

Draft Amendment Redlines to Apache Junction City Code, Volume II, Land Development Code, Chapter 2: Subdivision and Minor Land Division Regulations

§ 2-1-13 FINAL PLAT APPROVAL REQUIRED PRIOR TO CONVEYANCE.

(A) No person, for the purpose of making or effecting a subdivision within the territorial limits of these regulations, shall make any deed, will, mortgage, trust deed or contract for the sale or other transfer of such subdivision or any part thereof, by metes and bounds description or otherwise, before recordation of the final plat of either the entire subdivision or phase thereof. A contract for sale which is expressly made contingent upon obtaining approval by the City ~~Council~~ of such final plat within 1 year from the date of the execution of the contract shall not be deemed prohibited by the foregoing provision.

(B) No person proposing to make or have made a subdivision within the territorial limits of these regulations shall offer to sell the proposed subdivision before obtaining the City's ~~Council's~~ approval of the final plat of the proposed subdivision; provided however, an offer to sell the subdivision or phase thereof, which is expressly made contingent upon obtaining approval of the final plat aforesaid within 1 year from the date of the making of the offer shall not be deemed prohibited by the foregoing provision.

§ 2-1-15 MODIFICATIONS AND EXCEPTIONS.

(A) The principles of design and requirements for the layout of subdivisions, as set forth in Article 2-3 of this Chapter, may be varied by the ~~Development Services Director or his or her designee~~ ~~Council~~. However, such subdivision shall, in the judgment of the ~~Development Services Director or his or her designee~~ ~~Council~~, provide adequate provisions for all essential community requirements. No modifications shall be granted by the ~~Development Services Director or his or her designee~~ ~~Council~~ which would conflict with the goals and objectives of the General Plan, Zoning Ordinance, an approved MPC District, or with the intent and purposes of Article 2-3 of this Chapter.

(B) In any particular case where the subdivider can show that extraordinary conditions of topography, adjacent development, irregular parcel shape, floodplain, fissures, or other conditions exist, strict compliance with these regulations would cause practical difficulty or exceptional and undue hardship, the ~~Development Services Director or his or her designee~~ ~~Council~~ may modify such requirements to the extent deemed just and proper, so as to relieve the difficulty or hardship; provided, such relief may be granted without detriment to the public good and without impairing the intent and purposes of this Article or the desirable general development of the neighborhood and the community in accordance with the General Plan, and shall not be contrary to the city Zoning Ordinance.

~~Any modification thus granted shall be entered in the minutes of the Council, setting forth the reasons which, in the opinion of the Council, justified the modification.~~

(1) In modifying the standards or requirements set forth in this Chapter, as provided above, the **Development Services Director or his or her designee** ~~Council~~ may make additional requirements, such as but not limited to protective covenants, deed restrictions or other legal provisions, as are deemed necessary to secure substantially the objectives of the standards or requirements so modified.

(2) In providing for modifications, a mere finding or recitation of the enumerated conditions unaccompanied by the finding of specific fact, shall not be deemed "findings of fact" and shall not be deemed in compliance with this Chapter.

(3) The approval of departures or modifications from the regulations of this Chapter shall not be considered as precedent-setting when the findings of fact clearly indicate the unique circumstances which warranted the departure or modification.

§ 2-1-16 RESUBDIVISION OF LAND.

(A) *Procedure for resubdivision.* For any change in a map of a recorded subdivision plat, if the change effects any street layout shown on the map, or area reserved thereon for public use, or any exterior lot line, or if it affects any plat legally reached prior to the adoption of this Chapter, except where the lots involved are made larger and where any interior lot lines are involved, the parcel shall be approved by the same procedure, rules and regulations as for a new subdivision.

(B) *Procedure for subdivisions where resubdivision is indicated.* Whenever a parcel of land is subdivided and the subdivision plat shows 1 or more lots containing enough area that their division into lots according to the minimum Zoning Ordinance requirements would create a subdivision as defined herein, the **Development Services Director or his or her designee** ~~Council~~ may require that such a parcel of land allow for the future opening of streets and the ultimate extensions of adjacent streets. Easements providing for the future opening and extension of such streets may be made a requirement of the plat.

§ 2-1-17 VACATION OF PLATS.

(A) When a recorded plat is proposed to be vacated, such an instrument shall be approved by **the Development Services Director or his or her designee** ~~the Council~~ in like manner as plats of subdivisions, including any such action which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.

(B) Such an instrument shall be executed, acknowledged or approved and recorded or filed, in like manner as plats of subdivision; and being duly recorded or filed, shall operate

to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys and public grounds, and all dedications laid out or described in the plat.

(C) The applicant shall also secure all utility extinguishments from all the utility agencies that were granted easements through the original platting process. No instrument shall be recorded to vacate any plat until such time as all utility easements extinguishments are recorded.

§ 2-1-21 VIOLATIONS AND PENALTIES.

(A) Penalties for any violation of the Apache Junction Subdivision Regulations are provided for pursuant to Apache Junction City Code, Vol. I, § [1-1-11](#).

(B) The approval of a preliminary plat may be revoked by **the Development Services Director or his or her designee** ~~a majority vote of the City Council~~ upon finding that 1 or more of the plat stipulations or provisions of the subdivision regulations have been violated. **The Development Services Director or his or her designee** ~~The Council~~ may reinstate approval of the preliminary plat when it is satisfied that a compliance with the provisions of these regulations or stipulations has been achieved. If approval of the preliminary plat is permanently revoked, a request to resume the subdivision shall be treated as a new application.

(C) (1) The Development Services Director or his or her designee, by written order setting forth the reasons therefore, may stop all work on a subdivision if he or she finds that a major violation of the Subdivision Ordinance has occurred, creating an immediate or imminent threat to public health or safety such as danger to life or limb, or damage to property of the city or to neighboring property owners.

(2) After work is stopped, no work on the subdivision, except to correct the problems specified by the Director or his or her designee, may proceed until written authorization is given by the Director or his or her designee. While work is stopped, the subdivider may appeal, within 30 days to the City Clerk, the Director's stop order to the Council which shall meet at the next regularly scheduled Council meeting to consider the matter. The Council, after hearing both sides, may reverse or modify the Director's order within 30 days if the Council finds that the Director has been unreasonable or arbitrary. The burden of proof in such an appeal shall be upon the subdivider.

(D) The imposition of any sentence shall not exempt the offender from compliance with the requirements of this article.

ARTICLE 2-2: PLATTING PROCEDURES AND REQUIREMENTS

§ 2-2-3 CONCEPTUAL SUBDIVISION PLAT (OPTIONAL)- RESERVED

~~(A) Purpose. Prior to formal submittal of a preliminary plat as outlined below, the subdivider shall submit a conceptual subdivision plat for review by the Planning and Zoning Commission. The purpose of such submittal is to gain tentative approval prior to expending time and resources on a preliminary plat. This review process is not binding on either the city or the subdivider.~~

~~(C) Appeal. If the project developer objects to a decision by the Planning and Zoning Commission to deny a conceptual subdivision plat or recommended modification to same, the Planning and Zoning Commission decision may be appealed to the City Council. Upon submittal to the Development Services Director of a written statement of objection, the matter shall be placed on the agenda for the next available Council meeting.~~

§ 2-2-4 PRELIMINARY PLAT.

(A) The preliminary plat stage of land subdivision includes detailed subdivision planning, submittal, review and approval of the preliminary plat. The subdivider shall provide the Planning Division with all information essential to determine the character and general acceptability of the proposed development to allow for the establishment of the design parameters for the final plat and the improvement plans. ~~The preliminary plat shall conform to the approved conceptual subdivision plat as approved by the Planning and Zoning Commission and City Council, if this optional step was undertaken.~~ A preliminary plat process may be waived for a proposed platting of a substantially developed property, as it is in the opinion and approval of the Development Services Director and/or City Engineer or their designees. Substantially developed includes a build-out property with stormwater retention and drainage facilities, landscaping, and onsite and offsite infrastructure improvements.

(2) Preliminary plat review.

(a) Upon receipt of a complete application for a preliminary plat, inclusive of all fees, the Planning Division shall log in the date of submittal and perform its review for compliance to public objectives, giving special attention to the minimum application requirements for preliminary plat as set forth in this Chapter. The Planning Division shall distribute the application and the preliminary plat to the following staff and agencies for review and written comments that pertain to their area of expertise and responsibilities:

1. Director of Public Works;
2. City Engineer;

3. Development Services Principal Engineer or Project Engineer;
4. Police Chief;
5. Fire District Chief;
6. Parks and Recreation Director;
7. County Health Department;
8. Superintendent of School District;
9. United States Postmaster at Apache Junction, Arizona;
10. County Engineer and Director of County Planning, if proposed subdivision abuts county areas;
11. Where the land abuts a state or federal highway, to the Arizona Department of Transportation; and
12. Utility companies.

(b) The reviewing staff and agencies shall transmit their recommendations to the Planning Division.

(c) The Planning Division shall consolidate the reviewing staff and agencies comments and requirements and transmit the same to the applicant for incorporation of the revisions to the preliminary plat.

(d) Once the new preliminary plat substantially conforms to the provision of this Chapter, the Development Services staff shall approve, approve with conditions or deny the preliminary plat. ~~notify the applicant of meeting dates of Planning and Zoning Commission and City Council to consider the preliminary plat application.~~ Where an approved MPC District is in place, the preliminary plat approval shall be processed as described in Article [2-2-4\(B\)\(3\)\(b\)](#).

(3) *Preliminary plat approval.*

(a) ~~The Commission shall meet and offer its recommendations to the City Council on the preliminary plat after considering the recommendations of city staff and the above agencies and entities. Public hearings shall be held by both Commission and City Council.~~ The Development Services Director or his or her designee ~~City Council~~ may, by resolution, approve, conditionally approve or deny a preliminary plat.

(4) *Significance of preliminary plat approval.* Preliminary plat approval constitutes authorization for the subdivider to proceed with preparation of the final plat and the

engineering plans and specifications for public improvements and site development. Preliminary plat approval is based on the following terms:

(b) Approval is valid for a period of 12 months from date of the Development Services Director or his or her designee Council's action, within which period the subdivider must file a complete final plat application. A time extension for an additional 12 months may be granted by the Development Services Director or his or her designee City Council if there had been no change in the city's policies or regulations which would affect the subdivision; and

§ 2-2-5 FINAL PLAT.

(A) This stage includes the final design of the subdivision, engineering of public improvements and site development, and submittal of the plat and plans by the subdivider for review and for action by the Development Services Director or his or her designee Council. The final plat shall not be denied, if it substantially conforms to the approved preliminary plat and submitted within 12 months of an approved preliminary plat, and further provided that the submitted final plat meets all the requirements of these regulations.

(C) Final plat review.

If complete, the Planning Division shall review the final plat and improvement plans for substantial conformity to the approved preliminary plat and refer copies of the submittal to the following staff and agencies which will be requested to make known their recommendations, in writing, addressed to the Development Services Director or his or her designee Council through the Planning Division and City Manager: see list of reviewing staff and agencies as shown in § 2-2-4(B)(2)(a) for preliminary plat review.

(4) In the event that the Planning Division finds that the final plat does not substantially conform to the preliminary plat as approved by the Development Services Director or his or her designee City Council or the Subdivision Committee, the subdivider shall revise to conform to the preliminary plat or shall be required to submit a new preliminary plat application.

(D) Council hearing and Post-approval action.

~~(1) Upon receipt of a request for Council action by the Planning Division, in accordance with procedures established by the City Clerk, the Development Services Director shall place the final plat on the Council agenda of the next regular meeting, whereupon the Council shall consider the application.~~

(12) Upon approval of the final plat by the Development Services Director or his or her designee City Council, the City Clerk shall transcribe a certificate of approval upon the plat, first making sure that the other certifications required by this section have been duly signed.

(23) When the certificate of approval by the Development Services Director or his or her designee Council has been transcribed on the final plat, the Planning Division shall retain the copy to be recorded until the civil engineering improvement plans have been approved, and the public improvement security has been provided.

(34) The Planning Division shall cause the final plat to be recorded in the office of the County Recorder within which the platted lands lie and the recordation fee shall be paid thereto.

(45) The original Mylar copy of the recorded plat shall be retained by the Planning Division, including the submittal of electronic copies in PDF and DWG format.

(56) If the Council Staff rejects the final plat, the reasons shall be recorded in the minutes and the subdivider shall be notified, in writing, of the reasons for rejection.

ARTICLE 2-3: SUBDIVISION DESIGN PRINCIPLES AND STANDARDS

§ 2-3-1 IN GENERAL.

(B) Land which is subject to periodic flooding or land which the Development Services Project Engineer or his or her designee determines cannot be properly drained shall not be subdivided, except that by the Development Services Director or his or her designee the City Council may approve subdivision of the land upon receipt of evidence from the Development Services Project Engineer or his or her designee that the construction of specific improvements can be expected to render the land suitable for subdividing; thereafter, construction upon the land shall be prohibited until the specified improvements have been planned, designed and construction guaranteed to the satisfaction of the Development Services Project Engineer or his or her designee . Land within the Federal Emergency Management Agency ("FEMA") floodplain areas is administered through § 5-1 Floodplain Management, Chapter 5, Vol. II, Apache Junction City Code.

§ 2-3-5 LOT PLANNING.

(A) (3) Where steep topography, unusual soil conditions, drainage problems, abrupt changes in land use or heavy traffic on adjacent streets prevail, the council Development

Services Director or his or her designee may make special lot width, depth and area requirements which exceed the minimum requirements of the particular zoning district.

§ 2-3-7 STREET NAMES.

(A) The subdivider shall indicate the proposed street names subject to approval by the by the Development Services Director or his or her designee City Council at the preliminary plat stage. Street naming shall be in compliance with the manual "Procedures for Street Naming and Address Assignment, City of Apache Junction, Arizona," following City Council adoption of same.

ARTICLE 2-6: CONDOMINIUM PLATS AND CONDOMINIUM CONVERSIONS

§ 2-6-3 GENERAL STANDARDS.

(A) *General.* The Development Services Director or his or her designee Council shall not refuse approval of a final plat of a project described as a condominium under provisions of this Chapter because of location of buildings on the property shown on the plat and not in violation of this Chapter or on account of the manner in which airspace is to be divided in conveying the condominium. Fees and lot design requirements shall be computed and imposed with respect to such plats on the basis of parcels or lots on the surface of the land shown thereon as included in the project. Plats of such projects may be based on building footprints but, as per state statute, they do not need to show the buildings or the manner in which the buildings or airspace above the property are to be divided. This division does not limit the power of the Development Services Director or his or her designee Council to regulate the location of buildings in such a project by or pursuant to a zoning ordinance.

(B) *New condominium development.* New condominium development shall be subject to the standard procedures and requirements for development, as established by the city, including compliance with zoning ordinances, building codes, design review and other applicable codes and ordinances.

(C) *Condominium conversion.* Condominium conversion of existing development shall be subject to final plat approval by the Development Services Director or his or her designee Commission and Council.

(1) *Disclosure report requirements.* The subdivider shall submit an affidavit stating that the units to be converted meet the applicable standards of the Building Code, and City Code. Any subdivider who files a final plat for a condominium, cooperative, community apartment, townhouse development, or manufactured home subdivision, whether for the purpose of new development or the subdivision of an existing development, shall submit a copy of a report on the physical condition of all buildings, structures, and other

improvements to the property to be subdivided prior to approval of a final plat by the **Development Services Director or his or her designee** ~~Mayor and Council~~. This report shall be made available by the subdivider to all prospective purchasers of the initial condominium units prior to execution of a binding contract of purchase. The disclosure report shall be recorded with the appropriate County Recorder at the same time as the final plat. The report shall contain the following:

(a) A report describing the physical condition of elements of the structure, equipment, or appliances in a unit, the repair or replacement of which will be the responsibility of the purchaser. The report shall state the approximate date on which the element, equipment, or appliance was originally constructed or installed; the approximate date on which it was subsequently replaced or will likely require replacement; and the current estimated cost of replacement;

(b) This report shall not be construed to create any warranties, express or implied;

(c) A report containing information to be obtained from the fire district describing the extent to which the buildings and structures to be converted by the plat submitted by the subdivider deviate from applicable requirements of the fire code, and the city code in the following specified areas of fire safety:

1. Accessibility of buildings and structures to fire-fighting equipment; and
2. Proximity and frequency of fire hydrants; and
3. Description of the building construction rating for "party walls" and fire barriers between units.

(d) A statement of the estimated fees or assessments, if any, that the purchaser of a unit will pay, on a monthly and yearly basis, for at least a 2 year period following purchase; and

(e) A report from a licensed pest control operator on each building or structure and each unit within the building or structure. A statement of the unit's average monthly utility costs, including water, sewer, trash collection, electricity and natural gas, based on the preceding 12 month period, where the subdivider has access to such utility cost data.

(2) *Certificate of occupancy.* Prior to final plat approval, evidence of building permits and/or certificate of occupancy for the original construction must be submitted or the applicant must provide plans of the site with the water distribution system and wastewater drainage system shown on as-built plans "signed and sealed" by an Arizona registered professional engineer. Copies of the required Arizona Department of Environmental Quality ("ADEQ") application for such may be submitted to fulfill this requirement. The professional

registrant shall also submit a "signed and sealed" statement that indicates that the existing systems are properly installed and located as per building safety requirements. The statement shall indicate the year the structure was built, the building codes in effect at the time of construction completion, if known, and the results of independent testing of the "party walls" or fire barriers between units. Independent testing of at least 10% of the units in the overall project, including at least 1 unit in each separate building shall be required. This may require some site investigation by contractors to verify sizes and locations of systems and the physical condition of building components. The results shall be provided for the Building Official to review at the time the applicant applies for final plat approval.

§ 2-6-4 APPLICATION PROCESS.

(A) *General requirements. Sanitary sewage, water supply and refuse disposal.* It is the responsibility of the subdivider to provide the Arizona Department of Environmental Quality ("ADEQ") with plans and applications for the design and operation of sanitary sewer facilities, water supply and refuse disposal, as required.

(B) *New condominium development.* For condominium projects being developed through new construction, the procedures for processing the application shall be the same as with other new development with the exception that the subdivision may be submitted directly for final plat review to the **Development Services Director or his or her designee** ~~Commission and Council~~ after preliminary approval by staff that the plat complies with all technical requirements. The following steps are required for the review of new condominium development:

- (1) Development Review Committee;
- (2) Submittal of final plat for technical review **and administrative approval** by staff;
- ~~—(3) Submittal of final plat to Commission for review; and~~
- ~~—(4) Submittal of final plat to Mayor and Council for review and approval.~~

(C) *Condominium conversion.* Conversion of existing buildings to condominiums may proceed through an expedited process; however, such proposals still require review by various city departments and applicable agencies to ensure compliance with local and state requirements. Buildings constructed prior to issuance of building permits or certificates of occupancy may be required to provide evidence of adequacy of water distribution and wastewater drainage systems, as well as disclosure of building conditions as they relate to building and fire codes through the preparation of a building condition report by an Arizona registered professional that includes mechanical, electrical, and

structural engineering analyses. The following steps are required for the review of condominium conversion projects:

- (1) Development Review Committee;
- (2) Submittal of final plat for technical review and administrative approval by staff;
- ~~—(3) Submittal of final plat to Commission for review; and~~
- ~~—(4) Submittal of final plat to Mayor and Council for review and approval.~~

(Ord. 1503, passed - -2021)

§ 2-6-5 FINAL PLAT APPROVAL.

(A) The Development Services Director or his or her designee ~~Commission and Mayor and Council~~ shall review the final plat submittal for the condominium and make their determination for approval, approval with conditions or denial based on the requirements and procedures indicated in the subdivision regulations, and subject to the following:

- (1) That the proposed condominium subdivision conforms to the adopted goals, objectives and policies of the city;
- (2) That the proposed condominium subdivision will not be detrimental to the public health, safety, and general welfare;
- (3) That the proposed condominium subdivision is consistent with the provisions and intents of the Zoning Code, as applicable to the property; and
- (4) That the proposed condominium subdivision conforms to the design standards set forth in this Chapter and other applicable city, county, state and federal regulations.

(B) After the applicant has received the required approvals, the final plat for the condominium development may be submitted to the Development Services Director for recording.

(1) *Time limit.* The applicant/subdivider shall have 6 months from the date of approval by the Development Services Director or his or her designee ~~Council~~ to submit all required materials and to demonstrate all conditions have been met.

(2) *Copies.* Three (3) reproducible sets of the final plat shall be submitted to the Development Services Director.

(3) *Fees.* All development fees for subdivision and recording shall be received prior to the recording of the final plat. Recording fees shall be made payable to the appropriate County Recorder.

(4) *Conditions, covenants and restrictions ("CC&Rs")*. The subdivider shall submit 2 copies of the deed restrictions that describe the responsibilities of the unit owners for maintaining common areas and facilities and all other pertinent information and requirements as applicable.

(5) The Director or his or her designee may require an applicant to adhere to all preliminary plat requirements during the final plat process, such as, but not limited to, establishing an HOA and including CC&Rs in its deeds setting forth the perpetual obligation to financially contribute for the maintenance of all community areas such as private roads, pools, and playground and recreational areas.

(C) *Assurances*. Any assurances required for improvements in accordance with these regulations shall be received and approved prior to recording of the final plat.

(D) *Certificate of occupancy*. After recording of the final plat the applicant may then apply for certificate(s) of occupancy for the newly created condominiums from the Development Services Department and sell the units as condominiums in accordance with the requirements of the State of Arizona Department of Real Estate.

ARTICLE 2-7: DEFINITIONS.

FINAL APPROVAL. Approval by the **Development Services Director or his or her designee** ~~Council~~ of the final plat as evidenced by the signatures required to complete the certifications necessary for final plat authorization to record the plat.

IMPROVEMENTS. Such street work and utilities required to be installed or agreed to be installed by the subdivider on land to be used for public or private streets, highways, alleys, pedestrian ways and easements as are necessary for the general use of the lot owners in the subdivision and local neighborhood and for through traffic and drainage needs, and required as a condition precedent to the approval and acceptance of the final plat map, and may include but is not limited to street improvements-survey monuments, street name signs, guardrails, barricades, safety devices, fire hydrants, grading, retaining walls, storm drains, and flood control channels, erosion control structures, landscaping, sanitary sewers, streetlights, and other facilities as are required by the council **or Development Services Director or his or her designee**, as well as utility installations (water, electric, gas, telephone).

STREET. A way designated or intended for general public use, accepted by the Council or **Development Services Director or his or her designee**, as a public right-of-way open to vehicular and pedestrian travel or a street shown on a plat heretofore approved pursuant to

law or approved by official action; or a street on a plat duly recorded in the County Recorder's office. It shall not include a controlled access highway, thoroughfare, alley, private street or private driveway, but shall include "avenue," "boulevard," "circle," "court," "drive," "lane," "place," "road," "row," "walk" and other similar designations. Also included is the land between the right-of-way lines, whether improved or unimproved, and may comprise pavement, shoulders, curbs, gutters, sidewalks, viaducts, bridges, utilities, lawns and parking areas. Street types shall include the following:

APPENDIX: PRELIMINARY AND FINAL PLAT CONDITIONS

13) Add the following notes:

a) All tracts not dedicated to the City of Apache Junction shall be improved in accordance with the approved plans and deeded to the Homeowners' Association upon recordation of the final plat. Tracts shall not be conveyed to any private or public entity without prior City ~~Council~~ approval.

(18) Add the following certifications:

c) Approved by the **Development Services Director** ~~Council~~ of the City of Apache Junction, Arizona this ____ day of _____, 20___. And the **Development Services Director** ~~City Council~~ accepts the rights-of-way dedicated herein on behalf of the Public. The subdivider has provided a Certificate of Assured Water Supply as required by Arizona Revised Statutes (ARS) § 45-576 or evidence that the area has been designated by the Arizona Department of Water Resources as having an assured water supply.

BY: _____

~~Mayor~~ **Development Services Director**

(50) Public streets rights-of-way widths and cross-sections shall comply with city standards unless exceptions are required or approved by the City Engineer or the ~~City Council~~ **Development Services Director** .

(64) Name changes to the development will only be allowed:

a) After verifying any name conflicts through the Arizona Department of Real Estate and providing the city with a copy; and

b) Prior to the preliminary plat approval by the **Development Services Director or his or her designee** ~~City Council~~.