

CHAPTER 102 - REVIEW PROCESS AND APPLICATIONS

ARTICLE 1 – IN GENERAL

102-1.1 Purpose

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

102-1.2 Applicability

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

102-1.3 Development Procedures Manual

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

102-1.4 Concurrent Review

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

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

102-1.5 Exempt Activities

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

102-1.6 Expiration of Approvals

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

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

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ARTICLE 2 – PROCEDURE TYPES and SUBMITTALS

102-2.1 Procedure Types

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

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

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

102-2.2 Submittal Process

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

ARTICLE 3 – PUBLIC OUTREACH and PUBLIC NOTIFICATION

102-3.1 Public Outreach

- A. When public outreach is required, it will involve one (1) or more of the following forms depending on the procedure type or complexity of a project (see **Table 102-2a**). Pursuant to A.R.S., *General Plan Amendments* and *Rezoning* for land that is located within the vicinity of a military airport or *ancillary* military facility have additional notification requirements. *(For more detailed content and process requirements on the notification types listed below refer to the Development Procedures Manual).*
1. Legal ad
 2. Mail-out
 3. Site Posting
 4. Neighborhood Meeting
- B. The Public Outreach Process. Although it is not intended to produce complete consensus on all applications the intent of any form of public outreach is to:
1. Ensure that *applicants* pursue early and effective public participation in conjunction with their applications, giving them the opportunity to understand and potentially mitigate any real or perceived impacts their application may have on the community;
 2. Ensure the public and neighboring property *owners* have adequate opportunity to learn about applications that may affect them at an early stage in the process; and
 3. Facilitate ongoing communication between the *applicant* and interested public, neighbors, City staff, and elected officials throughout the application review process.
- C. The *applicant* shall provide a written report that describes the specific actions taken by the *applicant* to meet the Public Outreach requirements. The report shall be submitted to the City thirty (30) days prior to public hearing. If public outreach continues beyond that deadline, a supplemental report may be required prior the public hearing. *(For more detailed information on content requirements for the Public Outreach Report refer to the Development Procedures Manual).*

102-3.2 Public Notification Methods

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

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

6. The date, time and location of upcoming public hearing(s) or meeting(s);
7. A map of the project area.

102-3.2 Neighborhood Meetings

A. This is conducted by the *applicant* and/or *developer*.

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

ARTICLE 4 – TYPE 1 APPLICATION AND REQUESTS

102-4.1 Uses, Interpretations, and Administrative Decision

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

102-4.2 Minor Site Plan Amendment

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

102-4.3 Minor land division/Plat Corrections

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

102-4.4 Use Permits (Administrative and Temporary)

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

102-4.5 Home Product Review

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

102-4.6 Administrative Waivers

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

102-4.7 Corrective Plat.

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

102-4.8 PEDS Deviation/Waiver

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

102-4.9 CD Director Waiver

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

ARTICLE 5 – TYPE 2 APPLICATION AND REQUESTS

102-5.1 Site Plan Review

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

102-5.2 Protected Development Rights Plan

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

102-5.3 Original Townsite Incentive

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

102-5.4 Development Agreements

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

102-5.5 Appeals and Waivers

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

102-5.6 Final plats

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

ARTICLE 6 – TYPE 3 APPLICATION AND REQUESTS

102-6.1 General Plan Amendments and Specific Area Plans

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

102-6.2 Rezoning Requests & LDO Text Amendments

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

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

102-6.3 Conditional *use* Permits

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

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

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

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

102-6.4 Comprehensive Sign Program

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

102-6.5 Variances

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

102-6.6 Preliminary plats

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

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

102-6.7 Annexation

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

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