
## Fig 22



$$\frac{11,000 \text{ sq. ft.}}{27,000 \text{ sq. ft.}} = .41 \text{ Floor Area Ratio}$$

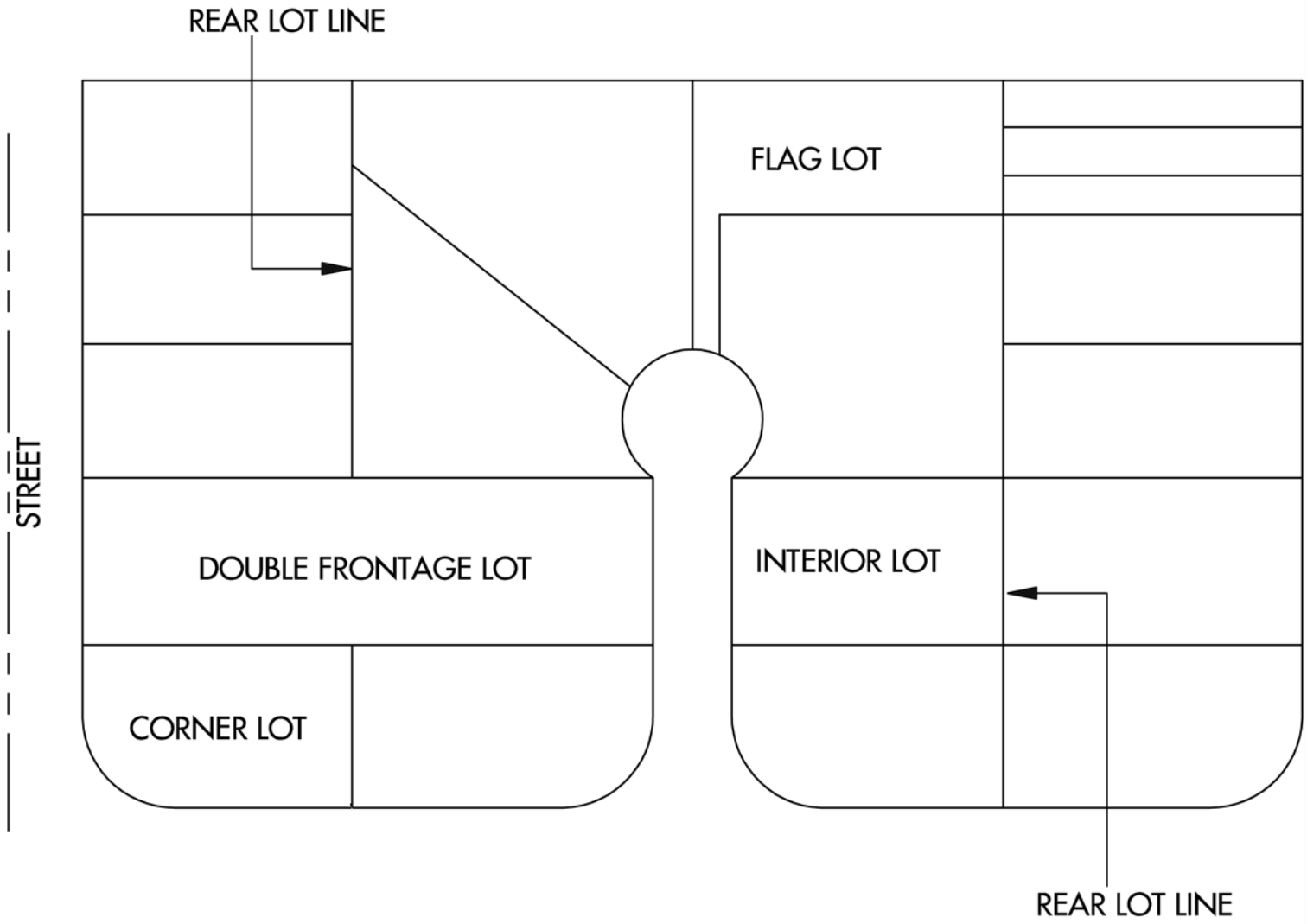
# Glossary of General Terms- Floor Area Ratio (FAR)

Fig. 23



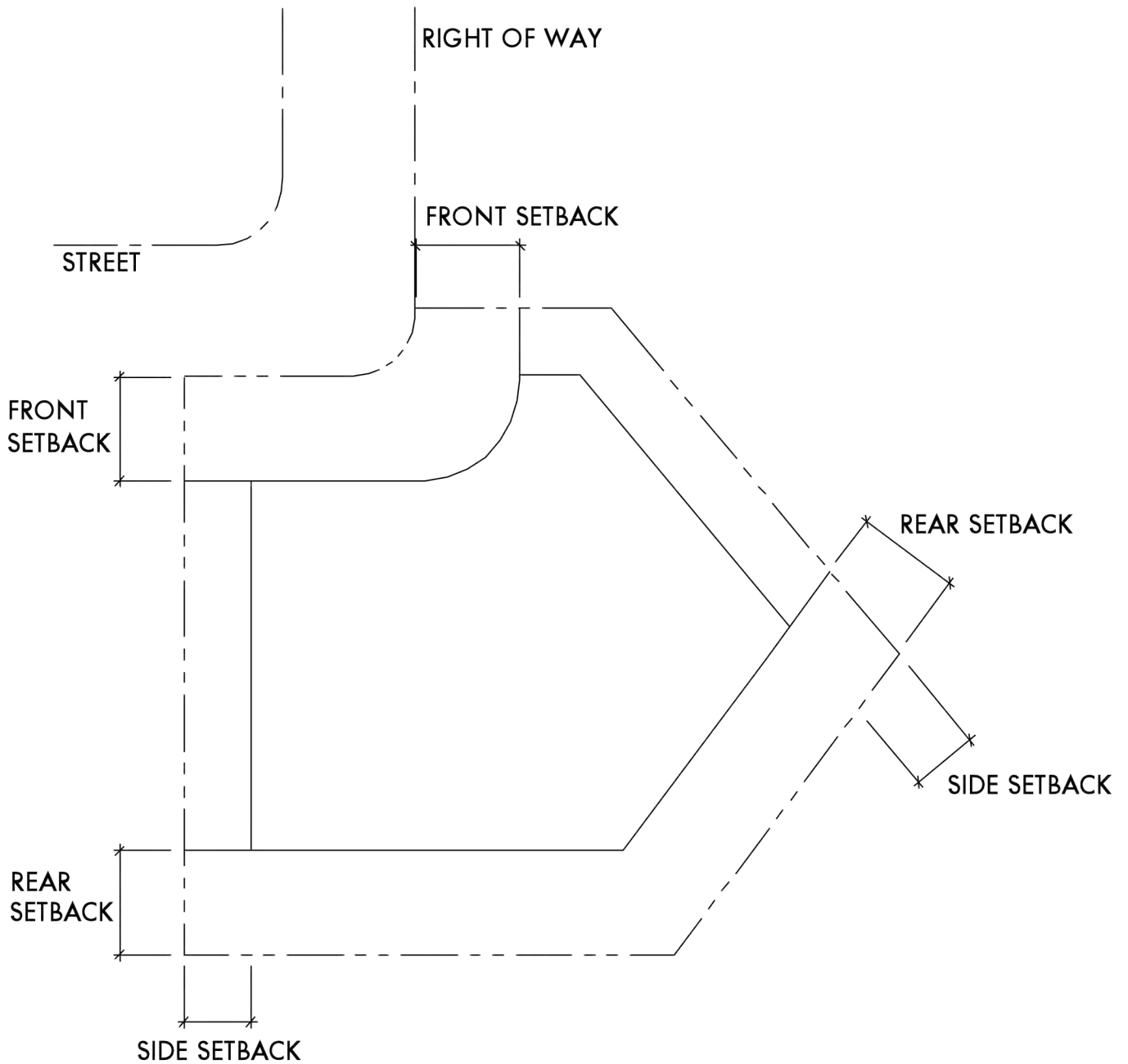
# Glossary of General Terms: Lot Width / Lot Depth

Fig. 24



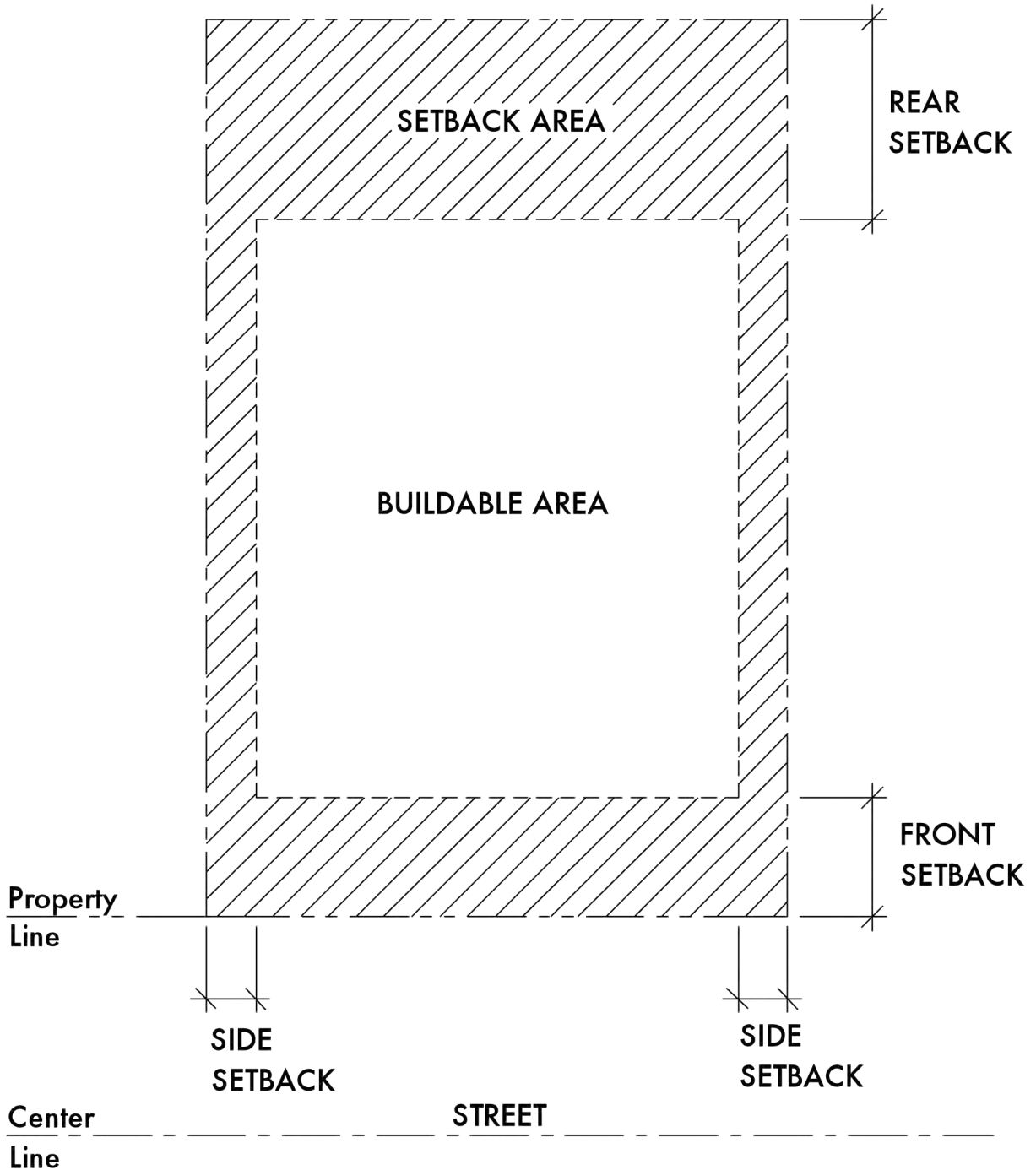
# Glossary of Terms: Lot Line and Lot Types

Fig. 25



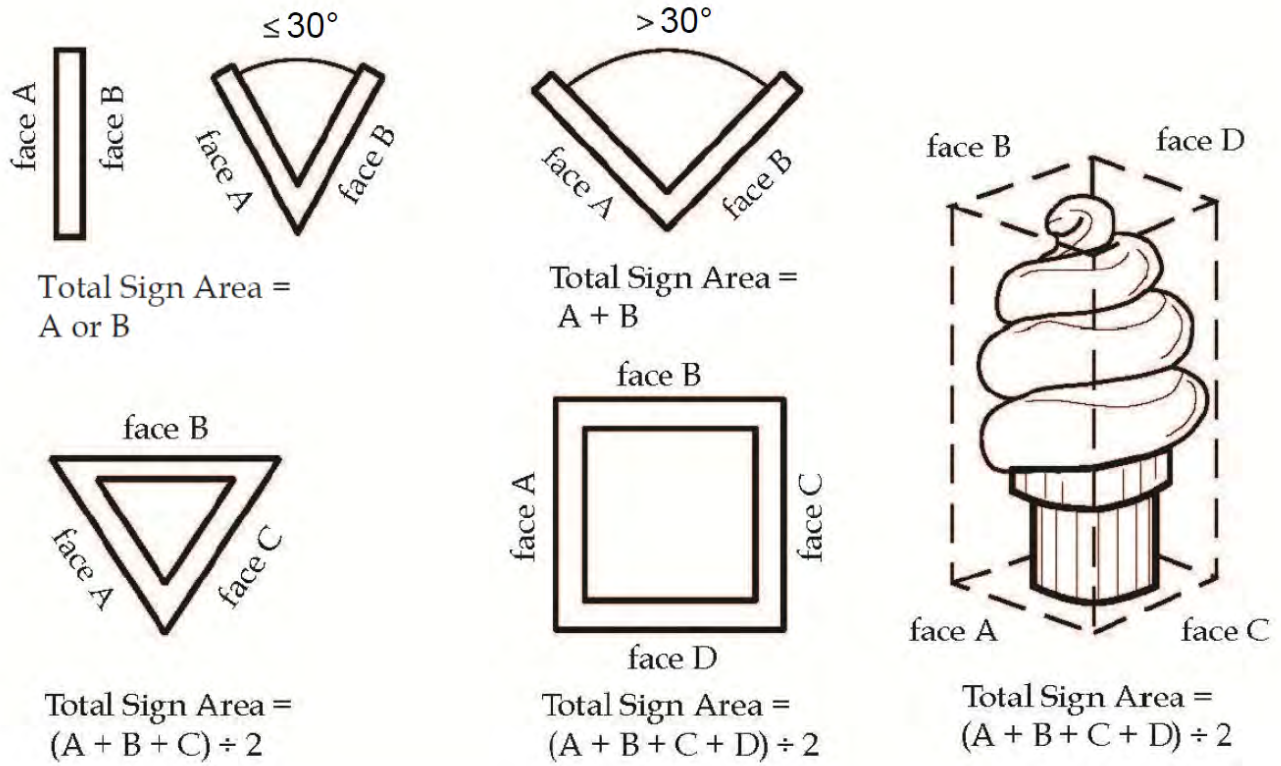
## Glossary of General Terms: Setback (irregular lot)

Fig. 26



# Glossary of General Terms: Setback Area

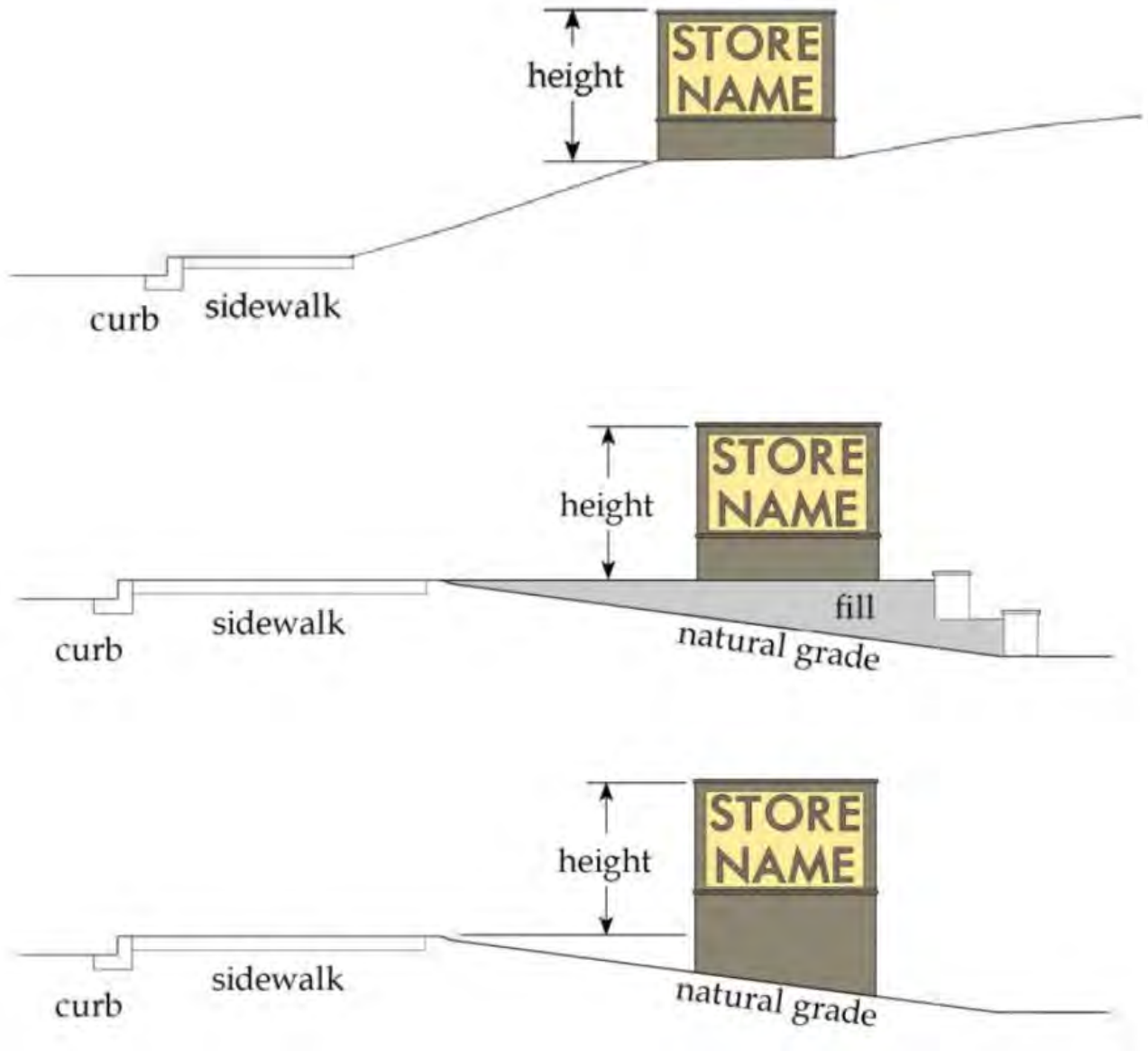
Fig. 27



## Measurement of Sign Size (Sign Area)

Fig. 28 - Section 4.407.I.1.





## Measurement of Sign Height

Fig. 29 - Section 4.407.I.2.